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VOLUME H

Revised Statutes of Nova Scotia

2023

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CHAPTER H-1

An Act Respecting the Halifax Convention Centre

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Short title

1 This Act may be cited as the *Halifax Convention Centre Act*. 2014, c. 8, s. 1.

Interpretation

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

“bylaws” means the bylaws of the Corporation;

“Chair” means the Chair of the Board;

“Chief Administrative Officer” means the Chief Administrative Officer of the Municipality or the Chief Administrative Officer’s designate;

“Convention Centre” means the Halifax Convention Centre;

“Corporation” means the Halifax Convention Centre Corporation;

“Council” means the Council of the Municipality;

“Deputy Minister” means the Deputy Minister of Economic Development or the Deputy Minister of Economic Development’s designate;

“designate” of the Chief Administrative Officer or the Deputy Minister means a person designated in writing by the Chief Administrative Officer or the Deputy Minister, respectively;

“economic development” includes the promotion and attraction of institutions, industries and businesses and the stabilization and expansion of employment opportunities;

“Minister” means the Minister of Economic Development;

“Municipality” means the Halifax Regional Municipality;

“Principal Shares” means the Principal Shares issued pursuant to this Act. 2014, c. 8, s. 2; 2018, c. 35, s. 1.

Supervision and management

3 The Minister has the general supervision and management of this Act and the regulations. 2014, c. 8, s. 3.

Halifax Convention Centre Corporation

4 A body corporate to be known as the Halifax Convention Centre Corporation is established. 2014, c. 8, s. 4.

Object of Corporation

5 (1) The object of the Corporation is to operate, maintain and manage the activities of the Halifax Convention Centre in a manner that will promote and develop economic development, tourism and industry in the Province generally, and the Municipality in particular, in accordance with strategic directions established by the Board and approved by the Chief Administrative Officer and the Minister.

(2) The object of the Corporation includes other activities as approved by the Chief Administrative Officer and the Minister. 2014, c. 8, s. 5.

Management of Corporation

6 The management and control of the affairs of the Corporation is vested in a Board of Directors and the Board may, subject to this Act, exercise the powers of the Corporation. 2014, c. 8, s. 6.

Board members

- 7** (1) The Board consists of
- (a) up to four members appointed by the Governor in Council;
 - (b) up to four members appointed by the Council;
 - (c) the Deputy Minister; and
 - (d) the Chief Administrative Officer.

(2) The members of the Board appointed pursuant to clauses (1)(a) and (b) hold office for a term not exceeding four years.

(3) In making the appointments to the Board, the Governor in Council and the Council shall take into consideration expertise, competency and other factors as may be set out in the bylaws.

(4) A member of the Board is not required to hold shares issued by the Corporation.

(5) A member of the Board may be removed by the Chief Administrative Officer and the Minister. 2014, c. 8, s. 8.

Persons disqualified from being Board members

8 (1) The following persons are disqualified from being a member of the Board:

- (a) a person under 19 years of age;
- (b) a person found by a court in Canada or elsewhere to be of unsound mind;
- (c) an undischarged bankrupt;
- (d) a member, at any time in the preceding 10 years, of the Parliament of Canada or the legislature of a province of Canada;
- (e) a member, at any time in the preceding 10 years, of a municipal council in Canada.

(2) A person who becomes disqualified to be a member of the Board ceases to be a member of the Board. 2014, c. 8, s. 9.

Resignation

9 A member of the Board may resign the member's office by giving to the Board a written resignation, which is effective at the later of

- (a) when the resignation is received by the Board; and
- (b) the time specified in the resignation. 2014, c. 8, s. 10.

Vacancy

10 Where a person ceases to be a member of the Board before the expiration of the person's term, the vacancy must be filled in accordance with subsection 7(1). 2014, c. 8, s. 11.

Limits on terms of office

11 No person, other than the Deputy Minister or the Chief Administrative Officer, may be a member of the Board for more than two consecutive terms. 2014, c. 8, s. 12.

Chair

12 (1) The Board shall elect a Chair for a term not exceeding two years.

(2) The Chair may serve no more than two consecutive terms. 2014, c. 8, s. 13.

Vice-chair

13 (1) The Board may elect a Vice-chair for a term not exceeding one year.

(2) The Vice-chair may serve no more than three consecutive terms. 2014, c. 8, s. 14.

Quorum

14 A majority of the members of the Board constitutes a quorum. 2014, c. 8, s. 15.

Votes

15 Each member of the Board, including the Chair, has a vote and no member, including the Chair, has a casting vote. 2014, c. 8, s. 16.

Effect of vacancy

16 A vacancy on the Board does not impair the right of the remaining members to Act. 2014, c. 8, s. 17.

Remuneration and expenses

17 (1) Subject to subsection (3) and with the approval of the Chief Administrative Officer and the Minister, each member of the Board is entitled to receive such remuneration and such reasonable expenses as determined from time to time by the Board.

(2) In determining the entitlement to remuneration and expenses pursuant to subsection (1), the Board shall consider the policies of the Municipality and the Government of the Province.

(3) Where remuneration is determined on the basis of attendance at a meeting of the Board, the per diem rate applies for each day during which there are one or more meetings of the Board or of a committee at which minutes are taken and at which a quorum is present or participating.

(4) The Chief Administrative Officer and the Deputy Minister are not entitled to remuneration. 2014, c. 8, s. 18.

President of Corporation and other officers

18 (1) Subject to Section 20, the Board

(a) shall appoint a person who is not a member of the Board to be the President and Chief Executive Officer of the Corporation and may assign to that person such duties as the bylaws of the Corporation may determine; and

(b) may appoint an acting President and Chief Executive Officer whose term of office, including renewals, may not exceed one year and whose compensation may not exceed that of the President and Chief Executive Officer whom the acting President and Chief Executive Officer replaces.

(2) Subject to Section 20 and the bylaws, the Board may appoint such other officers as it considers necessary. 2014, c. 8, s. 19.

Corporation deemed department and public body

19 (1) The Corporation is deemed to be a department for the purpose of the *Conflict of Interest Act* and, for greater certainty, Section 22 of that Act applies to the members of the Board.

(2) The Corporation is deemed to be a public body within the meaning of the *Freedom of Information and Protection of Privacy Act*. 2014, c. 8, s. 20.

Powers of Corporation

20 (1) The Corporation may

(a) subject to clause (b) and the approval of the Board, receive, acquire, take, hold, mortgage, lease, sell or otherwise dispose of or deal with real or personal property and any interest therein;

(b) with the consent of the Governor in Council and the Council, mortgage, pledge, charge against, sell or otherwise dispose of or deal with real property or any interest therein;

(c) pay the costs, charges and expenses preliminary and incidental to the formation and establishment of the Corporation;

(d) establish advisory boards;

(e) subject to the approval of the Board, and with the written consent of the Chief Administrative Officer and the Minister, make bylaws as it considers necessary for the effective attainment of its objects and the exercise of its powers and for the internal control, management and administration of the Corporation;

(f) employ and contract with such persons as it may from time to time require for the purpose of carrying out its objects and duties;

(g) carry on business under the name Events East Group;

(h) levy fees related to the provision of services provided by the Corporation; and

(i) do such matters and things as may be necessary or incidental for the effective attainment of its objects and the exercise of its powers.

(2) An agreement or contract that will result in an expenditure exceeding \$500,000, excluding applicable consumption taxes, requires the prior written approval of the Chief Administrative Officer and the Minister.

(3) Except as otherwise provided in this Act or from time to time by written directive of the Council and the Minister, the Corporation has all the powers of a company incorporated pursuant to the *Companies Act*.

(4) Subject to subsection (5), the Corporation may not, without the prior written consent of the Council and the Minister,

(a) distribute any of its property *in specie* among its shareholders;

(b) amalgamate or merge with one or more other companies;

(c) continue itself in a jurisdiction other than the Province;

(d) enter into any compromise or arrangement with its creditors or any class of creditors or its shareholders or any class of its shareholders;

(e) allot or issue shares in its capital stock;

(f) borrow money, finance or refinance the Corporation or give security;

(g) appoint, remunerate or remove its President and Chief Executive Officer, its chief financial officer or its chief operating officer;

(h) apply the income, revenues and profits earned by the Corporation to a matter unconnected to the furtherance of the object of the Corporation;

(i) declare or pay dividends on the shares of the Corporation; or

(j) consolidate, convert, subdivide, exchange, cancel or otherwise alter or reorganize the share capital of the Corporation.

(5) Any approval or consent pursuant to this Section is not effective until it is evidenced by an instrument in writing that is addressed to the Corporation, to the attention of its secretary or such other officer as the Chief Administrative Officer and the Minister determine, and that is signed by the Chief Administrative Officer and the Minister.

(6) The Corporation may not, without the consent of the Governor in Council and the Council,

(a) sell all or substantially all of its business or assets;

(b) wind up or dissolve; or

(c) carry out any voluntary act of bankruptcy or make a general assignment for the benefit of its creditors or other acknowledgement of insolvency or make any application pursuant to the *Bankruptcy and Insolvency Act* (Canada), the *Companies' Creditors Arrangement Act* (Canada) or any similar legislation. 2014, c. 8, s. 21; 2018, c. 35, s. 2.

Fiscal year

21 The fiscal year of the Corporation is the same as the fiscal year of the Province. 2014, c. 8, s. 22.

Capital stock

22 (1) With the written consent of the Council and the Minister, the Governor in Council may, by order, declare that the Corporation has a capital stock in the amount set out in the order and divided into such number of shares and of such value as set out in the written consent of the Council and the Minister and in the order.

(2) Where an order is made pursuant to subsection (1),

(a) the Corporation has capital stock in the amount set out in the order divided into the number of shares set out in the order, each share having the value set out in the declaration; and

(b) the capital stock consists of

(i) Class A common voting shares in such number as determined in the order,

(ii) Class B non-voting shares in such number as determined in the order, and

(iii) two shares, to be known as the "Principal Shares", one to be issued to the Municipality and one to be issued to the Minister on behalf of the Province.

(3) No share may be beneficially owned in whole or in part by any person not ordinarily resident in the Province.

(4) Notwithstanding any other enactment, the Municipality may, with no restrictions except as provided herein, subscribe for, purchase, sell, hold, transfer, vote, manage and deal with any capital stock contemplated or issued under this Act or as may be otherwise issued from time to time.

(5) The holding and disposition of shares under this Act by the Municipality is deemed to be for a purpose of the Municipality.

(6) The Principal Shares are to be beneficially owned by the Municipality and the Crown in right of the Province respectively. 2014, c. 8, s. 23.

Increase of capital stock

23 With the written consent of the Chief Administrative Officer and the Minister, the capital stock of the Corporation may be increased from time to time

and in accordance with the written request of the Governor in Council. 2014, c. 8, s. 24.

Effect of mortgage, pledge or charge

24 Notwithstanding any other provision of this Act or any special or general Act, no mortgage, pledge or charge against the real and personal property of the Corporation is or is deemed to be a mortgage, pledge or charge against any real and personal property of the Municipality or the Crown in right of the Province. 2014, c. 8, s. 25.

System of accounting and audits

25 The system of accounting and the books and records of the Corporation are subject to the approval of the Council and the Minister of Finance and Treasury Board, and to audit by an auditor approved by the audit committee of the Board, and such further audit as the Auditor General of either the Municipality or the Province determines. 2014, c. 8, s. 26.

Financial statements and reports

26 The Corporation shall, not later than June 30th in each year, prepare and submit to the Council and the Minister for approval of the holders of the Principal Shares audited financial statements setting forth, as a minimum, the assets and liabilities of the Corporation, and the revenues and expenses of the Corporation for the previous fiscal year, together with a report concerning the work of the Corporation during the previous fiscal year. 2014, c. 8, s. 27; 2018, c. 35, s. 3.

Strategic plan

27 As required by the Council and the Minister, the Corporation shall submit to the Council and the Minister for approval a five-year strategic plan for the operation of the Corporation. 2014, c. 8, s. 28; 2018, c. 35, s. 4.

Business plan

28 (1) Annually, as required by the Council and the Minister, the Corporation shall submit to the Council and the Minister for approval a detailed business plan for the following fiscal year, including estimates of budgetary requirements, for the operation of the Corporation. 2014, c. 8, s. 29; 2018, c. 35, s. 5.

Evaluation and strategic plan

29 (1) As required by the Council and the Minister, the Corporation shall submit for approval of the Council and the Minister a detailed and independent third-party evaluation of its activities compared to the previous five-year strategic plan, including any recommendations for modifications to the mandate of the Corporation.

(2) In addition to the evaluation referred to in subsection (1), the Corporation shall, within the same time periods referred to in that subsection, submit a five-year strategic plan for the continued operation of the Corporation to the Council and the Minister for their approval. 2014, c. 8, s. 30; 2018, c. 35, s. 6.

Annual outcome agreements

30 The Corporation shall enter into annual outcome agreements as requested by the Council and the Minister. 2018, c. 35, s. 7.

Status of Corporation and employees

31 (1) The Corporation is not an agent of the Municipality or the Crown in right of the Province.

(2) A person employed or engaged by the Corporation is not an officer, servant or agent of the Municipality or the Crown in right of the Province. 2014, c. 8, s. 31.

Public Procurement Act

32 The Corporation is deemed to be a public sector entity for the purpose of the *Public Procurement Act*. 2014, c. 8, s. 32.

Municipality may expend money for Convention Centre

33 Notwithstanding any other enactment, the Municipality may expend money for

- (a) the construction, operation, maintenance or use of the Convention Centre;
- (b) a grant or contribution to the Corporation for the construction, operation, maintenance or use of the Convention Centre; or
- (c) any combination of clauses (a) and (b). 2014, c. 8, s. 33.

In camera meetings

34 The Council may meet in camera to discuss any matter arising under this Act. 2014, c. 8, s. 34.

Regulations

35 (1) Upon the written request of the Council and the Minister, and in accordance with the request, the Governor in Council may make regulations

- (a) respecting any matter authorized by this Act to be done by regulation;
- (b) respecting the management of the Corporation;
- (c) defining any word or expression used but not defined in this Act;
- (d) respecting any matter the Governor in Council considers necessary or advisable to effectively carry out the intent and purpose of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2014, c. 8, s. 35.

Designated persons and employees

36 (1) In this Section,

“designated person” means an employee of Trade Centre Limited who is determined by the Minister and the Municipality to become an employee of the Corporation;

“employee of Trade Centre Limited” means a person employed by Trade Centre Limited immediately before April 1, 2016.

(2) Effective April 1, 2016, the Minister and Chief Administrative Officer may determine who is a designated person.

(3) Every designated person becomes an employee of the Corporation and ceases to be a person employed by Trade Centre Limited.

(4) The continuity of employment of a designated person is not broken by the effect of this Section.

(5) Every designated person is employed by the Corporation on the same or equal terms and conditions of employment as those under which the employee was employed as an employee by Trade Centre Limited until changed by collective agreement or contract of employment.

(6) Every designated person is deemed to have been employed with the Corporation for the same period of employment that the employee was credited with as an employee of Trade Centre Limited.

(7) Benefits accumulated by a designated person while employed at Trade Centre Limited are vested in the designated person, and the designated person is entitled to receive those benefits from the Corporation.

(8) The Corporation is bound by a collective agreement concluded by Trade Centre Limited in relation to the designated person as if it were a party to the collective agreement as the employer and as if the collective agreement were concluded pursuant to the *Trade Union Act* by a bargaining agent certified pursuant to the *Trade Union Act*.

(9) For greater certainty, the Corporation is a transferee for the purpose of Section 38 of the *Trade Union Act* and, without limiting the generality of the foregoing, the Corporation is bound by successor rights as determined pursuant to the *Trade Union Act*.

(10) Each designated person who was an employee within the meaning of the *Public Service Superannuation Act* immediately before April 1, 2016, and each designated person in a bargaining unit whose collective agreement provided for participation in the Public Service Superannuation Plan immediately before April 1, 2016, is deemed to continue to be an employee for the purpose of the *Public Service Superannuation Act*, and employment with the Corporation by a designated employee is deemed to be employment for the purpose of the *Public Service Superannuation Act*.

(11) Subject to any applicable collective agreement or contract of employment, each designated person who was covered by the Nova Scotia Public Service Long Term Disability Plan immediately before April 1, 2016, or was included in a bargaining unit whose collective agreement provided for long term

disability benefits under the Nova Scotia Public Service Long Term Disability Plan is deemed to continue to be a person to whom the Nova Scotia Public Service Long Term Disability Plan applies.

(12) Subject to the approval of the Board the Corporation may, prior to the date on which designated persons become employees of the Corporation, establish or arrange to make available group life, medical, dental, pension, employee assistance, short-term illness and long-term disability plans to provide benefits to employees who are not designated persons.

(13) The obligations and liabilities of Trade Centre Limited in respect of designated persons are the obligations and liabilities of the Corporation, including all employee benefits and entitlements.

(14) Notwithstanding anything contained in this Section, Section 119 of the *Labour Standards Code* does not apply to a period of employment that an employee was credited with as an employee of Trade Centre Limited or as an employee appointed in accordance with the *Civil Service Act*.

(15) Notwithstanding the *Freedom of Information and Protection of Privacy Act*, Trade Centre Limited shall transfer to the Corporation on the date a designated person becomes an employee of the Corporation all personnel files and similar material in the possession or control of Trade Centre Limited relating to that designated person, and such transfer does not constitute a disclosure of personal information within the meaning of that Act. 2014, c. 8, s. 36.

CHAPTER H-2

An Act Respecting the Halifax Regional Municipality

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WHEREAS the Halifax Regional Municipality is the capital of Nova Scotia and includes within it Nova Scotia's seat of government;

AND WHEREAS the Halifax Regional Municipality plays an important role in supporting the economic well-being of Nova Scotia;

AND WHEREAS the Halifax Regional Municipality is the largest municipality in Atlantic Canada;

AND WHEREAS the Province of Nova Scotia recognizes the Halifax Regional Municipality as a regional centre of business and government in Atlantic Canada;

AND WHEREAS the Province of Nova Scotia recognizes that the Halifax Regional Municipality has legislative authority and responsibility with respect to the matters dealt with in this Act;

AND WHEREAS the Halifax Regional Municipality is a responsible order of government accountable to the people:

Short title

1 This Act may be cited as the *Halifax Regional Municipality Charter*.
2008, c. 39, s. 1.

Purpose of Act

2 The purpose of this Act is to

(a) give broad authority to the Council, including broad authority to pass bylaws, and respect its right to govern the Municipality in whatever ways the Council considers appropriate within the jurisdiction given to it;

(b) enhance the ability of the Council to respond to present and future issues in the Municipality; and

(c) recognize the purposes of the Municipality set out in Section 8.
2008, c. 39, s. 2; 2019, c. 19, s. 10.

Interpretation

3 In this Act,

“Administrator” means the employee of the Municipality or other person designated by the Chief Administrative Officer to be responsible for the provisions of this Act respecting dangerous or unsightly premises, except

where the context otherwise requires, and includes a person acting under the supervision and direction of the Administrator;

“annual summary report” means a summary of all the expense reports and hospitality expense reports of the Municipality for a fiscal year;

“assessment roll” means the assessment roll required to be prepared pursuant to the *Assessment Act*;

“Auditor” means the Auditor appointed for the Municipality pursuant to Section 59;

“automatic machine” means a mechanical or electronic device that is operated by the introduction of a coin, counter or slug, and includes a vending machine but does not include automatic scales, telephone apparatus or a machine that is licensed by the Crown in right of the Province or an agency of the Crown;

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

“building service connection” means a piping system that conveys sewage, liquid waste, stormwater or surface runoff from a property to a municipal sewer;

“Chief Administrative Officer” means the Chief Administrative Officer of the Municipality;

“Clerk” means the Clerk of the Municipality;

“code of conduct” means the code of conduct established pursuant to this Act;

“Cogswell District Energy Boundary” means the area delineated in the map in Schedule C to this Act;

“combined sewer” means a sewer intended to function simultaneously as a storm sewer and a sanitary sewer;

“commercial property” has the same meaning as in the *Assessment Act*;

“community” means an area in the Municipality entitled to elect a community council pursuant to this Act;

“community council” means the council of a community established pursuant to this Act;

“conservation property” has the same meaning as in the *Assessment Act*;

“Council” means the Council of the Municipality;

“councillor” means a Council member other than the Mayor;

“dangerous or unsightly” means partly demolished, decayed, deteriorated or in a state of disrepair so as to be dangerous, unsightly or unhealthy, and, where used in relation to property, includes property containing

(a) ashes, junk, cleanings of yards or other rubbish or refuse;

(b) a derelict vehicle, vessel, item of equipment or machinery, or bodies or parts thereof;

(c) an accumulation of wood shavings, paper, sawdust, dry and inflammable grass or weeds or other combustible material;

(d) an accumulation or collection of materials or refuse that is stockpiled, hidden or stored away and is dangerous, unsightly, unhealthy or offensive to a person; or

(e) any other thing that is dangerous, unsightly, unhealthy or offensive to a person,

and, where used in relation to property or a building or structure, includes property or a building or structure with or without structural deficiencies

(f) that is in a ruinous or dilapidated condition;

(g) the condition of which seriously depreciates the value of land or buildings in the vicinity;

(h) that is in such a state of non-repair as to be no longer suitable for human habitation or business purposes;

(i) that is an allurement to children who may play there to their danger;

(j) constituting a hazard to the health or safety of the public;

(k) that is unsightly in relation to neighbouring properties because the exterior finish of the building or structure or the landscaping is not maintained;

(l) that is a fire hazard to itself or to surrounding lands or buildings;

(m) that has been excavated or had fill placed on it in a manner that results in a hazard; or

(n) that is in a poor state of hygiene or cleanliness;

“debenture” includes any financial instrument acceptable to the Minister of Finance and Treasury Board;

“deed” means an instrument by which land is conveyed, transferred, assigned or vested in a person, but does not include a will, mortgage, agreement of sale or lease for a term of less than 21 years;

“Deputy Minister” means the Deputy Minister or Associate Deputy Minister of Municipal Affairs and Housing;

“derelict vehicle, vessel, item of equipment or machinery” includes a vehicle, vessel, item of equipment or machinery that

(a) is left on property, with or without lawful authority; and

(b) appears to the Administrator to be disused or abandoned by reason of its age, appearance, mechanical condition or, where required by law to be licensed or registered, by its lack of licence plates or current vehicle registration;

“Director of Assessment” means the Director of Assessment appointed pursuant to the *Assessment Act*, and includes a person acting under the supervision and direction of the Director;

“district energy system” means a system designed to supply heating or cooling by continuously circulating, to more than one building, through a system of interconnected pipes, steam or water that is heated or cooled using thermal energy recovered from wastewater;

“dog” means a dog, male or female, or an animal that is the result of the breeding of a dog and any other animal;

“drainage master plan” means a detailed plan of stormwater runoff and the courses and channels of it, including floodplains, for an entire area of drainage;

“drainage plan” means a detailed plan of stormwater runoff and the courses and channels of it, including floodplains, for one or more parts of an area of drainage for all lands tributary to, or carrying drainage from, land that is proposed to be subdivided;

“dwelling unit” means living quarters that

(a) are accessible from a private entrance, either outside the building or in a common area within the building;

(b) are occupied or, where unoccupied, are reasonably fit for occupancy;

(c) contain kitchen facilities within the unit; and

(d) have toilet facilities that are not shared with the occupants of other dwelling units;

“elector” has the same meaning as in the *Municipal Elections Act*;

“emergency services” means services related to the provision of emergency services, including

(a) fire services;

(b) emergency medical services;

(c) search and rescue;

(d) water rescue and assistance; and

(e) protection for people and property in the event of disasters, including floods, hurricanes, motor vehicle accidents and chemical spills;

“Engineer” means the Engineer of the Municipality and includes a person acting under the supervision and direction of the Engineer;

“expense report” means a report on all amounts reimbursed for a reportable municipal expense to a reportable individual during a fiscal quarter;

“farm property” has the same meaning as in the *Assessment Act*;

“fire department” means an incorporated body that provides fire services and that may, at its option, provide one or more other emergency services, and includes a fire or emergency services department of the Municipality or other body corporate;

“fire protection district” has the same meaning as in the *Rural Fire District Act*;

“fire services” means services related to the prevention and suppression of fires;

“fiscal year” means the period from April 1st in one year to March 31st in the following year, including both dates;

“forest property” has the same meaning as in the *Assessment Act*;

“grading” means the alteration of land levels, including the addition or removal of topsoil or other material of any kind, and includes a change in land that alters the permeability of the soil;

“hospitality expense report” means a report on all hospitality expenses incurred by the Municipality during a fiscal quarter, including purchases of alcohol;

“improve” includes lay out, open, construct, repair and maintain;

“Mayor” means the Council member elected at large to be the chair of the Council;

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

“mobile canteen” means a vehicle used for the display, storage, transportation or sale of food or beverages by a mobile vendor;

“mobile vendor” means a person who vends from a mobile canteen or a stand;

“municipal highway” means a highway owned by the Municipality, pursuant to this Act, the *Public Highways Act* or otherwise;

“municipal sewer” means a sewer controlled by the Municipality;

“municipal water utility” means a utility owned, operated or managed by a municipality, village or service commission, either directly or through a board or commission, for the purpose of producing, transmitting, delivering or furnishing water directly or indirectly to or for the public;

“municipality” means a regional municipality, a town or a municipality of a county or district, except where the context otherwise requires or as otherwise defined in this Act;

“Municipality” means the Halifax Regional Municipality;

“oversized sewer” means a sewer that is designed to benefit lands in addition to lands that will benefit from the sewer immediately upon its completion;

“owner” includes

(a) as it refers to the owner of a dog, any person who possesses, has the care of, has the control of or harbours a dog and, where the person is a minor, includes a person responsible for the custody of the minor;

(b) as it refers to the owner of property,

(i) a part owner, joint owner, tenant in common or joint tenant of the whole or any part of land or a building,

(ii) where the person having title to the land or building is absent or incapacitated, a trustee, an executor, a

guardian, an agent, a mortgagee in possession or a person having the care or control of the land or building,

(iii) a person who occupies shores, beaches or shoals, and

(iv) in the absence of proof to the contrary, the person assessed for the property;

“parental accommodation” means a leave of absence by a Council member due to

- (a) the pregnancy of the Council member;
- (b) the birth of the child of the Council member; or
- (c) the adoption of a child by the Council member;

“policy” means a resolution of the Council that is required, pursuant to this Act, to be recorded in the bylaw records of the Municipality, except where the context otherwise requires, and includes an administrative order;

“private on-site sewage disposal system” means a private system for sewage disposal serving one lot;

“private wastewater facilities” means wastewater facilities that are privately owned and serving two or more properties;

“public place” includes

- (a) streets;
- (b) parks; and
- (c) entrances, halls, corridors, washrooms, parking areas, driveways, roads, streets, sidewalks and alleys of a shopping centre, shopping mall or other shopping complex, recreation centre, restaurant and retail store;

“regional municipality” means a regional municipality established by, or continued pursuant to, the *Municipal Government Act*, and includes the Municipality, the Cape Breton Regional Municipality and the Region of Queens Municipality and the area over which each of those bodies corporate has jurisdiction;

“registered Canadian charitable organization” means a charitable organization registered pursuant to the *Income Tax Act* (Canada) and the regulations made pursuant to that Act;

“registrar of deeds” means a registrar of deeds appointed pursuant to the *Registry of Deeds Act* and, in the case of an interest registered pursuant to the *Land Registration Act*, means a registrar appointed pursuant to that Act;

“registry” means the office of the registrar of deeds for the registration district in which the land is situate and, in the case of an interest registered pursuant to the *Land Registration Act*, means the appropriate land registration office established pursuant to that Act;

“reportable individual” means an individual who holds one of the following positions:

- (a) Mayor;
- (b) councillor;

(c) Chief Administrative Officer, including an employee of the municipality appointed to act in place of the Chief Administrative Officer pursuant to subsection 45(5);

(d) a position prescribed by the regulations;

“reportable municipal expense” means an expense for which reimbursement was provided by the Municipality and that falls into one of the following expense categories:

(a) travel and travel-related expenses, including accommodation, incidentals and transportation;

(b) meals;

(c) professional development and training;

(d) expense categories prescribed by the regulations;

“residential property” has the same meaning as in the *Assessment Act*;

“resource property” has the same meaning as in the *Assessment Act*;

“sanitary sewer” means a sewer receiving and carrying liquid and water-carried wastes and to which storm, surface or groundwaters are not intentionally admitted;

“service commission” means a board, commission or corporation created by, or under the authority of, an enactment that may

(a) provide services for an area, or the residents of an area, that are similar to one or more of those that may be provided by a municipality for its residents; and

(b) levy rates and taxes, or require a municipality to levy rates and taxes, other than, or in addition to, water or electric rates fixed or approved pursuant to the *Public Utilities Act*,

but does not include a municipality, a committee created by an intermunicipal services agreement, a village or an education entity as defined in the *Education Act*;

“sewage” means the combination of liquid and water-carried wastes from buildings, containing animal, vegetable or mineral matter in suspension or solution, together with such groundwater, surface water or stormwater as might be present;

“sewer” means a pipe or conduit for carrying sewage, groundwater, stormwater or surface runoff, and includes all sewer drains, storm sewers, clearwater sewers, storm drains and combined sewers vested in, or under the control of, the Municipality or another municipality;

“solid-waste management facility” means a sanitary landfill licensed pursuant to the *Environment Act* or a location not required to be licensed pursuant to that Act, a recycling facility, a transfer station, a waste separation facility, a household hazardous waste facility, an incinerator, a composting site or any other facility for the management of solid waste including collection, recycling, treatment and disposal;

“special purpose tax” means a tax that the Council, by resolution, declares to be a special purpose tax;

“special purpose tax account” means the account to which the proceeds of a special purpose tax are credited;

“special sewer connection” means a connection from a building on a property to a sewer that is not situate in the portion of the street on which the property immediately abuts;

“stand” includes a table, showcase, bench, rack, pushcart, wagon or wheeled vehicle or device that can be moved without the assistance of a motor and is used for the display, storage, transportation or sale of food, beverages or other merchandise by a mobile vendor;

“storm sewer” means a sewer that carries stormwater and surface runoff water, but does not carry sewage;

“stormwater” means water from precipitation of all kinds, and includes water from the melting of snow and ice, groundwater discharge and surface water;

“stormwater system” means a method or means of carrying stormwater, including ditches, swales, sewers, drains, canals, ravines, gullies, pumping stations, retention ponds, streams, watercourses, floodplains, ponds, springs, creeks, streets or private roads, roadways or driveways;

“street” means a public street, highway, road, lane, sidewalk, thoroughfare, bridge, square and the curbs, gutters, culverts and retaining walls in connection therewith, except as otherwise defined in this Act;

“tax sale” includes a sale by public auction or a sale by tender, for the purpose of collecting taxes;

“taxes” includes municipal rates, area rates, change in use tax, forest property tax, recreational property tax, capital charges, one-time charges, local improvement charges and any rates, charges or debts prescribed, by the enactment authorizing them, to be a lien on the property;

“transit facilities” includes a bus, a bus terminal, a bus shelter, a bus bay, a parking lot, a ferry, a ferry terminal and a ferry dock;

“Treasurer” means the Treasurer of the Municipality, and includes a person acting under the supervision and direction of the Treasurer;

“tree” includes a bush, shrub and hedge;

“vending” means the sale, or offering for sale, of

(a) food, beverages or other merchandise, unless they are immediately delivered to a residence or shop by the person selling them;

(b) services, unless they are provided in a building;

“vending machine” means a mechanical or electronic device that

(a) is operated by the introduction of a coin, counter or slug; and

(b) dispenses food, beverages, goods, wares or services, including newspapers and other publications;

“village” means a village continued or incorporated pursuant to the *Municipal Government Act*;

“wastewater facilities” means the structures, pipes, devices, equipment, processes or other things used, or intended, for the collection, transportation, pumping or treatment of sewage and disposal of the effluent;

“water system” means the source, structures, pipes, hydrants, meters, devices, equipment or other things used, or intended, for the collection, transportation, pumping or treatment of water. 2008, c. 39, s. 3; 2010, c. 16, s. 1; 2010, c. 64, s. 3; 2011, c. 4, s. 2; 2012, c. 63, s. 5; 2017, c. 13, s. 12; 2018, c. 1, Sch. A, s. 116; 2018, c. 9, s. 1; 2018, c. 17, s. 7; 2022, c. 4, Sch., s. 30; 2022, c. 38, s. 17; 2023, c. 2, s. 29.

PART I

THE MUNICIPALITY

Application of Act

4 (1) This Act applies to the Municipality.

(2) Subject to this Act, the *Municipal Government Act* does not apply to the Municipality. 2008, c. 39, s. 4.

Halifax Regional Municipality continued

5 The inhabitants of the County of Halifax are, and continue to be, a body corporate under the name “Halifax Regional Municipality”. 2008, c. 39, s. 5.

References to municipalities

6 (1) A reference in an enactment to

- (a) a municipality pursuant to the *Municipal Act*;
- (b) a city;
- (c) a town;
- (d) a municipality of a county or district; or
- (e) a rural municipality,

includes the Municipality.

(2) A reference in an enactment to

- (a) the mayor of a city or town; or
- (b) the warden of a municipality of a county or district, a rural municipality or a municipality pursuant to the *Municipal Act*,

includes the Mayor. 2008, c. 39, s. 6.

Municipal name change

7 The Governor in Council may, on the request of the Council, change the name of the Municipality to a name chosen by the Council. 2008, c. 39, s. 7.

Purposes of Municipality

8 The purposes of the Municipality are to

- (a) provide good government;

(b) provide services, facilities and other things that, in the opinion of the Council, are necessary or desirable for all or part of the Municipality; and

(c) develop and maintain safe and viable communities. 2019, c. 19, s. 11.

Powers of Council

9 (1) The powers of the Municipality are exercised by the Council.

(2) In the general exercise of its powers, the Council shall take into account the principle of accessibility for its citizens with disabilities. 2008, c. 39, s. 11.

Interpretation of powers

10 The powers conferred on the Municipality and its Council by this Act must be interpreted broadly in accordance with the purpose of this Act set out in Section 2 and in accordance with the purposes of the Municipality set out in Section 8. 2019, c. 19, s. 12.

Composition of Council

11 (1) The Municipality is governed by a Council consisting of at least three members.

(2) One councillor must be elected for each polling district in the Municipality. 2008, c. 39, s. 8.

Oaths, affidavits, declarations and affirmations

12 Each Council member, while in office, may administer oaths and take and receive affidavits, declarations and affirmations within the Province for use within the Province. 2008, c. 39, s. 11.

Election of Mayor

13 (1) The Mayor must be elected at large.

(2) Every person eligible to vote for a councillor is eligible to vote for the Mayor. 2008, c. 39, s. 9.

Mayor presides

14 (1) The Mayor shall preside at all meetings of the Council.

(2) During the temporary absence of the Mayor, the Deputy Mayor shall preside and, where neither is present, the Council may appoint a person to preside from among the Council members present.

(3) The Mayor may

(a) monitor the administration and government of the Municipality; and

(b) communicate such information and recommend such measures to the Council as will improve the finances, administration and government of the Municipality. 2008, c. 39, s. 12.

Deputy Mayor

15 (1) The Council shall select one of its Council members to be the Deputy Mayor of the Council.

(2) Prior to the selection of a Deputy Mayor, the Council shall determine the term of office of the Deputy Mayor.

(3) The Deputy Mayor shall act in the absence or inability of the Mayor or in the event of the office of Mayor being vacant.

(4) The Council may prescribe, by policy, additional duties and responsibilities of the Deputy Mayor.

(5) Where the Deputy Mayor is notified that

(a) the Mayor is absent or unable to fulfill the duties of Mayor; or

(b) the office of Mayor is vacant,

the Deputy Mayor has all the power and authority and shall perform all the duties of the Mayor. 2008, c. 39, s. 13.

Perpetual succession, common seal and signing authority

16 (1) The Municipality has perpetual succession and shall have a common seal.

(2) The seal must be kept by the Clerk.

(3) The Mayor and Clerk or the persons designated by the Council by policy may sign a deed or other document to which the Municipality is a party on behalf of the Municipality. 2008, c. 39, s. 10.

Mayor or councillor resignation

17 (1) The Mayor or a councillor may resign from office at any time by delivering to the Clerk a signed resignation and such a resignation is effective on delivery by the Clerk to the next meeting of the Council.

(2) A resignation may not be withdrawn after it has been delivered to the Clerk. 2008, c. 39, s. 14.

Mayor or councillor disqualification

18 (1) The Mayor or a councillor who ceases to be ordinarily resident in the Municipality ceases to be qualified to serve as Mayor or as councillor.

(2) The Mayor or a councillor who, without leave of the Council, is absent from three consecutive regular meetings of the Council ceases to be qualified to serve as Mayor or as a councillor.

(3) Subsection (2) does not apply to the Mayor or a councillor who is absent for 52 or fewer consecutive weeks due to parental accommodation during a pregnancy or commenced within one year of a birth or adoption.

(4) Notwithstanding subsection (1), where the Mayor or a councillor has the approval of the Council, the Mayor or councillor may be ordinarily resident outside the Municipality but within the Province for one period of not more than six months in a term. 2008, c. 39, s. 14; 2018, c. 17, s. 8.

Vacancy to be reported to Council

19 Where a seat on the Council becomes vacant, the Clerk shall report the facts to the Council. 2008, c. 39, s. 14.

Employment restriction for former Council member

20 No Council member may be employed by the Municipality while a Council member or for a period of six months after ceasing to be a Council member. 2008, c. 39, s. 15.

Council meetings

21 (1) Notice of regular Council meetings is not required.

(2) In addition to regular meetings, the Council may hold such other meetings as may be necessary or expedient for the dispatch of business at such time and place as the Council determines, if each Council member is notified at least three days in advance and the Clerk gives at least two days public notice of the meeting.

(3) Where the Mayor determines that there is an emergency, the Council may meet without notice or with such notice as is possible in the circumstances.

(4) The Clerk shall call a meeting of the Council where required to do so by the Mayor or upon presentation of a written request signed by a majority of the councillors.

(5) When calling a meeting pursuant to subsection (4), the Clerk shall give at least two days public notice of the meeting.

(6) Where the Council fails to meet at any time determined by law, it is not dissolved, but may hold future meetings as if there had been no failure.

(7) A meeting of the Council is not an illegal or invalid meeting by reason only of

(a) a failure to give notice; or

(b) meeting elsewhere than provided in the bylaws, a policy or a notice of meeting. 2008, c. 39, s. 16.

Meeting by electronic means

22 (1) Where a procedural policy of the Council so provides, a Council meeting, community council meeting or Council committee meeting may be conducted by electronic means if

- (a) at least two days prior to the meeting, notice is given to the public respecting the way in which the meeting is to be conducted;
- (b) the electronic means enables the public to see and hear the meeting as it is occurring;
- (c) the electronic means enables all the meeting participants to see and hear each other; and
- (d) any additional requirements established by regulation have been met.

(2) Where a procedural policy of the Council so provides, a Council member or Council committee member may participate in a Council meeting, community council meeting or Council committee meeting through electronic means if

- (a) the electronic means enables the public to see and hear the member as the meeting is occurring;
- (b) the electronic means enables all meeting participants to see and hear each other; and
- (c) any additional requirements established by regulation have been met.

(3) A Council member participating in a Council meeting, community council meeting or Council committee meeting by electronic means is deemed to be present at the meeting.

(4) The notice to the public referred to in clause (1)(a) must be given by

- (a) publication in a newspaper circulating in the Municipality;
- (b) posting on the Municipality's publicly accessible Internet site and in at least five conspicuous places in the Municipality; or
- (c) such other method permitted by regulation.

(5) Notwithstanding clause (1)(a), where the Mayor determines that there is an emergency, a meeting may be conducted by electronic means without notice or with such notice as is possible in the circumstances.

(6) The Minister may make regulations

- (a) respecting Council meetings, community council meetings and Council committee meetings conducted by electronic means;

(b) respecting the participation of a Council member or Council committee member in a Council meeting, community council meeting or Council committee meeting by electronic means.

(7) The exercise by the Minister of the authority contained in subsection (6) is a regulation within the meaning of the *Regulations Act*. 2021, c. 14, s. 3.

Quorum of Council

23 (1) A majority of the maximum number of persons that may be elected to the Council is a quorum for every meeting of the Council.

(2) Where there is a vacancy in the Council's numbers, the Council may, if a quorum is present, make a decision at a meeting.

(3) Where the number of Council members is reduced due to vacancies in the Council's numbers below the number required for a quorum, the remaining Council members may make a decision at a meeting of the Council if

(a) there are at least three remaining Council members; and

(b) a majority of the remaining Council members is present at the meeting,

but the Council may not pass a bylaw or policy, borrow money, set a tax rate, acquire or sell property or make any other decision that has effect after, or for a term extending beyond, the date for the election to fill the vacancies in Council membership.

(4) Where the number of Council members is reduced below three due to vacancies in the Council's numbers, the Council may not make a decision except to take such steps as may be required to fill the vacancies. 2008, c. 39, s. 17.

Voting at Council meeting

24 (1) Unless otherwise prescribed by statute or policy, a question arising at a Council meeting must be decided by a majority of votes.

(2) Subject to the *Municipal Conflict of Interest Act*, all Council members present, including the person presiding, shall vote on a question.

(3) Unless otherwise specified in a policy, a member of the Council who fails or refuses to vote on a question before the Council is deemed to have voted in the negative.

(4) In the event of a tie in a vote on a question, the question is determined in the negative. 2008, c. 39, s. 18; 2014, c. 16, s. 1.

Expulsion of person disrupting meeting

25 The person presiding at a meeting of the Council may expel and exclude any person, including a Council member, who is disrupting the proceedings of the Council. 2008, c. 39, s. 18.

Open meetings and exceptions

26 (1) Except as otherwise provided in this Section, Council meetings and meetings of committees appointed by the Council are open to the public.

(2) The Council or any committee appointed by the Council may meet in closed session to discuss matters relating to

- (a) acquisition, sale, lease and security of municipal property;
- (b) setting a minimum price to be accepted by the Municipality at a tax sale;
- (c) personnel matters;
- (d) labour relations;
- (e) contract negotiations;
- (f) litigation or potential litigation;
- (g) legal advice eligible for solicitor-client privilege;
- (h) public security;
- (i) any subject, the discussion of which could, in the opinion of the Council or the committee, as the case may be, violate the confidentiality of information obtained from
 - (i) the Government of Canada or the Government of the Province,
 - (ii) an agency of the Government of Canada or the Government of the Province, or
 - (iii) a public body.

(3) No decision may be made at a private Council meeting except a decision concerning procedural matters or to give direction to staff of, or solicitors for, the Municipality.

(4) A record that is open to the public must be made, noting the fact that the Council met in private, the type of matter that was discussed as set out in subsection (2) and the date, but no other information.

(5) Subsections (3) and (4) apply to committee meetings or parts of them that are not public.

(6) Any councillor or employee of the Municipality who discloses any report submitted to, or details of matters discussed at, a private meeting of the Council or a committee, as a result of which the Municipality has lost financially or the councillor or employee of the Municipality has gained financially, is liable in damages to the Municipality for the amount of the loss or gain.

(7) Subsection (6) does not apply to information disclosed pursuant to subsection (4) or subsection 565(2) of the *Municipal Government Act*. 2008, c. 39, s. 19; 2014, c. 16, s. 2.

Policies regarding meetings, committees and remuneration

- 27 (1) The Council may make policies
- (a) respecting the date, hour and place of the meetings of the Council and the notice to be given for them;
 - (b) regulating its own proceedings and preserving order at meetings of the Council;
 - (c) providing for committees and conferring powers and duties upon them, except the power to expend funds;
 - (d) providing for and fixing
 - (i) the annual remuneration to be paid to the Mayor,
 - (ii) the annual remuneration to be paid to the Deputy Mayor,
 - (iii) the annual remuneration to be paid to councillors,
 - (iv) that part of the salary or remuneration that is an allowance for expenses incidental to the discharge of the duties of such persons as elected officers of the Municipality,
 - (v) the deduction to be made from the remuneration of such persons, other than persons on parental accommodation, for missing more than three Council or committee meetings in a year, and
 - (vi) the rate per kilometre as a travelling allowance for such persons for actual distance travelled once each day to go to, and return from, every daily session of a meeting of the Council or of a committee.
- (2) The Council may, by policy, prescribe
- (a) when a question arising at a meeting of the Council, a committee of Council or a community council must be decided by a majority of votes greater than a simple majority; and
 - (b) the size of the majority required to decide a question referred to in clause (a).
- (3) The Council may, by policy, require that where a Council member is nominated or appointed by the Council to a board, commission or other position or is otherwise appointed as a representative of the Municipality, any remuneration from that position to which that Council member is entitled, excluding reimbursement of expenses, must be paid to the Municipality. 2008, c. 39, s. 20; 2014, c. 16, s. 3; 2018, c. 17, s. 9.

Expense policy and hospitality policy

- 28 (1) The Municipality shall adopt an expense policy and a hospitality policy.
- (2) The expense policy must

- (a) prohibit the Municipality from reimbursing expense claims for alcohol purchases by an individual;
 - (b) identify the persons who have signing authority to authorize the reimbursement of an expense;
 - (c) set out rules respecting the use of corporate credit cards;
 - (d) apply to every reportable individual; and
 - (e) comply with the regulations.
- (3) The hospitality policy must
- (a) establish the expenditures, including an alcohol purchase, that may be a hospitality expense;
 - (b) establish the approval process for authorizing hospitality expenses;
 - (c) establish the scope and applicability of the policy; and
 - (d) comply with the regulations.
- (4) An expense may be reimbursed only if that expense is authorized pursuant to the expense policy or the hospitality policy.
- (5) By January 31st immediately following a regular election held under the *Municipal Elections Act*, the Council shall review the expense and hospitality policies and, following a motion by the Council, either readopt the policies or amend one or both of the policies and adopt the policies as amended. 2008, c. 39, s. 20; 2017, c. 13, s. 13.

Standing, special and advisory committees

- 29 (1) The Council may establish standing, special and advisory committees.
- (2) Each committee shall perform the duties conferred on it by this Act, any other Act of the Legislature or the bylaws or policies of the Municipality.
- (3) The Council may appoint persons who are not members of the Council to a committee and may establish a procedure for doing so.
- (4) A committee shall operate in accordance with the procedures provided in this Act and the procedural policy for the Council applies to committees unless the Council, by policy, decides otherwise.
- (5) A member of a committee established by the Council who is a Council member is not entitled to additional remuneration for serving on the committee but may be reimbursed for expenses incurred as a committee member.
- (6) A committee member who is not a Council member may be
- (a) paid an annual honorarium for serving on the committee, as determined by the Council by policy, and an honorarium may

be a different amount if the person is chair of a committee and honorariums may differ for different committees; and

(b) reimbursed for expenses incurred as a committee member.

(7) Where a Council member is appointed to a committee, board or commission as a representative of the Council, the Council member's appointment ceases if and when the person ceases to be a Council member. 2008, c. 39, s. 21.

Vacancy on board, commission or committee

30 (1) A person appointed by the Council as a member of a board, commission or committee pursuant to this or any other Act of the Legislature who, without leave of the board, commission or committee, is absent from three consecutive regular meetings, ceases to be a member.

(2) Subsection (1) does not apply to a Council member who sits as a member of a municipal committee and who is absent for 52 or fewer consecutive weeks due to parental accommodation during a pregnancy or commenced within one year of a birth or adoption.

(3) The secretary of the board, commission or committee shall immediately notify the Council of a vacancy, and the Council shall fill the vacancy. 2008, c. 39, s. 22; 2018, c. 17, s. 10.

Citizen advisory committees

31 The Council may, by policy, establish citizen advisory committees, which shall advise the Council as directed by the Council. 2008, c. 39, s. 23.

Community councils

32 (1) The Council may, by policy, establish a community council for an area.

(2) A policy establishing a community council must define the boundaries of the community and the community must include the whole, or part of, at least three polling districts.

(3) The number of electors in a community must be at least twice the average number of electors per polling district in the Municipality.

(4) The community council for each community consists of the councillors elected from the polling districts included, in whole or in part, in the community. 2008, c. 39, s. 24.

Powers and duties of community council

33 The powers and duties of a community council include

(a) monitoring the provision of services to the community and recommending the appropriate level of services, areas where additional services are required and ways in which the provision of services can be improved;

(b) the establishment of one or more advisory committees;

- (c) recommending to the Council appropriate bylaws, regulations, controls and development standards for the community;
- (d) recommending to the Council appropriate user charges for the different parts of the community;
- (e) making recommendations to the Council respecting any matter intended to improve conditions in the community, including recommendations respecting
 - (i) inadequacies in existing services provided to the community and the manner in which they might be resolved, additional services that might be required and the manner in which the costs of funding these services might be raised, and
 - (ii) the adoption of policies that would allow the people of the community to participate more effectively in the governance of the community; and
- (f) making recommendations to the Council on any matter referred to it by the Council. 2008, c. 39, s. 25.

Election of chair and rules

- 34 (1)** A community council shall annually elect its chair from among its members.
- (2)** The chair must be elected at the first meeting of the community council after the members are elected.
- (3)** Subject to any policy adopted by the Council, a community council may make rules governing its procedures, the appointment of committees and the number and frequency of its meetings.
- (4)** Any rules passed by a community council must be filed with the secretary of the community council and the Clerk. 2008, c. 39, s. 26.

Annual public meeting of community council

- 35 (1)** A community council shall hold an annual public meeting in the community in each year to report to the public concerning its activities and to receive the views of the public respecting all matters within its mandate.
- (2)** Except as otherwise provided in this Section, all meetings of a community council must be open to the public.
- (3)** A community council may meet privately to discuss matters relating to
- (a) acquisition, sale, lease and security of municipal property;
 - (b) personnel matters;
 - (c) litigation or potential litigation;
 - (d) legal advice eligible for solicitor-client privilege;
 - (e) public security.

(4) No decision may be made at a private community council meeting except a decision concerning procedural matters or to give direction to staff of the Municipality.

(5) A record that is open to the public must be made, noting the fact that the community council met in private, the type of matter that was discussed, as set out in subsection (3), and the date, but no other information. 2008, c. 39, s. 27.

Secretary of community council

36 (1) The Chief Administrative Officer shall appoint an employee of the Municipality to act as the secretary of a community council.

(2) The secretary of a community council is responsible for maintaining the minutes of the community council and its books, records and accounts and for the certification of any document required to be certified as having been adopted by the community council. 2008, c. 39, s. 28.

Budgets and area rates

37 (1) This Section applies to a community council if the Council so provides in the policy establishing the community council.

(2) A community council may determine expenditures, to be financed by area rate, that should be made in, or for the benefit of, the community.

(3) Except in the first year that it is established, a community council shall submit to the Council its proposed operating budget for services to be provided to the community to be financed by area rate and its proposed capital budget for projects for which the Municipality will be required to borrow money and will charge back all or part of the debt charges to the community.

(4) The Council shall levy an area rate in the community to recover the cost of

(a) that part of the budget of the community council that is accepted by the Council;

(b) the debt charges applicable to capital expenditures in and for the benefit of the community that are approved by the Council, except those capital expenditures financed out of the general levy;

(c) the community's fair share of the cost of services provided generally in the Municipality and financed by area rates;

(d) the additional administrative costs, determined by the Council to have been imposed by any additional services provided to the community;

(e) the administrative costs of the community council, including any expenses paid to the members;

(f) the estimated deficit from the previous year; and

(g) a reasonable allowance, as determined by the Council, for the abatement, losses and expenses respecting any amounts that might not be collected or collectable,

less

(h) any subsidy to the area rate from the general levy that may be approved by the Council;

(i) the estimated surplus from the previous year; and

(j) the revenues from the community attributable to charges levied with respect to services or capital facilities provided.

(5) The area rate may be at different rates in different parts of the community.

(6) A community council may determine upon what money contained in the budget approved by the Council is spent, if the sum of all expenditures does not exceed the sum so approved.

(7) A community council is subject to the general purchasing, contracting and tendering policies established by the Council.

(8) A community council may not expend funds with respect to a capital project that cannot be paid for in full out of the area rate, unless the project has been approved by the Council.

(9) A community council may not, in any fiscal year, incur or make expenditures that will result in a total expenditure in excess of its budget for that year. 2008, c. 39, s. 29.

Community planning advisory committee and land-use bylaw

38 (1) This Section applies to a community council if the Council so provides in the policy establishing the community council.

(2) A community council may appoint a planning advisory committee for the community and Part VIII applies with all necessary changes.

(3) A community council may amend the land-use bylaw of the Municipality applicable to the community with respect to any property in the community if the amendment carries out the intent of any municipal planning strategy of the Municipality applicable to the property and, in doing so, the community council stands in the place and stead of the Council and Part VIII applies with all necessary changes.

(4) A community council stands in the place and stead of the Council with respect to variances and site-plan approvals and Part VIII applies with all necessary changes. 2008, c. 39, s. 30; 2010, c. 16, s. 2.

Development agreements by community councils

39 (1) This Section applies to a community council if the Council so provides in the policy establishing the community council.

(2) Where a municipal planning strategy of the Municipality provides for development by agreement, the community council stands in the place and stead of the Council and Part VIII applies with all necessary changes.

(3) A development agreement, or amendment to a development agreement, entered into by a community council must be signed by the Mayor and the Clerk on behalf of the Municipality.

(4) Where a development agreement entered into by a community council purports to commit the Municipality to an expenditure, the commitment has no force or effect until approved by the Council. 2008, c. 39, s. 31.

Council and incentive or bonus zoning agreements

40 (1) A community council stands in the place and stead of the Council with respect to incentive or bonus zoning agreements if the Council so provides in the policy establishing the community council.

(2) A development officer stands in the place and stead of the Council with respect to incentive or bonus zoning agreements to the extent that the Council so provides by land-use bylaw.

(3) An incentive or bonus zoning agreement, or amendment to an incentive or bonus zoning agreement, entered into by a community council or a development officer must be signed by the Mayor and the Clerk on behalf of the Municipality.

(4) Where an incentive or bonus zoning agreement entered into by a community council or a development officer purports to commit the Municipality to an expenditure, the commitment has no force or effect until approved by the Council. 2008, c. 41, s. 1; 2013, c. 18, s. 1; 2018, c. 10, s. 1.

Community committees

41 (1) The Council may, by policy, establish a community committee for an area.

(2) A policy establishing a community committee

(a) must define the boundaries of the area for which the committee is responsible and set out the duties of the committee; and

(b) may include such other matters as the Council considers advisable.

(3) The powers and duties of a community committee may include

(a) monitoring the provision of services to the area for which the committee is responsible and recommending the appropriate level of services, areas where additional services are required and ways in which the provision of services can be improved;

(b) the establishment of one or more advisory subcommittees;

(c) making recommendations to the Council respecting any matter intended to improve conditions in the area for which the committee is responsible, including recommendations respecting

- (i) inadequacies in existing services provided to the area and the manner in which they might be resolved, additional services that might be required and the manner in which the costs of funding these services might be raised,
- (ii) bylaws or regulations, including those regarding planning, that are required, and
- (iii) the adoption of policies that would allow the people of the area to participate more effectively in the governance of the area. 2008, c. 39, s. 32.

PART II

ADMINISTRATION

Chief Administrative Officer

42 The Council shall employ a person to be the Chief Administrative Officer for the Municipality. 2008, c. 39, s. 33.

Council and Chief Administrative Officer relationship

43 (1) The Chief Administrative Officer is the head of the administrative branch of the government of the Municipality and is responsible to the Council for the proper administration of the affairs of the Municipality in accordance with the bylaws of the Municipality and the policies adopted by the Council.

(2) The Council shall communicate with the employees of the Municipality solely through the Chief Administrative Officer, except that the Council may communicate directly with employees of the Municipality to obtain or provide information.

(3) The Council shall provide direction on the administration, plans, policies and programs of the Municipality to the Chief Administrative Officer. 2008, c. 39, s. 34.

Instructing or directing staff prohibited

44 No Council member, committee or member of a committee established by the Council shall instruct or give direction to, either publicly or privately, an employee of the Municipality. 2008, c. 39, s. 34.

Duties and powers of Chief Administrative Officer

- 45 (1)** The Chief Administrative Officer shall
- (a) coordinate and direct the preparation of plans and programs to be submitted to the Council for the construction, rehabilitation and maintenance of all municipal property and facilities;
 - (b) ensure that the annual operating and capital budgets are prepared and submitted to the Council;
 - (c) be responsible for the administration of the budgets after adoption;

(d) review the drafts of all proposed bylaws and policies and make recommendations to the Council with respect to them;

(e) carry out such additional duties and exercise such additional responsibilities as the Council may direct.

(2) The Chief Administrative Officer may

(a) attend all meetings of the Council and any board, committee, commission or corporation of the Municipality and make observations and suggestions on any subject under discussion;

(b) appoint, suspend and remove all employees of the Municipality, with power to further delegate this authority;

(c) act, or appoint a person to act, as bargaining agent for the Municipality in the negotiation of contracts between the Municipality and any trade union or employee association and recommend to the Council agreements with respect to them;

(d) subject to policies adopted by the Council,

(i) make or authorize expenditures, and enter into contracts on behalf of the Municipality, for anything required for the Municipality if the amount of the expenditure is budgeted or within the amount determined by the Council by policy, and may delegate this authority to employees of the Municipality,

(ii) sell personal property belonging to the Municipality that, in the opinion of the Chief Administrative Officer, is obsolete, unsuitable for use, surplus to requirements of, or no longer needed by, the Municipality, and may delegate this authority to employees of the Municipality,

(iii) personally, or by an agent, negotiate and execute leases of real property owned by the Municipality that are for a term not exceeding one year, including renewals,

(iv) establish departments of the municipal administration,

(v) adopt a system of classification of positions of municipal officers and employees and specify offices that must not be filled by the same person,

(vi) determine the salaries, wages and emoluments to be paid to municipal officers and employees, including payment pursuant to a classification system,

(vii) where not otherwise provided for, fix the amount in which security is to be given by municipal officers and employees, the form of security, the manner in which security is to be given and approved and the nature of the security to be given;

(e) authorize, in the name of the Municipality, the commencement or defence of a legal action or proceedings before a court, board or tribunal, including reporting the commencement of the legal action, defence or proceeding to the Council at the next meeting and

may, where the Council so provides by policy, delegate this authority to employees of the Municipality;

(f) where the Council so provides by policy, settle a legal action or proceeding in accordance with the policy.

(3) A lease executed by the Chief Administrative Officer is as binding on the Municipality as if it had been specifically authorized by the Council and executed by the Mayor and Clerk on behalf of the Municipality.

(4) Notwithstanding subsections 47(1), 52(1) and 54(1) and Section 58, the Chief Administrative Officer may, with the consent of Council, perform the duties of the Clerk, Treasurer, Engineer and Administrator, or any of them, pursuant to this Act.

(5) The Chief Administrative Officer may from time to time appoint an employee of the Municipality to act in the place of the Chief Administrative Officer when the Chief Administrative Officer is absent or unable to act. 2008, c. 39, s. 35; 2019, c. 19, s. 13.

Reporting and accountability requirements

46 (1) The directors of departments of the Municipality

(a) are accountable to the Chief Administrative Officer for the performance of their duties; and

(b) shall submit the reports and recommendations required of them to, and through, the Chief Administrative Officer.

(2) A report or recommendation from the solicitor of the Municipality must be presented to the Council by the solicitor and the Chief Administrative Officer must be informed of the contents in advance of the presentation to the Council, unless the report or recommendation is with respect to the Chief Administrative Officer.

(3) Where a director of a department of the Municipality disagrees with a recommendation of the Chief Administrative Officer, the objections may be provided to the Chief Administrative Officer, who shall present them to the Council. 2008, c. 39, s. 36.

Clerk

47 (1) The Chief Administrative Officer shall designate an employee of the Municipality to perform the duties of the Clerk of the Municipality.

(2) The Clerk shall

(a) record in a minute book all the proceedings of the Council;

(b) account for the attendance of each Council member at every meeting of the Council;

(c) keep the bylaws and policies of the Municipality; and

(d) perform such other duties as are prescribed by the Chief Administrative Officer, the Council or an enactment. 2008, c. 39, s. 37.

Records management and destruction

48 (1) The Council may adopt a policy for the management and destruction of records.

(2) Records that are required by an enactment to be kept and minutes, bylaws, policies and resolutions of the Council must not be destroyed.

(3) The Council may, by policy, specify further classes of records that are not to be destroyed or that are to be kept for specified time periods. 2008, c. 39, s. 38.

Reproduction of municipal record admissible

49 Where

- (a) a municipal record is destroyed; or
- (b) an original municipal record is not produced in court,

and

(c) the Clerk certifies that a reproduction is part of the records of the Municipality and is a true reproduction of the original municipal record, a photographic, photostatic or electronic reproduction of the record is admissible in evidence to the same extent as the original municipal record and is, in the absence of proof to the contrary, proof of the record. 2008, c. 39, s. 38.

Proof of employee's authority

50 Where in an action or proceeding it is necessary to prove the authority of an employee of the Municipality, a certificate under the hand of the Clerk and the seal of the Municipality stating that the employee has the authority is sufficient proof, without proof of the signature of the Clerk or of the seal. 2008, c. 39, s. 39.

False certificate of Clerk

51 A Clerk who wilfully gives a false certificate is liable, on conviction, to a penalty not exceeding \$10,000 and, in default of payment, to imprisonment for a period of not more than 180 days. 2008, c. 39, s. 40.

Treasurer

52 (1) The Chief Administrative Officer shall designate an employee of the Municipality to perform the duties of the Treasurer of the Municipality.

(2) The Treasurer may delegate any of the powers or duties of the Treasurer pursuant to this or any other Act of the Legislature to an employee of the Municipality. 2008, c. 39, s. 41.

Treasurer to advise Council regarding uncollectible money

53 The Treasurer shall promptly advise the Council of

(a) all money due to the Municipality that the Treasurer considers cannot reasonably be collected after pursuing all reasonable avenues of collection; and

(b) the reasons for the belief that such money cannot be collected, and the Council may write off the amounts determined to be uncollectible. 2008, c. 39, s. 42.

Engineer

54 The Chief Administrative Officer shall designate an employee of the Municipality to be the Engineer for the Municipality. 2008, c. 39, s. 43.

Engineer direction to take action

55 (1) Where the Engineer has authority to require that action be taken by a person, the Engineer may direct that the action be taken.

(2) No person shall refuse or fail to take action when directed to do so by the Engineer.

(3) Where the Engineer directs that action be taken and no action is taken, the Engineer may cause the necessary work to be done. 2008, c. 39, s. 43.

Engineer power of entry

56 The Engineer may enter in or upon a property at

(a) a reasonable hour upon reasonable notice to the owner and any occupier of the property; or

(b) any time in the event of an emergency,

for the purpose of inspection, observation, measurement, sampling, testing or work to be done in accordance with this Act or a bylaw made pursuant to this Act. 2008, c. 39, s. 43.

Appeal of Engineer's decision

57 (1) Where approval or permission by the Engineer is required pursuant to this Act, the Engineer's decision to refuse the approval or permission may be appealed to

(a) the Council; or

(b) where there is a committee designated by the Council, by policy, to hear appeals, that committee.

(2) On an appeal pursuant to subsection (1), the Council or the designated committee, as the case may be, shall

(a) direct the Engineer to grant the approval or permission;

or

(b) uphold the decision of the Engineer.

(3) The right of appeal pursuant to this Section expires 14 days after the Engineer serves a written decision regarding the approval or permission on the owner. 2008, c. 39, s. 44.

Administrator for dangerous and unsightly premises

58 The Chief Administrative Officer shall designate an employee of the Municipality or other person to be the Administrator responsible for the dangerous and unsightly premises provisions of this Act. 2008, c. 39, s. 45.

Municipal Auditor

59 (1) The Council shall appoint a municipal auditor who is registered pursuant to the *Municipal Government Act* to be the Auditor for the Municipality.

(2) The Auditor shall report to the Council on the accounts and funds

- (a) administered by the Council; and
- (b) over which the Council has apparent or implied control.

(3) The Auditor's report must contain the information, and be in the form, required pursuant to this Act.

(4) The Auditor's report must be filed with the Council and the Minister by September 30th in each year.

(5) The Auditor shall report, to the Council and to the Minister, any management letters and any communication from the Auditor detailing weaknesses in internal control, deficiencies in management information systems or other areas requiring improvement.

(6) The financial statements of the Municipality, as reported on by the Auditor, must set out the remuneration paid to each Council member and the Chief Administrative Officer.

(7) The Auditor shall certify reports to the Council and to the Minister if required by the regulations.

(8) No person may be appointed as the Auditor who, at any time during the fiscal year in which the Auditor is appointed, is or has been

- (a) a Council member;
- (b) a contractor hired by the Municipality; or
- (c) an employee of the Municipality,

except that an Auditor may be reappointed as Auditor. 2008, c. 39, s. 46; 2012, c. 63, s. 6; 2017, c. 13, s. 15.

Access by Auditor

60 (1) The Auditor has access at all times to the books, accounts and vouchers of the Municipality and may require from the employees of the Municipality such information and explanations as may be necessary for the performance of the Auditor's duties.

(2) The employees of the Municipality shall, on request, promptly provide access, information and explanations to the Auditor. 2008, c. 39, s. 47.

Audit committee

- 61** (1) The Council shall annually appoint an audit committee.
- (2) The responsibilities of the audit committee include
- (a) a detailed review of the financial statements of the Municipality with the Auditor;
 - (b) an evaluation of internal control systems and any management letter with the Auditor;
 - (c) a review of the conduct and adequacy of the audit;
 - (d) such matters arising out of the audit as may appear to the audit committee to require investigation;
 - (e) such other matters as may be determined by the Council to be the duties of an audit committee;
 - (f) any other matters as may be determined by the Council.

(3) The audit committee shall meet at least twice in each fiscal year.

(4) Subject to subsection (5), the audit committee must include a minimum of one independent member who is not a member of council or an employee of the Municipality.

(5) Where the audit committee does not include the person referred to in subsection (4),

- (a) the audit committee shall continue to meet and perform its duties and may exercise its powers; and
- (b) the Municipality shall advertise to recruit a person who is not a member of Council or an employee of the Municipality at least once every six months until the requirement is met. 2008, c. 39, s. 48; 2017, c. 13, s. 16.

Auditor General

- 62** (1) The Council shall appoint an Auditor General.
- (2) The Auditor General must be a qualified auditor.
- (3) Subject to this Section, the Auditor General holds office for a term of seven years and may not be reappointed.
- (4) The Auditor General may be removed from office by the Council by a resolution carried by a vote of two thirds of the Council members and with the approval of the Minister.
- (5) The Auditor General reports to the Council. 2008, c. 39, s. 49.

Responsibilities of Auditor General

63 (1) The Auditor General is responsible for assisting the Council in holding itself and the Municipality's administrators accountable for the quality of stewardship over the public funds and for achievement of value for money in the Municipality's operations.

(2) The Auditor General shall examine, in the manner and to the extent the Auditor General considers necessary, the accounts, procedures and programs of the Municipality and any municipal body of the Municipality, as that term is defined in Section 553 of the *Municipal Government Act*, or person or body corporate receiving a grant from the Municipality, to evaluate

- (a) whether the rules and procedures applied are sufficient to ensure an effective control of sums received and expended, adequate safeguarding and control of public property and appropriate records management;
- (b) whether money authorized to be spent has been expended with due regard to economy and efficiency;
- (c) whether money has been spent with proper authorization and according to an appropriation;
- (d) whether applicable procedures and policies encourage efficient use of resources and discourage waste and inefficiency; and
- (e) whether programs, operations and activities have been effective.

(3) In addition to the duties under subsection (2), the Auditor General shall examine those programs, policies and procedures as are requested by the Council, to the extent that such examination can be reasonably accommodated.

(4) The Auditor General shall file annually with the Council a work plan of the Auditor General's activities.

(5) The Auditor General shall update the Council on any substantial departure from the work plan.

(6) The Auditor General shall

- (a) report annually to the Council in a public meeting;
- (b) file such report with the Minister; and
- (c) inform the Chief Administrative Officer of the contents of the report in advance of its submission to the Council, except when such report or such contents address issues involving the Chief Administrative Officer.

(7) In the report of the Auditor General, the Auditor General shall make recommendations, as appropriate, for improvements in the efficiency of the Municipality.

(8) Notwithstanding subsection (1), the responsibilities of the Auditor General do not include the matters described in subsections 59(2) and (3).

(9) The authority of the Auditor General to exercise powers and perform duties extends to any person, body corporate or association who or that receives a grant directly or indirectly from the Municipality and such authority applies only in respect of grants received by the grant recipient directly or indirectly from the Municipality or a municipal body of the Municipality, as that term is defined in Section 553 of the *Municipal Government Act*, after January 13, 2009.

(10) The Auditor General may delegate in writing to any person, other than a member of the Council, any of the Auditor General's powers and duties under this Section.

(11) The Auditor General may continue to exercise the delegated powers and duties, notwithstanding the delegation. 2008, c. 39, s. 50.

Access by Auditor General

64 (1) The Municipality, a municipal body of the Municipality, as that term is defined in Section 553 of the *Municipal Government Act*, and grant recipients referred to in subsections 63(2) and (9) shall give the Auditor General such information regarding their powers, duties, activities, organization, financial transactions and methods of business as the Auditor General believes to be necessary to perform the Auditor General's duties under Section 63.

(2) The Auditor General is entitled to have free access to all books, accounts, financial records, electronic data processing records, reports, files and all other papers, things or property belonging to or used by the Municipality, a municipal body of the Municipality, as that term is defined in Section 553 of the *Municipal Government Act*, or a grant recipient, as the case may be, that the Auditor General believes to be necessary to perform the Auditor General's duties under Section 63.

(3) A disclosure to the Auditor General under subsection (1) or (2) does not constitute a waiver of solicitor-client privilege, litigation privilege or settlement privilege. 2008, c. 39, s. 51.

Powers, privileges and immunities of Auditor General

65 (1) The Auditor General may examine any person on oath on any matter pertinent to an audit or examination under Section 63.

(2) The Auditor General has, in the performance of the Auditor General's duties, the same powers, privileges and immunities as a commissioner appointed under the *Public Inquiries Act*. 2008, c. 39, s. 52.

Duty to preserve secrecy

66 (1) The Auditor General, and every person acting under the instructions of the Auditor General, shall preserve secrecy with respect to all matters that come to the Auditor General's knowledge in the course of the Auditor General's duties under this Act.

(2) The Auditor General, or a person to whom powers are delegated pursuant to subsection 63(10), shall keep in confidence all information obtained in the exercise of a power or in the performance of a duty of the Auditor General and shall not communicate this information to any person except

- (a) in the course of the administration of an enactment; or
- (b) in court proceedings.

(3) A person required to preserve secrecy under subsection (1) shall not disclose any information or document disclosed to the Auditor General under Section 64 that is subject to solicitor-client privilege, litigation privilege or settlement privilege unless the person has the consent of each holder of the privilege. 2008, c. 39, s. 53.

Auditor General and others not competent or compellable witnesses

67 Neither the Auditor General nor any person acting under the instructions of the Auditor General is a competent or compellable witness in a civil proceeding in connection with anything done under Sections 62 to 66. 2008, c. 39, s. 54.

Disclosure of compensation paid by Municipality

68 (1) The Council may adopt a policy requiring the Municipality to disclose to the public the amount of compensation the Municipality pays or provides to any person, in accordance with the policy.

(1), (2) The Council may, in a policy adopted pursuant to subsection

- (a) define “compensation” for the purpose of the policy;
- (b) establish a threshold amount at which compensation must be disclosed;
- (c) designate any person or class of persons whose compensation may be subject to disclosure;
- (d) set out the terms with respect to the timing, content and form of the disclosure required by the policy;
- (e) include any other matter that the Council considers necessary or advisable to carry out effectively the intent and purpose of this Section.

(3) The Council may adopt a policy

- (a) requiring any agency, board, commission or corporation to which the Council may appoint the majority of the members to disclose, and any such agency, board, commission or corporation shall disclose, to the Municipality, the amount of compensation it pays or provides to any person; and
- (b) requiring the Municipality to disclose to the public that compensation information, in accordance with the policy.

(3), (4) The Council may, in a policy adopted pursuant to subsection

- (a) define “compensation” for the purpose of the policy;
- (b) establish a threshold amount at which compensation must be disclosed;

(c) designate any agency, board, commission or corporation to which the Council may appoint the majority of the members, or any class of such agencies, boards, commissions or corporations, as subject to the policy;

(d) designate any person or class of persons whose compensation may be subject to disclosure;

(e) set out the terms with respect to the timing, content and form of the disclosure required by the policy;

(f) include any other matter that the Council considers necessary or advisable to carry out effectively the intent and purpose of this Section.

(5) The disclosure of information pursuant to a policy adopted pursuant to this Section is deemed not to contravene any Act, regulation or agreement, whether the Act was enacted or the regulation or agreement was made before, on or after May 11, 2015, and, for greater certainty, Part XX of the *Municipal Government Act* does not restrict disclosure pursuant to such a policy. 2015, c. 20, s. 1.

Pension plans

69 (1) In this Section, “full-time employee” means an employee who is employed in full-time, continuous employment.

(2) The Council shall establish a pension plan to provide pensions for full-time employees in such manner as the Council shall, by policy, determine.

(3) The Council may, by policy, establish pension plans to provide pensions for some or all other employees of the Municipality in such manner as the Council may, by policy, determine.

(4) A pension plan may include employees of a board, commission or other body corporate established by the Municipality, alone or jointly with other municipalities.

(5) The Council may, by policy, establish a pension plan to provide a pension for the Mayor or councillors or both.

(6) The Municipality, the employees and, where a pension plan is established for the Mayor or councillors, those for whom the pension plan is established, shall make contributions to the plan’s cost.

(7) A pension plan may provide for annual increases in the pensions paid pursuant to the plan, but the increases may not exceed the lesser of

(a) six per cent; and

(b) the percentage increase in the cost of living in the preceding year, as measured by the change in the Consumer Price Index for Canada prepared by Statistics Canada.

(8) The *Pension Benefits Act* applies to a pension plan established pursuant to this Section. 2008, c. 39, s. 55.

Increases to pensions

70 Notwithstanding subsection 69(7), the pension plan adopted by the Municipality pursuant to that Section may provide for increases in the pensions not exceeding the lesser of six per cent per year and the percentage increase in the cost of living as measured by the change in the Consumer Price Index for Canada prepared by Statistics Canada in the years since each such pension became payable, net of any increases previously provided. 2008, c. 39, s. 56.

Employment not during pleasure

71 Notwithstanding the *Interpretation Act*, no employee of the Municipality holds office during pleasure, unless a written agreement between the employee and the Municipality provides otherwise. 2008, c. 39, s. 57.

PART III

POWERS

Resolutions, policies and bylaws

72 (1) The Council shall make decisions in the exercise of its powers and duties by resolution, by policy or by bylaw.

(2) The Council may exercise any of its powers and duties by resolution unless a policy or a bylaw is required by an enactment.

(3) The Council may exercise by bylaw any of the duties and powers that it may exercise by resolution or policy.

(4) The Council may exercise by policy any of the duties and powers that it may exercise by resolution. 2008, c. 39, s. 58.

Policies

73 (1) The Council shall give at least seven days notice to all Council members before a policy is passed, amended or repealed.

(2) The Council may adopt different policies for different areas of the Municipality.

(3) In addition to matters specified in this Act or another Act of the Legislature, the Council may adopt policies on any matter that the Council considers conducive to the effective management of the Municipality. 2008, c. 39, s. 59.

Power to make policies

74 (1) The Council may make policies

(a) setting the interest rate to be charged on overdue taxes, area rates, water charges, sewer charges and any other charges or sums owing to the Municipality;

(b) regulating the use of solid-waste management facilities, providing for times and conditions under which they may be used and setting charges for the use of solid-waste management facilities operated by the Municipality;

- (c) setting and amending the fees to be paid for
 - (i) licences issued pursuant to a bylaw of the Municipality,
 - (ii) an inspection required or conducted pursuant to a bylaw of the Municipality or an enactment,
 - (iii) permits, applications and approvals required to be obtained from the Municipality or an employee of the Municipality pursuant to a bylaw of the Municipality or an enactment,
 - (iv) expenses charged for the impoundment of animals;
- (d) delegating the power to issue, refuse, suspend, cancel or revoke licences and permits, but not including building permits and development permits;
- (e) establishing the amount that may be accepted by the Municipality in lieu of prosecution for breach of a bylaw and setting out procedures to be followed for such acceptance.

(2) Where the power to issue, refuse, suspend, cancel or revoke licences and permits is delegated by policy, provision for an appeal of such issuance, refusal, suspension, cancellation or revocation to a standing committee or to the Council must be included in the policy. 2008, c. 39, s. 60.

Powers of Council

75 The Council may make and carry out a contract, perform an act, do any thing or provide a service for which the Municipality or the Council is authorized by an Act of the Legislature to spend or borrow money. 2008, c. 39, s. 58.

Bylaws respecting contributions and expenses for election campaigns

76 The Council may make bylaws, not inconsistent with Sections 67 to 69 of the *Municipal Elections Act*, respecting contributions and expenses for the election campaigns of candidates for the office of Mayor or councillor, including election campaign spending limits, maximum contribution amounts, disclosure requirements, eligibility to contribute and dates for making contributions. 2016, c. 9, s. 1.

Powers of Municipality regarding property

77 (1) The Municipality may acquire and own property granted or conveyed to the Municipality either absolutely or in trust for a public or charitable purpose.

(2) Where property is conveyed to the Municipality in trust for a public or charitable purpose, the Municipality holds the property according to the terms of the trust and may do anything necessary to carry out the objects of the trust.

(3) The property vested in the Municipality, absolutely or in trust, is under the exclusive management and control of the Council, unless an Act of the Legislature provides otherwise.

(4) Possession, occupation, use or obstruction of property of the Municipality does not give an estate, right or title to the property.

(5) The Municipality may

(a) acquire property, including property outside the Municipality, that the Municipality requires for its purposes or for the use of the public;

(b) sell property at market value when the property is no longer required for the purposes of the Municipality;

(c) lease property owned by the Municipality at market value;

(d) sell deeds for cemetery lots and certificates of perpetual care. 2008, c. 39, s. 61.

Power of Council regarding property with vacant building

78 (1) In this Section, “vacant building” does not include a seasonal dwelling.

(2) The Council may acquire a property that contains a vacant building if the building is boarded up for a period of time that exceeds the length of time that it may be boarded up under a bylaw made pursuant to subclause 236(1)(k)(iii).

(3) Before deciding to acquire a property under subsection (2), the Council shall provide seven days notice in writing to the owner, setting out the date, time and place of the meeting at which the decision to acquire the property will be discussed, and the owner must be given an opportunity to appear and be heard before any order is made.

(4) Notice under subsection (3) must be provided by service upon the owner or by posting the notice in a conspicuous place upon the property.

(5) Where the owner refuses to sell the property, the Council may exercise the power of expropriation under Section 81 to acquire the property. 2008, c. 39, s. 62; 2019, c. 19, s. 14.

Sale or lease of municipal property at less than market value

79 (1) The Municipality may sell or lease property at a price less than market value to a non-profit organization that the Council considers to be carrying on an activity that is beneficial to the Municipality.

(2) A resolution to sell or lease property referred to in subsection (1) at less than market value must be passed by at least a two-thirds majority of the Council present and voting.

(3) Where the Council proposes to sell property referred to in subsection (1) valued at more than \$10,000 at less than market value, the Council shall first hold a public hearing respecting the sale.

(4) The Council shall advertise the public hearing at least twice, in a newspaper circulating in the Municipality, the first notice to appear at least 14 days before the hearing.

(5) The notice of the public hearing must include the date, time and place of the hearing, the location of the real property or a description of the tangible personal property, the estimated value of the property and the purpose of the sale. 2008, c. 39, s. 63.

Sale of land to abutting owner

80 Where the Municipality holds land that, in the opinion of the Council, is of insufficient size or dimensions to be capable of any reasonable use, all or part of the land may be sold to the owner of any lot abutting that land and may be consolidated with such lot and, notwithstanding Section 79, the sale price of the land so sold may be set by the Council at a price that is less than market value at the time of the sale. 2008, c. 39, s. 64.

Expropriation

81 (1) Where the Council considers it necessary to acquire real property, including real property outside the Municipality, for a purpose for which it may spend money, the Council may expropriate the real property, but this power to expropriate does not authorize the Municipality to expropriate property of another municipality.

(2) Where real property is proposed to be expropriated,

(a) the Municipality may survey the property and prepare a description of it;

(b) municipal employees and agents of the Municipality may enter upon the property to survey or examine it; and

(c) the Municipality may make borings or other excavations in the property and shall reimburse the owner for any damage done if the expropriation is not completed.

(3) The *Expropriation Act* applies to expropriation proceedings by the Municipality. 2008, c. 39, s. 65; 2014, c. 16, s. 4.

Dartmouth Common

82 (1) In this Section, “Dartmouth Common” means the properties as identified by the PID numbers 00023267, 00045831, 00082628, 00082776, 00109280, 00109298, 00109561, 00109744, 00109769, 00109777, 00109819, 00109942, 00109959, 00109967, 00109975, 00109983, 00109991, 00110007, 00130013, 00130070, 00175182, 40506867, 40611667, 40847014 and 41339649 and such other properties as are determined by the regulations made pursuant to subsection (8).

(2) The Dartmouth Common is held by the Municipality in trust for the inhabitants of the Municipality.

(3) The Municipality may not

(a) sell, lease, license or otherwise alienate the Dartmouth Common;

(b) build, improve or expand parking facilities on the Dartmouth Common without the approval of the Governor in Council; or

(c) subject to subsections (4), (5) and (7), build, expand or change the use of any building or structure on the Dartmouth Common without the approval of the Governor in Council.

(4) The Municipality may, on the Dartmouth Common,

(a) create or improve park spaces;

(b) install or improve open-air recreational facilities or equipment such as playgrounds and sports grounds;

(c) install or improve park maintenance and support structures;

(d) create or improve public botanical gardens;

(e) install or improve monuments, fountains or gazebos;

(f) create or improve interpretive centres;

(g) create or improve accessory structures such as wash-rooms, dugouts or change rooms, but not including parking facilities; and

(h) maintain or improve existing cemeteries,

and regulate activities on the Dartmouth Common, including by the issuing of permits.

(5) The Municipality may build, expand or improve public transit facilities on that part of the Dartmouth Common adjacent to Nantucket Avenue and not exceeding six acres, but any part of the six acres not required for public transit facilities reverts to public open space.

(6) The Municipality's activities, including planning, development and activities pursuant to this Section, on the Dartmouth Common and any activities permitted by the Municipality on the Dartmouth Common must be consistent with the following objectives:

(a) public access: access for all;

(b) connectivity: visual and physical continuity between open spaces and built elements;

(c) pedestrian priority: safe and comfortable pedestrian circulation;

(d) collaboration: the Municipality shall work collaboratively with the federal and Provincial governments and with the community; and

(e) open space stewardship: protecting natural, historical and recreational open space to ensure public enjoyment and community character.

(7) A building or structure on the Dartmouth Common used immediately prior to May 19, 2011, for a purpose not permitted by this Section may continue to be used for that purpose but no change in the use of that building or structure may be made unless approved by the Governor in Council and, when the building or structure is no longer required for that purpose and the Governor in Council has not approved its use for another purpose, the land occupied by that building or structure must revert to public open space.

(8) Notwithstanding anything in this Section, the Governor in Council may make regulations

(a) determining additional properties to be included as part of the Dartmouth Common;

(b) controlling, limiting or prohibiting any activity referred to in clause (3)(b) or subsection (4) or (5).

(9) The exercise by the Governor in Council of the authority contained in subsection (8) is a regulation within the meaning of the *Regulations Act*, 2011, c. 16, s. 1.

Halifax North Common

83 (1) The Municipality may erect on the North Common of Halifax a permanent building to be used exclusively to support the Oval on the North Common.

(2) A building or structure on the North Common used immediately prior to December 6, 2012, or erected pursuant to subsection (1) may continue to be used for its original purpose but no change in the use of that building or structure may be made unless approved by the Governor in Council and, when the building or structure is no longer required for that purpose and the Governor in Council has not approved its use for another purpose, the land occupied by that building or structure must revert to public open space. 2012, c. 59, s. 1.

Halifax Central Common

84 (1) The Municipality may erect on the Central Common of Halifax one permanent building to be used exclusively to support the aquatic area on the Halifax Common and to provide space for community use.

(2) The Municipality may erect on the Central Common fencing associated with the building referred to in subsection (1).

(3) A building or structure on the Central Common erected pursuant to subsection (1) or (2) may continue to be used for its original purpose but no change in the use of that building or structure may be made unless approved by the Governor in Council and, when the building or structure is no longer required for that purpose and the Governor in Council has not approved its use for another purpose, the land occupied by that building or structure must revert to public open space. 2021, c. 11, s. 1.

Plebiscite

85 (1) The Council may direct that a plebiscite be held in all or part of the Municipality and that the Clerk hold a public meeting in connection with the plebiscite.

(2) Where a plebiscite is directed, the Clerk shall require the returning officer appointed pursuant to the *Municipal Elections Act* to conduct the plebiscite and it must be conducted as closely as possible to the manner provided for the conduct of a special election pursuant to that Act.

(3) A plebiscite must be held on a Saturday, as specified in the resolution, that is not less than 10 weeks after the resolution directing the plebiscite is passed. 2008, c. 39, s. 67.

Police services

86 (1) The Council may provide police services in the Municipality by a combination of methods authorized pursuant to the *Police Act* and the board of police commissioners of the Municipality has jurisdiction over the provision of the police services, notwithstanding that they are provided by a combination of methods.

(2) The Municipality may contract with the Royal Canadian Mounted Police, the Minister of Justice or another municipality to provide police services. 2008, c. 39, s. 68.

Public transportation service

87 (1) The Municipality may provide a public transportation service by

- (a) the purchase of vehicles or vessels and operation of the service;
- (b) providing financial assistance to a person who will undertake to provide the service; or
- (c) a combination of these methods.

(2) The *Public Utilities Act* does not apply to a public transportation service within the Municipality that provides the service. 2008, c. 39, s. 69.

Area improvement and promotion

88 (1) The Municipality may

- (a) beautify, improve and maintain property owned or leased by the Municipality;
- (b) pay grants to a body corporate for the purpose of promoting or beautifying a business district and for airport, wharf or waterfront development;
- (c) identify and promote a business district as a place for retail and commercial activity;
- (d) establish or maintain parking facilities.

(2) The Municipality may levy an area rate applicable only to the commercial property in the area benefited by the expenditures in order to recover them.

(3) In setting such an area rate, the Council may set a minimum and maximum amount to be paid by a person assessed, or may provide that payments be made on another basis established by the Council. 2008, c. 39, s. 70.

Business and industrial development

89 (1) The Municipality may

(a) solicit and encourage the establishment and development of new institutions, industries and businesses and the establishment, development and expansion of existing institutions, industries and businesses in and around the Municipality;

(b) publicize the advantages of the Municipality or any part of the Municipality and the surrounding areas as a location for the establishment and expansion of institutions, industries and businesses;

(c) pay grants to a body corporate for the purpose of promoting the Municipality or any part of the Municipality and the surrounding areas as a location for institutions, industries and businesses;

(d) prepare and disseminate information about the Municipality or any part of the Municipality and the surrounding areas for the assistance of institutions, industries and businesses intending to locate or expand in the Municipality or the surrounding area.

(2) The Municipality may not grant a tax concession or other form of direct financial assistance to a business or industry.

(3) Notwithstanding subsection (2), the Municipality may provide direct financial assistance to a business for the purpose of improving accessibility for people with disabilities.

(4) Notwithstanding subsection (2), the Municipality may provide direct financial assistance to a business for the purpose of increasing the availability of affordable housing in the Municipality. 2008, c. 39, s. 71; 2021, c. 12, s. 2; 2021, c. 33, s. 4.

Libraries Act

90 (1) The Municipality may enter into and carry out agreements for providing regional public libraries and other purposes pursuant to the *Libraries Act*.

(2) The Municipality has the powers of a regional library board pursuant to the *Libraries Act*.

(3) Where the Municipality provides library services directly, it is the regional library board for purpose of grants made pursuant to the *Libraries Act*. 2008, c. 39, s. 72.

Highway, housing and trails agreements

- 91** The Municipality may enter into and carry out agreements
- (a) for highway construction, improvement and maintenance and other purposes pursuant to the *Public Highways Act*;
 - (b) with
 - (i) the Minister of Community Services or Canada Mortgage and Housing Corporation with respect to housing projects, or
 - (ii) any body corporate or agency having similar objects to Canada Mortgage and Housing Corporation with respect to projects pursuant to the *National Housing Act* (Canada);
 - (c) with the Government of the Province with respect to the development, operation or maintenance of trails on land of the Crown in right of the Province. 2008, c. 39, s. 73.

Municipality and village services agreements

- 92** (1) The Municipality may agree with one or more municipalities, villages, service commissions, the Government of the Province or of Canada, or a department or agency of either of them, or a band council pursuant to the *Indian Act* (Canada) to provide or administer municipal or village services.
- (2) An agreement made by the Municipality pursuant to subsection (1) may
- (a) include any service provided by the Municipality;
 - (b) include the provision of services within or outside the Municipality;
 - (c) delegate the power to provide the service to a committee representing each of the participating municipalities and villages, to a district planning commission or to a party to the agreement.
- (3) An agreement made by the Municipality pursuant to subsection (1) may include
- (a) a description of the services to be provided pursuant to the agreement;
 - (b) the area for which the services are to be provided;
 - (c) how and by whom the services are to be provided and administered;
 - (d) how the cost of the services, both capital and current, is to be paid, the proportions of the cost to be paid by each party to the agreement or a method of determining those proportions, when the respective shares of the cost are to be paid and a rate of interest payable in default of prompt payment;
 - (e) where the power to provide the service is delegated to a committee, whether the committee to which responsibility for the service is delegated is a separate body corporate, and the corporate powers that it may exercise;

(f) the ownership of any capital assets to be created under the agreement;

(g) provision for the disposition of a capital asset before or at the termination of the agreement;

(h) provision for the sharing of any liabilities before or at the termination of the agreement;

(i) provision for amending, reviewing or terminating the agreement;

(j) provision for resolving disputes among the parties to the agreement;

(k) such other terms and conditions as the parties to the agreement may determine.

(4) Where an agreement made by the Municipality pursuant to subsection (1) creates a body corporate

(a) a copy of the agreement must be filed with the Registrar of Joint Stock Companies; and

(b) the Municipality may guarantee its borrowings. 2008, c. 39, s. 74.

Agreement for provision of service or capital facility

93 (1) The Municipality may agree with any person for the provision of a service or a capital facility that the Municipality is authorized to provide.

(2) An agreement made pursuant to subsection (1) may allow for the lease, operation or maintenance of the facility or provision of the service by a person, including the sale or disposition to that person of property of the Municipality that continues to be required for the purposes of the Municipality. 2008, c. 39, s. 75.

Flag, symbol or coat of arms

94 (1) The Council may, by policy, adopt a flag, symbol or coat of arms for the Municipality.

(2) A flag, symbol or coat of arms adopted pursuant to this Section may be registered pursuant to an Act of Parliament in order to prevent its unauthorized use.

(3) No person, other than the Municipality, shall use a flag, symbol or coat of arms of the Municipality unless specifically authorized by the Council and upon payment of any fee charged by the Municipality for the use. 2008, c. 39, s. 76.

Trees on public or private property

95 (1) The Municipality may

(a) remove dead, dying or diseased trees on public and private property;

(b) recommend and encourage

- (i) the proper pruning, protection and repair of privately owned trees in the Municipality,
- (ii) the planting of trees of suitable species at desirable sites within the Municipality.

(2) The Municipality may not remove trees from private property unless the owner has granted written permission or an order requiring the removal of the tree has been issued.

(3) The Municipality is not liable for failure to remove a diseased or dangerous tree or limb from property, whether publicly or privately owned. 2008, c. 39, s. 77.

Entry to inspect and treat trees

96 The Council may, by policy, authorize its employees to enter upon land within the Municipality to

- (a) treat the trees on the land as approved and recommended by Forestry Canada;
- (b) inspect the trees on the land to determine whether they are in a diseased condition or damaged to the extent that they constitute a hazard to the safety of persons or property. 2008, c. 39, s. 77.

Order to remove tree or limb

97 (1) The Council may, by policy, authorize an employee to order an owner of land, within 30 days of service of a copy of the order, to remove a tree or limb that is, in the opinion of the employee, hazardous to persons or property or so affected by disease or insect infestation as to endanger the life and health of trees in the vicinity.

(2) An order to remove a tree or limb must contain a description of the location of the tree or limb directed to be removed and a copy of the order must be served upon the owner of the land.

(3) Where the owner fails to remove the tree or limb described in the order within 30 days of service of a copy of the order, a person authorized by the employee may enter upon the land upon which the tree or limb is situate, without warrant or other legal process, and remove the tree or limb.

(4) The actual cost of removal of the tree or limb pursuant to subsection (6) may be recovered as a debt from the owner of the land upon which it was located and is a first lien on the real property of the owner of the land and may be collected in the same manner as taxes.

(5) An owner may appeal an order requiring the removal of a tree or limb to the Supreme Court of Nova Scotia within seven days of service of the order on the owner and the giving of a notice of appeal acts as a stay of proceedings until the appeal has been determined.

(6) Upon an appeal pursuant to subsection (8), the Supreme Court of Nova Scotia may confirm, modify or set aside the order. 2008, c. 39, s. 77.

Defacing, mutilating or cutting tree on municipal property

98 A person who defaces, mutilates or cuts a tree upon property of the Municipality without the written consent of the Municipality is guilty of an offence, and is guilty of a separate offence for each tree defaced, mutilated or cut. 2008, c. 39, s. 77.

Borrowing for tree removal program

99 The Municipality may borrow for a term not exceeding 10 years for the cost of a major tree removal program. 2008, c. 39, s. 77.

PART IV

FINANCE

Fiscal year

100 The fiscal year of the Municipality begins on April 1st and ends on March 31st in the following year. 2008, c. 39, s. 78.

Operating and capital budgets

101 The Council shall adopt an operating budget and a capital budget for each fiscal year. 2019, c. 19, s. 15.

Municipal expenditures

102 (1) Subject to subsections (2) to (4), the Municipality may spend money for municipal purposes only if

(a) the expenditure is included in the Municipality's operating budget or capital budget or is otherwise authorized by the Municipality;

(b) the expenditure is in respect of an emergency under the *Emergency Management Act*; or

(c) the expenditure is legally required to be paid.

(2) The Municipality may expend money provided for in an operating budget or capital budget for a purpose other than that set out in the operating budget or capital budget for that fiscal year if the expenditure does not affect the total of the amounts estimated for the operating budget and the capital budget.

(3) The Municipality may authorize expenditures from its operating budget or transfer money from the operating budget to its capital budget if the total amount of such expenditures and transfers for the fiscal year does not exceed the total amount of estimated revenue from all sources in excess of the amount estimated for those sources in the operating budget for that fiscal year.

(4) The Municipality may authorize capital expenditures that are not provided for in its capital budget if the total of such expenditures does not exceed the greater of

(a) the amount authorized to be transferred from the operating budget to the capital budget under subsection (3);

(b) the borrowing limits established for the Municipality under Section 146; or

(c) the amount withdrawn from a capital reserve fund under subsection 160(4).

(5) In the event of ambiguity in whether or not the Municipality has the authority under this or any other Act to spend money or to take any other action, the ambiguity may be resolved so as to include, rather than exclude, powers the Municipality had immediately prior to April 12, 2019. 2019, c. 19, s. 15.

Expenditures not included in operating or capital budgets

103 The Council shall establish procedures to authorize and verify expenditures that are not included in an operating budget or capital budget. 2019, c. 19, s. 15.

Disclosure policy regarding grants recipients

104 (1) The Council shall adopt a policy that requires the Municipality to disclose to the public a list of recipients of grants made by the Municipality and the amounts of those grants.

(2) A policy adopted under subsection (1) must include

- (a) the frequency and timing of disclosure;
- (b) the content to be included in a disclosure; and
- (c) the form in which the disclosure must be made.

(3) A policy adopted under subsection (1) may include any other matter that the Council considers necessary or advisable to carry out effectively the intent and purpose of the policy. 2019, c. 19, s. 15.

Expense report and hospitality expense report

105 (1) The Municipality shall prepare an expense report for each reportable individual within 90 days of the end of each fiscal quarter.

(2) An expense report must

- (a) be posted on a publicly available website for the Municipality; and
- (b) comply with the regulations.

(3) The Municipality shall prepare a hospitality expense report within 90 days of the end of each fiscal quarter.

(4) A hospitality expense report must

- (a) comply with the hospitality policy;
- (b) be posted on a publicly available website for the Municipality; and
- (c) comply with the regulations.

(5) The Municipality shall prepare an annual summary report that complies with any requirements prescribed by the Minister.

(6) The Municipality shall file the annual summary report with the Minister by September 30th of each year. 2017, c. 13, s. 17.

Additional funding for Halifax Regional Centre for Education

106 (1) The Council shall provide to the Halifax Regional Centre for Education at least the amount of additional funding that was provided to the Halifax District School Board in the fiscal year beginning April 1, 1995.

(2) The guaranteed amount payable pursuant to subsection (1) must be recovered by area rate levied on the assessed value of the taxable property.

(3) The Council shall provide to the Halifax Regional Centre for Education at least the amount of additional funding that was provided to the Dartmouth District School Board in the fiscal year beginning April 1, 1995.

(4) The guaranteed amount payable pursuant to subsection (3) must be recovered by area rate levied on the assessed value of the taxable property.

(5) The Council may levy a rate or an area rate to provide additional funding to the Halifax Regional Centre for Education.

(6) Rates levied pursuant to subsection (5) may be levied on the assessed value of the taxable property and may be different for commercial property than for residential and resource property.

(7) Notwithstanding Section 129, the Municipality may levy or charge different area rates for different areas in the Municipality and the combined funds raised may be allocated by the Council for the use or benefit of the Halifax Regional Centre for Education throughout the Municipality, without restriction on area.

(8) Subject to subsection (9), the amounts guaranteed pursuant to subsections (1) and (3) must not be decreased by more than 10% of the amounts specified in subsections (1) and (3), respectively, in any year, beginning in the fiscal year commencing April 1, 1996.

(9) The Council and the Halifax Regional Centre for Education may agree to reduce the amount of the guarantees at a faster rate than is permitted pursuant to subsection (8).

(10) Funding provided pursuant to this Section is in addition to funding provided pursuant to the *Education Act*. 2008, c. 39, s. 80; 2009, c. 15, s. 1; 2018, c. 1, Sch. A, s. 117.

Supplementary funding for Conseil scolaire acadien provincial

107 (1) For the purpose of this Section, “student” means the students who are counted for purposes of calculating the “funded enrolment” under Section 8 of the *Governor in Council Education (CSAP) Act Regulations* made under the *Education (CSAP) Act*.

(2) Where the Council provides additional funding to the Halifax Regional Centre for Education under subsections 106(1) and (3), the Council shall provide additional funding to the Conseil scolaire acadien provincial.

(3) The additional funding for the Conseil scolaire acadien provincial must be

(a) a share of the additional funding provided under subsections 106(1) and (3); or

(b) an amount in addition to the amounts provided under subsections 106(1) and (3).

(4) The Conseil scolaire acadien provincial's additional funding is determined by

(a) in the case of clause (3)(a), taking the additional funding provided under each of subsections 106(1) and (3), dividing those amounts, respectively, by the total number of students attending both the Conseil scolaire acadien provincial school and the Halifax Regional Centre for Education school whose civic addresses are within each applicable area and multiplying the resulting amounts for each area by the number of students attending the Conseil scolaire acadien provincial school whose civic addresses are within in each area; and

(b) in the case of clause (3)(b), taking the additional funding provided under each of subsections 106(1) and (3), dividing those amounts, respectively, by the total number of students attending the Halifax Regional Centre for Education school whose civic addresses are within each applicable area and multiplying the resulting amounts by the number of students attending the Conseil scolaire acadien provincial school whose civic addresses are within each area.

(5) The additional funding for the Conseil scolaire acadien provincial must be recovered by

(a) in the case of students attending the Conseil scolaire acadien provincial school whose civic addresses are within the area referred to in subsection 106(1), the area rate referred to in subsection 106(2); and

(b) in the case of students attending the Conseil scolaire acadien provincial school whose civic addresses are within the area referred to in subsection 106(3), the area rate referred to in subsection 106(4).

(6) The additional funding provided for the Conseil scolaire acadien provincial must be used solely for the benefit of schools in the Municipality.

(7) The Minister may make regulations respecting the information to be provided by the Halifax Regional Centre for Education and the Conseil scolaire acadien provincial to the Municipality.

(8) The exercise by the Minister of the authority contained in subsection (7) is a regulation within the meaning of the *Regulations Act*. 2008, c. 39, s. 81; 2018, c. 1, Sch. A, s. 118.

Additional funding

108 Where the Council provides additional funding to the Halifax Regional Centre for Education other than under subsection 106(1) or (3), the Council shall provide additional funding to the Conseil scolaire acadien provincial in the same manner as is set out in subsections 107(1) to (4). 2008, c. 39, s. 82; 2009, c. 15, s. 2; 2018, c. 1, Sch. A, s. 119.

Power to borrow money

109 (1) The Municipality may borrow to carry out an authority to expend funds for capital purposes conferred by this Act or another Act of the Legislature.

(2) The authority to borrow and expend money conferred by this Section may be exercised in respect of any land, building or undertaking owned by the Municipality, even if all or part of the land, building or undertaking is located in another municipality.

(3) Where the Municipality enters into a joint undertaking with a municipality, village or service commission for a purpose for which it is authorized to borrow and expend money, it may borrow its portion of the cost of the undertaking irrespective of which party or intermunicipal corporation will own the undertaking.

(4) The Municipality may borrow money

(a) with the approval of the Minister of Public Works, to improve a street that is the property of the Crown in right of the Province;

(b) to pay and retire debentures;

(c) where the Municipality is authorized by an Act of the Legislature to give a guarantee, to honour such a guarantee that it is called upon to pay;

(d) to carry out an agreement made pursuant to clause 91(c);

(e) to contribute a capital grant to a hospital to which the *Hospitals Act* applies;

(f) to demolish a building or structure that is owned by the Municipality;

(g) for the purpose of making a loan to a registered fire department or registered emergency services provider. 2008, c. 39, s. 83; 2019, c. 19, s. 16.

Sums spent by requirement of Legislature are for ordinary lawful purposes

110 Where an Act of the Legislature authorizes or directs the Municipality to make an expenditure, enter into a contract or guarantee or take action as a result of which it may be required to pay money, the sums required are for the ordinary lawful purposes of the Municipality. 2008, c. 39, s. 84.

Sharing of taxes or grants in lieu

111 The Municipality may agree with another municipality to share taxes or grants in lieu of taxes paid or payable to the Municipality. 2008, c. 39, s. 85.

Interpretation of Sections 113 and 114

112 (1) In Sections 113 and 114, “income” means a person’s total income from all sources for the calendar year preceding the fiscal year of the Municipality and, where so determined by the Council, includes the income of all other members of the same family residing in the same household, but does not include an allowance paid pursuant to the *War Veterans Allowance Act* (Canada) or pension paid pursuant to the *Pension Act* (Canada). 2008, c. 39, s. 86.

Low income tax exemption

113 (1) The Council may, by policy,

(a) grant an exemption from taxation, in the amount or to the extent set out in the policy, for a person whose income is below the amount set out in the policy; and

(b) prescribe a scale of exemptions related to income.

(2) The Council may provide that a person applying for an exemption pursuant to this Section shall make an affidavit or provide other proof confirming the person’s income.

(3) The policy to grant an exemption from taxation may

(a) specify that the exemption extends only to persons who are residents of the Municipality or property of a ratepayer occupied as the ratepayer’s principal residence;

(b) provide that where a property is assessed to more than one person, any of them who is entitled to an exemption may receive only the portion of the exemption equal to that person’s share of the total assessment for the property, but where the different interests are not separate, then to that portion determined by the Treasurer, whose determination is final;

(c) specify a date, not less than 30 days after the filing of the assessment roll, after which no application for an exemption will be received. 2008, c. 39, s. 86.

Reduction of taxes for destroyed buildings

114 (1) Notwithstanding subsection 89(2), the Council may, by policy, provide for the reduction, to the extent that the Council considers appropriate, of the taxes payable with respect to a property if a building situate on the property has been destroyed or partially destroyed by fire, storm or otherwise and the assessment of the property does not reflect that the building has been destroyed or partially destroyed, and provide for the reimbursement of any overpayment resulting from the reduction.

(2) A policy adopted pursuant to subsection (1) may be made retroactive to April 1, 1999.

(3) Upon a request by the Clerk, the Director of Assessment shall value the property for the purpose of a policy adopted pursuant to subsection (1) but, for greater certainty, may not change the assessment of the property except in accordance with the *Assessment Act*. 2008, c. 39, s. 87; 2023, c. 18, s. 1.

Postponed payment of rates and taxes

115 (1) The Council may, by bylaw, provide for the postponed payment of all, or a defined portion of, rates and taxes by persons whose income is below the amount set out in the bylaw.

(2) A bylaw passed pursuant to this Section

(a) applies only to the property of a person occupied by that person as the person's principal residence;

(b) may provide that taxes be postponed for a certain period, or until the death of the assessed owner or other specified contingency;

(c) may provide for the postponement of tax collection procedures for the current year;

(d) may prescribe the procedure for applying for the benefits of the bylaw, including the required forms and affidavits;

(e) may provide for interest on the taxes postponed.

(3) A limitation period affecting the Municipality's entitlement to collect postponed taxes does not begin until the period of postponement expires.

(4) Where the Municipality provides that only a portion of the taxes due may be postponed and where the portion that is required to be paid is three years overdue, the period of postponement terminates 30 days after the Treasurer notifies the person whose taxes have been postponed, unless the taxes that were not postponed are paid before the expiration of the 30 days. 2008, c. 39, s. 88.

No tax relief except as otherwise provided

116 Except as otherwise provided by this Act or another Act of the Legislature, the Council may not relieve a taxpayer from all or a portion of taxes. 2008, c. 39, s. 88.

Tax reduction or exemption for organization or water utility

117 (1) The Council may, by policy, exempt from taxation, to the extent and under the conditions set out in the policy

(a) property

(i) of a named registered Canadian charitable organization, and

(ii) that is used directly and solely for a charitable purpose;

(b) property of a non-profit community, charitable, fraternal, educational, recreational, religious, cultural or sporting organiza-

tion if, in the opinion of the Council, the organization provides a service that might otherwise be a responsibility of the Council;

(c) the buildings, pump stations, deep well pumps, main transmission lines, distribution lines, meters and associated plant and equipment of a municipal water utility.

(2) The Council may, by policy, to the extent and under the conditions set out in the policy, provide that the tax payable with respect to all or part of the taxable commercial property of any non-profit community, charitable, fraternal, educational, recreational, religious, cultural or sporting organization named in the policy be reduced to the tax that would otherwise be payable if the property were residential property, inclusive of area rates.

(3) A tax exemption or reduction pursuant to this Section must be shown on the tax bill and accounted for by the Municipality as an expenditure.

(4) The Council may, in its discretion, refuse to grant an exemption or reduction pursuant to this Section and a policy made pursuant to this Section extends only to properties specifically named in the policy.

(5) An exemption given pursuant to this Section does not apply to area rates unless specified in the policy.

(6) A policy made pursuant to this Section has effect in the fiscal year following the fiscal year in which it is published, unless the policy sets a different effective date, including an effective date retroactive to the beginning of the current fiscal year. 2008, c. 39, s. 89.

Tax reduction for child-care facility

118 (1) The Council may, by bylaw, to the extent and under the conditions set out in the bylaw, provide that the tax payable with respect to all or part of the taxable commercial property of any child-care facility licensed under the *Early Learning and Child Care Act* be reduced to the tax that would be payable if the property were residential property, including area rates.

(2) A bylaw made pursuant to this Section may have an effective date retroactive to the beginning of the current fiscal year. 2008, c. 39, s. 90; 2018, c. 33, s. 18.

Taxation of property and assets of Regional Water Commission

119 (1) For greater certainty, the Council may levy commercial taxes against the property and assets of the Halifax Regional Water Commission situated within the geographical boundaries of the Municipality.

(2) Notwithstanding subsection (1) and the *Assessment Act*, the Municipality may enter into agreements with the Halifax Regional Water Commission providing for the payment of grants in lieu of commercial rates and taxes against the property and assets of the Halifax Regional Water Commission within the geographical boundaries of the Municipality in such amounts annually as are agreed upon between the Council and the Halifax Regional Water Commission. 2008, c. 39, s. 92.

Taxation of property of Halifax International Airport Authority

120 (1) Notwithstanding any enactment, where there is an agreement pursuant to this Section, the Halifax International Airport Authority shall pay taxes with respect to property assessed to it within the Municipality in accordance with the agreement instead of the taxes otherwise payable, pursuant to this Act, set out in the agreement.

(2) Notwithstanding any enactment, where the Council considers it necessary or advisable, the Municipality may enter into a taxation agreement with the Authority respecting the taxes payable to the Municipality by the Authority.

(3) A taxation agreement entered into pursuant to this Section does not apply with respect to property leased or occupied by a tenant of the Authority. 2014, c. 15, s. 1.

Taxation agreement for eligible industrial property

121 (1) In this Section, “eligible industrial property” has the meaning prescribed by the regulations.

(2) Notwithstanding any enactment, where the Council considers it necessary or advisable, the Municipality may enter into a taxation agreement with the owner of an eligible industrial property respecting the taxes payable to the Municipality by the owner.

(3) Notwithstanding any enactment, where there is a taxation agreement pursuant to this Section, the owner shall pay taxes with respect to the eligible industrial property in accordance with the agreement instead of the taxes otherwise payable pursuant this Act.

(4) A taxation agreement does not take effect unless it is approved by bylaw.

(5) Taxes payable under a taxation agreement entered into pursuant to this Section are a first lien upon the eligible industrial property.

(6) The Minister may make regulations prescribing the meaning of “eligible industrial property”.

(7) A regulation made pursuant to subsection (6) may be made retroactive to April 1, 2014, or such later date as is specified by the regulation.

(8) The exercise by the Minister of the authority contained in subsection (6) is a regulation within the meaning of the *Regulations Act*. 2014, c. 50, s. 1.

Commercial development district

122 (1) In this Section,

“commercial development district” means a district, established by a bylaw made pursuant to subsection (2), that includes one or more eligible properties;

“eligible commercial property” means a commercial property, except the forest property owned by a person who owns 50,000 acres or more of forest property in the Province;

“eligible contaminated property” means a property or part thereof that

- (a) was an eligible commercial property;
- (b) is designated as a contaminated site pursuant to subsection 93(1) of the *Environment Act*; and
- (c) is the subject of an agreement entered into pursuant to clause 95(1)(b) of the *Environment Act*;

“eligible property” means an eligible commercial property or eligible contaminated property.

(2) Notwithstanding subsection 89(2) but subject to Section 123, where the Council considers it necessary or advisable, the Council may, by bylaw, provide for

- (a) the phasing-in of an increase in the taxable assessed value of an eligible property located in a commercial development district over a period not exceeding 10 years; and
- (b) the cancellation, reduction or refund of taxes paid as a result of the phasing-in of the increase.

(3) Subject to subsection (4), a bylaw made pursuant to subsection (2) must establish, in accordance with a municipal planning strategy, one or more commercial development districts.

(4) A commercial development district may be established only in an area that is serviced by wastewater facilities and a water system.

(5) Subject to subsection (6), a bylaw made pursuant to subsection (2) may

- (a) where the taxes paid in the current year in respect of an eligible property exceed the taxes payable in respect of the eligible property under the bylaw, authorize the refund of the amount by which the taxes paid exceed the taxes payable under the bylaw;
- (b) prescribe a base year for the purpose of a formula authorized by clause (c); and
- (c) prescribe a formula to be applied to any increase in the taxable assessed value in a year above the taxable assessed value in the base year for the purpose of calculating the taxes payable.

(6) A formula prescribed by clause (5)(c) must not result in the calculation of the total increase in taxes payable during the phase-in period being less than 50% of the total increase in taxes that would be payable during the same period in the absence of the application of the formula.

(7) Notwithstanding subsection 89(2), where a bylaw is made pursuant to subsection (2), the owner of an eligible property to which the bylaw

applies shall pay taxes with respect to the eligible property in accordance with the bylaw instead of the taxes otherwise payable pursuant to this Act.

(8) Taxes payable in respect of an eligible property under a bylaw made pursuant to subsection (2) are a first lien upon the eligible property.

(9) Nothing in this Section authorizes the application of a commercial tax rate to an eligible property other than the commercial tax rate set by the Council pursuant to Section 126 for the area of the Municipality determined to be an urban area receiving an urban level of services. 2016, c. 13, s. 3.

Ministerial review of commercial development district bylaw

123 (1) Where the Council makes a bylaw pursuant to subsection 122(2), the clerk shall submit a certified copy of the bylaw to the Minister.

(2) The Minister shall review the bylaw and determine whether the bylaw appears to affect a provincial interest or conflict with the law.

(3) Where the Minister determines that the bylaw appears to affect a provincial interest, the Minister shall

- (a) approve the bylaw;
- (b) approve the bylaw with such amendments as the Minister considers necessary or advisable; or
- (c) refuse to approve the bylaw.

(4) Where the Minister determines that the bylaw appears to conflict with the law, the Minister shall

- (a) approve the bylaw with such amendments as the Minister considers necessary or advisable to resolve the apparent conflict with the law; or
- (b) refuse to approve the bylaw.

(5) The bylaw is of no force and effect until the Minister

- (a) determines that the bylaw does not appear to affect a provincial interest or conflict with the law; or
- (b) approves the bylaw, with or without amendments,

and provides written notice to the clerk of the Minister's determination or approval. 2016, c. 13, s. 3.

Municipality to review commercial development district bylaw

124 A bylaw made pursuant to subsection 122(2) must be reviewed by the Municipality within four years of its coming into force and every four years thereafter. 2016, c. 13, s. 3.

Estimates of required sums and setting of tax rates

125 (1) The Council shall make estimates of the sums that are required by the Municipality for the fiscal year.

(2) The estimates must include the probable revenue from all sources other than taxes for the fiscal year and make due allowance for

(a) the abatement and losses that might occur in the collection of the taxes; and

(b) taxes for the current fiscal year that might not be collected.

(3) The Council shall include an allowance to provide for any variation in the total assessed value shown on the roll that might result from assessment appeals.

(4) The Council shall include in its estimates the deficit from the preceding fiscal year.

(5) The Council may include in its estimates an amount for

(a) contingencies and unforeseen expenses in matters on which it may vote and expend money;

(b) all or part of any surplus of previous fiscal years that will be available for the current fiscal year.

(6) The Council shall authorize the levying and collecting of a

(a) commercial tax rate of so much on the dollar on the assessed value of taxable commercial property; and

(b) residential tax rate of so much on the dollar on the assessed value of taxable residential property and resource property.

(7) Notwithstanding clause (6)(a), the tax rate for the part of commercial property that is identified on the assessment roll as being occupied by a seasonal tourist business is 75% of the commercial tax rate.

(8) The tax rates must be those that the Council considers sufficient to raise the amount required to defray the estimated requirements of the Municipality. 2008, c. 39, s. 93.

Tax rates for rural, suburban and urban areas

126 The Council shall set separate commercial and residential tax rates for the area of the Municipality determined by the Council to be

(a) a rural area receiving a rural level of services;

(b) a suburban area receiving a suburban level of services; and

(c) an urban area receiving an urban level of services. 2008, c. 39, s. 94.

Tax rates for commercial property

127 (1) The Council may

(a) set different commercial tax rates for commercial property located in areas of the Municipality designated by Council, based on the assessment of commercial property under the *Assessment Act*;

(b) set different commercial tax rates for commercial property located in areas of the Municipality designated by Council, based on the length or proportion of frontage of a property on a street, including a private road;

(c) set different commercial tax rates for commercial property located in areas of the Municipality designated by Council, based on the number of square metres in a property, the number of square metres in all commercial buildings on a property, or the combined number of square metres in a property and all commercial buildings on that property;

(d) set additional tiered or escalating commercial tax rates based on the factors set out in clauses (a) to (c) that are in excess of the rates set in clauses (a) to (c); and

(e) set additional or different commercial tax rates using any combination of clauses (a) to (d).

(2) Commercial tax rates set by the Council under subsection (1) apply in place of the commercial tax rates set under Section 126 in the areas designated by the Council.

(3) A commercial tax rate set under subsection (1) must be reviewed by the Minister four years after its coming into force and thereafter as provided by regulation.

(4) The Minister shall determine the process for the review under subsection (3) and may review more than one application of the commercial tax rate options set under subsection (1) at the same time.

(5) The Municipality shall participate in and co-operate with the review under subsection (3) as required by the Minister, including by providing reports, records or other documents requested by the Minister. 2008, c. 39, s. 94; 2016, c. 22, s. 1.

Minimum tax per dwelling unit

128 (1) The Council may, by policy, prescribe a minimum tax per dwelling unit and the minimum tax may be set at different levels for different areas of the Municipality.

(2) Where the tax rate applied to the assessment of a property is less than the minimum tax prescribed by the Council, the owner of the property shall pay an additional tax equal to the difference between the tax rate applied to the assessment of the property and the minimum tax.

(3) The number of dwelling units in a property is as determined by the Director of Assessment whose decision may be appealed to the Board. 2008, c. 39, s. 95.

Area rates and uniform charges

129 (1) The Council may spend money in an area, or for the benefit of an area, for any purpose for which the Municipality may expend funds or borrow.

(2) For greater certainty, an expenditure under subsection (1) may include a contribution to a hospital to which the *Hospitals Act* applies.

(3) The Council may recover annually from the area the amount required or as much of that sum as the Council considers advisable to collect in any one fiscal year by an area rate of so much on the dollar on the assessed value of the taxable property in the area.

(4) The Council may provide

(a) a subsidy for an area rate from the general rate in the amount or proportion approved by the Council;

(b) in the resolution setting the area rate, that the area rate applies only to the assessed value of one or more of the taxable commercial, residential or resource property in the area.

(5) The Council may, in lieu of levying an area rate, levy a uniform charge on each

(a) taxable property assessment;

(b) dwelling unit,

in the area.

(6) Charges pursuant to subsection (5) are first liens on the real property and may be collected in the same manner as taxes.

(7) The Council may expend money within an area for any lawful purpose and may raise all, or part of it, by a general rate on the whole Municipality.

(8) The area rate referred to in this Section may be different on commercial property than on residential and resource property. 2008, c. 39, s. 96; 2019, c. 19, s. 17.

Marketing levy

130 (1) In this Section,

“accommodation” means the provision one or more rental units or rooms as lodging in hotels and motels and in any other facility required to be registered under the *Tourist Accommodations Registration Act* and in a building owned or operated by a post-secondary educational institution;

“marketing levy” means the levy imposed pursuant to this Section;

“operator” means a person who, in the normal course of the person’s business, sells, offers to sell, provides or offers to provide accommodation in the Municipality;

“purchase price” means the price for which accommodation is purchased, including the price in money, the value of services rendered and other consideration accepted by the operator in return for the accommodation provided, but does not include the goods and services tax.

(2) The Council may, by bylaw, impose a marketing levy upon a person who, for a daily charge, fee or remuneration purchases accommodation in the Municipality.

(3) The marketing levy is at such rate as may be set by the Council, but may not exceed three per cent of the purchase price of the accommodation.

(4) Subsections (2) and (3) do not apply to

(a) a person who pays for accommodation for which the daily purchase price is not more than \$20;

(b) a student who is accommodated in a building owned or operated by a post-secondary educational institution while the student is registered at and attending that post-secondary educational institution;

(c) a person who is accommodated in a room for more than 30 consecutive days; or

(d) accommodation exempted under the bylaws.

(5) The marketing levy collected pursuant to this Section may be used by the Council only to promote tourism.

(6) Without restricting the generality of subsection (5) and notwithstanding subsection 89(2) or any other enactment, the Council may pay such portion of the marketing levy collected by way of a grant, as determined by the Council, to any organization formed to promote tourism, whether such organization is non-profit or otherwise.

(7) An operator is deemed to be an agent of the Municipality for the purpose of collecting the marketing levy and remitting it to the Municipality and as such shall collect the levy from the purchaser and remit it to the Municipality.

(8) The marketing levy, whether the price is stipulated to be payable in cash, on terms, by instalments or otherwise, must be collected at the time of the purchase on the total amount of the purchase price and must be remitted to the Municipality at the times and in the manner prescribed by a bylaw passed pursuant to subsection (9).

(9) The Council may make a bylaw to implement a marketing levy in the Municipality, including respecting

(a) the levy not applying to the purchaser of accommodation based on the purchase price of the accommodation, the number of rental units or rooms for rent, the location of the facility or any other criteria prescribed by the Council;

(b) the forms and records to be maintained by an operator and the information to be recorded therein;

(c) the method of collection and remittance of the levy and any other conditions or requirements affecting collection and remittance;

(d) the rate of levy to be collected, including a minimum and maximum levy;

- (e) the method by which a purchase price may be attributed to accommodations that are sold as part of a combination of accommodations, meals and specialized goods or services;
- (f) the inspection and audit of records maintained by an operator;
- (g) interest and penalties for the failure to collect or remit the levy as required to the Municipality; and
- (h) the times at which and the manner in which operators must remit the marketing levy to the Municipality.

(10) A bylaw made pursuant to subsection (9) must include an exemption for persons and their families accommodated while receiving medical treatment at a hospital or provincial healthcare centre or seeking specialist medical advice, including the manner of showing entitlement to the exemption. 2022, c. 50, s. 2.

Reduction of tax increase

131 (1) The Council may, by policy, to the extent and under the conditions set out in the policy, provide for the reduction of the taxes payable in respect of a residential property in a fiscal year set out in the policy, including being retroactive to the beginning of the fiscal year if the percentage increase in the assessed value of the property averaged over the fiscal year and such number of immediately previous fiscal years as prescribed by the policy is greater than the percentage prescribed by the policy for the fiscal year.

(2) Without limiting the generality of subsection (1), the policy may provide that

- (a) the reduction in taxes
 - (i) does not apply to a property, the taxable assessed value of which is less than its assessed value pursuant to Section 39 of the *Assessment Act* in the fiscal year set out in the policy, including being retroactive to the beginning of the fiscal year, or
 - (ii) is reduced by the reduction in taxes resulting from the application of Section 39 of the *Assessment Act*;
- (b) the reduction in taxes applies only if there has been no change in ownership of the property from the preceding fiscal year other than a transfer or devolution of the property to a spouse, child, grandchild, great-grandchild, parent, grandparent or sibling of an owner of the property;
- (c) the reduction in taxes applies only if the property is owned by an individual or individuals ordinarily resident in the Province or by corporations that are family trusts or farmers' co-operatives whose head offices are in the Province and in which the majority of the issued and outstanding shares are owned or beneficially owned by individuals who are ordinarily resident in the Province;

- (d) the reduction in taxes applies only if the property was assessed as residential for all of the fiscal years prescribed by the policy and used in the calculation of the tax reduction;
- (e) the reduction in taxes does not apply to vacant land;
- (f) the reduction in taxes does not apply in respect of any improvements to the property to the extent provided by the policy; and
- (g) the reduction in taxes is limited to properties owned by individuals who meet the income thresholds provided by the policy. 2008, c. 39, s. 97.

Recreational property tax

132 (1) An owner of land to which Section 22 of the *Assessment Act* applies shall annually pay to the Municipality in which the land is situate a tax, to be known as a recreational property tax, equal to five dollars per acre, or part of an acre, for all of the land assessed as recreational property.

(2) The recreational property tax applies for the municipal taxation year 1977, and the amount of the tax per acre is increased by five per cent per year for each subsequent municipal taxation year, unless altered pursuant to subsection (3).

(3) The Governor in Council may, by regulation, determine the amount of the tax per acre for the recreational property tax.

(4) Where any land, or any part thereof, to which this Section applies ceases to be land used directly and solely for the purpose of a non-profit community, charitable, fraternal, educational, recreational, religious, cultural or sporting organization or institution, a change in use tax equal to 50% of the value, determined by the assessor pursuant to the *Assessment Act*, of the land or part thereof to which this Section ceased to apply, is due and payable to the Municipality in which the land is situate by the person determined by the assessor to be responsible for the change in use, unless the land becomes farm property, in which case no change in use tax is payable. 2008, c. 39, s. 98.

Conservation property

133 (1) The Minister of Environment and Climate Change shall in each year pay to the Municipality in which conservation property exempt from taxation is situate a grant equal to the amount that would have been due and payable to the Municipality had each conservation property in the Municipality continued to be classified as it was immediately before becoming conservation property.

(2) Notwithstanding anything in this Act or any other Act of the Legislature authorizing a tax on the assessed value of property, no change in use tax is payable by reason of a property becoming conservation property.

(3) Where any land, or part thereof, to which this Section applies, ceases to be conservation property, a change in use tax equal to 20% of the value, determined by the assessor pursuant to the *Assessment Act*, of the land, or part thereof, that ceased to be conservation property is due and payable to the Muni-

pality by the person determined by the assessor to have been responsible for the change in use.

(4) Notwithstanding subsection (3), no change in use tax is payable by reason of the ownership of conservation property being transferred to the Crown in right of the Province or of Canada or to a municipality. 2010, c. 16, s. 3.

Farm property

134 (1) The Minister shall in each year pay to the Municipality in which farm property exempt from taxation is situate a grant equal to \$2.10 per acre in respect of the land.

(2) For the fiscal year ending March 31, 2001, and for each subsequent fiscal year, the Minister shall pay to the Municipality in which the land is situate a grant per acre equal to the grant paid for the immediately preceding fiscal year varied by the same percentage as the variation in the cost of living over the immediately preceding calendar year as measured by the change in the Consumer Price Index for Canada prepared by Statistics Canada.

(3) Where any land, or part thereof, to which this Section applies ceases to be farm property, a change in use tax equal to 20% of the value, determined by the assessor pursuant to the *Assessment Act*, of the land, or part thereof, that ceased to be farm property is due and payable to the Municipality in which the land is situate by the person determined by the assessor to have been responsible for the change in use, unless the land, or part thereof, becomes forest property bona fide used or intended to be used for forestry purposes, in which case no change in use tax is payable.

(4) Subject to subsections (5), (6) and (7), an owner of farm property may

(a) transfer to each parent, sibling, child, grandchild or spouse of the owner; or

(b) convey, reserve to or set aside for the owner,

one lot suitable for the erection of a single family dwelling and the

(c) lot must not exceed one acre or the minimum size required by any applicable law, whichever is larger; and

(d) change in use tax is not payable if the land ceases to be used for agricultural purposes.

(5) For the purpose of subsections (6) and (7), “transfer” includes conveyance, reservation to and setting aside for.

(6) The change in use tax is payable by the transferor of land referred to in subsection (4) or subsection 112(4) of the *Municipal Government Act* in accordance with this Section where, within seven years of the date of the transfer, the owner of the lot, grantee of the lot or person for whom the lot is reserved or set aside transfers the lot to any person other than a parent, sibling, child, grandchild or spouse of the owner or to the owner.

(7) Subsections (4) to (6) do not apply to a transfer of land unless the grantor or person reserving or setting aside the land files, in the registry, a statutory declaration that the grantee of the land or person for whom the land is reserved or set aside, as the case may be, is a person named in subsection (4). 2008, c. 39, s. 99.

Forest property tax

135 (1) In lieu of all rates and taxes of the Municipality, an owner of forest property bona fide used or intended to be used for forestry purposes shall annually pay a tax, to be known as a forest property tax, equal to

(a) 25¢ per acre, if the forest property is classified as resource property; and

(b) 40¢ per acre, if the forest property is classified as commercial property,

and, where an area rate is levied for fire protection, the owner is liable to pay an additional annual tax not exceeding one cent per acre, as the Municipality determines.

(2) Where any land, or part thereof, to which this Section applies, ceases to be land used for forestry purposes, a change in use tax equal to 20% of the value, determined by the assessor pursuant to the *Assessment Act*, of the land, or part thereof, that ceased to be used for forestry purposes is due and payable to the Municipality in which the land is situate by the person determined by the assessor to have been responsible for the change in use, unless the land, or part thereof, is used for agricultural purposes, in which case no change in use tax is payable.

(3) Subject to subsections (4), (5) and (6), an owner of forest land may transfer to each parent, sibling, child, grandchild or spouse of the owner or may convey or reserve to or set aside for the owner one lot suitable for the erection of a single family dwelling, and the change in use tax is not payable if the land ceases to be used for forestry purposes.

(4) A lot referred to in subsection (3) must not exceed one acre or the minimum size required by any applicable law, whichever is larger.

(5) Where, within seven years of the date of the transfer, conveyance or reservation to or setting aside for the owner of a lot referred to in subsection (3) or subsection 113(5) of the *Municipal Government Act*, the grantee of the lot or person for whom the lot is reserved or set aside transfers the lot to any person other than a parent, sibling, child, grandchild or spouse of the owner referred to in subsection (3) or to the owner, the change in use tax is payable by the transferor in accordance with this Section.

(6) Subsections (3) to (5) do not apply to any transfer, conveyance, reservation or setting aside of lands unless the grantor or person reserving or setting aside the land files, in the registry, a statutory declaration that the grantee of the land or person for whom the land is reserved or set aside, as the case may be, is a person named in subsection (3). 2008, c. 39, s. 100.

Commercial rent increase where tax increase

136 (1) Notwithstanding any provision in a lease, licence or permit for commercial property that was in existence on April 1, 2006, where that lease,

licence or permit does not include a provision enabling the owner of the property to increase the rent or require an annual deposit in relation to any increase in property tax payable by the owner, that lease, licence or permit is deemed to include such a clause.

(2) Where a deposit is required or the rent is increased under subsection (1), the owner shall give the tenant notice in writing not later than 90 days before the deposit is required or the rent is increased.

(3) Notice under subsection (2) may be provided by

- (a) giving it to the tenant personally;
- (b) giving it to an agent or employee of a tenant on the premises;
- (c) posting it in a conspicuous place in some part of the premises; or
- (d) sending it to the tenant by registered mail, in which case notice is deemed to have been given on the third day after the date of mailing. 2008, c. 39, s. 101.

User charges

137 Subject to the approval of the Board for those services that are subject to the *Public Utilities Act*, the Council may, by bylaw, prescribe charges for the provision of services for persons who use or benefit from the service, on a basis to be set out in the bylaw. 2008, c. 39, s. 102.

Fire protection rate

138 (1) The Council may levy a rate on the value of all assessable property in the area served by a water system in the Municipality, as defined by the Council by policy, in order to recover that part of the cost of the water system that is attributable to fire protection.

(2) No property, except property of the Crown in right of the Province, in the area served by the water system as defined by policy is exempt from the rate, unless exempted by bylaw.

(3) The rate is a first lien on the real property and may be collected in the same manner as taxes.

(4) The rate referred to in subsection (1) may be different for commercial property than for residential and resource property. 2008, c. 39, s. 103.

Charges for facilities, systems and programs

139 (1) The Council may make bylaws imposing, fixing and providing methods of enforcing payment of charges for

- (a) wastewater facilities or stormwater systems, the use of wastewater facilities or stormwater systems and connecting to wastewater facilities or stormwater systems;
- (b) expenditures incurred for the district energy system within the Cogswell District Energy Boundary;

- (c) expenditures incurred for the wastewater management system in a wastewater management district;
- (d) solid-waste management facilities;
- (e) transit facilities;
- (f) the municipal portion of the capital cost of installing a water system;
- (g) laying out, opening, constructing, repairing, improving and maintaining streets, curbs, sidewalks, gutters, bridges, culverts and retaining walls, whether the cost is incurred by the Municipality directly or by, or pursuant to, an agreement with the Crown in right of the Province, the Minister of Public Works or any person;
- (h) laying out, opening, constructing, repairing, improving and maintaining private roads, curbs, sidewalks, gutters, bridges, culverts and retaining walls that are associated with private roads, where the cost is incurred
 - (i) by the Municipality, or
 - (ii) under an agreement between the Municipality and a person;
- (i) the municipal portion of the cost of a major tree removal program or the cost of removing trees from a private property;
- (j) the municipal portion of the capital cost of placing the wiring and other parts of an electrical distribution system underground;
- (k) depositing in a special purpose tax account to provide for future expenditures for wastewater facilities, stormwater systems, water systems, transit facilities or other anticipated capital requirement;
- (l) new or expanded parks, playgrounds, trails, bicycle paths, swimming pools, ice arenas, recreation centres and other recreational facilities;
- (m) new or expanded fire departments and other fire facilities;
- (n) new or expanded public libraries and other library facilities,

and costs for studies and engineering, surveying and legal costs incurred with respect to any of them.

- (2) The Council may, by bylaw,
 - (a) define classes of buildings to be erected or enlarged according to the varying loads that, in the opinion of the Council, the buildings impose or may impose on the sewer system or wastewater facility and levy a one-time redevelopment charge to pay for additional or trunk sanitary or storm sewer capacity or additional wastewater facility capacity required to accommodate the effluent from the buildings;

(b) impose a one-time oversized sewer charge on each property determined by the Council to benefit from a sewer in the future to recover the cost of making the sewer an oversized sewer and provide that the oversized sewer charge is not payable until the property is serviced by a sanitary sewer or a storm sewer;

(c) levy a one-time storm drainage charge on the owner of each lot of land in a drainage management area for which an application is made for a development permit to allow, on the lot, a development of a class designated by the Council in the bylaw.

(3) A bylaw passed pursuant to this Section may provide

(a) that the charges fixed by, or determined pursuant to, the bylaw may be chargeable in proportion to frontage, in proportion to area, in proportion to the assessment of the respective properties fronting on the street or according to another plan or method set out in the bylaw;

(b) that the charges may be made and collected only where

(i) the persons owning more than 50% of the frontage of the real property fronting on the street or the portion of a street on which the work is performed, or

(ii) the persons as determined by the method set out in the bylaw,

have filed with the Clerk a petition requesting that the work be performed;

(c) that the charges may be different for different classes of development and may be different in different areas of the Municipality;

(d) when the charges are payable;

(e) for the total or partial exemption of persons and land from the charge and for adjustments to be made with respect to lots of land or developments where the proposals or applications change in order to reflect the changing nature of lots or developments;

(f) that the charges are first liens on the real property and may be collected in the same manner as other taxes;

(g) that the charges be collectable in the same manner as taxes and, at the option of the Treasurer, be collectable at the same time, and by the same proceedings, as taxes;

(h) a means of determining when the lien becomes effective or when the charges become due and payable;

(i) that the amount payable may, at the option of the owner of the property, be paid in the number of annual instalments set out in the bylaw and, upon default of payment of any instalment, the balance becomes due and payable; and

(j) that interest is payable annually on the entire amount outstanding and unpaid, whether or not the owner has elected to pay by instalments, at a rate and beginning on a date fixed by the bylaw.

(4) For greater certainty, no property is exempt from a charge levied pursuant to this Section except property of the Crown in right of the Province.

(5) The Municipality may install the wastewater facilities, storm-water system, water system and system for the supply or distribution of gas, steam or other source of energy of the Municipality outside its boundaries and may enter into contracts to provide the services.

(6) The Municipality may charge for services provided outside the Municipality in the same manner in which the service is charged for within the Municipality, if rates that are subject to the approval of the Board are approved by the Board.

(7) Notwithstanding the *Public Utilities Act* and for greater certainty, any bylaw made pursuant to this Section and any charge imposed or fixed pursuant to this Section do not require approval by the Board.

(8) Subsection (7) does not apply in respect of any bylaw made and any charge imposed or fixed pursuant to clause (1)(b). 2008, c. 39, s. 104; 2014, c. 49, s. 1; 2018, c. 9, s. 2.

Charges for equipment on private property

140 (1) The Council may make bylaws imposing, fixing and providing methods of enforcing payment of charges for the financing and installation of any of the following on private property with the consent of the property owner:

- (a) equipment installed in respect of a district energy system within the Cogswell District Energy Boundary;
- (b) energy-efficiency equipment;
- (c) renewable energy equipment;
- (d) equipment for the supply, use, storage or conservation of water; and
- (e) on-site sewage disposal equipment.

(2) A bylaw passed pursuant to this Section may provide

- (a) that the charges fixed by, or determined pursuant to, the bylaw may be chargeable according to a plan or method set out in the bylaw;
- (b) that the charges may be different for different classes of development and may be different in different areas of the Municipality;
- (c) when the charges are payable;
- (d) that the charges are first liens on the real property and may be collected in the same manner as other taxes;
- (e) that the charges are collectable in the same manner as taxes and, at the option of the Treasurer, are collectable at the same time, and by the same proceedings, as taxes;
- (f) a means of determining when the lien becomes effective or when the charges become due and payable;

(g) that the amount payable may, at the option of the owner of the property, be paid in the number of annual instalments set out in the bylaw and, upon default of payment of any instalment, the balance becomes due and payable; and

(h) that interest is payable annually on the entire amount outstanding and unpaid, whether or not the owner has elected to pay by instalments, at a rate and beginning on a date fixed by the bylaw. 2010, c. 52, s. 2; 2011, c. 17, s. 1; 2016, c. 25, s. 4; 2018, c. 9, s. 3; 2019, c. 19, s. 18; 2019, c. 36, s. 2.

Interest payable on unpaid taxes and charges

141 Interest is payable on unpaid taxes and charges levied pursuant to this Part at the same rate as for other outstanding taxes. 2008, c. 39, s. 105.

Special purpose tax accounts

142 (1) All sums raised by a special purpose tax must be credited to the account for that tax.

(2) The Council may withdraw money from a special purpose tax account for an expenditure on a purpose for which the account was established.

(3) The Council may, if the balance in a special purpose tax account exceeds the funds required for the purpose for which the special purpose tax account was established, return the surplus to the contributors.

(4) The Council, by resolution passed by at least a two-thirds majority, may withdraw money from a special purpose tax account for any purpose for which the Municipality may expend funds if the Council

(a) holds a public hearing respecting the withdrawal prior to the withdrawal;

(b) advertises the public hearing at least twice in a newspaper circulating in the Municipality, the first notice to appear at least 14 days before the hearing, and includes in the notice of the public hearing the date, time and place of the hearing and the purpose of the withdrawal.

(5) The Council may borrow from a special purpose tax account by resolution if the resolution prescribes the terms of repayment, including interest, at a rate not less than the interest rate that the Municipality would pay to borrow the funds for a similar term from another source. 2008, c. 39, s. 106.

Borrowing to defray annual current expenditure

143 The Municipality may borrow to defray the annual current expenditure of the Municipality that has been authorized by the Council, but the borrowing must not exceed 50% of the combined total of the taxes levied by the Municipality for the previous fiscal year and the amounts received, or to be received, by the Municipality from the Crown in right of Canada or in right of the Province or from an agency of the Crown. 2008, c. 39, s. 107.

Borrowing for service commission

144 The Municipality may borrow money and pay it to a service commission for any of the purposes for which the commission has authority to expend money. 2008, c. 39, s. 108.

Lending to service commission

145 (1) The Municipality may lend money to a service commission with interest at the rate, and on the terms, agreed upon.

(2) Where the Municipality collects the taxes on behalf of the service commission, unless some other agreement is made, the Municipality shall, in each fiscal year, deduct the amounts required to pay interest and repay principal on the loans from the amounts otherwise payable.

(3) Where a service commission defaults in either principal or interest, the Municipality shall recover the amounts in default by an area rate levied on the assessed value of the taxable property in the area of the service commission and shall immediately notify the Minister of the default.

(4) The area rate referred to in subsection (3) may be different for commercial property than for residential and resource property. 2008, c. 39, s. 108.

Borrowing limits apply

146 (1) Borrowing limits established by the Minister pursuant to the *Municipal Government Act* apply to the Municipality.

(2) Where borrowing limits are established, the Municipality may not borrow money pursuant to this Act or another Act of the Legislature, unless the proposed borrowing is within the limits established.

(3) Subsections (1) and (2) do not apply to borrowing for the purpose of defraying part of the annual current expenditure of the Municipality. 2008, c. 39, s. 109.

Capital budget filing

147 The Minister may not establish borrowing limits or approve a borrowing resolution for the Municipality in a fiscal year unless the Municipality has filed with the Minister its capital budget for that fiscal year in the form prescribed by the Minister. 2008, c. 39, s. 110.

Ministerial approval of borrowing or guarantee

148 (1) In this Section, “commitment” means a commitment with respect to the possession, use or control of physical or intellectual property.

(2) No money may be borrowed by the Municipality or a committee created by an intermunicipal services agreement pursuant to this Act or another Act of the Legislature until the proposed borrowing has been approved by the Minister.

(3) Subsection (2) does not apply to a borrowing for the purpose of defraying part of the annual current expenditure of the Municipality.

(4) A guarantee by, or on behalf of, the Municipality of a borrowing or debenture is not effective unless the Minister has approved of the proposed guarantee. 2008, c. 39, s. 111.

Financial commitment beyond fiscal year

149 The Municipality may enter into a lease, lease-purchase or other commitment to pay money over a period extending beyond the end of the current fiscal year. 2008, c. 39, s. 111; 2020, c. 16, s. 3.

Borrowing by issue and sale of debentures

150 (1) Where the Municipality is authorized to borrow money, subject to the approval of the Minister,

(a) the sum must be borrowed by the issue and sale of debentures, in one sum or by instalments, as determined by the Council; and

(b) the Council shall determine

(i) the amount and term of, and the rate of interest on, each debenture,

(ii) when the interest on a debenture is to be paid, and

(iii) where the principal and interest on a debenture are to be paid.

(2) In accordance with the *Finance Act*, the Mayor and Clerk or the persons designated by the Council, by policy, shall sell and deliver the debentures on behalf of the Municipality at the price, in the sums and in the manner they consider proper.

(3) The Mayor and Clerk or the persons designated by the Council, by policy, may

(a) change the sums of the debentures at any time from the amounts determined by the Council, if the total principal amount payable in any one fiscal year is not changed;

(b) before the debentures are sold, reduce the rate of interest from that determined by the Council;

(c) exchange debentures, provided the rate of interest is not increased and the total principal amount payable in any one fiscal year is not changed. 2008, c. 39, s. 112; 2022, c. 38, s. 18.

Restriction on issuance and sale of bonds

151 (1) Notwithstanding any other provision of this Act or any other Act of the Legislature, the Municipality or a municipal enterprise may not issue or sell notes, bonds, debentures or securities except to the Government of Canada, the Province or another municipality, or to any department, agency or fund thereof.

(2) This Section does not apply to a temporary borrowing pending the issue of notes, bonds, debentures or securities or a borrowing by the Munic-

ipality or a municipal enterprise made in accordance with this Act and for the purpose of defraying part of its annual current expenditure.

(3) This Section does not apply to a borrowing or part thereof by a municipal housing corporation where the municipal housing corporation obtains a borrowing guarantee from Canada Mortgage and Housing Corporation in respect of that borrowing or that part thereof, respectively. 2022, c. 38, s. 19.

Borrowing without issue of debentures

152 (1) Where the Municipality is authorized to borrow money, the Municipality may, with the approval of the Minister, postpone the issue of debentures and borrow the money on terms and conditions agreed upon with the lender.

(2) Money borrowed without the issue of debentures must be repaid within one year after the resolution is approved by the Minister, unless the Minister approves an extension of the repayment period or a repayment period not exceeding 10 years. 2008, c. 39, s. 113.

Debenture records

153 The Treasurer shall keep a record of all debentures of the Municipality. 2008, c. 39, s. 114.

Form and signing of debenture

154 (1) A debenture must be

- (a) in the form approved by the Council; and
- (b) signed by the Mayor and Clerk or the persons designated by the Council, by policy.

(2) Interest coupons must be signed by the Clerk or the person designated by the Council, by policy, or bear a printed facsimile of the Clerk's signature.

(3) A right to call in and redeem a debenture prior to maturity must be set out on the face of the debenture. 2008, c. 39, s. 115; 2016, c. 12, s. 2.

Debenture type determined by Council

155 (1) A debenture may be

- (a) payable to bearer;
- (b) registered as to principal only; or
- (c) registered as to principal and interest,

as determined by the Council and the debenture must state whether it is payable to bearer, registered as to principal or as to principal and interest.

(2) Where a debenture is

- (a) payable to bearer, it is negotiable and transferable by delivery;

(b) registered, the Council shall appoint a registrar of debentures who shall keep a register of the debentures and the debenture is transferable by the registered owner by entry in the register and endorsement of the entry on the debenture.

(3) Interest coupons are transferable by delivery, unless the debenture is registered as to both principal and interest, in which case the interest is payable only to the registered holder of the debenture. 2008, c. 39, s. 116.

Debenture certificate

156 (1) Every debenture of the Municipality must bear a certificate of the Deputy Minister to the effect that the debenture is valid and binding according to its terms, and the validity of every debenture is not open to question in any court in the Province.

(2) The certificate required pursuant to subsection (1), when signed by the Deputy Minister, is conclusive evidence that

- (a) the Municipality had authority to issue the debenture;
- (b) the debenture was lawfully issued;
- (c) the debenture is valid and binding on the Municipality according to its terms; and
- (d) the validity of the debenture is not open to question in any court in the Province.

(3) The Deputy Minister may sign the certificate if the Deputy Minister is of the opinion that the Municipality has substantially complied with the provisions of the statutes pursuant to which the debentures are issued.

(4) The signature of the Deputy Minister may be reproduced by mechanical means.

(5) Non-compliance with this Act does not invalidate an irregular or informal debenture and the holder of such a debenture may, on an *ex parte* application, obtain from a judge of the Supreme Court of Nova Scotia an order requiring the issuance of a new and proper debenture in replacement of the irregular or informal debenture. 2008, c. 39, s. 117.

Debenture a municipal lien

157 The principal and interest of a debenture are a lien and charge on all assets of the Municipality. 2008, c. 39, s. 118.

Debenture sinking fund

158 (1) When the Municipality issues debentures, the Municipality may provide for a sinking fund for the debentures.

(2) The Municipality shall annually pay into the sinking fund an amount that the Council considers sufficient to provide for the repayment of the debentures when they fall due.

(3) The Minister may require the Municipality to establish a sinking fund for any issue of debentures and may specify the annual amount to be paid into it.

(4) A premium realized from the sale of debentures must be paid into the sinking fund, but, where there is no sinking fund, the premium may be used for any purpose for which the Municipality may borrow money.

(5) Except as provided in this Section, no part of a sinking fund or interest on it may be used for any purpose but paying the principal of the debentures for which the fund was provided.

(6) The Minister may permit the Municipality to cease paying into the sinking fund if the Minister determines that the amount in the sinking fund will be sufficient to provide for the payment of the debentures for which the fund was provided.

(7) The Minister may permit the Municipality to withdraw from a sinking fund an amount not exceeding the amount by which the sinking fund exceeds the amount of the debentures for which the fund was provided.

(8) Any surplus remaining in a sinking fund after the debentures for which the fund was provided have been repaid must be transferred to the Municipality's capital reserve fund. 2008, c. 39, s. 119.

Default on payment to Minister of Finance and Treasury Board

159 (1) Where the Municipality or a municipal enterprise defaults on any payment required to be made to the Minister of Finance and Treasury Board, the Minister of Finance and Treasury Board shall immediately inform the Minister.

(2) The Governor in Council shall, upon the recommendation of the Minister, appoint trustees to manage the affairs of the Municipality or municipal enterprise.

(3) The Minister may recover any amount in default by a levy on the property and occupancy assessment subject to taxation in the Municipality.

(4) The Minister may seize and sell property of a municipal enterprise to recover any amount in default, and for this purpose a loan by the Minister of Finance and Treasury Board to a municipal enterprise is a charge upon the property of the municipal enterprise. 2022, c. 38, s. 21.

Capital reserve fund

160 (1) The Municipality shall maintain a capital reserve fund.

(2) The capital reserve section of a special reserve fund in existence immediately prior to January 13, 2019, is a capital reserve fund.

(3) The capital reserve fund includes
(a) funds received from the sale of property;

(b) the proceeds of insurance resulting from loss or damage of property that is not used for replacement, repair or reconstruction of the property;

(c) any surplus remaining from the sale of debentures that is not used for the purpose for which the debentures were issued;

(d) the surplus remaining in a sinking fund when the debentures for which it was established are repaid;

(e) any capital grant not expended in the year in which it was paid;

(f) proceeds received from the winding up of a municipal enterprise as defined in the *Finance Act*;

(g) the current fiscal year's accrual for landfill closure and post closure costs; and

(h) amounts transferred to the fund by the Council.

(4) A withdrawal from the capital reserve fund must be authorized by the Council, by resolution, and may be used only for

(a) capital expenditures for which the Municipality may borrow;

(b) repayment of the principal portion of capital debt; and

(c) landfill closure and post closure costs.

(5) The Council may borrow from a capital reserve fund, by resolution, if the resolution prescribes the terms of repayment, including interest, at a rate not less than the interest rate that the Municipality would pay to borrow the funds for a similar term from another source. 2008, c. 39, s. 120; 2022, c. 38, s. 20.

Other reserve funds

161 The Municipality may maintain other reserve funds for such purposes as the Council may determine. 2008, c. 39, s. 120.

Investment of funds

162 (1) Funds in a sinking fund, capital reserve fund, utility depreciation fund or other fund of the Municipality must be

(a) deposited in an interest bearing account at a bank doing business in the Province;

(b) invested pursuant to an investment policy adopted by the Council and approved by the Minister; or

(c) invested in investments in which a trustee is permitted to invest pursuant to the *Trustee Act*.

(2) Income arising from the investment of a fund is part of that fund unless the Council otherwise provides.

(3) The Council may pledge any investments to the credit of the capital reserve fund as collateral security for a borrowing for a capital purpose. 2008, c. 39, s. 121.

Regulations

163 (1) The Minister may make regulations providing for the review of commercial tax rates pursuant to subsection 127(4).

(2) The exercise by the Minister of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2016, c. 22, s. 2.

PART V

DEED TRANSFERS

Deed transfer provisions of Municipal Government Act apply

164 Part V of the *Municipal Government Act* applies to the Municipality. 2008, c. 39, s. 122.

PART VI

TAX COLLECTION

Payment of taxes

165 (1) The Council may determine

- (a) the due date for taxes;
- (b) that taxes are payable in one sum or by instalments.

(2) Where the Council has not set a due date for payment of taxes, taxes are due and payable as soon as the tax rate is set.

(3) Where payment of taxes by instalments is authorized, the Council may provide that in default of payment of an instalment when due, the balance of taxes outstanding are immediately due and payable. 2008, c. 39, s. 123.

Payment of taxes by instalments

166 (1) The Council may, by policy, provide for the payment of taxes by instalments before the tax rate is set.

(2) The policy must set out the date or dates on which the instalments are due and the manner in which the amount of each instalment is calculated.

(3) Each instalment is payable by the person assessed for the property for the current fiscal year.

(4) The amount of each instalment bears interest, beginning on the date on which it falls due, at the same rate of interest determined for overdue taxes.

(5) Instalments paid must be applied in part payment of the taxes on that property for the current fiscal year. 2008, c. 39, s. 124.

Incentives and interest

167 (1) The Council may provide incentives for the early payment of taxes.

(2) The Council may impose interest, at a rate determined by policy, for non-payment of taxes when due.

(3) Interest must be added to the unpaid taxes and must be collected as if the interest originally formed part of the unpaid taxes.

(4) Interest is calculated according to the length of default in payment.

(5) The Council may provide that interest be compounded, not more frequently than monthly.

(6) The Council may provide that interest is calculated from the date the tax rate is set if taxes are not paid within 30 days of the due date.

(7) The Council may adopt a formula by which, and the time when, the rate of interest on overdue taxes is automatically adjusted.

(8) Unless the Council otherwise provides, incentives are allowed and interest charged on area rates and rates collected for any other body at the same rates and under the same terms and conditions as the Council has provided for its own taxes. 2008, c. 39, s. 125.

Tax collection where assessment appeal

168 (1) Taxes on a property may be collected or recovered even if the assessment of the property is under appeal.

(2) After an assessment appeal is determined and any appeal from that decision is decided, any taxes that were overpaid must be refunded to the appellant, together with interest at a rate set by the Council by policy.

(3) Where the Council has not adopted a policy on the rate of interest, the rate is the rate of interest on overdue taxes. 2008, c. 39, s. 126.

Taxes are first liens

169 Change in use tax, forest property tax and recreational property tax are first liens upon the property in respect of which they are levied. 2008, c. 39, s. 127.

Taxes in respect of other properties

170 Where property is

(a) vested in the Crown or any person for Federal or Provincial purpose; and

(b) occupied by a person other than in an official capacity,

the occupant shall be taxed in respect of the property, but the property may not be sold for taxes. 2008, c. 39, s. 128.

Tax bills

171 (1) Every person liable to pay taxes must be served with a tax bill showing the amount of taxes for the current year, the due date and all arrears of taxes by that person or in respect of the property.

(2) The tax bill must be served personally or mailed to the address shown on the assessment roll or any more current address known to the Treasurer.

(3) Where taxes are due on property of persons unknown or the address of the owner is unknown, the tax bill must be posted in a conspicuous place on the property.

(4) The tax bill must contain a concise statement of the terms of incentives for early payment of taxes, interest on overdue taxes and instalment payment options allowed by the Council.

(5) Where there is an error in the name of a person in a tax bill, the taxes may be collected from the person intended to be taxed if the person is taxable and can be identified. 2008, c. 39, s. 129.

Prima facie evidence of balance of unpaid taxes

172 A certificate purporting to be signed by the Treasurer that a person is liable to the Municipality for the sum claimed for taxes and that a specified balance has not been paid is, without proof of the signature or the official character of the Treasurer, prima facie evidence in any court of the facts stated. 2008, c. 39, s. 130.

Power to sue for and recover taxes

173 (1) The Treasurer may, at any time, sue for and recover all taxes and other sums due to the Municipality in an action in the name of the Municipality as if the amount were a debt.

(2) Any proceedings for the collection of taxes pursuant to this Act may be pursued even if a judgment for taxes has been entered.

(3) The Municipality may set off a sum due from a person to the Municipality against a claim that person has against the Municipality. 2008, c. 39, s. 131.

Warrant to distrain goods

174 (1) A judge of the Provincial Court, Mayor or councillor may, upon application by the Treasurer, issue a warrant in the form prescribed as Form A by the regulations, with any variations that circumstances may require, to distrain the goods of a person indebted to the Municipality for taxes who is about to leave the Municipality, even if the taxes are not yet due.

(2) An application made pursuant to subsection (1) must be in the form of an affidavit setting out the

(a) amount in which the person is indebted to the Municipality; and

(b) belief, with or without statement of the grounds of the belief, of the Treasurer that unless the person's goods are distrained the taxes will be lost to the Municipality. 2008, c. 39, s. 132.

Issue of warrant by Treasurer

175 At any time after the due date for taxes, the Treasurer may proceed to issue warrants, in the form prescribed as Form A by the regulations or to like effect, for the collection of all taxes then due and unpaid. 2008, c. 39, s. 133.

Articles exempt from seizure under warrant

176 Articles that are exempt from seizure under Section 62 of the *Judicature Act* are exempt from seizure under a warrant issued under Section 175. 2008, c. 39, s. 134.

Limitation on issuance of warrant

177 A warrant may be issued at any time within six years from the time when the taxes become due and remains valid until executed. 2008, c. 39, s. 135.

Execution of warrant

178 (1) A warrant issued pursuant to the authority of this Act may be directed to any police officer, civil constable, bylaw enforcement officer or other employee of the Municipality and it may be executed by any of them whether or not it is directed to that person.

(2) The person to whom a warrant is directed shall execute it and pay the proceeds over to the Municipality with a return in the form prescribed by the regulations or to like effect.

(3) A warrant may be executed at any place within the Province by an officer having jurisdiction in that place or by an officer having jurisdiction in the Municipality.

(4) The person to whom a warrant is directed shall levy the taxes for which the warrant was issued, with collection costs and expenses, by distress and sale of the goods and chattels of the person or of the goods and chattels in that person's possession, wherever situate.

(5) The property levied upon may be removed to any place for safekeeping and the cost of removal and storage are part of the collection expenses.

(6) The person executing a warrant is entitled to the fees set by the Council, by policy, and the fees and expenses must be added to the amount to be collected pursuant to the warrant.

(7) Where a warrant is executed without payment of the full amount due, it may be executed again or a new warrant may be issued and executed for the amount remaining unpaid.

(8) Where the person executing a warrant is unable to collect the amount due under the warrant, the warrant and a statement of the proceedings taken pursuant to it must be returned to the Treasurer. 2008, c. 39, s. 136.

Sale of distrained goods

179 (1) Where goods are distrained pursuant to this Act, the person distraining them shall advertise the goods for sale in a newspaper circulating in the area where the sale is to take place at least seven days before the sale takes place.

(2) A sale pursuant to subsection (1) may be adjourned from time to time.

(3) Where the taxes for which the distress has been made and the costs, charges and expenses incurred in connection with the distress are not paid at or before the time appointed for the sale or an adjournment of it, the goods must be sold at public auction to pay the taxes, costs, charges and expenses, including the expenses of the sale. 2008, c. 39, s. 137.

Balance remaining after sale

180 (1) Where a balance remains after payment of the taxes, costs, charges and expenses, it must be paid to the person in whose possession the property was when the distress was made if no claim to the balance is made by any other person within 30 days after the sale.

(2) A claim to the balance may be made within 30 days after the sale by a person who claims ownership of the property sold or entitlement by lien or other right to the surplus.

(3) Where a claim is made by a person and is admitted by the person who had possession of the property when it was distrained, the balance must be paid over to the claimant.

(4) Where the claim is contested, the balance must be paid to the Treasurer, who may retain it until the right to it is determined by action at law or otherwise.

(5) Nothing in this Section renders the Municipality, the Treasurer or any other officer of the Municipality liable for costs. 2008, c. 39, s. 138.

Taxes on property of deceased person

181 (1) The property of a deceased person is liable for taxes levied with respect to the property before or after death, and the property is liable to be sold for non-payment of taxes.

(2) The tax bills may be served on the executor or administrator, sent to the last address of the deceased person or posted upon the property.

(3) Where there is no executor or administrator, property of a deceased person may be levied on and sold for non-payment of taxes.

(4) The executors or administrators shall pay the taxes out of the property of the deceased person that comes into their hands and are personally liable for the taxes to the extent of the property or income of the deceased person that comes under their control. 2008, c. 39, s. 139.

Property assessed to person in representative capacity

182 (1) Where property under the control of a person as executor, administrator, trustee, guardian or agent is assessed to that person in a representative capacity, any proceedings based on that property must be kept separate and distinct from any proceedings based on property assessed personally to that person.

(2) Where a person assessed for property in a representative capacity fails to pay the taxes on the property, the person is personally liable for the taxes to the extent that the property or the income from it is sufficient to pay the taxes.

(3) A person assessed for property in a representative capacity may raise the amount of the taxes by sale, mortgage or lease of the property.

(4) Where more than one person is assessed for a property in a representative capacity, notice to any one of them is notice to all of them. 2008, c. 39, s. 140.

Security interest in mobile home

183 (1) In this Section, “security interest” has the same meaning as in the *Personal Property Security Act*.

(2) Where a mobile home is taken or repossessed in the Municipality pursuant to a security interest and sold, or is sold under execution, other legal process or court order, the proceeds of the sale are first liable for any taxes that have been levied with respect to the mobile home by the Municipality.

(3) The holder of a security interest, sheriff or other person selling the mobile home may pay the taxes before or after the sale and add them to the amount claimed.

(4) The holder of a security interest, sheriff or other person selling the mobile home shall pay the taxes out of the proceeds of the sale and is personally liable to the Municipality for the taxes to the extent of the total proceeds of the sale less the costs of conducting the sale.

(5) Where a mobile home is taken or repossessed in the Municipality pursuant to a security interest and is not sold within six months of the taking or repossession, the holder of the security interest is personally liable to the Municipality for the taxes levied with respect to the mobile home by the Municipality.

(6) Any lien for taxes against a mobile home taken or repossessed pursuant to a security interest and sold within six months of the taking or repossession, or sold under execution, other legal process or court order is discharged by the sale if this Section has been followed. 2008, c. 39, ss. 141, 142.

Priority for proceeds of sale of real property

184 (1) Where real property is taken or sold under execution, other legal process or court order, the proceeds of the sale are first liable for any taxes that have been levied with respect to the property.

(2) The holder of the security interest, sheriff or other person selling the property shall pay the taxes out of the proceeds of the sale and is personally liable to the Municipality for the real property taxes to the extent of the total proceeds of the sale less the costs of conducting the sale. 2008, c. 39, s. 143.

Landlord paying taxes or expenses due from tenant

185 A landlord who pays any taxes or expenses due from a tenant may sue for and recover them from the tenant or may distrain upon the tenant's property for the amount paid, in the same manner as distraint upon the tenant's property for arrears of rent. 2008, c. 39, s. 144.

Partial payment of taxes

186 (1) Where a person, including a person paying on behalf of another person, pays only a portion of the taxes due, the Treasurer shall apply and credit the amount

(a) first, to the payment of any taxes that are not a lien on any property; and

(b) second, to the payment of accumulated interest and then the taxes longest in arrears with respect to any real property designated by the person.

(2) Where no real property is designated, the Treasurer shall, subject to the priorities listed in subsection (1), apply the amount received to the payment of the taxes longest in arrears.

(3) The acceptance of part payment does not prevent the collection of any interest imposed in respect of non-payment of taxes or an instalment of taxes.

(4) Where taxes are paid on behalf of a purchaser of real property, the taxes must be applied to taxes due with respect to the property designated by the person paying the taxes. 2008, c. 39, s. 145.

Tax certificate

187 (1) The Municipality shall issue a tax certificate, on request, stating

(a) the current taxes on the property;

(b) the total taxes due by the owner to the Municipality with respect to the property;

(c) any sums due from an owner of property for work done on the property by the Municipality, the Engineer, the Administrator or any other authorized person, the cost of which forms a lien on the property; and

(d) whether a change-in-use tax will be incurred if the use of the land is changed.

(2) The fee for a tax certificate is as set by the Council, by resolution.

- (3) A tax certificate binds the Municipality. 2008, c. 39, s. 146.

Certain taxes are liens

188 (1) Taxes levied in respect of real property are a first lien upon the real property.

(2) Taxes levied in respect of a mobile home are a first lien upon the mobile home.

(3) The lien has priority over the claims, liens or encumbrances of any person and need not be registered.

(4) Where property is sold for taxes and the sale is set aside, the lien is not discharged.

(5) The lien has effect from the first day of the fiscal year for which the tax rate is set.

(6) Taxes are a first lien upon property conveyed between the time the assessment roll is filed and the tax rate is set and may be collected from a subsequent owner.

(7) Taxes cease to be a lien on the property when six years have elapsed after the end of the fiscal year in which they were levied, but may be collected after they have ceased to be a lien. 2008, c. 39, s. 147.

Tax sale

189 (1) Property may be sold for taxes if the taxes with respect to the property are not paid in full for the taxation year immediately preceding the year in which the tax sale proceedings are commenced, but the proceedings may not commence before June 30th in the year immediately following that taxation year.

(2) Property must be put up for tax sale if taxes are in arrears for the preceding three fiscal years.

(3) The Council may defer tax sale proceedings for a property for up to two years.

(4) The Municipality is not required to put a property up for tax sale if

(a) the solicitor for the Municipality advises that a sale of the property would expose the Municipality to an unacceptable risk of litigation;

(b) the amount of taxes due is below the collection limit established by the Council, by policy;

(c) the property has been put up for sale three times in the preceding three years and no satisfactory offer has been made with respect to it;

(d) the taxes have been deferred pursuant to a bylaw; or

(e) the Municipality and the taxpayer have entered into a tax arrears payment arrangement and the taxpayer is in compliance with the agreement.

(5) Where the Municipality and a taxpayer have entered into a tax arrears payment arrangement, the period for which the tax lien is effective is extended by the period of the tax arrears payment arrangement. 2008, c. 39, s. 148.

Land assessed to “owner unknown”

190 (1) Where land assessed to “owner unknown” is liable to be sold for taxes, the Municipality shall notify the Minister of Natural Resources and Renewables that the land is liable to be sold for taxes.

(2) No land assessed to “owner unknown” may be sold for taxes unless the Minister of Natural Resources and Renewables has been notified at least 120 days before the sale and has not acted to vest the land in the Crown in right of the Province.

(3) The Minister of Natural Resources and Renewables may require the Municipality to furnish a statement concerning a specified property assessed to “owner unknown”.

(4) A notice or statement required pursuant to this Section must include a general description of the land, the amount of taxes and interest owing in respect of the land and any information the Municipality has concerning possible owners of the land.

(5) Upon payment of the taxes and interest owing in respect of land assessed to “owner unknown”, plus 10% as an allowance for expenses, the land vests absolutely in the Crown in the right of the Province, subject to this Section.

(6) When land vests in the Crown in the right of the Province pursuant to this Section, the Minister of Natural Resources and Renewables shall cause a certificate to be registered in the registry

(a) stating that the land described in the certificate is vested in the Crown;

(b) setting out the date the land vested;

(c) describing the land with the best available description;

(d) setting out the property identification number, assessment account number and municipal tax account number for the land; and

(e) stating that the land will cease to vest in the Crown if

(i) on application made within 18 months of the vesting, a person proves to the satisfaction of the Minister of Natural Resources and Renewables or a judge of the Supreme Court of Nova Scotia on appeal from the Minister of Natural Resources and Renewables that the person owns the land, and

(ii) the person pays the taxes, interest and allowance for expenses paid by the Minister of Natural Resources and Renewables.

(7) Within six months of the vesting of the land, a copy of the certificate must be published in a newspaper circulating in the Municipality once a week, for three successive weeks.

(8) Where a dominant tenement vests in the Crown in right of the Province pursuant to this Section, an easement or a right-of-way appurtenant to it passes to the Crown, and where a servient tenement vests in the Crown pursuant to this Section, the vesting does not terminate or affect an easement or a right-of-way to which it is subject. 2008, c. 39, s. 149; 2022, c. 4, Sch., s. 31; 2023, c. 2, s. 30.

Land ceasing to vest in Crown

191 (1) A person may apply to the Minister of Natural Resources and Renewables within 18 months after land vests in the Crown in right of the Province pursuant to Section 190 to determine that the land ceases to vest in the Crown and, where the applicant proves to the satisfaction of that Minister that the person owns the land, that Minister shall determine that upon payment by the applicant of the taxes, interest and allowance for expenses paid by the Minister of Natural Resources and Renewables for the land, the land ceases to vest in the Crown.

(2) Where land ceases to vest in the Crown in right of the Province pursuant to this Section, the Minister of Natural Resources and Renewables shall cause a certificate to that effect to be registered in the registry and shall include in the certificate the recording particulars of the certificate that set out the vesting of the land.

(3) A decision of the Minister of Natural Resources and Renewables may be appealed within 30 days to the Supreme Court of Nova Scotia.

(4) Where land ceases to vest in the Crown in right of the Province pursuant to this Section, the land is deemed never to have vested in the Crown pursuant to Section 190. 2008, c. 39, s. 149.

Claims to land vested in Crown

192 (1) A person who claims to own land that vests in the Crown in right of the Province pursuant to this Act may apply to the Supreme Court of Nova Scotia for an order declaring what rights that person would have had to the land if the land had not vested in the Crown, and the Court may direct that any necessary inquiries be made and may finally adjudicate the matter.

(2) An application pursuant to subsection (1) must be made within 10 years after the land vests in the Crown in right of the Province or, where the person who claims to own the land is under the age of 19 years or of unsound mind when the land vests in the Crown, within 10 years after that person attains the age of 19 years or becomes of sound mind, but no application may be made more than 20 years after the land vests in the Crown.

(3) Where the Supreme Court of Nova Scotia determines that a person owns land that has vested in the Crown in right of the Province pursuant to

this Act, the Minister of Natural Resources and Renewables, in the Minister's absolute discretion, shall

- (a) pay to that person the value of the land at the date the land vested in the Crown, less
 - (i) the amount of taxes, interest and allowance for expenses paid by the Minister, and
 - (ii) any grants in lieu of taxes that may have been paid with respect to the land; or
- (b) upon payment of the amount of taxes, interest and allowance for expenses paid by the Minister and any grants in lieu of taxes that may have been paid with respect to the land, convey the land to that person. 2008, c. 39, s. 150.

Tax sale list

193 (1) Where land is to be sold for taxes, a list of the properties to be put up for sale must be prepared setting out, with respect to each lot

- (a) the name and address of the person assessed;
- (b) a brief description of the lot sufficient to identify and locate it;
- (c) the amount of arrears, including interest; and
- (d) the years in which the arrears were levied.

(2) The tax sale list, or a copy certified by the Treasurer, is conclusive evidence of the facts stated therein. 2008, c. 39, s. 151; 2022, c. 4, Sch., s. 32; 2023, c. 2, s. 31.

Tax sale preliminary notice

194 After the tax sale list is compiled, the Municipality shall mail to each owner named in the list a preliminary notice setting out the information contained in the list with respect to the person and advising that the property is liable to be sold for the arrears, with interest and expenses, and that tax sale procedures will be commenced and costs expended unless the arrears are paid within 14 days of the date of the preliminary notice, or such longer period as the Council may, by policy, prescribe. 2008, c. 39, s. 152.

Title search and survey

195 (1) After the time set out in the tax sale preliminary notice has expired, a title search must be conducted for each property on the list for which the taxes have not been paid.

(2) The cost of the title search, from the date it is ordered, is part of the expenses of the sale and a lien on the property for which it is ordered.

(3) Where the Treasurer determines that a survey of the property is necessary for the proper identification and description of the land to be sold, a survey may be undertaken before or after the sale.

(4) The cost of a survey, from the date it is ordered, is part of the expenses of the sale and a lien on the property for which it is ordered and where the survey is not undertaken prior to the sale, the expenses of the sale must include an estimate of the cost of the survey.

(5) Where the title search or survey is done by an employee of the Municipality, the cost included in the expenses of the sale is the amount determined by the Treasurer to be the reasonable cost of having the same work performed by a solicitor or surveyor in private practice. 2008, c. 39, s. 153.

Court order for tax sale

196 (1) The Treasurer may apply to a court of competent jurisdiction for

(a) an order that there are arrears of taxes respecting a property proposed to be sold for taxes that would allow the sale;

(b) an order prescribing that, upon the sale, the tax deed will convey all outstanding interests in the property, or subject to such interests in the property, or subject to such interests as the court may specify; and

(c) directions respecting the manner in which notice may be provided, the persons to be notified and such other matters respecting the carrying out of the sale as the court considers appropriate.

(2) The court may require that persons appearing to have an interest in the property other than the assessed owners be notified of the tax sale.

(3) The court may require that any person appearing to have an interest in the property, whether that person is assessed for that interest or not, be given an opportunity to appear on the application.

(4) A tax sale conducted pursuant to an order obtained under this Section is not open to challenge on any grounds and a tax deed of the property so sold conveys a fee simple interest in the property sold, free and discharged of all encumbrances, charges and liens, except any right to redeem pursuant to Section 214, and subject to the exceptions in subsection 219(3) and any exceptions, exclusions or partial interests set out in the order of the court. 2008, c. 39, s. 154.

Notice of intent to sell

197 (1) Upon completion of the title search and any survey, the owner of each lot and a person with a mortgage, lien or other charge on the land must be served with notice of intent to sell the land for taxes.

(2) The spouse of each owner of a lot referred to in subsection (1) must be notified in accordance with the *Matrimonial Property Act*.

(3) The notice must contain

(a) a general description of each lot of land;

(b) the amount of arrears of taxes and expenses incurred to date, the year or years in which they were levied and the person in whose name the land was then assessed;

(c) a statement that the land is liable to be sold for the arrears with interest and expenses of, and incidental to, the sale unless they are paid within 60 days from the date of the notice;

(d) an estimate of the total expenses that would be incurred if the property is sold for taxes;

(e) the proposed date of the sale; and

(f) a statement to the effect that if the owner challenges the right of the Municipality to set the land up for sale the owner should obtain legal advice and contact the Municipality. 2008, c. 39, s. 155.

Public auction or call for tenders

198 (1) Unless the arrears of taxes, interest and expenses are paid, the Treasurer shall proceed to sell land liable to be sold for taxes at public auction.

(2) The Treasurer may, with the consent of the Council, call tenders for property rather than put the property up for sale at public auction.

(3) The Council may direct the Treasurer as to what constitutes an acceptable minimum tender or bid, if the Treasurer is of the opinion that the property might not realize sufficient to cover the outstanding taxes, interest and expenses. 2008, c. 39, s. 156.

Sale of land in another municipality

199 Where lands to be sold for taxes are partly in the Municipality and partly in another municipality, the Treasurer may sell the entire lot if

(a) notice of the sale is given to the other municipality; and

(b) the taxes, interest and expenses due to the other municipality are included in the amount for which the land is to be sold,

and the taxes, interest and expenses must be paid to the other municipality forthwith after the sale. 2008, c. 39, s. 156.

Tax sale advertisement

200 (1) After the notice of intent to sell land for taxes has been served

(a) the land liable to be sold for taxes must be advertised for sale at public auction; or

(b) tenders must be called for the land.

(2) Notice of the sale at public auction or the call for tenders must be published

(a) at least twice prior to the sale or when tenders close in a newspaper circulating in the Municipality;

(b) with the first advertisement appearing at least 30 days prior to the sale or when tenders close; and

(c) setting out each lot of land to be sold and the date, time and place of the sale or when tenders close.

(3) It is sufficient to state in the advertisements the street and number of a property advertised or to include any other such short reference by which the property may be identified, together with a statement that a full description can be seen at the office of the Treasurer. 2008, c. 39, s. 157.

Municipal purchase of tax sale property

201 (1) The Municipality, by an official or agent, may bid for and purchase land at a tax sale for any municipal purpose.

(2) Where no bid is received for land sufficient to satisfy the full amount of the taxes, interest and expenses due in respect of the land, the Treasurer may bid the amount of the taxes, interest and expenses and purchase the land for the Municipality.

(3) Where the Municipality purchases land at a tax sale, the subsequent proceedings are the same as for a purchase by another person. 2008, c. 39, s. 158; 2022, c. 4, Sch., s. 33; 2023, c. 2, s. 32.

Re-advertisement where no sufficient bid

202 (1) Where no bid is received for any land sufficient to satisfy the full amount of the taxes, interest and expenses due in respect of the land and the Municipality does not purchase the land, the Municipality may, without further notice to the owner and encumbrancers, again advertise the property and

(a) sell it at auction for the best price that may be obtained;
or

(b) call tenders for the property and sell it for the highest tender,

and the Council may direct the Treasurer as to what constitutes an acceptable minimum bid or tender price.

(2) Subsections 200(2) and (3) apply to the advertising referred to in subsection (1). 2008, c. 39, s. 158.

Persons prohibited from purchasing land

203 (1) No

(a) Council member or employee of the Municipality that sells land for arrears of taxes;

(b) spouse of a person referred to in clause (a); or

(c) company in which a person referred to in clause (a) or (b) owns or beneficially owns the majority of the issued and outstanding shares,

shall purchase the land at the sale, either directly or through an agent.

(2) A person who contravenes this Section is liable, on summary conviction, to a penalty of \$5,000 and, in default of payment, to imprisonment for a term not exceeding six months.

(3) Where there is a conviction pursuant to subsection (2), the relevant person referred to in clause (1)(a) forfeits that person's office or employment, as the case may be. 2008, c. 39, s. 159.

Arrears where taxes collected for other body

204 Where the Municipality collects taxes for a service commission or any other body, the arrears of the taxes are deemed to be those of the Municipality in all proceedings for the sale of land for taxes. 2008, c. 39, s. 160.

Application money received at sale

205 (1) The purchase money received at a tax sale must be applied, so far as it extends,

(a) first, to payment of the taxes, interest and expenses owing with respect to the land; and

(b) second, to payment of any other taxes, charges for water or electricity and other sums due by the owner to the Municipality that are not a lien,

and the balance must be deposited to the credit of the tax sale surplus account.

(2) Where the land sold for taxes is redeemed, the balance must be applied to reduce the amount that the person redeeming is required to pay.

(3) Where the owner of land sold for taxes owes the Municipality any taxes or charges not secured by a lien on the land sold, the taxes or charges may be paid from the balance.

(4) Except as provided in this Section, no part of the balance may be withdrawn from the tax sale surplus account during the period in which the land may be redeemed. 2008, c. 39, s. 161; 2022, c. 4, Sch., s. 34; 2023, c. 2, s. 33.

Application for order directing payment of balance

206 (1) A person with an interest in land sold for taxes may apply to the Supreme Court of Nova Scotia for an order directing the payment of all, or part, of the balance to that person.

(2) An application pursuant to subsection (1) may be made at any time after the period of redemption has expired and before the expiry of 20 years from the date of the sale.

(3) Where the Supreme Court of Nova Scotia orders payment, the Court shall order the payment of that part of the balance proportional to the applicant's interest in the property before it was sold.

(4) Interest is not payable with respect to the payment of the balance and costs may not be awarded against the Municipality on an application pursuant to subsection (1). 2008, c. 39, s. 162.

Transfer to capital reserve fund

207 Where a balance remains in the tax sale surplus account 20 years after the sale, the Municipality shall transfer it to its capital reserve fund. 2008, c. 39, s. 162.

Form of payment at tax sale

208 Payment at a tax sale must be by cash, certified cheque, money order, bank draft, irrevocable letter of credit or lawyer's trust cheque and not otherwise. 2008, c. 39, s. 163.

Payment or resale

209 (1) The purchaser at a tax sale shall immediately pay the purchase price or deposit a smaller amount equal to the taxes, interest and expenses for which the land was sold, failing which the Treasurer shall forthwith put the land up for sale again.

(2) Where the balance of the purchase money is not paid within three business days, the land must again be advertised and put up for sale.

(3) The expenses of the resale must be deducted from the deposit and the balance must be refunded after the resale is held. 2008, c. 39, s. 163.

Rejection of tenders

210 Where the Municipality calls tenders for land to be sold for taxes, the Municipality may reject all tenders if

- (a) the price tendered is less than the taxes, interest and expenses;
- and
- (b) the Council considers that the best price offered is inadequate,

and may again put the land up for sale, by tender or by public auction. 2008, c. 39, s. 164.

Payment of tender price or resale

211 (1) Where the Municipality calls tenders for land to be sold for taxes, the person whose tender is accepted shall pay the tender price within three business days after being notified of the acceptance.

(2) Where the balance of the purchase money is not paid within three business days, the land must again be advertised and put up for sale.

(3) The expenses of the resale must be deducted from the deposit and the balance must be refunded after the resale is held. 2008, c. 39, s. 164.

Certificate of sale

212 (1) After land is sold for taxes and upon payment of the purchase money, the Treasurer shall give the purchaser a certificate of sale, in the form prescribed by the regulations or to like effect, describing the land sold and stating the sum for which it was sold.

(2) The certificate must state that a deed conveying the land to the purchaser, or as directed by the purchaser, will be provided upon payment of the

prescribed fee at any time after six months from the date of the sale, if the property is not redeemed.

(3) The Treasurer shall register a copy of the certificate of sale in the registry.

(4) A copy of the certificate of sale must be served on each owner of the land sold and, where the land may be redeemed, a notice that the land may be redeemed must be included with the copy of the certificate of sale. 2008, c. 39, s. 165.

Purchaser rights, liability protection and duty to insure

213 On receipt of the certificate of sale, the purchaser

(a) has all the rights of action and powers of an owner needed to protect the land and may collect rents due, or to grow due, and use the land without diminishing its value, but shall not cut down any trees on the land, injure the premises or knowingly allow any other person to do so;

(b) is not liable for damage done to the land without the purchaser's knowledge; and

(c) shall insure any buildings on the land, if the buildings are insurable, and is deemed to have an insurable interest in the land. 2008, c. 39, s. 166.

Redemption of tax sale property

214 (1) Land sold for non-payment of taxes may be redeemed by the owner, a person with a mortgage, lien or other charge on the land or a person having an interest in the land within six months after the date of the sale, but where, at the time of sale, taxes on the land are in arrears for more than six years, no right of redemption exists.

(2) To redeem the land, the person redeeming shall pay

(a) the sum paid by the purchaser;

(b) interest at the rate of 10% per year on the total sum paid by the purchaser from the date of the sale to the date of redemption;

(c) the full amount of any outstanding taxes arising before the tax sale if the purchaser paid less than the amount of the outstanding taxes on the land;

(d) taxes levied on the land after the sale and any interest;

(e) the fee to record the certificate of discharge;

(f) all sums paid by the purchaser for fire insurance premiums to insure buildings on the land; and

(g) all amounts paid by the purchaser for necessary repairs made, with the written approval of the Treasurer, to buildings on the land,

less any balance remaining in the tax sale surplus account with respect to the property and any rent or other income earned by the purchaser from the land.

(3) Where the Municipality buys the land, the taxes payable by a person redeeming are the amount that would be payable if the Municipality did not own the land.

(4) Where redemption takes place before the tax rate is set, the taxes payable by a person redeeming are those payable for the preceding year and, after the tax rate is set, any surplus must be refunded to the person redeeming and the land is liable for any deficiency.

(5) Where property has been redeemed, a certificate of discharge in the form prescribed by the regulations, or to like effect, must be prepared and registered in the registry.

(6) The registrar of deeds shall make a marginal note referring to the registry of the certificate of discharge on the recorded copy of the certificate of sale. 2008, c. 39, s. 167.

Repayment to purchaser

215 (1) Where redemption of land is to take place, the purchaser shall, within 14 days of being requested to do so, provide a statement of amounts spent for fire insurance premiums and repairs made, with the written approval of the Treasurer, to buildings on the land.

(2) After delivery of the statement of amounts spent, the purchaser must receive

- (a) the sum paid upon the purchase of the land;
- (b) the interest on the purchase price; and
- (c) the sums paid with respect to fire insurance premiums and repairs,

less any rent or other income earned by the purchaser from the property. 2008, c. 39, s. 168.

Dispute concerning redemption

216 A dispute concerning the amount to be paid for redemption or to be repaid to the purchaser upon redemption may be referred to the Supreme Court of Nova Scotia. 2008, c. 39, s. 168.

Purchaser rights cease

217 From the time of the payment to the Treasurer of the full amount for redemption, the purchaser of the land ceases to have a right to it. 2008, c. 39, s. 169.

Deed to purchaser

218 (1) At the request of the purchaser at a tax sale and upon payment of the fee determined by the Council, by resolution, the Municipality shall deliver a deed to the land in the form prescribed by the regulations, or to like effect, to the purchaser, or as directed by the purchaser,

- (a) where, at the time of the sale, taxes on the land were unpaid for more than six years, at any time after the sale; or

(b) at any time after the expiration of six months from the sale, if the land has not been redeemed.

(2) The deed must

(a) fully describe the land conveyed;

(b) be signed by the Mayor and the Clerk; and

(c) be under the seal of the Municipality. 2008, c. 39, s. 170; 2022, c. 4, Sch., s. 35; 2023, c. 2, s. 34.

Tax sale deed

219 (1) A deed to land sold for taxes is conclusive evidence that the provisions of this Act with reference to the sale of the land described in the deed have been fully complied with and each act and thing necessary for the legal perfection of the sale has been duly performed.

(2) The deed has the effect of vesting the land in the grantee in fee simple, free and discharged from all encumbrances.

(3) Notwithstanding subsection (1), where a dominant tenement is sold for taxes, an easement or right-of-way appurtenant to it passes to the purchaser and, where a servient tenement is sold for taxes, the sale does not terminate or affect an easement or right-of-way to which it is subject. 2008, c. 39, s. 171.

Persons with lien, charge or encumbrance

220 A mortgagee, judgment creditor or other person having a lien, charge or encumbrance on land liable to be sold for taxes, or in respect of which taxes are due

(a) may pay the taxes, interest and expenses;

(b) may add the amount paid for taxes, interest, expenses and any amount paid to redeem the property after a tax sale to the mortgage, judgment or other security;

(c) has, in respect of the amount paid, the same rights, remedies and privileges as under the security; and

(d) may sue for, and recover, the amount paid, with interest, from the person primarily liable to pay it. 2008, c. 39, s. 172.

Co-operative housing

221 Where real property is held by a company incorporated for co-operative housing purposes and is subject to a mortgage held by the Minister of Municipal Affairs and Housing, a copy of the tax bill and, where the real property is to be sold for taxes, a copy of the notice of sale must be sent to the regional manager of the Department of Municipal Affairs and Housing for the area where the property is located. 2008, c. 39, s. 173.

Veterans' Land Act agreement

222 (1) Where real property is held under an agreement of sale with the Director within the meaning of the *Veterans' Land Act* (Canada), the taxes upon the property are a lien upon the property and the property may be sold for taxes in

the same manner as if the Director were a corporation sole and not an agent of the Crown in right of Canada.

(2) A copy of the notice of assessment, the tax bill and the notice of sale for taxes must be sent to the Director within the meaning of the *Veterans' Land Act* (Canada), or to the district office thereof, before the property is sold. 2008, c. 39, s. 174.

Rebate for tax exempt property

223 (1) An owner of property that becomes exempt from taxation during a fiscal year is entitled to a rebate of the taxes on the property for the portion of the fiscal year in which it is exempt.

(2) The owner shall notify the Director of Assessment that the property is exempt within 30 days after the property becomes exempt and, where the owner fails to do so, the rebate must be calculated from the date notice is given.

(3) The Director of Assessment shall forthwith provide the Treasurer with a copy of the notice.

(4) Upon receipt of the notice, the Treasurer shall forthwith notify the person assessed of the amount of tax to be rebated.

(5) The notice from the Treasurer may be appealed pursuant to the *Assessment Act* as if it were a notice of assessment.

(6) Upon expiration of the period of appeal or upon the appeal having been disposed of, where the person entitled to the rebate pays the taxes, the Treasurer shall pay the rebate to the person and, where the person is indebted to the Municipality, the Treasurer shall apply the rebate to reduce the indebtedness. 2008, c. 39, s. 175.

Proceeding based on assessment

224 (1) A proceeding with respect to taxes based on an assessment, except an action or other proceeding brought by the Municipality for the collection of taxes, may be brought only

(a) within six months of the date upon which the assessment roll is forwarded to the Clerk;

(b) where an appeal has been taken to the Nova Scotia Assessment Appeal Tribunal, within six months from the time limited for appealing to the Board; and

(c) where an appeal has been taken to the Board, within 30 days after the date of the Board's decision.

(2) Nothing that could have been raised

(a) by way of appeal to the Nova Scotia Assessment Appeal Tribunal;

(b) by way of appeal to the Board;

(c) on originating notice pursuant to the *Assessment Act*,

may be raised by way of defence in an action or other proceeding brought by, or on behalf of, the Municipality. 2008, c. 39, s. 178.

Validity of taxes

225 (1) No

(a) error, informality or irregularity on the part of the Council, the assessor, the Nova Scotia Assessment Appeal Tribunal, the recorder, the Clerk, the Treasurer or any other officer; and

(b) no error or omission in giving a notice required pursuant to this Act,

affects or prejudices the validity of taxes or the tax levy.

(2) The invalidity, irregularity or illegality of an individual's taxes does not extend to, or affect, the validity of other taxes.

(3) No taxes or tax levy may be quashed for a matter of form only and no tax levy may be quashed for an illegality except as to an individual person's taxes. 2008, c. 39, ss. 178, 179.

Affidavit regarding service of notice

226 (1) Where a notice is required pursuant to this Act, the person who served or gave the notice may make an affidavit setting out that the notice was served or given in compliance with this Act and setting out how the notice was given.

(2) The affidavit is prima facie evidence that the notices were served or given in the manner required pursuant to this Act. 2008, c. 39, s. 180.

Service of notice

227 Service of a notice required pursuant to this Part is sufficient

(a) if it is mailed by ordinary mail to the last known address of the person on whom the notice is to be served; or

(b) where the address of the person is unknown, if it is mailed to a tenant or occupant of the land or a copy of the notice is posted in a conspicuous place on the premises. 2008, c. 39, s. 181.

Formula for rate of interest

228 Where the Council is authorized or required, pursuant to this Act, to set a rate of interest, the Council may instead adopt a formula by which the rate of interest may be determined and automatically adjusted. 2008, c. 39, s. 182.

PART VII**BYLAWS****Adoption procedure**

229 (1) A bylaw must be read twice.

(2) At least 14 days before a bylaw is read for a second time, notice of the Council's intent to consider the bylaw must be published in a newspaper circulating in the Municipality.

(3) The notice must state the object of the bylaw, the date and time of the meeting at which the Council proposes to consider it and the place where the proposed bylaw may be inspected.

(4) The Council may require further advertising, including advertising by radio or television.

(5) The Council may provide that advertising by radio and television replaces advertising in a newspaper, except in the case of advertising required pursuant to Parts VIII and IX.

(6) The Council may, by policy, further determine the procedure to be followed and the notice to be given with respect to the introduction and passing of bylaws. 2008, c. 39, s. 183.

Publication and filing

230 (1) A bylaw has the force of law upon publication.

(2) A bylaw is published when

(a) it is passed by the Council in the manner provided in this Act;

(b) it is approved by a minister of the Crown whose approval is required; and

(c) a notice is published in a newspaper circulating in the Municipality, stating the object of the bylaw and the place where it may be read.

(3) When a bylaw is published, the Clerk shall file a certified copy of the bylaw with the Minister.

(4) Failure to file with the Minister a copy of a bylaw that is not subject to the approval of the Minister does not invalidate the bylaw. 2008, c. 39, s. 184.

Application

231 (1) A bylaw

(a) made pursuant to this Act or another Act of the Legislature may apply to an area defined in the bylaw;

(b) may set different charges for different areas;

(2) A bylaw applies to the Municipality unless otherwise stated in the bylaw. 2008, c. 39, s. 185.

Matters incidental or conducive to exercise of powers

232 In addition to the powers specifically conferred pursuant to this Act or another Act of the Legislature, the Municipality may provide, in a bylaw, for matters incidental or conducive to the exercise of the specified powers. 2008, c. 39, s. 185.

Power to regulate, license and prohibit

233 Subject to Part VIII, in this Act, the power to

- (a) license includes the power to regulate;
- (b) regulate includes the power to license; and
- (c) regulate includes the power to prohibit. 2008, c. 39, s. 186.

Inconsistency with enactments

234 A bylaw must not be inconsistent with an enactment of the Province or of Canada. 2008, c. 39, s. 186.

General power not limited by specific power

235 Where this Act confers a specific power on the Municipality in relation to a matter that can be read as coming within a general power also conferred by this Act, the general power is not to be interpreted as being limited by the specific power. 2008, c. 39, s. 187.

Power to make bylaws

236 (1) The Council may make bylaws, for municipal purposes, respecting

- (a) the health, well-being, safety and protection of persons;
- (b) the safety and protection of property;
- (c) persons, activities and things in, on or near a public place or place that is open to the public;
- (d) nuisances, activities and things that, in the opinion of the Council, may be or may cause nuisances, including noise, weeds, burning, odours, fumes and vibrations, including bylaws
 - (i) prescribing a distance beyond which noise must not be audible,
 - (ii) distinguishing between one type of noise and another,
 - (iii) providing that any noise or sound greater than a specific decibel level or other measurement of noise or sound is prohibited,
 - (iv) prescribing the hours during which certain noises, or all noise above a certain level, specified in the bylaw is prohibited,
 - (v) authorizing the granting of exemptions in such cases as the bylaw provides,

- (vi) providing that it is an offence to engage in any activity that unreasonably disturbs or tends to disturb the peace and tranquillity of a neighbourhood;
 - (e) transport and transport systems;
 - (f) businesses, business activities and persons engaged in business;
 - (g) automatic machines;
 - (h) the appointment of a day to be a civic holiday;
 - (i) a requirement that pawnbrokers report all transactions by pawn or purchase;
 - (j) regulation of the application and use of pesticides, herbicides and insecticides for the maintenance of outdoor plants and turf on the part of a property used for residential purposes and on property of the Municipality, including bylaws
 - (i) requiring the posting of notices when pesticides, herbicides or insecticides are to be so used and regulate the form, manner and time of the notice and the area in which the notice must be posted,
 - (ii) establishing a registration scheme that is open to the public, in which a resident may file with the clerk an objection to pesticides, herbicides and insecticides being so used in the vicinity of the property on which the person resides,
 - (iii) requiring that notices be served on the residents of properties registered pursuant to the registration scheme within the distance specified in the bylaw when pesticides, herbicides or insecticides are to be so used and regulate the form, time and manner of the notice,
 - (iv) providing that pesticides, herbicides and insecticides may not be so used within the distance of a registered property established by the bylaw, the requirements respecting notices to residents or owners of properties within the distance of a registered property established by the bylaw and the effective date of the prohibition,
 - (v) specifying the circumstances in which posting or serving of notices is not required or the prohibition does not apply,
 - (vi) providing for all other matters necessary or incidental to the establishment of the registration scheme,
- but, for greater certainty, not applying to property used for agricultural or forestry purposes;
- (k) the condition or maintenance of vacant buildings, structures and properties and, without restricting the generality of the foregoing, may
 - (i) adopt property maintenance and performance standards,

- (ii) prescribe the manner in which buildings or structures must be secured by owners or the Municipality, and
- (iii) limit the length of time that buildings or structures may remain boarded up;
- (l) the maintenance and sightliness of property, including grounds, lawns, buildings and structures;
- (m) services provided by, or on behalf of, the Municipality;
- (n) subject to the regulation of the Board, the establishment and operation of a district energy system within the Cogswell District Energy Boundary;
- (o) the authorization of the General Manager of the Halifax Regional Water Commission to exercise the powers and authorities of the General Manager set out in Sections 19 and 20 of the *Halifax Regional Water Commission Act* in respect of the district energy system;
- (p) the authorization of the Council to require, where the Council considers it necessary or advisable, that a building or other structure built within the Cogswell District Energy Boundary after the coming into force of the bylaw be connected to the district energy system;
- (q) the enforcement of bylaws made under the authority of a statute, including
 - (i) procedures to determine whether bylaws are being complied with, including entering upon or into private property for the purposes of inspection, maintenance and enforcement,
 - (ii) remedies for the contravention of bylaws, including
 - (A) undertaking or directing the remedying of a contravention,
 - (B) apprehending, removing, impounding or disposing of, including by sale or destruction, plants, animals, vehicles, improvements or other things, and
 - (C) charging and collecting the costs thereof as a first lien on the property affected,
 - (iii) the creation of offences,
 - (iv) for each offence, imposing a fine not exceeding \$10,000 or imprisonment for not more than one year, or both, including the imposition of a minimum fine,
 - (v) providing for the imposition of a penalty for an offence that is in addition to a fine or imprisonment if the penalty relates to a fee, cost, rate, toll or charge that is associated with the conduct that gives rise to the offence,
 - (vi) providing for imprisonment, for not more than one year, for non-payment of a fine or penalty,

(vii) providing that a person who contravenes a bylaw may pay an amount established by bylaw and, where the amount is paid, the person will not be prosecuted for the contravention,

(viii) providing, with respect to a bylaw, that in a prosecution for violation of the bylaw, evidence that one person is disturbed or offended is prima facie evidence that the public, or the neighbourhood, is disturbed or offended.

(2) Without restricting the generality of subsection (1) but subject to Part VIII, the Council may, in any bylaw

- (a) regulate or prohibit;
- (b) regulate any development, activity, industry, business, animal or thing in different ways divide each of them into classes and deal with each class in different ways;
- (c) provide that in a prosecution for violation of a bylaw, evidence that one neighbour is disturbed is prima facie evidence that the neighbourhood is disturbed;
- (d) adopt by reference, in whole or in part, with changes that the Council considers necessary or advisable, a code or standard and require compliance with it;
- (e) provide for a system of licences, permits or approvals, including
 - (i) establishing fees for licences, permits or approvals, including fees for licences, permits and approvals that may be in the nature of a reasonable tax for the activity authorized or for the purpose of raising revenue, which fees may be set or altered by policy,
 - (ii) prohibiting any development, activity, industry, business or thing until a licence, permit or approval is granted,
 - (iii) providing that terms and conditions may be imposed on a licence, permit or approval, the nature of the terms and conditions and who may impose them,
 - (iv) setting out the conditions that must be met before a licence, permit or approval is granted or renewed, the nature of the conditions and who may impose them,
 - (v) providing for the duration of licences, permits and approvals and their suspension or cancellation for failure to comply with a term or condition or the bylaw or for any other reason specified in the bylaw;
- (f) where decision-making is delegated by bylaw to a person or committee other than the Council, provide for an appeal of the decision, the body that is to decide the appeal and related matters.

2008, c. 39, s. 188; 2010, c. 64, s. 4; 2018, c. 9, s. 4.

Retention of trees and vegetation

237 (1) In this Section, “serviced area” means an area that has access to municipal water or wastewater service or that is identified as a “serviced area” in a municipal subdivision bylaw.

(2) The Council may make bylaws, for municipal purposes, requiring that existing trees or vegetation in a serviced area be retained or be removed only pursuant to a municipal permit.

(3) Subsection (2) does not apply to land used for agricultural or forestry purposes.

(4) The Council may make bylaws, for municipal purposes, establishing watercourse buffer zones in which existing trees or vegetation must be retained or may be removed only pursuant to a municipal permit. 2008, c. 39, s. 190; 2010, c. 16, s. 4.

Vending on streets

238 Without limiting the generality of Section 236 but notwithstanding the *Motor Vehicle Act*, the Council may, by bylaw, regulate vending, any class of vending, mobile vendors and the placement of vending machines on the streets of the Municipality. 2008, c. 39, s. 191.

Further powers to make bylaws

239 Without limiting the generality of Section 236, the Council may make bylaws respecting

- (a) the regulation and licensing of persons owning or operating rooming houses or boarding houses and regulating the maintenance, administration, operation and occupancy of buildings used as rooming houses or boarding houses and the land on which they are located;
- (b) the prevention and fighting of fires;
- (c) the firing of firearms;
- (d) fire and burglar alarms;
- (e) off-road vehicles on public or private property;
- (f) wild and domestic animals and activities in relation to them.

2008, c. 39, s. 192.

Dogs and tag registration

240 (1) Without limiting the generality of Section 236, the Council may make bylaws

- (a) regulating the running at large of dogs, including permitting the running at large of dogs in certain places or at certain times;
- (b) imposing a registration fee upon the owner of every dog, the amount to be set by policy, for such length of time as is specified in the bylaw with the power to impose a larger fee for female dogs than for male dogs, or for unspayed or unneutered dogs than for spayed or neutered dogs;

- (c) requiring tags for the identification of dogs registered under the bylaw;
- (d) exempting from any registration fee a dog that is a stray dog and is harboured for up to the maximum period of time set by bylaw;
- (e) defining fierce or dangerous dogs, including defining them by breed, crossbreed, partial breed or type;
- (f) regulating the keeping of fierce or dangerous dogs;
- (g) prohibiting the keeping of a dog that persistently disturbs the quiet of the neighbourhood by barking, howling or otherwise;
- (h) authorizing the dog control officer to impound, sell, kill or otherwise dispose of dogs
 - (i) that run at large contrary to the bylaw,
 - (ii) in respect of which the fee or tax imposed by a bylaw is not paid,
 - (iii) that are fierce or dangerous,
 - (iv) that are rabid or appear to be rabid or exhibiting symptoms of canine madness,
 - (v) that persistently disturb the quiet of a neighbourhood by barking, howling or otherwise;
- (i) requiring the owner of a dog, other than a dog that is trained to assist and is assisting a person with a disability, to remove the dog's feces from public property and from private property other than the owner's;
- (j) requiring the owner of a dog to provide a written statement of the number of dogs owned, harboured or that are habitually kept upon the premises occupied by the owner.

(2) A dog that is trained to assist and assists a person with a disability is exempt from any registration fee.

(3) Where a dog tag is required by bylaw, the dog tag must bear a serial number and the year in which it is issued and a record must be kept showing the name and address of the owner and the serial number of the tag.

(4) The owner of a kennel of purebred dogs that are registered with the Canadian Kennel Club may, in any year, pay a fee set by the Council, by policy, as a tax upon the kennel for that year and, upon payment of the amount, the owner of the kennel is exempt from any further fee regarding the dogs for that year.

(5) Where required by bylaw to do so, the owner of a dog may enter upon private property to remove the dog's feces. 2008, c. 39, s. 193.

Warrant authorizing seizure of dog

241 (1) Where a peace officer believes, on reasonable grounds, that a person is harbouring, keeping or has under care, control or direction a dog that is

fierce or dangerous, rabid or appears to be rabid, that exhibits symptoms of canine madness or that persistently disturbs the quiet of a neighbourhood by barking, howling or otherwise contrary to a bylaw, a justice of the peace may, by warrant, authorize and empower the person named in the warrant to

- (a) enter and search the place where the dog is, at any time;
- (b) open or remove any obstacle preventing access to the dog; and
- (c) seize and deliver the dog to the pound and, for such purpose, break, remove or undo any fastening of the dog to the premises.

(2) Where the person named in the warrant is unable to seize the dog in safety, the person may destroy the dog. 2008, c. 39, s. 194.

Destruction of dog and costs related to dog

242 (1) At the trial of a charge laid against the owner of a dog that is fierce or dangerous, that persistently disturbs the quiet of a neighbourhood by barking, howling or otherwise or that runs at large, contrary to a bylaw, in addition to the penalty, the judge may order that

- (a) the dog be destroyed or otherwise dealt with; and
- (b) the owner pay any costs incurred by the Municipality related to the dog, including costs related to the seizure, impounding or destruction of the dog.

(2) For the purpose of an order under subsection (1), it is not necessary to prove that

- (a) the dog previously attacked or injured a domestic animal, person or property;
- (b) the dog had a propensity to injure or to damage a domestic animal, person or property; or
- (c) the defendant knew that the dog had such propensity or was, or is, accustomed to doing acts causing injury or damage. 2008, c. 39, s. 195.

Rabid animals

243 A person may kill or destroy a rabid dog or other rabid animal found at large and may secure and confine a dog or other animal at large and appearing to be rabid or exhibiting symptoms of canine madness. 2008, c. 39, s. 196.

Proof at trial of dog-owner or harbourer

244 Upon the trial of an action brought against the owner or harbourer of a dog for any injury caused, or damage occasioned by, such dog, it is not necessary to prove knowledge by, or notice to, the owner or harbourer of any mischievous propensity of the dog. 2008, c. 39, s. 197.

Protected water supply area

245 (1) The Council may, by bylaw, designate lands owned by the Municipality as protected water supply areas.

(2) No person shall

(a) place, or permit to escape, any matter or thing of an offensive nature, deleterious nature or likely to impair the quality of water for use for domestic purposes, upon land in a protected water supply area;

(b) fish or bathe in a lake, or other body of water, in a protected water supply area;

(c) camp on land in a protected water supply area; or

(d) cut wood or erect, construct or place a building or structure in a protected water supply area without the permission of the Council. 2008, c. 39, s. 198.

Angling Act

246 The *Angling Act* does not apply to a lake, river or stream forming part of a water supply area of the Municipality or to the land surrounding or adjacent to them. 2008, c. 39, s. 198.

Minimum standards for buildings

247 (1) Without limiting the generality of Section 236, the Council may make bylaws

(a) prescribing minimum standards of sanitation, plumbing, water supply, lighting, wiring, ventilation, heating, access, maintenance, appearance, construction and material for buildings, or parts thereof, occupied for residential purposes, whether the building, or part thereof, is erected, constructed or converted to residential purposes before or after the date of the making of the bylaw;

(b) limiting the number of persons who may reside in a building or part thereof;

(c) imposing on the owner, tenant or occupant, or any one or more of them, the responsibility for complying with the bylaw;

(d) providing for notice to an owner, occupant or tenant, or any one or more of them, to discontinue the residential use of a building, or part thereof, in contravention of the bylaw; and

(e) prescribing penalties for such residential use after notice to discontinue the use is given.

(2) The Council may make bylaws prescribing minimum standards of sanitation, plumbing, water supply, lighting, wiring, ventilation, heating, access, maintenance, appearance, construction and material for buildings, or parts thereof, occupied for commercial purposes.

(3) Where a person contravenes a bylaw made pursuant to this Section, the Administrator may apply to the Supreme Court of Nova Scotia for any or all of the remedies provided pursuant to this Section.

(4) The Supreme Court of Nova Scotia may hear and determine the matter at any time and, in addition to any other remedy or relief, may make an order

(a) restraining the continuance, or repetition of, a contravention and a new or further contravention in respect of the same building or structure;

(b) directing the removal or destruction of the building or structure, or part thereof, that is in contravention of, or fails to comply with, the bylaw and authorizing the Administrator, where an order is not complied with, to enter upon the land and premises with necessary workers and equipment and remove and destroy the building or structure, or part thereof, at the expense of the owner;

(c) regarding the recovery of the expense of removal and destruction, an order to enforce the bylaw and an order as to costs, as the Court determines is proper,

and an order may be interlocutory, interim or final.

(5) Where there is another contravention of a bylaw made pursuant to this Section by the same person after an application is made pursuant to subsection (3),

(a) it is not necessary to bring a further application;

(b) the original application may be amended from time to time, and at any time before final judgment so as to include the other offences; and

(c) the whole matter of the contraventions must be heard, dealt with and determined.

(6) Where the Administrator cannot find the owner of a building or structure in respect of which a contravention is taking place or has taken place, notice of the application may be posted upon the building or structure.

(7) The standards of a bylaw passed pursuant to this Section must be consistent with the standards prescribed pursuant to the *Building Code Act* and regulations. 2008, c. 39, s. 199.

False statement in licence application

248 Every person who makes a false statement in an application for a licence to be issued by the Municipality is guilty of an offence. 2008, c. 39, s. 200.

Recovery of penalties, fees or fines

249 (1) A penalty or licence fee imposed pursuant to this Act may, unless otherwise provided, be recovered and enforced with costs on summary conviction.

(2) A penalty for a contravention of this Act or a bylaw of the Municipality made pursuant to this Act or another Act of the Legislature must, when collected, be paid to the Municipality.

(3) A penalty or fine pursuant to a bylaw of the Municipality, unless otherwise provided, belongs to, and forms part of, the general revenue of the Municipality. 2008, c. 39, s. 201.

Application for injunction

250 Where

(a) a building is erected, being erected or being used in contravention of a bylaw of the Municipality;

(b) land is being used in contravention of a bylaw of the Municipality;

(c) a breach of a bylaw is anticipated or is of a continuing nature; or

(d) a person is carrying on business, or doing any thing, without having paid the licence or permit fee required,

the Municipality may apply to a judge of the Supreme Court of Nova Scotia for an injunction or other order and the judge may make any order that the justice of the case requires. 2008, c. 39, s. 202.

No liability for damages

251 The Municipality and its officers and employees are not liable for damages caused by it in remedying or attempting to remedy a contravention unless the Municipality was grossly negligent. 2008, c. 39, s. 203.

Ministerial approval not required for bylaws

252 Subject to Section 253 and unless otherwise provided in an enactment, a bylaw made by a Council pursuant to this Act or another Act of the Legislature is not subject to the approval of the Minister. 2008, c. 39, s. 204; 2022, c. 48, s. 1.

Nullification of bylaw impacting housing or development

253 (1) A bylaw or part of a bylaw made by the Council pursuant to this Act or another Act of the Legislature may be nullified by order of the Minister if the Minister

(a) determines that the bylaw or part of a bylaw would impact housing or development;

(b) determines that it is in the public interest of the Province to nullify the bylaw or part of a bylaw, as the case may be; and

(c) so orders within six months from the date the bylaw or part of the bylaw is enacted.

(2) Where a bylaw or part of a bylaw exclusively impacts marginalized communities, including African Nova Scotian and Mi'kmaq communities, the Minister shall conduct consultations with representatives of the impacted communities to ensure the protection of the communities before making an order under subsection (1) respecting that bylaw or part of a bylaw.

(3) A bylaw or part of a bylaw nullified pursuant to subsection (1) is of no force or effect as of the date of the Minister's order.

(4) The Minister's order must be in writing and immediately provided to the Council.

(5) When a Minister's order is issued under this Section, the Council shall publish a notice in a newspaper circulating in the Municipality, stating the effect of the order and the place where it may be read.

(6) Section 254 applies, with all necessary changes, to the Minister's order.

(7) A bylaw or part of a bylaw nullified pursuant to subsection (1) may not be re-enacted or replaced within one year following the date of the Minister's order unless the Council first obtains the approval of the Minister. 2022, c. 48, s. 2.

Record of bylaws and policies

254 (1) The Council shall keep one copy of every bylaw and one copy of every policy, certified by the Clerk under the seal of the Municipality that it was passed or made and, in the case of a bylaw requiring the approval of a minister of the Crown, bearing the approval of the minister.

(2) The Clerk shall file a certified copy of the notice of publication of the bylaw with every bylaw entered in the bylaw records.

(3) The bylaw records must be maintained by the Clerk.

(4) The original bylaws must be open to inspection by any person at a reasonable time, but may not be removed from the office of the Clerk and the production of an original bylaw in a court is not required on subpoena but only upon order of the court or a judge after satisfactory cause is shown.

(5) The Clerk shall

(a) print all of the bylaws of the Municipality from time to time in force;

(b) keep printed copies of the bylaws, amended to date, for sale; and

(c) provide a copy of a bylaw, amended to date, to a person requesting one, at a reasonable price, having regard to the cost of printing the bylaw. 2008, c. 39, s. 205.

Prima facie proof of bylaw

255 (1) A copy of a bylaw made pursuant to this Act or another Act of the Legislature purporting to be certified by the Clerk, under the seal of the Municipality, to

(a) be a true copy of a bylaw passed by the Council;

(b) have received all required approvals,

must be received in evidence as prima facie proof of its passing, receipt of all required approvals, publication, being in force and the contents of it without further proof in any court, unless it is specially pleaded or alleged that the seal or the signature of the Clerk was forged.

(2) Printed documents, certified by the Clerk, purporting to be printed copies of any or all bylaws passed by the Council must be admitted in evidence in all courts in the Province as prima facie proof of the bylaws and of the due passing of them. 2008, c. 39, s. 206.

Quashing bylaw, order, policy or resolution

256 (1) A person may, by notice of motion that is served at least seven days before the day on which the motion is to be made, apply to a judge of the Supreme Court of Nova Scotia to quash a bylaw, order, policy or resolution of the Council, in whole or in part, for illegality.

(2) No bylaw may be quashed for a matter of form only or for a procedural irregularity.

(3) The judge may quash the bylaw, order, policy or resolution, in whole or in part, and may, according to the result of the application, award costs for or against the Municipality and determine the scale of the costs.

(4) An application pursuant to this Section to quash a bylaw, order, policy or resolution, in whole or in part, must be made within three months of the publication of the bylaw or the making of the order, policy or resolution, as the case may be. 2008, c. 39, s. 207.

PART VIII

PLANNING AND DEVELOPMENT

Purpose of Part

257 The purpose of this Part is to

(a) enable the Crown in right of the Province to identify and protect its interests in the use and development of land;

(b) enable the Municipality to assume the primary authority for planning within its jurisdiction, consistent with its urban or rural character, through the adoption of municipal planning strategies and land-use bylaws consistent with interests and regulations of the Province;

(c) ensure that the Municipality develops and adopts one or more municipal planning strategies to govern planning throughout the Municipality and fulfill the minimum planning requirements;

(d) establish a consultative process to ensure the right of the public to have access to information and to participate in the formulation of planning strategies and bylaws, including the right to be notified and heard before decisions are made pursuant to this Part; and

(e) provide for the fair, reasonable and efficient administration of this Part. 2008, c. 39, s. 208; 2018, c. 39, s. 11.

Interpretation of this Part and Part IX

258 In this Part and Part IX, unless the context otherwise requires,

“affordable housing” means housing that meets the needs of a variety of households in the low to moderate income range;

“aggrieved person” includes

(a) an individual who bona fide believes the decision of the Council will adversely affect the value, or reasonable enjoyment, of the person’s property or the reasonable enjoyment of property occupied by the person;

(b) an incorporated organization, the objects of which include promoting or protecting the quality of life of persons residing in the neighbourhood affected by the Council’s decision, or features, structures or sites of the community affected by the Council’s decision, having significant cultural, architectural or recreational value; and

(c) an incorporated or unincorporated organization in which the majority of members are individuals referred to in clause (a);

“Centre Plan Area” means the area delineated in the map in Schedule B to this Act, excluding the HRM by Design Downtown Plan Area;

“commission” means a district planning commission continued pursuant to this Act;

“development” includes the erection, construction, alteration, placement, location, replacement or relocation of, or addition to, a structure and a change or alteration in the use made of land or structures;

“development officer” means the person or persons appointed by a Council to administer a land-use or subdivision bylaw;

“Director” means the Provincial Director of Planning appointed pursuant to the *Municipal Government Act*, and includes a person acting under the supervision and direction of the Director;

“external appearance of structures” includes the exterior design of structures, the design features of structures and the facade of structures;

“former *Planning Act*” means Chapter 346 of the Revised Statutes, 1989, the *Planning Act* and any predecessor to that Act;

“HRM by Design Downtown Plan Area” means the area delineated in the map in Schedule A to this Act;

“incentive or bonus zoning” means requirements that permit the relaxation of certain requirements if an applicant exceeds other requirements or undertakes other action, in the public interest, as specified in the requirements;

“minimum planning requirements” means the requirements respecting a municipal planning strategy prescribed by Section 280 and the regulations made under that Section;

“municipal planning strategy” means a municipal planning strategy, intermunicipal planning strategy or secondary planning strategy;

“non-conforming structure” means a structure that does not meet the applicable requirements of a land-use bylaw;

“non-conforming use in a structure” means a use in a structure that is not permitted in the zone in which the structure is located;

“non-conforming use of land” means a use of land that is not permitted in the zone;

“planning area” means the area to which a municipal or intermunicipal planning strategy applies;

“planning documents” means

(a) a municipal planning strategy and a land-use bylaw adopted to carry out the municipal planning strategy;

(b) an amendment to a municipal planning strategy and a land-use bylaw amendment to carry out the municipal planning strategy amendment; and

(c) a subdivision bylaw and an amendment to it;

“prohibit” includes prohibit in part, limit, limit in number, control or regulate;

“regulate” does not include the power to prohibit;

“statement of provincial interest” means a statement of provincial interest under the *Municipal Government Act*;

“structure” includes a building;

“subdivision” means the division of an area of land into two or more parcels, and includes a resubdivision or a consolidation of two or more parcels;

“watercourse” means a lake, river, stream, ocean or other body of water. 2008, c. 39, s. 209; 2008, c. 41, s. 2; 2013, c. 18, s. 2; 2018, c. 10, s. 2; 2018, c. 39, s. 12.

Statement of provincial interest

259 When preparing or amending a statement of provincial interest, the Minister shall seek the views of the Council if the Municipality would be affected by the proposed statement. 2008, c. 39, s. 210.

Copy and notice of adoption or amendment of statement

260 Upon the adoption or amendment by the Governor in Council of a statement of provincial interest that applies within the Municipality, the Minister shall send a copy of the statement to the Clerk and give notice of its adoption in a newspaper circulating in the affected area. 2008, c. 39, s. 211.

Provincial activities reasonably consistent with statement

261 The activities of the Crown in right of the Province must be reasonably consistent with a statement of provincial interest that applies within the Municipality. 2008, c. 39, s. 212.

Requirement to consider planning document

262 A department of the Government of the Province, before carrying out or authorizing any development in the Municipality, shall consider the planning documents of the Municipality. 2008, c. 39, s. 213.

Planning documents consistent with statement

263 (1) Planning documents adopted after the adoption of a statement of provincial interest that applies within the Municipality must be reasonably consistent with the statement.

(2) The Minister may request that the Council, within the time prescribed by the Minister, amend its planning documents to be, or adopt new planning documents that are, reasonably consistent with a statement of provincial interest that applies within the Municipality.

(3) Where

(a) the Council does not comply with a request pursuant to subsection (2); or

(b) development that is inconsistent with a statement of provincial interest that applies within the Municipality might occur and the Minister is satisfied that there are necessary and compelling reasons to establish an interim planning area to protect the provincial interest,

the Minister may, by order, establish an interim planning area for an area prescribed by the Minister. 2008, c. 39, s. 214; 2018, c. 39, s. 13.

Planning advisory committee

264 (1) The Municipality may, by policy, establish a planning advisory committee and may establish different planning advisory committees for different parts of the Municipality.

(2) The Municipality and one or more other municipalities may, by policy, establish a joint planning advisory committee.

(3) A planning advisory committee or joint planning advisory committee must include members of the public and may include a representative appointed by a village.

(4) The purpose of a planning advisory committee or a joint planning advisory committee is to advise respecting the preparation or amendment of planning documents and respecting planning matters generally.

(5) The duties assigned, pursuant to this Part, to a planning advisory committee or a joint planning advisory committee may be carried out only by the committee.

(6) The Council shall appoint members of a planning advisory committee or a joint planning advisory committee by resolution. 2008, c. 39, s. 215.

Area planning advisory committee

265 (1) The Municipality may establish, by policy, one or more area planning advisory committees to advise the planning advisory committee or joint planning advisory committee on planning matters affecting a specific area.

(2) An area planning advisory committee must include members of the public.

(3) The Council shall appoint members of an area planning advisory committee by resolution. 2008, c. 39, s. 216.

Policy establishing committee

266 In the policy establishing a planning advisory committee, joint planning advisory committee or area planning advisory committee, the Council shall

(a) fix the term of appointment and any provisions for reappointment;

(b) fix the remuneration, if any, to be paid to the chair of the committee, if the chair is not a Council member;

(c) fix the remuneration, if any, to be paid to those members of the committee who are not Council members;

(d) establish the duties and procedures of the committee; and

(e) provide for the appointment of the chair and other officers of the committee. 2008, c. 39, s. 217.

Meetings of committee or commission

267 (1) Meetings of a planning advisory committee, joint planning advisory committee or area planning advisory committee or a commission are open to the public, unless the committee or commission, by a majority vote, moves a meeting in private to discuss matters related to

(a) personnel, labour relations, contract negotiations, litigation or potential litigation or legal advice eligible for solicitor-client privilege; or

(b) a potential application for a development permit, land-use bylaw amendment, development agreement or amendment to a development agreement before the applicant has applied to the Municipality or development officer.

(2) The date, time and location of committee or commission meetings must be posted in a conspicuous place in the municipal office or another conspicuous place, as determined by the committee or commission.

(3) Any person may view

(a) committee or commission minutes, other than for a meeting in private, after they are adopted; and

(b) committee or commission reports to Council, after they are submitted to the Council.

(4) A planning advisory committee, joint planning advisory committee or area planning advisory committee may hold meetings for public discussion when, and in the manner, it or the Council decides. 2008, c. 39, s. 218.

Public participation program

268 (1) The Council shall adopt a public participation program concerning the preparation of planning documents.

(2) The Council may adopt different public participation programs for different types of planning documents.

(3) The content of a public participation program is at the discretion of the Council, but it must identify opportunities and establish ways and means of seeking the opinions of the public concerning the proposed planning documents. 2008, c. 39, s. 219; 2023, c. 18, s. 2.

Engagement program for abutting municipalities

269 (1) The Council shall adopt, by policy, an engagement program for engaging with abutting municipalities when the Council is adopting or amending a municipal planning strategy.

(2) Subject to the regulations, the content of an engagement program is at the discretion of the Council.

(3) The Minister may make regulations respecting the content of an engagement program.

(4) The exercise by the Minister of the authority contained in subsection (3) is a regulation within the meaning of the *Regulations Act*. 2018, c. 39, s. 14.

Trusted-partner program

270 (1) The Municipality shall create, regulate and administer a trusted-partner program bylaw made in accordance with this Section, and, without limiting the generality of the foregoing, the bylaw may prescribe processes and procedures for the governance or administration of residential development approvals that differ from those under Part VIII or IX or the regulations.

(2) For greater certainty, a bylaw made under this Section may create and distinguish between classes of applicants based on their municipal accreditation status under the bylaw and prescribe different processes and terms for dealing with the applications of various classes of applicants.

(3) The permits and approvals referred to in this Section may include

- (a) subdivision approval;
- (b) approvals related to municipal planning strategies and land-use bylaws and development agreements under Parts VIII and IX;
- (c) building permits and approvals under the *Building Code Act*; and

(d) any other permits and approvals relating to the development and construction of housing or mixed-use development that includes residential development under any enactment.

(4) The trusted-partner program and the bylaw under this Section must reflect

(a) public safety and adherence to relevant codes, standards, and best practices in planning and construction;

(b) the social and economic urgency of efficient processes and quality construction, bearing in mind any housing shortage;

(c) transparency of process;

(d) establishment of objective criteria and processes for evaluation and accreditation of the reliability of design and development professionals, developers and builders, for the purpose of applications for residential development approvals;

(e) consultation with design professionals, regulators and builders in the development of the trusted-partner program;

(f) an assumption that the work of accredited applicants is competent and meets relevant construction standards and requirements and that professional certifications and representations may be relied upon;

(g) the need to eliminate duplicative internal reviews and oversight; and

(h) that projects involving accredited design professionals and builders enrolled in the trusted-partner program will be subject to an expedited process on a priority basis, within specified times, and on other terms contained in the program.

(5) A bylaw made under this Section may include provisions for the granting of development permits allowing for a development to proceed in phases.

(6) Notwithstanding Section 315, a bylaw made under this Section may include provisions allowing a development officer to grant a variance to a planning document or an amendment to a development agreement for the purpose of this Section if the variance or amendment is consistent with the intent of the development planning document or development agreement, as the case may be.

(7) Sections 317 and 319 apply to any variance granted under subsection (6), including any right of appeal.

(8) A bylaw made under this Section is subject to the approval of the Minister.

(9) The Municipality shall adopt a bylaw under this Section by the date specified in the regulations.

(10) Where the Municipality has not adopted a bylaw under this Section by the date specified by or under subsection (9), the Minister may, after consultation with the Municipality, approve a form of such bylaw which, when

approved by the Minister, is deemed for all purposes to be a bylaw made by the Municipality under this Section.

(11) A bylaw made under this Section may only be repealed or amended with the approval of the Minister.

(12) The Minister may make regulations specifying

(a) additional terms and provisions to be included in a bylaw made under this Section;

(b) a date by which the Municipality shall adopt a bylaw under this Section.

(13) The exercise by the Minister of the authority contained in subsection (12) is a regulation within the meaning of the *Regulations Act*. 2023, c. 18, s. 3.

Procedure for adoption of planning documents

271 (1) The Council shall adopt, by bylaw, planning documents.

(2) A bylaw adopting planning documents must be read twice.

(3) Before planning documents are read for a second time, the Council shall hold a public hearing.

(4) The Council shall complete the public participation program before posting notice of a public hearing, including the date the notice is posted, on the Municipality's website.

(5) The notice for the public hearing is sufficient compliance with the requirement to advertise second reading of a bylaw.

(6) Second reading may not occur until the Council has considered any submissions made or received at the public hearing.

(7) Only those Council members present at the public hearing may vote on second reading of the planning documents.

(8) The Council shall adopt planning documents, at second reading, by majority vote of the maximum number of members that may be elected to the Council. 2008, c. 39, s. 220; 2022, c. 13, s. 1.

Public hearing

272 (1) Prior to holding a public hearing required pursuant to this Part, the Clerk shall post notice of the hearing on the Municipality's website at least seven days before the date of the public hearing.

(2) The notice of a public hearing posted pursuant to subsection (1) must include the date the notice is posted and remain posted on the Municipality's website until the public hearing has been completed.

(3) The notice of the public hearing must

- (a) state the place where, and the hours during which, the proposed documents may be inspected by the public;
- (b) state the date, time and place set for the public hearing;
- (c) describe by metes and bounds, a plan, map, sketch or civic address or other description adequate to identify the area affected by the proposed documents;
- (d) where the public hearing is with respect to an amendment to a municipal planning strategy or land-use bylaw or the approval or amendment of a development agreement, give a synopsis of the proposed documents.

(4) Copies of the proposed documents or portions of the documents must be provided to a person, on request, upon payment of a reasonable fee set by the Council, by policy, sufficient to recover the cost of providing the copies.

(5) In addition to posting notice of the hearing on the Municipality's website, the Clerk shall provide notice of the public hearing to the clerk of every municipality that immediately abuts an area affected by the planning documents at least seven days before the date of the public hearing. 2008, c. 39, s. 221; 2022, c. 13, s. 2.

Joint public hearing

273 (1) The Council and the councils of one or more other municipalities, two or more community councils or the Council and one or more community councils may agree to hold a joint public hearing regarding the adoption or amendment of an intermunicipal planning strategy.

(2) The Council and the council of one or more municipalities may agree to hold a joint public hearing regarding the adoption or amendment of a municipal planning strategy by the Municipality or one or more of the other municipalities if the Council and each of the councils of the other municipalities determines that its municipality may be affected by the adoption or amendment.

(3) Where a proposed development is subject to a public hearing pursuant to another Act of the Legislature, the Council may provide for a single hearing process for the proposed development, if this Act is complied with. 2008, c. 39, s. 222; 2018, c. 39, s. 15.

Requirement for review by Director

274 (1) Planning documents are subject to review by the Director.

(2) The Clerk shall submit four certified copies of the planning documents to the Director.

- (3) Where the Director determines that the planning documents
- (a) appear to affect a provincial interest;
 - (b) may not be reasonably consistent with an applicable statement of provincial interest;
 - (c) appear to conflict with the law;

(d) in the case of a municipal planning strategy, may fail to fulfill the minimum planning requirements; or

(e) in the case of a subdivision bylaw, may conflict with the provincial subdivision regulations,

the planning documents are subject to the Minister's approval.

(4) Within 15 days after receiving the planning documents, the Director shall

(a) return two copies of the planning documents to the Clerk, with a written notice affixed stating that they are not subject to the approval of the Minister; or

(b) provide written notice to the Clerk that the planning documents are subject to the approval of the Minister and include the reasons why they are so subject.

(5) Where the Director has not advised the Clerk whether Ministerial approval is required pursuant to subsection (4) within 15 days, on the 16th day the Director is deemed to have determined that no approval is required.

(6) Compliance with the procedural requirements for the adoption or amendment of planning documents is not subject to the review of the Director or the Minister.

(7) Within 30 days after the date of a written notice that planning documents are subject to the approval of the Minister, the Minister shall

(a) approve all or part of the documents;

(b) approve the documents with amendments; or

(c) refuse to approve the documents,

and return to the Clerk two copies of the planning documents as approved, amended or refused with written reasons for the decision.

(8) Where no decision is made in accordance with subsection (7), the planning documents are deemed to be approved on the 31st day and the Clerk shall post a notice, including the date the notice is posted, on the Municipality's website advising that the planning documents are in effect as of the date the notice is posted and stating where the documents may be inspected.

(9) The Clerk shall post a notice on the Municipality's website advising that the planning documents, or planning documents as amended by the Minister, are in effect as of the date the notice is posted and stating where the documents may be inspected and the date on which the notice is posted

(a) upon receipt of notice from the Director that the planning documents are not subject to the approval of the Minister or that the planning documents are approved by the Minister; or

(b) if the Director has been deemed to have determined that no approval is required pursuant to subsection (5).

(10) A notice that planning documents are in effect is publication of a bylaw for the purposes of this Act.

(11) A municipal planning strategy takes effect on the date a notice is first posted on the Municipality's website informing the public that the municipal planning strategy and its implementing land-use bylaw are in effect. 2008, c. 39, s. 223; 2018, c. 39, s. 16; 2022, c. 13, s. 3.

Repeal of planning documents

275 Planning documents may be repealed and the procedure for repealing them is the same as the procedure for adopting them. 2008, c. 39, s. 224.

Amendment of land-use bylaw

276 (1) An amendment to a land-use bylaw that

(a) is undertaken in accordance with the municipal planning strategy; and

(b) is not required to carry out a concurrent amendment to a municipal planning strategy,

is not subject to the review of the Director or the approval of the Minister.

(2) The procedure for the adoption of an amendment to a land-use bylaw referred to in subsection (1) is the same as the procedure for the adoption of planning documents, but a public participation program is at the discretion of the Council and the amendment may be adopted by a majority of votes of the Council members present at the public hearing.

(3) Upon the adoption of an amendment to a land-use bylaw referred to in subsection (1), the Clerk shall post a notice on the Municipality's website, including the date the notice is posted, for a minimum of 14 days, stating that the amendment has been adopted and setting out the right of appeal.

(4) Upon the adoption of an amendment to the land-use bylaw referred to in subsection (1) and the provisional approval of a development agreement or amendment to a development agreement pursuant to Section 299, the Clerk shall post a notice on the Municipality's website stating

(a) the date the notice is posted;

(b) that the amendment to the land-use bylaw has been adopted; and

(c) that the development agreement or amendment to the development agreement has received provisional approval and will be approved on the date that the amendment to the land-use bylaw takes effect.

(5) Upon adoption of an amendment to the land-use bylaw referred to in subsection (1), the adoption of a supporting amendment to the municipal planning strategy and the provisional approval of a development agreement or amendment to a development agreement pursuant to Section 300, the Clerk shall post a notice on the Municipality's website stating

(a) the date the notice is posted;

(b) that the amendment to the land-use bylaw has been adopted;

(c) that the amendment to the municipal planning strategy has been adopted; and

(d) that the development agreement or amendment to the development agreement has received provisional approval and will be approved on the date that the land-use bylaw and municipal planning strategy amendments come into effect or, if the land-use bylaw and municipal planning strategy amendments come into effect on different dates, on the later of the two dates.

(6) When notice of an amendment to a land-use bylaw referred to in subsection (1) is posted, the Clerk shall file a certified copy of the amending bylaw with the Minister.

(7) Within seven days after a decision to refuse to amend a land-use bylaw referred to in subsection (1), the Clerk shall notify the applicant in writing, giving reasons for the refusal and setting out the right of appeal.

(8) Where the Council has not, within 120 days after receipt of a completed application to amend a land-use bylaw referred to in subsection (1), commenced the procedure required for amending the land-use bylaw by publishing the required notice of public hearing, the application is deemed to have been refused.

(9) Within seven days after an application to amend a land-use bylaw, referred to in subsection (1), being deemed to be refused, the Clerk shall notify the applicant in writing that the application is deemed to have been refused and setting out the right to appeal.

(10) An amendment to a land-use bylaw referred to in subsection (1) is effective when

(a) the appeal period has elapsed and no appeal has been commenced; or

(b) all appeals have been abandoned or disposed of or the amendment has been affirmed by the Board. 2008, c. 39, s. 225; 2022, c. 13, s. 4.

Certain amendments by policy

277 (1) The Council may, by policy, adopt amendments to

(a) the engineering specifications in a subdivision bylaw;

(b) the processing fees set out in a land-use bylaw or in a subdivision bylaw;

(c) a subdivision bylaw resulting from an amendment to the provincial subdivision regulations.

(2) An amendment referred to in subsection (1) is not subject to the review of the Director or the approval of the Minister. 2008, c. 39, s. 226.

Municipal planning strategy

278 (1) The Council shall adopt one or more municipal planning strategies in accordance with the requirements of this Section.

(2) There may be separate municipal planning strategies for different parts of the Municipality.

(3) All land within the Municipality must be the subject of a municipal planning strategy.

(4) A municipal planning strategy must

(a) be reasonably consistent with every statement of provincial interest; and

(b) fulfill the minimum planning requirements. 2018, c. 39, s. 17.

Purpose of municipal planning strategy

279 The purpose of a municipal planning strategy is to provide statements of policy consistent with the minimum planning requirements to guide the development and management of the Municipality and, to further this purpose, to

(a) establish policies that address problems and opportunities concerning the development of land and the effects of the development;

(b) establish policies to provide a framework for the environmental, social and economic development within the Municipality;

(c) establish policies that are reasonably consistent with the intent of statements of provincial interest; and

(d) specify programs and actions necessary for implementing the municipal planning strategy. 2008, c. 39, s. 228; 2018, c. 39, s. 18.

Statements of policy in planning strategy

280 (1) A municipal planning strategy must include statements of policy respecting

(a) the objectives of the Municipality in respect of its physical, economic and social environment;

(b) the future use, management and development of lands within the Municipality;

(c) the implementation and administration of the municipal planning strategy and the periodic review of the municipal planning strategy, its implementing land-use bylaw and the extent to which the objectives set out in the municipal planning strategy are achieved;

(d) the engagement by the Municipality with abutting municipalities when amending the municipal planning strategy or adopting a new municipal planning strategy to replace the existing one; and

(e) any other matter prescribed by the regulations.

(2) In addition to the statements of policy required under subsection (1), a municipal planning strategy may include statements of policy respecting any matter permitted by the regulations.

(3) A municipal planning strategy must fulfill any additional requirements prescribed by the regulations.

(4) The Minister may make regulations

(a) prescribing matters in respect of which the inclusion of statements of policy in a municipal planning strategy is either mandatory or discretionary, which may include matters respecting

- (i) public health and safety,
- (ii) the protection of the natural environment,
- (iii) the protection of resource lands,
- (iv) the identification, preservation and protection of landscape features,
- (v) the division of land into zones and the permitted and prohibited uses for each zone,
- (vi) infrastructure,
- (vii) transportation services and networks,
- (viii) the subdivision of land,
- (ix) matters of a local nature,
- (x) the land-use bylaw that implements the municipal planning strategy,
- (xi) the physical, economic and social environment of the Municipality, and
- (xii) procedures, not inconsistent with the public participation program established under Section 268, to be followed when amending or reviewing the municipal planning strategy, including procedures for public consultation and notice;

(b) prescribing requirements that a municipal planning strategy must fulfill, including requirements respecting

- (i) the development, content, administration, implementation and review of the municipal planning strategy and the implementing land-use bylaw,
- (ii) the content, development and administration of development agreements, variances, site-plan approval areas and other planning tools, and
- (iii) studies to be carried out before undertaking specified developments or developments in specified areas of the Municipality.

(5) A regulation made under subsection (4) may not

(a) require or authorize a municipal planning strategy to include a statement of policy that is inconsistent with any enactment; or

(b) require a municipal planning strategy to fulfill a requirement that is contrary to any enactment.

(6) The exercise by the Minister of the authority contained in subsection (4) is a regulation within the meaning of the *Regulations Act*. 2018, c. 39, s. 19.

Failure to meet minimum planning requirements

281 (1) Where a municipal planning strategy does not fulfill the minimum planning requirements, the Minister may request that the Council, within the time prescribed by the Minister, amend the municipal planning strategy to fulfill, or adopt a new municipal planning strategy that fulfills, the minimum planning requirements.

(2) Where the Council does not comply with a request pursuant to subsection (1), the Minister may, by order, establish an interim planning area for an area prescribed by the Minister. 2018, c. 39, s. 19.

Interim planning area

282 (1) Within an interim planning area established under Section 263 or 281, subdivision, development or certain classes of subdivision or development may be regulated or prohibited, in whole or in part, to protect the provincial interest or give effect to the minimum planning requirements.

(2) No permit or approval of any kind may be issued that is contrary to an order establishing an interim planning area or an order regulating or prohibiting subdivision or development in the interim planning area.

(3) The Minister may withhold any grant or other funding otherwise payable to the Municipality under any enactment or agreement while an order establishing an interim planning area within the Municipality is in effect.

(4) The Minister shall

(a) send a copy of an order establishing an interim planning area and any order regulating or prohibiting subdivision or development in the interim planning area to the Clerk; and

(b) give notice that an order is in effect in a newspaper circulating in the area affected.

(5) Where the Council amends its municipal planning strategy in relation to an interim planning area to be reasonably consistent with the statements of provincial interest and fulfill the minimum planning requirements, or adopts a new municipal planning strategy to do so and, where the amended or new municipal planning strategy is in effect, the Minister shall revoke the order establishing the interim planning area.

(6) The Minister may recover any costs incurred in the course of establishing an interim planning area within the Municipality or regulating or prohibiting subdivision or development in the interim planning area from any money otherwise payable to the Municipality under the *Municipal Grants Act*. 2018, c. 39, s. 19.

Healthcare facility area

283 (1) In this Section,

(a) “healthcare facility” means any healthcare use, operation, service or facility operated or to be operated by a person other than the Province, but licensed or otherwise authorized by the Province, including any related or incidental facility;

(b) “healthcare facility area” means an area within the Municipality designated as a healthcare facility area by an order made under subsection (2).

(2) The Minister may, by order, on such terms as the Minister considers necessary for accomplishing the purpose of this Section,

(a) deem as urgently required for the purpose of this Section any existing or proposed healthcare facility;

(b) identify and describe the area of land on which the healthcare facility is or will be located and designate it as a healthcare facility area for the purpose of this Section; and

(c) prescribe terms with respect to the subdivision of land within the healthcare facility area, permissible uses within the healthcare facility area or development of the healthcare facility, that the Minister considers advisable for accomplishing the purpose of this Section, which may include terms, conditions or events upon which the order ceases to be in force in whole or in part.

(3) Where the Minister has made an order under subsection (2), Parts VIII and IX of this Act and any municipal planning strategies, land-use bylaws, development agreements, policies and subdivision bylaws in force in the Municipality do not apply to the healthcare facility area or to the establishment, siting, development, operation or use of a healthcare facility within the healthcare facility area, or to the subdivision of land in connection therewith, except to the extent the Minister may specify in the order.

(4) Before making or amending an order pursuant to subsection (2), the Minister shall consult with the Municipality.

(5) A healthcare facility that is the subject of an order is deemed to hold a development permit for the purpose of the *Building Code Act* and to comply with the requirements of any other enactment identified in the order.

(6) Where the Minister is satisfied that an order is no longer required to expedite the development or availability of a healthcare facility, the Minister shall revoke the order.

(7) Notwithstanding the revocation of an order under subsection (6), a healthcare facility exempted from the application of Parts VIII and IX and the municipal planning strategies, land-use bylaws and subdivision bylaws in force in the Municipality under subsection (3) may continue without change and in accordance with any terms prescribed in the order notwithstanding any non-conforming structure, non-conforming use of land or non-conforming use in a structure.

(8) Where there is a conflict or inconsistency between this Section and another provision of this Act or between this Section and any other enactment, this Section prevails.

(9) For greater certainty, where a healthcare facility area overlaps with a special planning area created pursuant to subsection 16(1) of the *Housing in the Halifax Regional Municipality Act*, within the overlapping area, this Section prevails.

(10) Upon making an order under subsection (2), the Minister shall

- (a) send a copy of the order to the Clerk; and
- (b) give notice that the order is in effect on the Province's website.

(11) Where the Clerk receives a copy of the order under clause (10)(a), the Clerk shall cause the order to be posted on a publicly available website for the Municipality.

(12) The Minister may make such regulations as are in the Minister's opinion required to implement this Section fully and effectively.

(13) The exercise by the Minister of the authority contained in subsections (2) and (12) is a regulation within the meaning of the *Regulations Act*.

(14) The Minister may make an order under subsection (2) that has retroactive effect to a day not earlier than June 1, 2023. 2023, c. 18, s. 4.

Intermunicipal planning strategy

284 (1) The Council and the councils of one or more other municipalities may agree to adopt a mutually binding intermunicipal planning strategy.

(2) The provisions of the *Municipal Government Act* that apply to a municipal planning strategy apply to an intermunicipal planning strategy. 2008, c. 39, s. 230; 2018, c. 39, s. 20.

Secondary planning strategy

285 (1) A municipal planning strategy may provide for the preparation and adoption of a secondary planning strategy that applies, as part of the municipal planning strategy, to a specific area or areas of the Municipality.

(2) The purpose of a secondary planning strategy is to address issues with respect to a particular part of the planning area, that may not, in the opinion of the Council, be adequately addressed in the municipal planning strategy alone. 2008, c. 39, s. 231.

Planning strategy and bylaw for HRM by Design Area

286 Where the Council adopts a secondary municipal planning strategy and land-use bylaw for the HRM by Design Downtown Plan Area, the Council shall conduct a review of the planning documents and report on the review to the public within 10 years of their adoption. 2008, c. 41, s. 3.

No action inconsistent with planning strategy

287 (1) The Municipality shall not act in a manner that is inconsistent with a municipal planning strategy.

(2) The adoption of a municipal planning strategy does not commit the Council to undertake any of the projects suggested in it. 2008, c. 39, s. 232.

Acquisition of land for development

288 (1) The Municipality may

(a) acquire and assemble land for the purpose of carrying out a development consistent with the municipal planning strategy, whether the development is to be undertaken by the Municipality or not; or

(b) by agreement with the owners of the land, acquire the right to impose easements or other development restrictions on the lands as if it had acquired the title.

(2) The Municipality may subdivide, rearrange and deal with lands described in clause (1)(a) as if it were a private owner and may sell the lands subject to any building restrictions or easements that the Council requires to ensure the development is consistent with the municipal planning strategy. 2008, c. 39, s. 233.

Adoption of land-use bylaw or amendment

289 (1) Where the Council adopts a municipal planning strategy or a municipal planning strategy amendment that contains policies about regulating land use and development, the Council shall, at the same time, adopt a land-use bylaw or land-use bylaw amendment that enables the policies to be carried out.

(2) The Council may amend a land-use bylaw in accordance with policies contained in the municipal planning strategy on a motion of the Council or on application.

(3) The Council may not adopt or amend a land-use bylaw except to carry out the intent of a municipal planning strategy. 2008, c. 39, s. 234.

Content of land-use bylaw

290 (1) A land-use bylaw must include maps that divide the planning area into zones.

(2) A land-use bylaw must

(a) list permitted or prohibited uses for each zone; and

(b) include provisions that are authorized pursuant to this Act and that are needed to implement the municipal planning strategy.

(3) A land-use bylaw may regulate or prohibit development, but development may not be totally prohibited, unless prohibition is permitted pursuant to this Part.

(4) A land-use bylaw may

- (a) regulate the dimensions for frontage and lot area for any class of use and size of structure;
- (b) regulate the maximum floor area of each use to be placed upon a lot, where more than one use is permitted upon a lot;
- (c) regulate the maximum area of the ground that a structure may cover;
- (d) regulate the location of a structure on a lot;
- (e) regulate the height of structures;
- (f) regulate the percentage of land that may be built upon;
- (g) regulate the size, or other requirements, relating to yards;
- (h) regulate the density of dwelling units;
- (i) require and regulate the establishment and location of off-street parking and loading facilities;
- (j) regulate the location of developments adjacent to pits and quarries;
- (k) regulate the period of time for which temporary developments may be permitted;
- (l) prescribe the form of an application for a development permit, the content of a development permit, the period of time for which the permit is valid and any provisions for revoking or renewing the permit;
- (m) regulate the floor area ratio of a building;
- (n) prescribe the fees for an application to amend a land-use bylaw or for entering into a development agreement, site plan or variance.

(5) Where a municipal planning strategy so provides, a land-use bylaw may

- (a) subject to the *Public Highways Act*, regulate or restrict the location, size and number of accesses from a lot to the abutting streets, as long as a lot has access to at least one street;
- (b) regulate or prohibit the type, number, size and location of signs and sign structures;
- (c) regulate, require or prohibit fences, walks, outdoor lighting and landscaping;
- (d) in connection with a development, regulate, or require the planting or retention of, trees and vegetation for the purposes of landscaping, buffering, sedimentation or erosion control;
- (e) regulate or prohibit the outdoor storage of goods, machinery, vehicles, building materials, waste materials, aggregates and other items and require outdoor storage sites to be screened by landscaping or structures;

- (f) regulate the location of disposal sites for any waste material;
- (g) in relation to a development, regulate or prohibit the altering of land levels, the excavation or filling in of land, the placement of fill or the removal of soil unless these matters are regulated by another enactment of the Province;
- (h) regulate or prohibit the removal of topsoil;
- (i) regulate the external appearance of structures;
- (j) set out conditions, including performance standards, to be met by a development before a development permit may be issued;
- (k) require and regulate the establishment of a district energy system within the Cogswell District Energy Boundary;
- (l) require, where the Council considers it necessary or advisable, that a building or other structure, built within the Cogswell District Energy Boundary after the coming into force of the bylaw, be connected to the district energy system;
- (m) require and regulate the provision of affordable housing within developments, including requiring that a specified percentage of affordable housing units be provided within a development;
- (n) provide for incentive or bonus zoning;
- (o) prescribe methods for controlling erosion and sedimentation during the construction of a development;
- (p) regulate or prohibit excavation, filling in, placement of fill or reclamation of land on floodplains identified in the land-use bylaw;
- (q) prohibit development or certain classes of development where, in the opinion of the Council,
 - (i) the cost of providing municipal wastewater facilities, stormwater systems or water systems would be prohibitive,
 - (ii) the provision of municipal wastewater facilities, stormwater systems or water systems would be premature, or
 - (iii) the cost of maintaining municipal streets would be prohibitive;
- (r) regulate or prohibit development within a specified distance of a watercourse or a municipal water-supply wellhead;
- (s) prohibit development on land that
 - (i) is subject to flooding or subsidence,
 - (ii) has steep slopes,
 - (iii) is low-lying, marshy or unstable,

(iv) is otherwise hazardous for development because of its soil conditions, geological conditions, undermining or topography,

(v) is known to be contaminated within the meaning of the *Environment Act*, or

(vi) is located in an area where development is prohibited by a statement of provincial interest or by an enactment of the Province;

(t) regulate or prohibit development in areas near airports with a noise exposure forecast or noise exposure projections in excess of 30, as set out on maps produced by an airport authority, as revised from time to time, and reviewed by the Department of Transport (Canada);

(u) permit the development officer to grant variances in parking and loading spaces, ground area and height, floor area occupied by a home-based business and the height and area of a sign.

(6) Where the land-use bylaw provides for incentive or bonus zoning within the Centre Plan Area, the land-use bylaw must require the inclusion of affordable housing in a development in addition to any other requirements adopted by the Council, as the contribution for any incentive or bonus zoning applicable to the development. 2008, c. 39, s. 235; 2008, c. 41, s. 4; 2010, c. 16, s. 5; 2013, c. 18, s. 3; 2014, c. 16, s. 6; 2018, c. 9, s. 5; 2018, c. 10, c. 3; 2021, c. 33, s. 5.

Notification and costs

291 (1) A land-use bylaw may identify the class or classes of bylaw amendments, development agreements or amendments to development agreements that require

(a) notifying affected property owners who are either the assessed owners or are as otherwise defined in the land-use bylaw for this purpose; and

(b) a sign to be posted on the affected property describing the requested bylaw amendment, development agreement or amendment to a development agreement.

(2) The Council may, by resolution, provide that any person applying for a land-use bylaw amendment, a development agreement or an amendment to a development agreement shall pay the Municipality the cost of

(a) any required advertising;

(b) notifying affected land owners;

(c) posting a sign. 2008, c. 39, s. 236.

No increase to development approval cost

292 (1) Notwithstanding any other provision of this Act or any other enactment, for a period of two years beginning on November 9, 2023,

(a) no change may be made to any fee, infrastructure, capital or similar charge;

(b) no change may be made to the formula or rate used in the calculation of any fee, infrastructure, capital or similar charge;

(c) subject to subsection (3), no new fee, infrastructure, capital or similar charge may be created;

(d) no change may be made to an incentive or bonus zoning agreement; and

(e) subject to subsection (3), no new incentive or bonus zoning agreement may be created,

that would have the effect of increasing the cost to applicants for development approvals beyond the cost that would have been chargeable immediately before November 9, 2023.

(2) For greater certainty, development approvals referred to in subsection (1) include subdivision approvals, development agreement approvals, development permits, building permits, plumbing fees and any other fee or charge imposed or payable in connection with development under an enactment policy, resolution or otherwise, and includes fees and charges for water and wastewater infrastructure levied by the Halifax Water Commission.

(3) A new incentive or bonus zoning agreement, capital cost contribution agreement or local improvement charge may be created if the formulas and methods for calculating charges used in the agreement are

(a) the same as those in effect immediately before November 9, 2023; or

(b) in accordance with formulas approved by the Minister.

(4) The prohibition under subsection (1) does not apply if the Minister gives written approval for the change made to a fee or charge or incentive or bonus zoning agreement. 2023, c. 18, s. 5.

Future public use

293 (1) The Council may zone privately owned land for future public use other than transportation reserves if the bylaw provides for an alternative zone on the land, consistent with the municipal planning strategy.

(2) Where privately owned land is zoned for future public use, the Municipality shall, within one year of the effective date of the zoning, acquire the land or the alternative zone comes into effect. 2008, c. 39, s. 237.

Parking cash-in-lieu

294 (1) Where provided for in a municipal planning strategy, the Council may accept money instead of all or part of any required off-street parking lot or facility.

(2) The Council shall use any money received to construct or maintain municipally owned parking or transit facilities to serve the immediate area of the development with respect to which the payment was made, if the facilities are located in an area identified in the municipal planning strategy.

(3) The method used to determine the contribution for parking or transit facilities must be set out in the land-use bylaw and must take into account the cost of construction of an individual parking space, including costs of land, grading and paving or any other standard determined by the Council. 2008, c. 39, s. 238.

Affordable housing cash-in-lieu

295 Where provided for in a municipal planning strategy, the Council may accept money instead of all or part of any required provision of affordable housing. 2021, c. 33, s. 6.

Transportation reserve

296 (1) Where a municipal planning strategy identifies property required for the purposes of widening, altering or diverting an existing street or pathway or for the purposes of a new street or pathway, the Council may, in a land-use bylaw identify the transportation reserve and

(a) set out its intention to acquire property for the purposes of widening, altering or diverting an existing street or pathway, or for the purposes of a new street or pathway;

(b) set out the proposed right-of-way intended to be acquired;

(c) set out building setbacks for the widened, altered, diverted or new street or pathway;

(d) prohibit development in the proposed right-of-way or between the proposed right-of-way and the building setbacks.

(2) Any right-of-way and any building setbacks must be shown on a map or plan that is attached to and forms part of the land-use bylaw.

(3) Where the Council adopts bylaw provisions in accordance with this Section, it shall provide for an alternative zone on the property to be acquired.

(4) The alternative zone comes into effect if the Municipality does not acquire the property in the right-of-way within five years of the effective date of the provisions.

(5) Where the Council adopts provisions in accordance with this Section, an affected property owner may make a written request to the Council to acquire the property or acquire an interest in the property, at the discretion of the Council.

(6) Where the Council does not acquire the property or acquire the interest in the property within one year of the written request of an affected property owner, the alternative zone on the property comes into effect. 2008, c. 39, s. 239.

Development agreements

297 (1) The Council may consider development by development agreement where a municipal planning strategy identifies

- (a) the developments that are subject to a development agreement;
- (b) the area or areas where the developments may be located; and
- (c) the matters that the Council must consider prior to the approval of a development agreement.

(2) The land-use bylaw must identify the developments to be considered by development agreement. 2008, c. 39, s. 240.

Provisional approval with municipal planning strategy

298 (1) Notwithstanding Section 306, where an amendment to a municipal planning strategy would be required prior to the approval of a development agreement or an amendment to a development agreement, the Council may hold a public hearing on the proposed development agreement or amendment and may provisionally approve the development agreement or amendment at the same meeting of the Council in which the supporting amendment to the municipal planning strategy is passed by the Council.

(2) A development agreement or amendment to a development agreement provisionally approved pursuant to subsection (1) is approved when the supporting amendment to the municipal planning strategy takes effect. 2022, c. 13, s. 5.

Provisional approval with land-use bylaw

299 (1) Notwithstanding Section 306, where an amendment to a land-use bylaw would be required prior to the approval of a development agreement or an amendment to a development agreement, the Council may hold a public hearing on the proposed development agreement or amendment and may provisionally approve the development agreement or amendment at the same meeting of the Council in which the supporting amendment to the land-use bylaw is passed by the Council.

(2) A development agreement or an amendment to a development agreement provisionally approved pursuant to subsection (1) is approved when the supporting amendment to the land-use bylaw takes effect. 2022, c. 13, s. 5.

Provisional approval with municipal planning strategy and land-use bylaw

300 (1) Notwithstanding Section 306, where an amendment to a municipal planning strategy and an amendment to a land-use bylaw would be required prior to the approval of a development agreement or amendment to a development agreement, the Council may hold a public hearing on the proposed development agreement or amendment and may provisionally approve the development agreement or amendment at the same meeting of the Council in which the supporting amendment to the municipal planning strategy is passed by the Council and the supporting amendment to the land-use bylaw is passed by the Council.

(2) A development agreement or an amendment to a development agreement provisionally approved pursuant to subsection (1) is approved

- (a) where the land-use bylaw and municipal planning strategy amendments come into effect on the same date, when the law-use bylaw and municipal planning strategy come into effect; and
- (b) where the land-use bylaw and municipal planning strategy amendments come into effect on different dates, on the later of the two dates. 2022, c. 13, s. 5.

Approval in principle of development agreement

301 (1) Notwithstanding Sections 297, 298, 299, 300 and 306, where a development agreement or amendment to a development agreement has been presented and debated during the public hearing process before the Council, and where the development agreement or amendment to a development agreement otherwise meets the requirements outlined in Sections 303 and 304, but requires minor administrative amendments prior to being finalized, the Council may approve the development agreement or amendment to a development agreement in principle.

(2) Where amendments to a municipal planning strategy or land-use bylaw would be required prior to approval in principle of either a development agreement or amendment to a development agreement, approval of any associated amendment to the municipal planning strategy or land-use bylaw may be approved at the same meeting of the Council in which the supporting amendment to the municipal planning strategy or land-use bylaw is passed by the Council.

(3) Once a development agreement or amendment to a development agreement has received approval in principle by the Council, the Chief Administrative Officer may approve any remaining administrative amendments without the development agreement or amended development agreement having to be heard again by the Council.

(4) A development agreement or amendment to a development agreement that has been approved in principle by the Council and any remaining administrative amendments that have been approved by the Chief Administrative Officer pursuant to this Section are deemed to receive final approval when the supporting amendment to the municipal planning strategy or land-use bylaw takes effect, and all requirements in Section 304 have been met. 2023, c. 18, s. 6.

Comprehensive development districts

302 (1) The Council may regulate the development of a district by development agreement by establishing a comprehensive development district where the municipal planning strategy identifies

- (a) the classes of uses permitted in a district;
 - (b) developments or uses in a district, if any, that are permitted without a development agreement;
 - (c) the area or areas where a district may be established;
- and
- (d) the matters that the Council must consider prior to the approval of a development agreement for the development of a district.

(2) When a municipal planning strategy provides for a comprehensive development district, the land-use bylaw must include a comprehensive development district zone.

(3) No development may occur in a comprehensive development district unless it is consistent with the development agreement or it is a development permitted without a development agreement. 2008, c. 39, s. 241.

Content of development agreements

- 303 (1)** A development agreement may contain terms with respect to
- (a) matters that a land-use bylaw may contain;
 - (b) hours of operation;
 - (c) maintenance of the development;
 - (d) easements for the construction, maintenance or improvement of watercourses, ditches, land drainage works, storm-water systems, wastewater facilities, water systems and other utilities;
 - (e) grading or alteration in elevation or contour of the land and provision for the disposal of storm and surface water;
 - (f) the construction, in whole or in part, of a stormwater system, wastewater facilities and water system;
 - (g) the subdivision of land;
 - (h) matters that a subdivision bylaw may contain;
 - (i) requiring off-site improvements that are necessary to support the development or accepting the payment of money in lieu of such improvements;
 - (j) security or performance bonding.
- (2)** A development agreement may include plans or maps.
- (3)** A development agreement may
- (a) identify matters that are not substantive or, alternatively, identify matters that are substantive;
 - (b) identify whether the variance provisions are to apply to the development agreement;
 - (c) provide for the time when and conditions under which the development agreement may be discharged with or without the concurrence of the property owner;
 - (d) provide that upon the completion of the development or phases of the development, the development agreement, or portions of it, may be discharged by the Council;
 - (e) provide that, where the development does not commence or is not completed within the time specified in the development agreement, the development agreement, or portions of it, may

be discharged by the Council without the concurrence of the property owner. 2008, c. 39, s. 242; 2022, c. 13, s. 6.

Entering and filing development agreement

304 (1) A development agreement may not be entered into until

(a) the appeal period has elapsed and no appeal has been commenced; or

(b) all appeals have been abandoned or disposed of or the development agreement has been affirmed by the Board.

(2) The Council may stipulate that a development agreement must be signed by the property owner within a specified period of time.

(3) A development agreement does not come into effect until

(a) the appeal period has elapsed and no appeal has been commenced or all appeals have been abandoned or disposed of or the development agreement has been affirmed by the Board; and

(b) the development agreement is signed by the property owner, within the specified period of time, if any, and the Municipality.

(4) The Clerk shall file every development agreement, amendment to a development agreement and discharge of a development agreement in the registry. 2008, c. 39, s. 243; 2022, c. 13, s. 7.

Discharge of development agreement

305 (1) A development agreement is in effect until discharged by the Chief Administrative Officer.

(2) The Chief Administrative Officer may discharge a development agreement, in whole or in part, in accordance with the terms of the agreement or with the concurrence of the property owner.

(3) The Chief Administrative Officer may discharge a completed development agreement in whole or in part.

(4) After a development agreement is discharged, the land is subject to the land-use bylaw. 2008, c. 39, s. 244; 2022, c. 13, s. 8; 2023, c. 18, s. 7.

Adoption or amendment of development agreement by policy

306 (1) The Council shall adopt or amend a development agreement by policy.

(2) The Council shall hold a public hearing before approving a development agreement or an amendment to a development agreement.

(3) Only those members of the Council present at the public hearing may vote on the development agreement or the amendment.

(4) Notwithstanding subsections (1) to (3), a development officer may approve non-substantive amendments to a development agreement without holding a public hearing.

(5) Subsection (4) does not apply where amendments to a development agreement are a combination of substantive and non-substantive amendments.

(6) Upon the approval of a development agreement or an amendment to a development agreement, the Clerk shall post a notice on the Municipality's website, including the date the notice is posted, for a minimum of 14 days, stating that the development agreement is approved and setting out the right of appeal.

(7) The Clerk shall file a certified copy of a development agreement or amendment with the Minister when notice of the development agreement or an amendment to it is published.

(8) Within seven days after a decision refusing to approve a development agreement or an amendment to a development agreement, the Clerk shall notify the applicant in writing, giving reasons for the refusal and setting out the right of appeal.

(9) Amendments to those items in a development agreement that the parties have identified as not substantive, if the substantive items were identified in the agreement, or that were not identified as being substantive, do not require a public hearing. 2008, c. 39, s. 245; 2022, c. 13, s. 9.

Incentive or bonus zoning agreements

307 (1) Where a municipal planning strategy so provides, a land-use bylaw may provide for incentive or bonus zoning agreements.

(2) A land-use bylaw that provides for incentive or bonus zoning agreements must

- (a) identify the developments that are subject to an incentive or bonus zoning agreement;
- (b) identify the area or areas where the developments may be located;
- (c) set out the matters that the Council may consider before approving an incentive or bonus zoning agreement; and
- (d) set out the method to be used to determine the contribution for incentive or bonus zoning.

(3) An incentive or bonus zoning agreement may

- (a) include plans or maps;
- (b) provide for the time when the conditions under which the incentive or bonus zoning agreement may be discharged with or without the concurrence of the property owner;

(c) provide that, upon completion of the development or phases of the development, the incentive or bonus zoning agreement, or portions of it, may be discharged by the Council;

(d) provide that, where the development does not commence or is not completed within the specified time in the incentive or bonus zoning agreement, the incentive or bonus zoning agreement or portions of it may be discharged by the Council without the concurrence of the property owner;

(e) include any terms respecting incentive or bonus zoning and the external appearance of structures;

(f) provide for security to ensure that any money accepted in lieu of a contribution is paid when due.

(4) Where the land-use bylaw provides for incentive or bonus zoning agreements within the Centre Plan Area, the land-use bylaw must require the inclusion of affordable housing in a development, in addition to any other requirements adopted by the Council, as the contribution for any incentive or bonus zoning applicable to the development.

(5) Notwithstanding subsection (4), the land-use bylaw may provide that the Council may accept money in lieu of a contribution under this Section.

(6) The Municipality shall use any money accepted in lieu of a contribution under this Section for the purpose for which the money was accepted.

(7) Where the Council has agreed to accept money in lieu of a contribution under this Section, the agreed upon amount is a first lien on the land being developed and may be collected in the same manner as taxes. 2008, c. 41, s. 5; 2013, c. 18, s. 4; 2018, c. 10, s. 4; 2022, c. 13, s. 10.

Adoption or amendment of agreement

308 (1) The Council may, by resolution, adopt or amend an incentive or bonus zoning agreement.

(2) A public hearing is not required before approving an incentive or bonus zoning agreement or an amendment to an incentive or bonus zoning agreement.

(3) An incentive or bonus zoning agreement, an amendment to an incentive or bonus zoning agreement and a discharge of an incentive or bonus zoning agreement must be filed in the registry. 2008, c. 41, s. 5.

Duration of agreement

309 (1) An incentive or bonus zoning agreement is in effect until discharged by the Council.

(2) The Council may discharge an incentive or bonus zoning agreement in whole or in part, in accordance with the terms of the incentive or bonus zoning agreement or with the concurrence of the property owner.

(3) After an incentive or bonus zoning agreement is discharged, the land to which it related continues to be subject to the land-use bylaw and any site plan approval. 2008, c. 41, s. 5.

Site-plan approval

310 (1) Where a municipal planning strategy so provides, a land-use bylaw shall identify

- (a) the use that is subject to site-plan approval;
- (b) the area where site-plan approval applies;
- (c) the matters that are subject to site-plan approval;
- (d) those provisions of the land-use bylaw that may be varied by a site-plan approval;
- (e) the criteria the development officer must consider prior to granting site-plan approval;
- (f) the notification area;
- (g) the form and content of an application for site-plan approval; and
- (h) with respect to the HRM by Design Downtown Plan Area and the Centre Plan Area, the requirements for public consultation that must take place prior to an application for site plan approval being submitted to the Municipality.

(2) No development permit may be issued for a development in a site-plan approval area unless

- (a) the class of use is exempt from site-plan approval as set out in the land-use bylaw and the development is otherwise consistent with the requirements of the land-use bylaw; or
- (b) the development officer has approved an application for site-plan approval and the development is otherwise consistent with the requirements of the land-use bylaw.

(3) A site-plan approval may deal with

- (a) the location of structures on the lot;
- (b) the location of off-street loading and parking facilities;
- (c) the location, number and width of driveway accesses to streets;
- (d) the type, location and height of walls, fences, hedges, trees, shrubs, ground cover or other landscaping elements necessary to protect and minimize the land-use impact on adjoining lands;
- (e) the retention of existing vegetation;
- (f) the location of walkways, including the type of surfacing material, and all other means of pedestrian access;
- (g) the type and location of outdoor lighting;
- (h) the location of facilities for the storage of solid waste;

- (i) the location of easements;
- (j) the grading or alteration in elevation or contour of the land and provision for the management of storm and surface water;
- (k) the type, location, number and size of signs or sign structures;
- (l) the external appearance of structures in the HRM by Design Downtown Plan Area and the Centre Plan Area;
- (m) provisions for the maintenance of any of the items referred to in this subsection. 2008, c. 39, s. 246; 2008, c. 41, s. 6; 2013, c. 18, s. 5.

Design review committees

311 (1) The Council may, by bylaw, establish one or more design review committees for the HRM by Design Downtown Plan Area and the Centre Plan Area.

(2) Subject to subsection (3), the design review committee shall exercise the powers of the development officer with respect to any matter set out in subsection 310(3) to the extent, for the area and under the conditions set out in the bylaw and, for greater certainty, a decision of the design review committee is in substitution for a decision of the development officer.

(3) A decision of the design review committee is not in substitution of a decision of the development officer for the issuance of any permits.

(4) The bylaw referred to in subsection (1) must

- (a) provide for the membership of the design review committee;
- (b) provide for the appointment of the chair and other officers of the committee;
- (c) fix the terms of appointment and set out provisions respecting reappointment if any;
- (d) fix the remuneration, if any, to be paid to the chair of the committee, if the chair is not a Council member;
- (e) determine the reimbursement of members of the committee for expenses incurred as members;
- (f) establish the duties and procedure of the committee;
- (g) provide for the matters the committee may consider when reviewing the external appearance of structures for a development; and
- (h) list non-substantive matters that may not be appealed.

(5) The bylaw referred to in subsection (1) may provide that the members are to be appointed by resolution.

(6) There is an appeal to the Council from a decision of the design review committee, except in relation to those non-substantive matters listed in the bylaw pursuant to clause (4)(h).

(7) The results of all public consultation with respect to the Centre Plan Area pursuant to clause 310(1)(h) or regulations made pursuant to clause 346(1)(b) must be submitted to the design review committee.

(8) The design review committee shall approve or refuse an application within 60 days from the date of the application.

(9) An application that is not approved or refused within 60 days is deemed to have been refused.

(10) An appeal to the Council pursuant to subsection (6) must be heard by the Council within 60 days unless the parties to the appeal agree otherwise, and the Council shall render its decision within 30 days after having heard the appeal.

(11) Where a design review committee approves or refuses to approve an application for a site plan, the process and notification procedures and the rights of appeal are the same as those that apply when a development officer grants or refuses to grant a variance. 2008, c. 41, s. 7; 2013, c. 18, s. 6.

Site-plan approval

312 (1) A development officer shall approve an application for site-plan approval unless

- (a) the matters subject to site-plan approval do not meet the criteria set out in the land-use bylaw; or
- (b) the applicant fails to enter into an undertaking to carry out the terms of the site plan.

(2) Where a development officer approves or refuses to approve a site plan, the process and notification procedures and the rights of appeal are the same as those that apply when a development officer grants or refuses to grant a variance.

(3) The Council, in hearing an appeal concerning a site-plan approval, may make any decision that the development officer could have made.

(4) The Council may by resolution provide that any person applying for approval of a site plan shall pay the Municipality the cost of

- (a) notifying affected land owners; and
- (b) posting a sign.

(5) A development officer may, with the concurrence of the property owner, discharge a site-plan, in whole or in part.

(6) Subsection (7) applies only with respect to the HRM by Design Downtown Plan Area and the Centre Plan Area.

(7) A development officer may, with concurrence of the property owner, amend the site plan for matters that are non-substantive. 2008, c. 39, s. 247; 2008, c. 41, s. 8; 2013, c. 18, s. 7; 2023, c. 18, s. 8.

Development permit in site-plan approval area

313 A development officer shall issue a development permit for a development in a site-plan approval area if a site plan is approved, the development otherwise complies with the land-use bylaw and

- (a) the appeal period has elapsed and no appeal has been commenced; or
- (b) all appeals have been abandoned or disposed of or the site plan has been affirmed by the Council. 2008, c. 39, s. 248.

Conveyance to person not a party

314 Where the owner of property that is subject to a development agreement or a site plan conveys all or part of the property to a person not a party to the development agreement or site plan, the development agreement or the site plan continues to apply to the property until, in the case of a development agreement, it is discharged by the Council and, in the case of a site-plan, it is discharged by the development officer. 2008, c. 39, s. 249.

Variance

315 (1) A development officer may grant a variance in one or more of the following terms in a development agreement, if provided for by the development agreement, or in land-use bylaw requirements:

- (a) percentage of land that may be built upon;
- (b) size or other requirements relating to yards;
- (c) lot frontage or lot area, or both, if
 - (i) the lot existed on the effective date of the bylaw, or
 - (ii) a variance was granted for the lot at the time of subdivision approval.

(2) Where a municipal planning strategy and land-use bylaw so provide, a development officer may grant a variance in one or more of the following terms in a development agreement, if provided for by the development agreement, or in land-use bylaw requirements:

- (a) number of parking spaces and loading spaces required;
- (b) ground area and height of a structure;
- (c) floor area occupied by a home-based business;
- (d) external appearances of structures in the HRM by Design Downtown Plan Area and the Centre Plan Area;
- (e) height and area of a sign.

(3) A variance may not be granted if

- (a) the variance violates the intent of the development agreement or land-use bylaw;
- (b) the difficulty experienced is general to properties in the area; or
- (c) the difficulty experienced results from an intentional disregard for the requirements of the development agreement or land-use bylaw. 2008, c. 39, s. 250; 2008, c. 41, s. 9; 2013, c. 18, s. 8.

Variance respecting setback or street wall

316 (1) A development officer shall grant under Section 315 a variance respecting a setback or a street wall notwithstanding any land-use bylaw or development agreement unless the variance would materially conflict with the municipal planning strategy.

(2) A decision to reject a variance under subsection (1) may be appealed to the Board, with the onus on the development officer to prove to the Board how the variance materially conflicts with the municipal planning strategy.

(3) Sections 331 to 337 apply, with necessary changes, to an appeal under this Section. 2023, c. 18, s. 9.

Variance procedures

317 (1) Within seven days after granting a variance, the development officer shall give notice in writing of the variance granted only to every assessed owner whose property is within thirty metres of the applicant's property.

(2) Any municipal planning strategy or bylaw made before the coming into force of this subsection that requires notice to be given to assessed owners whose property is more than thirty metres of the applicant's property is deemed to require notice to be given only to assessed owners whose property is within thirty metres of the applicant's property.

- (3)** The notice must
- (a) describe the variance granted;
 - (b) identify the property where the variance is granted; and
 - (c) set out the right to appeal the decision of the development officer.

(4) Where a variance is granted, a property owner served a notice may appeal the decision to the Council within 14 days after receiving the notice.

(5) Where a variance is refused, the applicant may appeal the refusal to the Council within seven days after receiving notice of the refusal, by giving written notice to the Clerk who shall notify the development officer.

(6) Where an applicant appeals the refusal to grant a variance, the Clerk or development officer shall give seven days written notice of the hearing to every assessed owner whose property is within 30 metres of the applicant's property.

(7) Where the Council has increased the distance for notice under subsection (6), the Clerk or development officer shall

(a) give at least seven days written notice of the hearing only to every assessed owner whose property is within the distance specified in the policy of the applicant's property; or

(b) post notice of the hearing, including the date the notice is posted, on the Municipality's website at least seven days prior to the hearing date and keep the notice posted until the completion of the hearing.

(8) The notice must

(a) describe the variance applied for and the reasons for its refusal;

(b) identify the property where the variance is applied for; and

(c) state the date, time and place when the Council will hear the appeal. 2008, c. 39, s. 251; 2008, c. 41, s. 10; 2022, c. 13, s. 11; 2023, c. 18, s. 10.

No appeal respecting non-substantive matter

318 (1) Any appeal of a decision or matter referred to in Sections 312 to 317 must, at the time the appeal is filed, clearly state the grounds for appeal.

(2) An appeal of a decision or matter referred to in Sections 312 to 317 may not be made in respect of a non-substantive matter prescribed by the regulations.

(3) The Council shall dismiss without hearing any appeal that fails to comply with subsection (1) or is in respect of a non-substantive matter prescribed by the regulations.

(4) The Minister may make regulations prescribing non-substantive matters for the purpose of this Section.

(5) The exercise by the Minister of the authority contained in subsection (4) is a regulation within the meaning of the *Regulations Act*. 2023, c. 18, s. 11.

Variance appeals and costs

319 (1) Where the Council hears an appeal from the granting or refusal of a variance, the Council may make any decision that the development officer could have made.

(2) A development officer shall issue a development permit for any development for which a variance has been granted and that otherwise complies with the terms of the development agreement or a land-use bylaw, whichever is applicable, if

(a) the appeal period has elapsed and no appeal has been commenced; or

(b) all appeals have been abandoned or disposed of or the variance has been affirmed by the Council.

(3) The Council may by resolution provide that any person applying for a variance shall pay the Municipality the cost of

- (a) notifying affected land owners;
- (b) posting a sign. 2008, c. 39, s. 252.

Non-conforming structure or use

320 (1) A non-conforming structure, non-conforming use of land or non-conforming use in a structure may continue if it exists and is lawfully permitted at the date of the first publication of the notice of intention to adopt or amend a land-use bylaw.

(2) A non-conforming structure is deemed to exist at the date of the first publication of the notice of intention to adopt or amend a land-use bylaw if

- (a) the non-conforming structure was lawfully under construction and was completed within a reasonable time; or
- (b) the permit for its construction was in force and effect, the construction was commenced within 12 months after the date of the issuance of the permit and the construction was completed in conformity with the permit within a reasonable time.

(3) A non-conforming use in a structure is deemed to exist at the date of the first publication of the notice of intention to adopt or amend a land-use bylaw if

- (a) the structure containing the non-conforming use was lawfully under construction and was completed within a reasonable time; or
- (b) the permit for its construction or use was in force and effect, the construction was commenced within 12 months after the date of the issuance of the permit and the construction was completed in conformity with the permit within a reasonable time,

and the use was permitted when the permit for the structure was granted and the use was commenced upon the completion of construction.

(4) This Act does not preclude the repair or maintenance of a non-conforming structure or a structure containing a non-conforming use.

(5) A change of tenant, occupant or owner of any land or structure does not of itself affect the use of land or a structure. 2008, c. 39, s. 253.

Rebuilding, repair or enlargement of non-conforming structure

321 (1) Where a non-conforming structure is located in a zone that permits the use made of it and the structure is used primarily for residential purposes

- (a) where the structure is destroyed or damaged by fire or otherwise, it may be rebuilt, replaced or repaired if it is substantially

the same as it was before the destruction or damage and it is occupied by the same use;

(b) it may be enlarged, reconstructed, repaired or renovated if

(i) the enlargement, reconstruction, repair or renovation does not further reduce the minimum required yards or separation distance that do not conform with the land-use bylaw, and

(ii) all other applicable provisions of the land-use bylaw except minimum frontage and area are satisfied.

(2) A non-conforming structure that is not located in a zone permitting residential uses and not used primarily for residential purposes, may not, where destroyed or damaged by fire or otherwise to the extent of more than 75% of the market value of the building above its foundation, be rebuilt or repaired except in accordance with the land-use bylaw, and after the repair or rebuilding it may be occupied only by a use permitted in the zone. 2008, c. 39, s. 254.

Non-conforming use of land

322 A non-conforming use of land may not be

(a) extended beyond the limits that the use legally occupies;

(b) changed to any other use except a use permitted in the zone;

or

(c) recommenced, if discontinued for a continuous period of six months. 2008, c. 39, s. 255.

Non-conforming use in a structure

323 (1) Where there is a non-conforming use in a structure, the structure

(a) may not be expanded or altered so as to increase the volume of the structure capable of being occupied, except as required by another Act of the Legislature; or

(b) where destroyed or damaged by fire or otherwise to the extent of more than 75% of the market value of the building above its foundation, may not be repaired or rebuilt except in accordance with the land-use bylaw and after the repair or rebuilding it may be occupied only by a use permitted in the zone.

(2) Where there is a non-conforming use in a structure, the non-conforming use

(a) may be extended throughout the structure;

(b) may not be changed to any other use except a use permitted in the zone;

(c) where discontinued for a continuous period of six months, may not be recommenced. 2008, c. 39, s. 256.

Relaxation of restrictions

324 (1) A municipal planning strategy may provide for a relaxation of the restrictions contained in this Part respecting non-conforming structures, non-conforming uses of land and non-conforming uses in a structure and, in particular, may provide for

- (a) the extension, enlargement, alteration or reconstruction of a non-conforming structure;
- (b) the extension of a non-conforming use of land;
- (c) the extension, enlargement or alteration of structures containing non-conforming uses, with or without permitting the expansion of the non-conforming use into an addition;
- (d) the reconstruction of structures containing non-conforming uses, after destruction;
- (e) the recommencement of a non-conforming use of land or a non-conforming use in a structure after it is discontinued for a continuous period in excess of six months;
- (f) the change in use of a non-conforming use of land or a non-conforming use in a structure, to another non-conforming use.

(2) The policies adopted in accordance with this Section must be carried out through the land-use bylaw and may require a development agreement. 2008, c. 39, s. 257.

Modification or discharge of private covenant

325 (1) The Chief Administrative Officer may modify or discharge a private covenant in so far as it is more restrictive than the current zoning for the land it governs with respect to height or density.

(2) A covenant modified or discharged under subsection (1) is deemed to have been modified or discharged for offending public policy under subsection 63(1) of the *Land Registration Act* and a certified copy of the decision of the Chief Administrative Officer may be registered or recorded as if it were an order of the court made under that subsection.

(3) A decision of the Chief Administrative Officer under subsection (1) may be appealed to the Board.

(4) Sections 332 to 337 apply, with necessary changes, to an appeal under this Section. 2023, c. 18, s. 12.

Development officer

326 (1) The Council shall appoint a development officer to administer its land-use bylaw and subdivision bylaw.

(2) Where the Municipality participates in a district planning commission or enters into an agreement with another municipality to provide services, the Council may appoint as its development officer an employee of the commission or of the other municipality. 2008, c. 39, s. 258.

Development permit

327 (1) Where the Council has adopted a land-use bylaw, a development permit must be obtained before any development is commenced.

(2) A land-use bylaw may specify developments for which a development permit is not required. 2008, c. 39, s. 259.

Time limits for consideration of development permit application

328 (1) Within 14 days after receiving an application for a development permit, the development officer shall

- (a) determine if an application is incomplete; and
- (b) where the application is incomplete, notify the applicant in writing advising what is required to complete the application.

(2) Within 30 days after receiving a completed application for a development permit, the development officer shall grant the development permit or inform the applicant of the reasons for not granting the permit. 2008, c. 39, s. 260.

Issuance of development permit

329 (1) A development permit must be issued for a proposed development if the development meets the requirements of the land-use bylaw, the terms of a development agreement or an approved site plan.

(2) Where a land-use bylaw is amended or a development agreement is approved or amended, a development permit for a development pursuant to the amendment or the agreement may not be issued until

- (a) the appeal period has elapsed; or
- (b) all appeals have been abandoned or disposed of or the decision of the Council has been affirmed by the Board.

(3) A development permit that is inconsistent with a proposed land-use bylaw or a proposed amendment to a land-use bylaw may not be issued for 150 days from the publication of the first notice advertising the Council's intention to adopt or amend the bylaw.

(4) Where the proposed land-use bylaw or bylaw amendment has not come into effect after the expiry of 150 days from the publication of the first notice advertising the Council's intention to adopt or amend the bylaw, the development officer shall issue the development permit if the proposed development meets the requirements of the land-use bylaw. 2008, c. 39, s. 261.

Appeals to the Board

330 (1) The approval or refusal by the Council to amend a land-use bylaw may be appealed to the Board by

- (a) an aggrieved person;
- (b) the applicant;
- (c) an adjacent municipality;
- (d) the Director.

(2) The approval of, or refusal to approve, and the amendment of, or refusal to amend, a development agreement may be appealed to the Board by

- (a) an aggrieved person;
- (b) the applicant;
- (c) an adjacent municipality;
- (d) the Director.

(3) The refusal by a development officer to

- (a) issue a development permit; or
- (b) approve a tentative or final plan of subdivision or a concept plan,

may be appealed by the applicant to the Board. 2008, c. 39, s. 262.

Matters not subject to appeal

331 The following are not subject to an appeal:

- (a) an amendment to a land-use bylaw to make the bylaw consistent with a statement of provincial interest;
- (b) an amendment to a land-use bylaw or a development agreement to implement a decision of the Board;
- (c) a development agreement approved, as ordered by the Board;
- (d) an amendment to a land-use bylaw that is required to carry out a concurrent amendment to a municipal planning strategy;
- (e) the adoption or amendment of an incentive or bonus zoning agreement. 2008, c. 39, s. 263; 2008, c. 41, s. 11.

Appeal period

332 (1) An appeal must be served on the Board within 14 days after the date

- (a) of posting of notice of the adoption of the land-use bylaw amendment;
- (b) of written notice of the Council's decision refusing to amend the land-use bylaw;
- (c) of posting of notice of the approval or amendment of a development agreement;
- (d) of written notice of the Council's decision refusing to approve or amend a development agreement;
- (e) of written notice of the development officer's decision refusing to issue a development permit or refusing to approve a tentative or final plan of subdivision or a concept plan;
- (f) a decision is deemed to be refused.

(2) Notwithstanding subsection (1), where a development agreement or amendment to a development agreement was provisionally approved under

Section 299, an appeal must be served on the board within 14 days after the date notice is given for the adoption of the land-use bylaw amendment and the appeal period for the development agreement or development agreement amendment runs concurrently with the appeal period for the land-use bylaw amendment. 2008, c. 39, s. 264; 2022, c. 13, s. 12.

Permitted grounds of appeal

333 (1) An aggrieved person or an applicant

(a) may appeal an amendment or refusal to amend a land-use bylaw only on the grounds that the decision of the Council does not reasonably carry out the intent of the municipal planning strategy;

(b) may appeal the approval or refusal of a development agreement or the approval of an amendment to a development agreement only on the grounds that the decision of the Council does not reasonably carry out the intent of the municipal planning strategy;

(c) may appeal the refusal of an amendment to a development agreement only on the grounds that the decision of the Council does not reasonably carry out the intent of the municipal planning strategy and the intent of the development agreement.

(2) An applicant may appeal a refusal to issue a development permit only on the grounds that the decision of the development officer does not comply with the land-use bylaw, a development agreement, an order establishing an interim planning area or an order regulating or prohibiting development in an interim planning area.

(3) An applicant may appeal a refusal to approve a concept plan or a tentative or final plan of subdivision only on the grounds that the decision of the development officer does not comply with the subdivision bylaw.

(4) The Director may appeal only on the grounds that the decision of the Council is not reasonably consistent with a statement of provincial interest, an order establishing an interim planning area or an order regulating or prohibiting development in an interim planning area. 2008, c. 39, s. 265.

Procedures on appeal

334 (1) This Section applies only to appeals to the Board made pursuant to this Part.

(2) The Municipality shall file a complete appeal record with the Board, and any other person as the Board may require, within 14 business days of the Municipality being notified by the Board of the appeal.

(3) A hearing must begin within 45 days from the filing of the appeal record unless the Board determines that it is necessary for the interests of justice for the hearing to begin at some later time or unless all the parties agree that the hearing may begin at some later time.

(4) The Board shall render its decision within 60 days after the close of submissions by the parties, unless the Board otherwise states at the close of the hearing or unless it is necessary for the interests of justice.

(5) A decision of the Board is not invalid nor does the Board lose jurisdiction over a matter in the event that a decision is rendered later than 60 days after the close of submissions.

(6) In the event that the Board directs the filing of post-hearing written submissions, such submissions must be filed with the Board within 14 days after the close of the hearing unless the Board determines that it is necessary for the interests of justice for such submissions to be submitted at some later time or unless all the parties agree that the submissions may be filed at some later time.

(7) Notwithstanding subsection 26(1) of the *Utility and Review Board Act*,

(a) the Board shall, by order, impose costs on the Municipality if it fails to file a complete appeal record within the time referred to in subsection (2); and

(b) the Board may, by order, impose costs on any party to an appeal that fails to meet any deadline or time limit established pursuant to this Section or otherwise established or imposed by the Board.

(8) Notwithstanding subsection 26(1) of the *Utility and Review Board Act*, the Board shall, by order, impose costs on the Municipality if

(a) the Board overturns a decision of a of development officer under Section 316; and

(b) the Board determines that the awarding of costs is in the interests of justice.

(9) When imposing costs pursuant to subsection (7) or (8), the Board shall consider, in addition to what the Board considers relevant, the financial ability of the party to pay and the conduct of the party in the appeal. 2008, c. 39, s. 266; 2023, c. 18, s. 13.

Powers of Board on appeal

335 (1) The Board may

(a) confirm the decision appealed from;

(b) allow the appeal by reversing the decision of the Council to amend the land-use bylaw or to approve or amend a development agreement;

(c) allow the appeal and order the Council to amend the land-use bylaw in the manner prescribed by the Board or order the Council to approve the development agreement, approve the development agreement with the changes required by the Board or amend the development agreement in the manner prescribed by the Board;

(d) allow the appeal and order that the development permit be granted;

(e) allow the appeal by directing the development officer to approve the tentative or final plan of subdivision or concept plan.

(2) The Board may not allow an appeal unless it determines that the decision of the Council or the development officer, as the case may be, does not reasonably carry out the intent of the municipal planning strategy or conflicts with the provisions of the land-use bylaw or the subdivision bylaw. 2008, c. 39, s. 267.

Restrictions on powers of Board

336 (1) The Board may not order the granting of a development permit, the approval of a plan of subdivision, a land-use bylaw amendment, a development agreement or an amendment to a development agreement that

(a) is not reasonably consistent with a statement of provincial interest;

(b) conflicts with an order made by the Minister establishing an interim planning area or regulating or prohibiting development in an interim planning area.

(2) The Board may not make any decision that commits the Council to make any expenditures with respect to a development. 2008, c. 39, s. 268.

Use of mediation

337 The Minister, a Council or the Board may, if the person or body considers it appropriate, at any time before a decision is made pursuant to this Part, use mediation, conciliation or other dispute resolution methods to attempt to resolve concerns or disputes. 2008, c. 39, s. 269.

No injurious affection

338 Property is deemed not to be injuriously affected by the adoption, amendment or repeal of a statement of provincial interest, interim planning area and development regulations in connection with it, subdivision regulations, subdivision bylaw, municipal planning strategy, land-use bylaw or the entering into, amending or discharging of a development agreement or by any action taken under this Act or the regulations to address a housing supply crisis. 2008, c. 39, s. 270; 2023, c. 18, s. 14.

Plans, bylaws and strategies under other legislation

339 A municipal development plan and zoning bylaw or municipal planning strategy and land-use bylaw adopted pursuant to the *Municipal Government Act* or a former *Planning Act* are a municipal planning strategy and land-use bylaw within the meaning of this Act, to the extent they are consistent with this Act. 2008, c. 39, s. 271.

Conflict

340 In the event of a conflict between this Part and another Part of this Act or another Act of the Legislature, this Part prevails. 2008, c. 39, s. 272.

Prohibition on breach of agreement or site plan

341 No person shall breach the terms of a development agreement, site plan, or an incentive or bonus zoning agreement. 2008, c. 41, s. 12.

Breach of development agreement

342 (1) Upon the breach either of a development agreement or an incentive or bonus zoning agreement, the Municipality may, where 30 days notice in writing has been provided to the owner, enter the land and perform any of the terms contained in the development agreement or the incentive or bonus zoning agreement, or take such remedial action as is considered necessary to correct a breach of the development agreement or an incentive or bonus zoning agreement, including the removal or destruction of any thing that contravenes the terms of a development agreement or an incentive or bonus zoning agreement.

(2) All reasonable expenses, whether arising out of the entry on the land or from the performance of the terms, are a first lien on the land that is the subject of the development agreement or the incentive or bonus zoning agreement.

(3) No action lies against the Municipality or against any agent, servant or employee of the Municipality for anything done pursuant to this Section. 2008, c. 39, s. 274; 2008 c. 41, s. 13.

Breach of approved site plan

343 (1) The Municipality may, upon the breach of an approved site plan, where 30 days notice in writing has been provided to the owner, enter the land and perform any of the terms contained in the site plan.

(2) All reasonable expenses whether arising out of the entry on the land or from the performance of the terms of the site plan are a first lien on the land that is the subject of the site plan.

(3) No action lies against the Municipality or against any agent, servant or employee of the Municipality for anything done pursuant to this Section. 2008, c. 39, s. 275.

Remedies where offence under this Part or Part IX

344 (1) This Section applies to this Part and Part IX.

(2) In the event of an offence,

(a) where authorized by the Council or by the Chief Administrative Officer, the Clerk or development officer, in the name of the Municipality; or

(b) where authorized by the Minister, the Director, in the name of the Crown in right of the Province,

may apply to the Supreme Court of Nova Scotia for any or all of the remedies provided pursuant to this Section.

(3) The Supreme Court may hear and determine the matter at any time and, in addition to any other remedy or relief, may make an order

(a) restraining the continuance or repetition of an offence in respect of the same property;

(b) directing the removal or destruction of any structure or part of a structure that contravenes any order, regulation, municipal planning strategy, land-use bylaw, development agreement, site plan

or statement in force in accordance with this Part and authorizing the Municipality or the Director, where an order is not complied with, to enter upon the land and premises with necessary workers and equipment and to remove and destroy the structure, or part of it, at the expense of the owner;

(c) as to the recovery of the expense of removal and destruction and for the enforcement of this Part, order, regulation, land-use bylaw or development agreement and for costs as is considered proper,

and an order may be interlocutory, interim or final.

(4) Where, after the action or proceeding is commenced, it appears that

(a) the offence that was the subject of the action or proceeding may have been done or committed by a person other than the defendant;

(b) the title to the property, or part of or any interest in it, that vested at the commencement of the action or proceeding, has since become vested in a person other than the defendant; or

(c) there has been a fresh offence by the same person or by another person with respect to the same property,

it is not necessary to bring another application and the original application may be amended from time to time and at any time before final judgment to include all parties and all offences, and the whole matter of the offences must be heard, dealt with and determined, notwithstanding that the offences may be offences against different Sections of this Part or against different orders, land-use bylaws, development agreements, regulations or statements of provincial interest.

(5) Where the owner of any property where an offence is taking place or has taken place cannot be found, the Municipality or the Director may post a notice of the offence and of the application upon the property. 2008, c. 39, s. 276.

Right of entry applicable to this Part and Part IX

345 (1) This Section applies to this Part and Part IX.

(2) A person authorized by the Minister or by the Council has the right to enter at all reasonable times in or upon any property within the Municipality, without a warrant, for the purposes of an inspection necessary to administer an order, land-use bylaw, development agreement, regulation or statement of provincial interest.

(3) The authorized person shall not enter any place actually being used as a dwelling without the consent of the occupier unless the entry is made in daylight hours and written notice of the time of the entry has been given to the occupier at least 24 hours in advance of the entry.

(4) Where a justice or a judge of the Supreme Court of Nova Scotia is satisfied, on evidence under oath, that the entry is refused or no person is present to grant access, the justice or judge may by order authorize entry into or on the property during reasonable hours set by the justice or judge.

(5) Any order made by a justice or a judge of the Supreme Court of Nova Scotia continues in force until the purpose for which entry is required is fulfilled. 2008, c. 39, s. 277; 2014, c. 16, s. 7.

Regulations

- 346** (1) The Minister may make regulations
- (a) respecting the nature and extent of affordable housing to be required by subsections 290(6) and 307(4) and the enforcement of the affordable housing requirements;
 - (b) with respect to the Centre Plan Area, prescribing additional requirements for public consultation that must take place prior to an application for site-plan approval being submitted to the Municipality.
- (2) The exercise by the Minister of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2013, c. 18, s. 9.

PART IX

SUBDIVISION

Requirements for subdivision approval

- 347** (1) An application for subdivision approval must
- (a) be made to the development officer; and
 - (b) include a plan of subdivision prepared by a Nova Scotia Land Surveyor.
- (2) Subdivision approval is not required for a subdivision
- (a) if all lots to be created, including the remainder lot, exceed 10 hectares in area;
 - (b) resulting from an expropriation;
 - (c) resulting from an acquisition or disposition of land by the Crown in right of the Province or in right of Canada or by an agency of the Crown;
 - (d) of a cemetery into burial lots;
 - (e) resulting from an acquisition of land by a municipality for municipal purposes;
 - (f) resulting from the disposal, by the Municipality or the Crown in right of the Province, of a street or part of a street or a former street or part of a former street, including the consolidation of a street or part of a street or a former street or part of a former street with adjacent land;
 - (g) resulting from the disposal of a trail or part of a trail, including the consolidation of a trail or part of a trail with adjacent land;
 - (h) of an abandoned railway right-of-way;

- (i) that is a consolidation of a part of an abandoned railway right-of-way with adjacent land;
- (j) resulting from a lease of land for 20 years or less, including any renewal provisions of the lease;
- (k) resulting from the acceptance for registration by the Registrar of Condominiums of a phase of a phased-development condominium that meets the requirements, if any, prescribed by the regulations made pursuant to the *Condominium Act*;
- (l) resulting from the issuance of a certificate of title under the *Quieting Titles Act* or the *Land Titles Clarification Act*; or
- (m) resulting from a devise of land by will executed on or before January 1, 2000.

(3) In order to create a subdivision based on an exemption from the requirement for approval set out in any of the clauses in subsection (2), except clause (b), a document that

- (a) specifies the intent to create the subdivision, the exemption on which the subdivision is based and the facts that entitle the subdivision to the exemption; and
- (b) provides proof of the consent of the person entitled to create the subdivision,

must be registered or recorded in the registry. 2008, c. 39, s. 278; 2015, c. 24, s. 4; 2021, c. 7, s. 7.

Deemed consolidation

348 (1) Two or more lots that are contiguous, are parcels registered pursuant to the *Land Registration Act* and are and have been in common ownership and used together since April 15, 1987, or earlier are deemed to be consolidated if the owner or the owner's agent registers a statutory declaration in the parcel registers for the lots stating that the lots were in common ownership and used together on or before April 15, 1987, and have continued to be so owned and used, and including the facts that support the statement.

(2) Registration or recording of the statutory declaration referred to in subsection (1) is deemed to consolidate the lots as of the date of registration or recording.

(3) Subdivision approval of the consolidation is not required. 2008, c. 39, s. 279; 2015, c. 24, s. 5.

Registrar General may validate subdivision

349 The Registrar General appointed pursuant to the *Land Registration Act* may validate a subdivision that is not in compliance with the subdivision approval or exemption requirements of this Part, if the affected lots are parcels registered pursuant to the *Land Registration Act* and it would not be practicable to rectify, repeal or nullify the subdivision. 2015, c. 24, s. 6.

Provincial subdivision regulations

350 (1) Provincial subdivision regulations prescribed by the Minister pursuant to the *Municipal Government Act* apply to the Municipality except as otherwise provided by those regulations or this Act.

(2) At least 30 days before prescribing or amending provincial subdivision regulations that apply to the Municipality, the Minister shall

(a) send a copy of the proposed regulations to the Clerk and invite written comments; and

(b) place a notice in a newspaper circulating in the area that will be affected by the regulations stating where the proposed regulations may be inspected and invite written comments.

(3) Where, on April 1, 1999, the Municipality had not adopted a subdivision bylaw, the Municipality is deemed to have adopted the provincial subdivision regulations applicable to the Municipality as its subdivision bylaw.

(4) A subdivision bylaw that is inconsistent with the provincial subdivision regulations is deemed to be amended by the subdivision regulations applicable to the Municipality, unless the bylaw provisions are more stringent or implement the municipal planning strategy. 2008, c. 39, s. 280.

Application of subdivision bylaw

351 A subdivision bylaw applies to the whole of the Municipality, but the bylaw may contain different requirements for different parts of the Municipality. 2008, c. 39, s. 281.

Contents of subdivision bylaw

352 (1) A subdivision bylaw must include

(a) any requirements prescribed by the provincial subdivision regulations applicable to the Municipality unless

(i) the Municipality adopts more stringent requirements, or

(ii) the municipal requirements implement the municipal planning strategy;

(b) procedures for preliminary evaluation and tentative and final approvals;

(c) requirements for preliminary evaluation and tentative and final approvals;

(d) the form of a notice of approval of subdivision;

(e) provisions for the repeal of a subdivision; and

(f) provisions for the referral of an application to a department or agency of the Government of the Province or of the Municipality.

(2) A subdivision bylaw may include

(a) requirements for access to a lot;

- (b) requirements respecting the shape of a lot;
- (c) where they are not prescribed in a land-use bylaw, minimum lot frontage and minimum lot area;
- (d) provisions allowing a waiver of certain requirements of the bylaw and the circumstances in which a waiver may be allowed;
- (e) the fee for the processing of applications for approval or repeal of a subdivision, including registration, recording and filing fees;
- (f) requirements for the design and construction of streets, private roads, wastewater facilities, stormwater systems, water systems and other services;
- (g) requirements for part of a system for the supply or distribution of electricity or other source of energy or a telecommunications system to be placed underground;
- (h) requirements for the transfer to the Municipality of useable land, or equivalent value, for trails, park, playground and similar public purposes, and a requirement that, where the land being subdivided has frontage on the ocean, a river or a lake, the land transferred include land with frontage on the ocean, river or lake or land to provide public access to the ocean, river or lake, if the land required to be transferred does not exceed
 - (i) five per cent of the area of the lots shown to be approved on the final plan of subdivision, or
 - (ii) 10% of the area of the lots shown to be approved on the final plan of subdivision, if the requirement and the reasons for it are provided for in a municipal planning strategy;
- (i) procedures and requirements for concept plan approval;
- (j) the identification of transportation reserves and requirements that lots be designed so as not to impede a transportation reserve;
- (k) with respect to subdivision applications that are located outside the serviced area as that term is defined in Section 237 and that are for the creation of 10 or more lots, requirements for hydrogeological impact assessments including an evaluation of the quality, quantity and sustainability of water supply within the proposed subdivision and an evaluation of the cumulative impacts on water supplies outside of the proposed subdivision;
- (l) in areas where hydrogeological impact assessments are required, water supply standards that must be met before a subdivision can be approved, for quantity, sustainability of water supply and for the cumulative impact on water supplies outside of the proposed subdivision;
- (m) regulate the width of streets or private road rights-of-way on which subdivisions are permitted.

(3) Where a municipal planning strategy so provides, a subdivision bylaw may

(a) regulate or prohibit new municipal streets in all, or part, of the Municipality if, in the opinion of the Council, the streets would be premature;

(b) regulate or prohibit subdivisions on private roads in all, or part, of the Municipality;

(c) limit the number of lots that may be created from an area of land in a calendar year.

(4) A subdivision bylaw may require that, prior to approval of a final plan of subdivision, the applicant shall

(a) install water systems, wastewater facilities, stormwater systems and other services in the area of land being subdivided to the standards prescribed by the Municipality;

(b) install trees for streets, bus bays, sidewalks and pathways; and

(c) lay out, construct, grade and pave, in whole or in part, any street in the area of land being subdivided to the standards prescribed by the Municipality,

or, in the alternative, enter into a bond or other security satisfactory to the Municipality to

(d) install and provide the water systems, wastewater facilities, stormwater systems and other services in the area of land being subdivided to the standards prescribed by the Municipality;

(e) install the trees along streets, bus bays, sidewalks and pathways required by the bylaw; and

(f) lay out, construct, grade and pave, in whole or in part, any street in the area of land being subdivided to the standards prescribed by the Municipality,

and, in either case, provide a bond or other security, satisfactory to the Municipality, for the maintenance of the services for a maximum of two years from the date the services are accepted by the Municipality as having been installed to the standards prescribed by the Municipality.

(5) A subdivision bylaw may require that an applicant have, or permit an applicant to have, a qualified professional certify to the Municipality that the services have been designed and installed to the standards prescribed by the Municipality, and the Municipality may rely on the certificate so given.

(6) A subdivision bylaw may authorize the Municipality to require an applicant for subdivision approval to provide water systems, wastewater facilities, stormwater systems and other services, including streets, in the area of land being subdivided with a capacity exceeding the anticipated requirements of the applicant's subdivision, if the Municipality reimburses the applicant for any costs incurred with respect to the excess capacity.

(7) Any cost to the Municipality pursuant to subsection (6) may, at the option of the Council, be recovered by the Municipality in the same manner as an infrastructure charge or in another manner. 2008, c. 39, s. 281; 2010, c. 16, s. 6.

Adoption and amendment of subdivision bylaw

353 (1) The procedure for the adoption, amendment, repeal, approval and publication of a subdivision bylaw is the same as the procedure prescribed for planning documents.

(2) Notwithstanding the *Public Utilities Act* and for greater certainty, any bylaw made pursuant to Section 352 and any transfer, bond, security, cost, charge or requirement, fixed or imposed pursuant to Section 352, do not require approval by the Board. 2008, c. 39, s. 281.

Stormwater and drainage

354 (1) The Council may, in the subdivision bylaw, require a person applying for final approval of a subdivision to

(a) provide, at no cost to the Municipality, easements for the drainage of stormwater in those circumstances specified in the subdivision bylaw on the land that is proposed to be subdivided or outside that land;

(b) transfer to the Municipality land, including easements, that may be necessary to operate and maintain stormwater systems;

(c) enter into an agreement to carry out a drainage plan or grading plan required by a subdivision bylaw and to provide security satisfactory to the engineer to secure performance of the agreement.

(2) A subdivision bylaw may

(a) specify standards and requirements for an easement required by the subdivision bylaw;

(b) set standards and requirements respecting drainage master plans, drainage plans and grading plans;

(c) prescribe when drainage master plans, drainage plans and grading plans are required. 2008, c. 39, s. 282.

Transfer of land or equivalent value

355 (1) In this Section, “equivalent value” includes cash or facilities, services or other value in kind, related to parks, playgrounds and similar public purposes or any combination thereof, determined by the Municipality to be equivalent to the value of the land as determined by the assessor pursuant to this Section.

(2) Where a subdivision bylaw provides for the transfer to the Municipality of useable land, the applicant may provide land, equivalent value or a combination of land and equivalent value equal to the amount of the transfer required by the subdivision bylaw.

(3) The subdivision bylaw may specify the cases in which land only, equivalent value only or land and equivalent value in a specified combination must be transferred.

(4) Where equivalent value is to be provided in lieu of transferring land, the amount required must be determined by an assessor based on the market value of the proposed lots excluding streets, easements and the residue of the land of the applicant, and this valuation may be appealed in the same manner as an assessment.

(5) Where cash is paid in lieu of transferring land, the Council shall use the funds for the acquisition of, and capital improvements to, parks, playgrounds and similar public purposes and may use the interest on any funds not expended for those purposes for the operation and maintenance costs of parks, playgrounds and similar public purposes.

(6) Notwithstanding subsections (5) and (14), the Council may transfer

(a) the funds referred to in subsections (5) and (14) to a non-profit organization that is providing parks, playgrounds or other recreational facilities in the Municipality to be used for the acquisition of and capital improvements to those parks, playgrounds or other recreational facilities; and

(b) the interest on the funds referred to in subsections (5) and (14) to a non-profit organization that is providing parks, playgrounds or other recreational facilities in the Municipality to be used for the operation or maintenance of those parks, playgrounds or other recreational facilities.

(7) A subdivision bylaw may include a definition of useable land, which may specify a minimum area, minimum dimensions, location and a method of establishing a minimum quality of the land.

(8) Useable land does not include any streets or easements conveyed to the Municipality.

(9) The area of useable land to be conveyed to the Municipality is calculated on the area of the lots to be approved, as shown on the final plan of subdivision, excluding streets and the residue of the land of the applicant.

(10) A development officer shall accept any land offered by an applicant that meets the definition of useable land contained in the subdivision bylaw.

(11) An applicant may, with the approval of the Council, convey to the Municipality an area of land in the Municipality of equal value outside the area being subdivided, in lieu of land in the subdivision.

(12) An applicant may provide a bond or other security acceptable to the Council for the conveyance to the Municipality of land in a future phase of the subdivision rather than conveying land from the approved phase of the subdivision or equivalent value.

(13) Any land conveyed to the Municipality pursuant to this Section must be

- (a) free and clear of all encumbrances except an easement or right-of-way that does not materially interfere with the use and enjoyment of the land; and
- (b) used for parks, playgrounds and similar public purposes.

(14) Where the Council determines that any land transferred pursuant to this Section may no longer be needed for parks, playgrounds or similar public purposes, the Council may sell the land, after notifying the owners of lots in the subdivision with respect to which the land was conveyed to the Municipality, by notice published in a newspaper circulating in the Municipality at least 14 days prior to the Council meeting at which a decision to sell will be made, and the proceeds must be used for parks, playgrounds and similar public purposes. 2008, c. 39, s. 283.

Infrastructure charges

356 (1) A municipal planning strategy may authorize the inclusion of provisions for infrastructure charges in a subdivision bylaw.

- (2)** Infrastructure charges for
 - (a) new or expanded water systems;
 - (b) new or expanded wastewater facilities;
 - (c) new or expanded stormwater systems;
 - (d) new or expanded streets;
 - (e) new or expanded solid-waste management facilities;
 - (f) new traffic signs and signals and new or expanded transit facilities;
 - (g) new or expanded parks, playgrounds, trails, bicycle paths, swimming pools, ice arenas, recreation centres and other recreational facilities;
 - (h) new or expanded fire departments and other fire facilities;
 - (i) new or expanded public libraries and other library facilities,

may be imposed in a subdivision bylaw to recover all, or part, of the capital costs incurred, or anticipated to be incurred, by the Municipality by reason of the subdivision and future development of land and infrastructure charges for land, planning, studies, engineering, surveying and legal costs incurred with respect to any of them.

(3) The subdivision bylaw must set out the infrastructure charge areas in which infrastructure charges are to be levied, the purposes for which infrastructure charges are to be levied and the amount of, or method of calculating, each infrastructure charge.

(4) Infrastructure charges may be set at different levels related to the proposed land use, zoning, lot size and number of lots in a subdivision and the anticipated servicing requirements for the infrastructure charge area.

(5) Infrastructure charges may not be imposed if an infrastructure charge has been paid with respect to the area of land, unless further subdivision of the land will impose additional costs on the Municipality.

(6) An infrastructure charge may be used only for the purpose for which it is collected.

(7) Final approval of a subdivision may not be granted unless the infrastructure charges are paid or the applicant has entered into an agreement with the Municipality securing the payment of the infrastructure charges.

(8) Infrastructure charges are a first lien on the land being subdivided and may be collected in the same manner as taxes.

(9) A bylaw in effect on January 13, 2009, that provides for a trunk sewer tax imposed on each lot in a new or existing subdivision is deemed to be a bylaw made pursuant to this Section.

(10) Notwithstanding the *Public Utilities Act* and for greater certainty, any bylaw made pursuant to this Section and any charge set, levied or imposed pursuant to this Section do not require the approval of the Board. 2008, c. 39, s. 284; 2014, c. 16, s. 8.

Infrastructure charges agreement

357 (1) An applicant and the Municipality may enter into an infrastructure charges agreement that may

- (a) provide for the payment of infrastructure charges in instalments;
- (b) permit the applicant to provide certain services or extended services in lieu of the payment of all, or part, of the charge;
- (c) provide for security to ensure that the infrastructure charges are paid when due;
- (d) provide for any other matter necessary or desirable to effect the agreement.

(2) A subdivision bylaw may prescribe the circumstances in which an infrastructure charges agreement may be entered into and the general terms that such an agreement must contain. 2008, c. 39, s. 285.

Effect of infrastructure charges agreement

358 An infrastructure charges agreement

- (a) is binding on the land that is subdivided;
- (b) must be registered in the registry or, in the case of land registered pursuant to the *Land Registration Act*, must be recorded in the land registration office in the register of each parcel created or altered by the subdivision, and must be indexed as a conveyance to and from the owner of the land that is subdivided; and
- (c) is binding on each individual lot in a subdivision, to the extent specified in the agreement. 2008, c. 39, s. 286.

Time limits for consideration of subdivision approval application

359 (1) Within 14 days of receiving an application for subdivision approval, the development officer shall

- (a) determine if the application is complete; and
- (b) where the application is incomplete, notify the applicant in writing, advising what is required to complete the application.

(2) A completed application for subdivision approval that is neither approved nor refused within 90 days after it is received is deemed to be refused, unless the applicant and the development officer agree, in writing, to an extension. 2008, c. 39, s. 287.

Approval or refusal of subdivision approval application

360 (1) Subject to Section 367, an application for subdivision approval must be approved if the proposed subdivision is in accordance with the enactments in effect at the time a complete application is received by the development officer.

- (2)** An application for subdivision approval must be refused if
- (a) the proposed use of the lots being created is not permitted by the land-use bylaw;
 - (b) the proposed lots do not comply with a requirement of the land-use bylaw, unless a variance has been granted with respect to the requirement;
 - (c) the proposed lots would require an on-site sewage disposal system and the proposed lots do not comply with requirements established pursuant to the *Environment Act* for on-site sewage disposal systems, unless the owner has been granted an exemption from technical requirements by the Minister of Environment and Climate Change, or a person designated by that Minister;
 - (d) the development officer is made aware of a discrepancy among survey plans that, where either claimant were completely successful in a claim, would result in a lot that cannot be approved;
 - (e) the proposed access to a street does not meet the requirements of the Municipality or the Crown in right of the Province;
 - (f) the proposed subdivision does not meet the requirements of the subdivision bylaw and no variance is granted; or
 - (g) the proposed subdivision is inconsistent with a proposed subdivision bylaw or a proposed amendment to a subdivision bylaw, for a period of 150 days from the publication of the first notice advertising the Council's intention to adopt or amend the subdivision bylaw.

(3) The development officer shall inform the applicant of the reasons for a refusal in writing. 2008, c. 39, ss. 287, 288.

Lots not meeting requirements

361 Where a subdivision bylaw or a land use bylaw specifies minimum lot dimensions or lot area and the subdivision bylaw so provides, the development officer may approve a plan of subdivision that shows not more than two lots that do not meet these requirements, if the lot dimensions and area are not less than 90% of the required minimums. 2008, c. 39, s. 289.

Streets

362 (1) No plan of subdivision may be approved by a development officer if

(a) the plan shows a street to be owned by the Municipality, unless the Engineer has approved the design and construction standards of the street, and any intersection with a street, owned by the Municipality;

(b) the plan shows a proposed intersection with a street owned by the Crown in right of the Province, unless the intersection has been approved by the Minister of Public Works, or a person designated by that Minister; or

(c) the Minister of Public Works, or a person designated by that Minister, or the Engineer advises that the probable volume of traffic from the development will create unsafe conditions for which no remedial arrangements have been made.

(2) The owners of lots shown on a plan of subdivision as abutting on a private right-of-way are deemed to have an easement over the private right-of-way for vehicular and pedestrian access to the lot and for the installation of electricity, telephone and other services to the lot.

(3) The new streets and new extensions of streets shown on a plan of subdivision, excluding roads that are shown on the plan as private roads, are vested absolutely in the Municipality in which they are situate when the final approved plan is filed in the registry. 2008, c. 39, s. 290.

Plan of subdivision carrying out development agreement

363 A development officer shall approve a plan of subdivision prepared to carry out a development agreement authorized by a municipal planning strategy and land-use bylaw, notwithstanding that the plan does not comply with the subdivision bylaw, if the plan complies with the terms of the agreement. 2008, c. 39, s. 291.

Underlying lots deemed consolidated

364 Where a subdivision plan shows a remainder lot that is made up of the remainder of two or more underlying lots that have not been consolidated, the underlying lots are deemed to be consolidated before approval of the subdivision plan unless the application and plan indicate that they are not to be consolidated and, if

(a) subsection 365(1) is complied with; and

(b) where the remainder lot is 10 hectares or less in area, the subdivision plan includes a survey of the entirety of the remainder lot,

the development officer shall register the deeds respecting the remainder lot, if any, with the approved plan. 2008, c. 39, s. 292.

Addition or consolidation of land in different ownerships

365 (1) No plan of subdivision that adds or consolidates parcels or areas of land in different ownerships may be approved by a development officer until the development officer is provided with

- (a) executed deeds suitable for registering to effect the addition or consolidation; and
- (b) the fees for registering the deeds.

(2) The development officer shall register the deeds with the approved plan. 2008, c. 39, s. 293.

Land Registration Act and Registry of Deeds Act

366 (1) No plan of subdivision that, under the *Land Registration Act*, is not acceptable for registration pursuant to the *Registry of Deeds Act*, may be approved by a development officer unless the development officer is provided with proof that the parcels affected are all registered pursuant to the *Land Registration Act*.

(2) No plan of subdivision that adds or consolidates parcels or areas of land, that, under the *Land Registration Act*, is not acceptable for registration pursuant to the *Registry of Deeds Act*, may be approved by a development officer unless the development officer is provided with proof that both the parcel from which land is taken and the parcel to which land is added are registered pursuant to the *Land Registration Act*.

(3) A deed to effect a consolidation provided to a development officer pursuant to Section 365 must, where the deed is to be registered pursuant to the *Land Registration Act*, include a legal description of the consolidated parcel.

(4) The approval of a plan of subdivision contrary to subsection (1) or (2) is cancelled if the plan of subdivision is not accepted for registration pursuant to the *Land Registration Act*. 2008, c. 39, s. 294.

Tentative plan of subdivision

367 Where a tentative plan of subdivision is approved pursuant to the subdivision bylaw, a lot or lots shown on the approved tentative plan must be approved at the final plan of subdivision stage if

- (a) the lots are substantially the same as shown on the tentative plan;
- (b) any conditions on the approval of the tentative plan have been met;
- (c) the services required by the subdivision bylaw at the time of approval of the tentative plan have been constructed and any municipal service has been accepted by the Municipality or acceptable security has been provided to the Municipality to ensure the construction of the service; and

(d) the complete application for final subdivision plan approval is received within two years of the date of the approval of the tentative plan. 2008, c. 39, s. 295.

Appeal to the Board

368 The refusal to approve a concept plan or tentative or final plan of subdivision may be appealed to the Board by the applicant in accordance with the procedure for an appeal to the Board set out in Part VIII. 2008, c. 39, s. 296.

Filing of approved final plan of subdivision

369 (1) No final plan of subdivision may be filed in the registry unless the plan has been approved by a development officer in accordance with this Part.

(2) A development officer, or a person acting for a development officer, shall, within seven days of the approval of a final plan of subdivision, forward two original copies of the approved plan to the registry, one of which is to be filed in the registry.

(3) At the same time as an approved final plan of subdivision is filed in the registry, a notice of the approved final plan of subdivision must be registered in the registry.

(4) A notice of the approved final plan of subdivision must be indexed as a conveyance from the person whose land is divided.

(5) Where an approved final plan of subdivision effects an addition or consolidation, the notice of the plan must be indexed as a conveyance from the person whose land is divided and from the person whose land is enlarged as a result of the addition or consolidation. 2008, c. 39, s. 297.

Lot crossing municipal boundary

370 Where a lot to be created by a plan of subdivision crosses a municipal boundary, an approval is also required from each other municipality in which the proposed lot is located. 2008, c. 39, s. 298.

When subdivision takes effect

371 (1) A subdivision of land takes effect when the plan of subdivision is filed in the registry.

(2) No deed, mortgage, lease or other instrument that would result in the subdivision of land for which subdivision approval is required has effect until the subdivision is approved and the plan is filed.

(3) A deed, mortgage, lease or other instrument, that purports to subdivide land and is executed before the approval and the filing of a plan of subdivision in the registry in accordance with this Part, is deemed

(a) to have been executed immediately after the filing of the plan of subdivision; and

(b) where the deed, mortgage, lease or other instrument has been registered in the registry, to have been duly registered at the time of the actual registration.

(4) Where two or more deeds, mortgages, leases or other instruments are deemed to have been executed at the same time, they are deemed to have been executed in the same order as they were actually executed.

(5) Where a deed, mortgage, lease or other instrument is made that results in the subdivision of land in accordance with a plan of subdivision duly approved and filed in the registry, the amendment of the plan does not restrict the right of the owner, mortgagee, lessee or other holder to execute other deeds, mortgages, leases or instruments in which the property is described as it is described in the original deed, mortgage, lease or other instrument. 2008, c. 39, s. 299.

Amendment of approved final plan of subdivision

372 (1) An approved final plan of subdivision may be amended, provided the amendment does not materially alter the boundaries of a lot created by the approved plan.

(2) The provisions of this Act that apply to an approved final plan of subdivision apply to an amended plan of subdivision, except the effective date of the approval of the amended plan is the same as that of the approved final plan of subdivision. 2008, c. 39, s. 300.

Subdivision for which no approval required

373 Nothing in this Act prevents an application for approval of, or the approval of, a subdivision for which no approval is required. 2008, c. 39, s. 301.

Title or interest not affected

374 (1) A failure to comply with

- (a) this Act;
- (b) the *Municipal Government Act*; or
- (c) the former *Planning Act*,

or a regulation or bylaw made thereunder does not affect the creation of a title or interest in real property conveyed, or purported to have been conveyed, by deed, lease, mortgage or other instrument before April 16, 1987.

(2) Subsection (1) does not affect the rights acquired by a person from a judgment or order of a court given or made in litigation or proceedings commenced before April 16, 1987. 2008, c. 39, s. 302.

Subdivision bylaw adopted under other legislation

375 A subdivision bylaw adopted pursuant to the *Municipal Government Act* or the former *Planning Act* is a subdivision bylaw within the meaning of this Act, to the extent that it is consistent with this Act. 2008, c. 39, s. 303.

PART X

FIRE AND EMERGENCY SERVICES

Municipal role

376 The Municipality may maintain and provide fire and emergency services by providing the service, assisting others to provide the service, working with others to provide the service or a combination of means. 2008, c. 39, s. 304.

Registration as fire department

377 (1) A body corporate may apply to the Municipality for registration as a fire department.

(2) The Municipality may not refuse to register a body corporate that complies with this Act if

(a) the Municipality is satisfied that the body corporate is capable of providing the services it offers to provide;

(b) the body corporate carries liability insurance, as required by the Municipality;

(c) the body corporate does not provide the fire services for profit; and

(d) the Municipality does not provide the same services for the same area.

(3) A fire department, including a fire department of the Municipality or fire protection district, shall register in the Municipality if it provides emergency services in the Municipality.

(4) A registered fire department shall provide the Municipality with a list of specific emergency services it will endeavour to provide and the area in which the services will be provided.

(5) Registration continues in force until withdrawn by the Municipality for cause or the fire department requests that the registration be revoked.

(6) The Municipality may grant or lend money to, or guarantee a loan for, a registered fire department for operating or capital purposes.

(7) The Municipality may grant or lend assets, without charge, to a registered fire department.

(8) Registration does not make a fire department an agent of the Municipality.

(9) A registered fire department is not a municipal enterprise pursuant to the *Finance Act*. 2008, c. 39, s. 305; 2022, c. 38, s. 22.

Registration as emergency services provider

378 (1) A body corporate may apply to the Municipality for registration as an emergency services provider to provide emergency services other than fire services.

(2) The Municipality shall not refuse to register a body corporate that complies with this Act if

(a) the Municipality is satisfied that the body corporate is capable of providing the services it has undertaken to provide;

(b) the body corporate carries liability insurance, as required by the Municipality;

(c) the body corporate does not provide the emergency services for profit; and

(d) the Municipality does not provide the same services for the same area.

(3) A body corporate that applies pursuant to subsection (1) shall register in each municipality in which it provides emergency services.

(4) A registered emergency services provider shall provide the Municipality with a list of the specific emergency services it will endeavour to provide and the area in which the services will be provided.

(5) Registration continues in force until withdrawn by the Municipality for cause or the emergency services provider requests that the registration be revoked.

(6) The Municipality may grant or lend money to, or guarantee a loan for, a registered emergency services provider for operating or capital purposes.

(7) The Municipality may grant or lend assets, without charge, to a registered emergency services provider.

(8) Registration does not make an emergency services provider an agent of the Municipality.

(9) A registered emergency services provider is not a municipal enterprise pursuant to the *Finance Act*. 2008, c. 39, s. 306; 2022, c. 38, s. 23.

Policies

379 (1) The Council may make policies respecting full-time, volunteer and composite fire departments and emergency service providers in the Municipality.

(2) Policies for fire departments and emergency service providers may include

(a) requirements and procedures for registration;

(b) personnel policies with respect to those members who are employees of the Municipality;

- (c) the manner of accounting to the Council for the use of funds provided by the Municipality;
- (d) an annual meeting to report to the public respecting fire and emergency services;
- (e) such other matters as are necessary and expedient for the provision of emergency services in the Municipality.

(3) The Council may require proof of compliance with its policies before advancing any funds. 2008, c. 39, s. 307.

Powers of officer in charge

380 (1) When any fire, rescue or emergency occurs, the fire chief or other officer in charge, and any person under the direction of that officer, shall endeavour to extinguish the fire and prevent it from spreading, conduct the rescue or deal with the emergency and, for that purpose, may

- (a) command the assistance of persons present and any inhabitant of the Municipality;
- (b) remove property from buildings on fire or in danger of fire;
- (c) take charge of property;
- (d) enter, break into or tear down any building;
- (e) exclude and remove persons and vehicles from the building or vicinity; and
- (f) generally do all things necessary to respond to the emergency.

(2) It is an offence to disobey any lawful order or command of the officer in charge.

(3) Where a fire alarm is given or the officer in charge has reason to believe that a fire exists on any premises, the officer in charge and any person under the direction of that officer may enter or break into any building for the purpose of ascertaining whether a fire exists.

(4) The officer in charge may direct that a building be pulled down or otherwise destroyed if, in the judgment of that officer, doing so will tend to contain a fire or protect the public from a dangerous condition.

(5) The Municipality, a fire department, an emergency services provider and an officer in charge, and a person acting under the direction or authority of that officer, are not liable for an act done in the exercise of any of the powers conferred by this Section. 2008, c. 39, s. 308.

Interference with efforts, facilities or equipment

381 It is an offence to interfere with

- (a) efforts of a member of a fire department or emergency services provider to extinguish fires and render assistance in emergencies; and

(b) publicly or privately-owned fire-fighting, rescue or emergency facilities and equipment and hydrants. 2008, c. 39, s. 309.

No liability

382 The Municipality, an employee of the Municipality, a member of the fire department of the Municipality, a registered fire department, a member of a registered fire department, a registered emergency services provider and a member of a registered emergency services provider are not liable for an act or omission in providing, or failing to provide, an emergency service, unless they are grossly negligent. 2008, c. 39, s. 310.

No action lies

383 (1) No action lies with respect to an act or omission in providing, or failing to provide, an emergency service against an employee of the Municipality or fire protection district, a member of the fire department of the Municipality, fire protection district, registered fire department or registered emergency services provider.

(2) Notwithstanding subsection (1) and subject to Section 382, an action may lie against the Municipality, fire protection district, registered fire department or registered emergency services provider with respect to its employee, member of its fire department or member. 2008, c. 39, s. 311.

Mutual aid

384 (1) The Municipality may assist at fires, rescues or other emergencies occurring outside its boundaries.

(2) The Municipality may agree with other municipalities, villages, fire protection districts, federal and provincial departments and agencies or others to provide assistance at fires, rescues and other emergencies and to receive assistance at fires, rescues and other emergencies.

(3) A fire department that assists a registered fire department pursuant to a mutual aid agreement is not required to register and is entitled to all of the protections provided by this Act for the assisted fire department.

(4) An emergency services provider that assists a registered fire department or registered emergency services provider pursuant to a mutual aid agreement is not required to register and is entitled to all of the protections provided in this Act for the assisted fire department or emergency services provider. 2008, c. 39, s. 312.

PART XI**ELECTRICAL SERVICES****Contract with Nova Scotia Power Incorporated or municipality**

385 (1) Subject to the *Public Utilities Act*, the Council may contract with Nova Scotia Power Incorporated or another municipality for transmission and supply of electric power.

(2) Where the Municipality has entered into a contract for electric power or generates electric power, the Municipality may

(a) use the electric power for the purpose of lighting streets, highways and property of the Municipality or for any other purpose of the Municipality;

(b) distribute the electric power throughout the Municipality;

(c) establish and maintain an electrical distribution system in the Municipality;

(d) sell or dispose of the electric power, or any part thereof, to a person or body;

(e) dispose of the whole of the electric power or any portion that it does not require, or otherwise dispose of, to any person, firm or corporation having authority within the Municipality to supply electric power or to operate an electric tramway;

(f) employ required employees;

(g) contract for the supply and distribution of electric power in another municipality, if the council of the other municipality agrees;

(h) acquire real and personal property and construct and operate facilities for the generation, transmission and distribution of electric power;

(i) include in its yearly estimates all amounts that are necessary or proper for the due carrying out of the purposes referred to in this subsection.

(3) Any agreement, contract, change in the cost of electric power, payment extension, connection between systems or diversion of power from one system to another is subject to the approval of the Board. 2008, c. 39, s. 313.

Lien

386 (1) The amount due to the Municipality for the provision of electrical power is, subject only to municipal taxes, a first lien on the property of the person to whom the electrical power was provided, in priority to all prior liens or encumbrances on the property.

(2) The lien applies only to the amount due to the Municipality for a period not exceeding 90 days.

(3) The lien referred to in subsection (1) is not a charge against a parcel registered pursuant to the *Land Registration Act* until a certificate evidencing the lien has been recorded in the register of the parcel.

(4) The Municipality may record a notice of the lien referred to in subsection (1) in the parcel register of any property owned by a person to whom electrical power was provided to which the lien applies and shall thereupon serve that person with a copy of the lien and recording particulars.

(5) Upon satisfaction of the lien, including payment of the fees for recording the lien and the release, the Municipality shall record a release of the lien in the parcel registers in which the lien was recorded. 2008, c. 39, s. 314.

Power cut-off

387 Where a person fails to pay the Municipality the amount due for electric power within one month after the account is due, the Municipality may cut off the supply of electricity to that person and may recover the amount due up to that time, despite a contract with the person to furnish electric power for a longer period. 2008, c. 39, s. 314.

Nova Scotia Power Incorporated powers

388 (1) Nova Scotia Power Incorporated may extend the time for payment of any sum due it by the Municipality, if the Municipality pays interest on any sum due Nova Scotia Power Incorporated at such rate of interest, not exceeding seven per cent per year, as Nova Scotia Power Incorporated may determine.

(2) Nova Scotia Power Incorporated may make any connections between systems to divert power from one system to another system.

(3) The manner of any connection between systems, the amount to be charged to a system receiving power from a connection and the amount to be credited to a system supplying power is to be determined by Nova Scotia Power Incorporated. 2008, c. 39, s. 315.

Power to sell system

389 The Municipality may sell its system for developing or distributing electric power, including property used in connection with it. 2008, c. 39, s. 316.

PART XII

STREETS AND HIGHWAYS

Interpretation

390 In this Part, “street” means a public street, highway, road, lane, sidewalk, thoroughfare, bridge, square and the curbs, gutters, culverts and retaining walls in connection therewith, but does not include bridges vested in the Halifax-Dartmouth Bridge Commission and streets vested in the Crown in right of the Province. 2008, c. 39, s. 317.

Ownership and control of streets

391 (1) All streets in the Municipality are vested absolutely in the Municipality.

(2) In so far as is consistent with their use by the public, the Council has full control over the streets in the Municipality.

(3) No road, or allowance for a road, becomes a street until the Council formally accepts the road or allowance, or the road or allowance is vested in the Municipality according to law.

(4) Possession, occupation, use or obstruction of a street, or a part of a street, does not give and never has given any estate, right or title to the street. 2008, c. 39, s. 318.

Bylaws for protection of streets

392 The Council may make bylaws for the protection of streets and may limit the bylaw to certain streets, or to certain times of the year, or to both. 2008, c. 39, s. 319.

Local authority for purpose of Motor Vehicle Act

393 For the purpose of the *Motor Vehicle Act*, the Council is a local authority. 2008, c. 39, s. 319.

Use of mall

394 The Council may, by policy, limit or prohibit the use of a mall by vehicles, or classes of vehicles, and may restrict or prohibit parking on a mall. 2008, c. 39, s. 319.

Pedestrian mall

395 The Council may, by bylaw, establish a pedestrian mall on a street or any other land owned by the Municipality. 2008, c. 39, s. 319.

Controlled access street

- 396** (1) The Council may, by bylaw,
- (a) designate any street as a controlled access street;
 - (b) regulate or prohibit access to a controlled access street.
- (2) No person may
- (a) construct or use a road or gate connected with, or opening upon, the controlled access street; or
 - (b) offer for sale goods within the limit of the controlled access street. 2008, c. 39, s. 319.

Use of sidewalk

- 397** The Council may, by bylaw,
- (a) prohibit any person from using any vehicle or apparatus on a sidewalk in the Municipality;
 - (b) prohibit any person from taking or riding any animal on any sidewalk in the Municipality. 2008, c. 39, s. 319.

Snow and ice on sidewalk

- 398** (1) The Council may, by bylaw,
- (a) require the owner, occupier or person in charge of a property to clear snow and ice from the sidewalks adjoining the property;

(b) prescribe measures to be taken by the owners, occupiers or persons in charge for the abatement of dangerous conditions arising from the presence of snow and ice on the sidewalks adjoining the property.

(2) Where a person required by a bylaw made pursuant to subsection (1) fails to clear the ice and snow from the sidewalk forthwith after notice to do so or to take the necessary measures for the abatement of any dangerous condition arising from the presence of the snow and ice, the Engineer may have the snow and ice cleared and any necessary measures to abate dangerous conditions taken.

(3) The Council may, by bylaw, require the owner of a property to remove ice or icicles from part of a building overhanging or abutting a sidewalk. 2008, c. 39, s. 320.

Maintenance of area of vegetation

399 The Council may, by bylaw, require the owner of lands abutting a street to maintain an area of vegetation between the streetline and the main travelled way. 2008, c. 39, s. 320.

Traffic authority

400 (1) In this Section, “highway” and “Provincial Traffic Authority” have the same meaning as in the *Motor Vehicle Act*.

(2) The Council may, by policy, appoint a traffic authority for all or part of the Municipality.

(3) A traffic authority has, within the Municipality, the powers of a traffic authority of a city or town pursuant to the *Motor Vehicle Act*.

(4) The Clerk shall notify the Provincial Traffic Authority of the appointment of a traffic authority.

(5) Where there is no traffic authority appointed by the Council, the Minister of Public Works may appoint a traffic authority to hold office until the Council appoints a traffic authority.

(6) Where it appears to the Minister of Public Works that a traffic authority appointed by the Council is not performing the duties and functions of a traffic authority, the Minister of Public Works may cancel the appointment of the traffic authority.

(7) The Provincial Traffic Authority has, with respect to

- (a) highways vested in the Crown in right of the Province;
- (b) highways in areas of the Municipality for which there is no traffic authority; and
- (c) highways in the Municipality that have been designated by the Minister of Public Works as main travelled or through highways,

the powers conferred upon a traffic authority by or pursuant to the *Motor Vehicle Act*.

(8) The traffic authority for the Municipality has, with respect to highways in the Municipality, excluding those for which the Provincial Traffic Authority has authority, the powers conferred upon a traffic authority by or pursuant to the *Motor Vehicle Act*. 2008, c. 39, s. 321.

Street-related powers and survey plan

401 (1) The Council may design, lay out, open, expand, construct, maintain, improve, alter, repair, light, water, clean and clear streets in the Municipality.

(2) When a street is laid out, opened or expanded, a survey plan must be filed in the registry. 2008, c. 39, s. 322.

Expenditure for snow and ice clearance

402 The Council may expend funds for the purpose of clearing snow and ice from the streets, sidewalks and public places in all, or part, of the Municipality. 2008, c. 39, s. 322.

Civic numbers

403 The Council may,

(a) by bylaw, adopt a system for assigning civic numbers to properties, including buildings, and other locations;

(b) by bylaw, require owners or occupiers of property to post the correct civic number prominently on their properties, with power to prescribe the size, design and location of the civic number that the owner or occupier is so required to post, and the manner in which it is posted. 2008, c. 39, s. 323.

Street names

404 The Council may,

(a) by policy, name or rename any street or private road;

(b) post the name of any street or private road, including posting the name on private property. 2008, c. 39, s. 323.

Signage on private road

405 The Council may, by bylaw, require the owner of land that is a private road to

(a) apply for permission to erect a sign or signpost that identifies the road by the name assigned to it pursuant to clause (c) to any person or authority whose permission is required by law to erect the sign or signpost and use the owner's best efforts to obtain such permission; and

(b) erect a sign or signpost of such size and design, in such location and in such a manner as is prescribed by the bylaw, if permission is obtained to erect the sign or signpost in accordance with subclause (i). 2008, c. 39, s. 323; 2010, c. 16, s. 7.

Street encroachment

406 (1) Where any part of a street, other than the travelled way, has been built upon and it is determined that the encroachment was made in error, the Engineer may permit, in accordance with any bylaw made pursuant to subsection (2), the encroachment to continue until such time as the building or structure encroaching upon the street is taken down or destroyed.

(2) The Council may, by bylaw, regulate encroachments upon, under or over streets, including stipulating the period of time an encroachment may remain and the entering into of agreements, including terms and conditions, for particular encroachments. 2008, c. 39, s. 324.

Permanent street closure

407 (1) The Council may, by policy, permanently close any street or part of a street and the Council shall hold a public hearing before passing the policy.

(2) Notwithstanding subsection (1), where a street or part of a street is being altered, improved or redesigned, part of that street may be closed without holding a public hearing under subsection (1) if

- (a) the part of the street that remains open
 - (i) is open to vehicular and pedestrian traffic, and
 - (ii) meets all the municipal standards; and
- (b) the part of the street that is closed
 - (i) is determined by the Engineer to be surplus, and
 - (ii) is worth less than \$50,000.

(3) The Council shall give notice of its intent to close the street by advertisement in a newspaper circulating in the Municipality.

(4) The notice must set out the time and place of the public hearing at which those in favour or opposed to the street closing will be heard and describe the street to be closed sufficiently to identify it.

(5) A copy of the notice must be mailed to the Minister of Public Works before the public hearing.

(6) A copy of the policy passed by the Council, certified by the Clerk under the seal of the Municipality, incorporating a survey or a metes and bounds description of the street that is closed, must be filed in the registry and with the Minister of Public Works.

(7) Upon filing the policy in the registry, all rights of public user in the land described in the policy are forever extinguished and the Municipality may sell and convey the land or may subsequently reopen the land as a street in the manner required by this Act. 2008, c. 39, s. 325.

Contribution to cost of underground wiring

408 Where the Council determines that wires and other parts of an electrical distribution or telecommunications system be placed underground, the Council may contribute to the cost. 2008, c. 39, s. 326.

Breaking surface of street

409 (1) No person shall break the surface of a street without the permission of the Engineer.

(2) The Council may, by policy, prescribe the terms upon which a permit to break the surface of a street may be granted, including setting a fee for the permit and requiring security to be posted to ensure that the street is restored. 2008, c. 39, s. 327.

Driveway construction

410 No person shall construct or widen a driveway, or other access to a street, without the permission of the Engineer. 2008, c. 39, s. 327.

Obstruction of street

411 (1) Except as otherwise provided in this Act, no person shall

- (a) obstruct a street in the Municipality;
- (b) erect, construct or place a building or structure, fence, railing, wall, tree or hedge or part of them upon a street;
- (c) deposit any snow or ice on the travelled way of a street;
- (d) deposit any snow or ice near a portion of the travelled way of a street so as to hinder clearing of the travelled pathway;
- (e) prevent water flowing from a street on to the adjoining land;
- (f) cause or permit water to flow over a street, except as directed by the Engineer or the Council;
- (g) deposit, or permit to accumulate, sewage, refuse, garbage, rubbish or other matter on a street or in a drain, gutter, sluice or watercourse on a street; or
- (h) cause or permit sewage, refuse, garbage, rubbish or any other matter to discharge or flow upon a street or into a drain, gutter, sluice or watercourse on a street.

(2) An owner or occupant of land who collects water upon the land and turns or allows the water to flow upon a street is liable for all damage to the street, gutters or drains occasioned thereby.

(3) Where, as a result of the collection of the water, the flow requires, in the opinion of the Engineer, the construction of a larger drain, sluice or culvert on the street, or makes necessary any alteration in the street or the building of new drains, sluices or culverts, the person is liable to pay the cost of the alteration or construction.

(4) Where a person is in apparent contravention of this Section, the Engineer may serve notice on the person to remedy the contravention and, where the condition is not remedied within the time specified in the notice, the Engineer may cause the condition to be remedied.

(5) Where an obstruction is a structure of any kind, the Engineer may require the owner of the structure to remove the structure from the street within such time as the Engineer specifies.

(6) Where the structure is not removed within the time specified, the Engineer may remove, demolish or destroy the structure in such manner as is considered expedient. 2008, c. 39, s. 328.

Public Utilities Act applies

412 Section 91 of the *Public Utilities Act* applies to the erection or placement of a pole, wire, conduit or pipe in, upon, along, under or across a street. 2008, c. 39, s. 329.

Removal of sign or billboard

413 (1) The Engineer may require an owner or occupant of land adjoining a street to remove a sign or billboard on the land that, in the opinion of the Engineer, is a source of danger to traffic on the street.

(2) Where the owner of the land fails to remove the sign or billboard within 14 days after receipt of notice from the Engineer, the Engineer may cause the sign or billboard to be removed. 2008, c. 39, s. 330.

Dangerous vegetation

414 (1) The Engineer may require an owner or occupant of land adjoining a street to remove or trim a tree, bush, shrub, hedge or other vegetation or remove or alter a fence that, in the opinion of the Engineer, is a source of danger to traffic on the street.

(2) Where the owner of the land fails to remove or trim the vegetation or remove or alter a fence within 14 days after receipt of notice from the Engineer, the Engineer may cause the vegetation to be removed or trimmed or the fence to be removed or altered, as the case may be. 2008, c. 39, s. 331; 2010, c. 16, s. 8.

Temporary use or closure of street

415 The Engineer may

(a) permit a person to use a portion of a street for construction or other temporary purpose;

(b) temporarily close a street, or part thereof, for the protection of the public, to allow work to be done on the street or on lands and buildings adjacent to the street or for any other purpose beneficial to the public interest. 2008, c. 39, s. 332.

Engineer powers on land adjoining street

416 (1) The Engineer may

(a) enter upon land adjoining a street and erect and maintain snow fences on it or take down, alter or remove a fence or obstruction of any kind that causes drifts or an accumulation of snow so as to impede or obstruct traffic;

(b) at any time and from time to time, construct, open, maintain or repair a drain, gutter, sluice or watercourse upon land adjoining a street and for such purpose may, at any time and from time to time, enter into and upon such land.

(2) A person who hinders or obstructs the Engineer in the exercise of a power or authority conferred by this Section is guilty of an offence. 2008, c. 39, s. 333.

Bylaw not subject to Motor Vehicle Act

417 A bylaw passed pursuant to this Part is not subject to the *Motor Vehicle Act*. 2008, c. 39, s. 334.

PART XIII

SOLID-WASTE RESOURCE MANAGEMENT

Bylaws regarding solid waste

418 The Council may make bylaws respecting solid waste, including

(a) prohibiting persons from depositing any solid waste except at a solid-waste management facility;

(b) regulating the disposal, collection and removal of solid waste;

(c) regulating the use of containers for solid waste;

(d) licensing persons engaged in the business of removing or collecting solid waste, regulating the operation of the business and prohibiting, in whole or in part, the operation of such a business by a person not holding a licence;

(e) prescribing the materials that may or may not be deposited at a solid-waste management facility of the Municipality or in which the Municipality participates;

(f) prescribing the terms and conditions under which a deposit may be made at a solid-waste management facility of the Municipality or in which the Municipality participates, including the amount and manner of payment of any fees and charges to be paid for the deposit;

(g) requiring the separation of solid waste prior to collection;

(h) setting fees or charges for removal of solid waste;

(i) requiring compliance with a waste resource diversion strategy;

(j) respecting anything required to implement the integrated solid-waste resource management strategy of the Municipality. 2008, c. 39, s. 335.

Solid-waste management

419 (1) The Municipality may provide compensation to an area, to the property owners in an area or to the residents of an area in which a solid-waste management facility is located in amounts, and under the conditions, determined by the Council.

(2) The Municipality may contract with other municipalities or persons for the use of any component of its solid-waste management program. 2008, c. 39, s. 336.

PART XIV**SEWERS****Injury to wastewater facilities or stormwater system**

420 No person shall injure or remove any portion of wastewater facilities or a stormwater system, except as directed by the Engineer. 2008, c. 39, s. 337.

Connection to wastewater facilities or stormwater system

421 (1) The Council may, by policy, prescribe standards and specifications for connections to wastewater facilities and stormwater systems and the conditions under which connections may be made.

(2) No person shall make a connection to wastewater facilities or a stormwater system

(a) in violation of any policy or bylaw made pursuant to this Act;

(b) without the approval of the Engineer. 2008, c. 39, s. 338.

Building service connection

422 (1) An owner is responsible for the design, construction and maintenance of that part of a building service connection determined by the Council by bylaw, whether on privately-owned property or not.

(2) The construction of a building service connection is subject to the supervision of the Engineer.

(3) A building service connection must be of the size and at the grade, and with the mode of piercing or opening into the sewer, and generally be constructed in the manner and of the materials approved by the Engineer.

(4) No building service connection may be covered in until it is inspected and approved by the Engineer.

(5) Where the owner, or an agent of the owner, covers in a building service connection before it is inspected and a certificate of approval issued, the Engineer may open it for the purpose of inspection.

(6) The Engineer may repair or replace a building service connection with the consent of the owner and at the expense of the owner. 2008, c. 39, s. 339.

Abandonment of sewer connection

423 (1) When a sewer connection is abandoned, the owner shall effectively block up the connection at the sewer in a manner approved by the Engineer.

(2) The blocking up must be inspected and approved by the Engineer before it is covered.

(3) Where the owner or the owner's agent covers in a blocked sewer connection before it is inspected and a certificate of approval issued, the Engineer may open it for the purpose of inspection.

(4) Where the owner does not effectively block up a sewer connection within 24 hours from the receipt of a notice from the Engineer to do so, the Engineer may cause it to be done. 2008, c. 39, s. 340.

Repairs required to connection

424 (1) Where a building service connection or special sewer connection is causing a municipal sewer to malfunction and repairs to the connection would result in the malfunction being cured, the Engineer may require the owner of the property in which any portion of the connection that requires repairs is located to complete the repairs within a reasonable time specified by the Engineer.

(2) Where the repairs required are not completed by the owner within the time specified, the Engineer may cause the repairs to be completed. 2008, c. 39, s. 341.

Requirement to connect to municipal sewer

425 (1) The Engineer may give notice in writing to an owner of property that may be served by a sewer requiring that owner, within the time specified in the notice, to connect with the municipal sewer by a building service connection.

(2) The Engineer may require an owner to repair, reconstruct or replace a building service connection.

(3) Where a building service connection is not laid, built and connected with the municipal sewer or any other work in connection with the building service connection is not done to the satisfaction of the Engineer, the Engineer shall, in writing, notify the owner of the property served or to be served by the building service connection to that effect, specifying in what particulars the work is unsatisfactory and, where the owner fails to perform the work to the satisfaction of the Engineer within seven days from the receipt of the notice, the Engineer may perform the necessary work. 2008, c. 39, s. 342.

Prohibited discharge of substances

426 (1) No person shall permit the discharge into wastewater facilities or a stormwater system of the Municipality or into wastewater facilities or a stormwater system or building service connection connecting with the wastewater facilities or stormwater system of the Municipality of

(a) a liquid or vapour having a temperature higher than that specified by the Council, by bylaw;

(b) inflammable or explosive matter;

(c) a quantity of matter capable of obstructing the flow in, or interfering with, the proper operation of a part of the sewage works and treatment process;

(d) sewage that has any corrosive property that could be hazardous to structures, equipment or personnel;

(e) sewage of such quality that an offensive odour or foam could emanate from the wastewater facilities system or that could cause a nuisance;

(f) sewage containing fish or animal offal or pathological or medical wastes;

(g) the contents of septic tanks, holding tanks or wastes from marine vessels or vehicles or sludge from sewage treatment plants;

(h) sewage containing animal fats, wax, grease or vegetable oil in liquid or solid form in concentrations exceeding those specified by the Council, by bylaw;

(i) sewage containing herbicides, pesticides, xenobiotics, polychlorinated biphenols or radioactive materials that are not approved for disposal in a sanitary sewer by the Atomic Energy Control Board of Canada;

(j) sewage in concentrations of suspended solids that exceed the limit specified by the Council by bylaw;

(k) sewage that exerts or causes biological oxygen demand and chemical oxygen demand greater than amounts specified by the Council, by bylaw, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment facilities;

(l) sewage that contains toxic substances at the point of discharge to the municipal sewer in excess of the concentrations specified by the Council, by bylaw; or

(m) sewage containing substances for which special treatment or disposal practices are required by any applicable enactments of Canada or the Province,

and compliance with any limit is not attainable simply by dilution.

(2) The Council may, by bylaw,

(a) prohibit the discharge of named substances into any building service connection, wastewater facilities or stormwater system;

(b) prescribe conditions under which the discharge of contaminants set out in this Section or in a bylaw may be permitted, and shall in the bylaw set out the contaminant the discharge of which is permitted, and the requirements of any agreements with respect to it;

(c) prescribe methods of testing and measurement to ensure compliance with this Part and any bylaw.

(3) A treatment or flow quantity control equalizing facility installed pursuant to a bylaw or an agreement made pursuant to this Section must be

maintained by the owner of the property on which it is installed at the expense of the owner. 2008, c. 39, s. 343.

Requirement for interceptors

427 (1) The Engineer may require an owner of land that is connected to wastewater facilities or a stormwater system of the Municipality to provide grease, oil and sand interceptors.

(2) All interceptors must be of a type and capacity approved by the Engineer and must be located so as to be readily and easily accessible for cleaning and inspection.

(3) Grease and oil interceptors must be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature and must be of substantial construction, watertight and equipped with easily removable covers that when bolted in place are gastight and watertight.

(4) Where the interceptors required are not provided by the owner within the time referred to in the notice, the Engineer may cause the interceptors to be provided. 2008, c. 39, s. 344.

Control service access

428 (1) The Engineer may require the owner of an industrial, commercial or institutional property served by a building service connection to install a suitable control service access in the building service connection to facilitate observation, sampling and measurement of the wastes.

(2) The control service access must be located and constructed in accordance with plans approved by the Engineer.

(3) The control service access must be installed by the owner at the owner's expense and must be maintained by the owner so as to be safe and accessible at all times.

(4) Where the control service access required is not provided by the owner within the time required by the Engineer, the Engineer may cause the control service access to be installed. 2008, c. 39, s. 345.

Bylaw regarding private on-site sewage disposal systems

429 The Municipality may, by bylaw, require owners of private on-site sewage disposal systems to have the systems pumped, emptied, cleaned, checked and maintained in accordance with the standards set out in the bylaw. 2008, c. 39, s. 346.

Requirement to connect to municipal sewer

430 (1) Where a municipal sewer becomes available to a property served by a private on-site sewage disposal system, the Engineer may require the owner of the property to connect the property to the municipal sewer.

(2) Upon receipt of a notice from the Engineer requiring a connection, the owner shall, within the time specified in the notice, cause the property to be connected to the municipal sewer by a building service connection.

(3) Where required by the Engineer, the owner shall cause any septic tank, cesspool, privy or private on-site sewage disposal system on the property to be abandoned and removed or filled with suitable material in a manner acceptable to the Engineer.

(4) Where the owner of a property is notified by an official of the Municipality or an official of the Government of the Province, pursuant to a bylaw or an enactment, to remove or close up a cesspit, septic tank, privy or private on-site sewage disposal system on the property, and the owner fails to comply with the notice, or where the owner of a property fails to comply with a notice requiring the construction of a building service connection in accordance with this Act, the Engineer may cause to be done all work necessary for compliance with the notice.

(5) The Engineer may require, as a part of the work necessary for compliance, the installation of a suitable water closet and its connection with a municipal sewer. 2008, c. 39, s. 347.

Prohibitions regarding discharge into sewer

431 No person shall

(a) permit stormwater, surface water, ground water, roof runoff, subsurface drainage, cooling water or industrial process waters to be discharged into a sanitary sewer;

(b) connect a sump pump to a sanitary sewer;

(c) discharge sewage anywhere except into a municipal sewer, private on-site sewage system or central sewage collection and treatment system; or

(d) permit any contents of a septic tank or cesspit to be discharged into a municipal sewer or watercourse. 2008, c. 39, s. 348.

Private wastewater facilities requirements

432 (1) A person who owns, maintains or operates private wastewater facilities or who owns or occupies land on or under which there are private wastewater facilities shall maintain and operate the system in such a manner that

(a) a danger to the public health is not created by the system;

(b) sewage or effluent from the system does not appear on the surface of the ground, or in any ditch, excavation or building basement;

(c) sewage or effluent from the system does not appear in any well or in any body of water from which water is used for drinking purposes;

(d) sewage or effluent from the system does not leak from any part of the system; and

(e) offensive odours are not emitted from the system.

(2) Where a person who owns, maintains or operates private wastewater facilities or who owns or occupies land on or under which there are private wastewater facilities fails or neglects to maintain or operate the system in the manner prescribed, the Engineer may cause to be served upon that person a notice requiring that the failure or neglect be corrected in the manner set out in the notice within seven days from the service of the notice.

(3) Where the failure or neglect is not corrected in accordance with the terms of the notice and within the time prescribed in the notice, the Engineer may cause to be done all work necessary for compliance with the notice. 2008, c. 39, s. 349.

Requirement to connect to municipal sewer

433 (1) Where a municipal sewer becomes available to a property served by private wastewater facilities, the Engineer may require the owner of the property to connect the property to the municipal sewer.

(2) Upon receipt of a notice from the Engineer requiring a connection, the owner shall, within the time specified in the notice, cause the property to be connected to the municipal sewer by a building service connection.

(3) The owner shall cause any private wastewater facilities or any portion of them on the property to be abandoned and removed or filled with suitable material.

(4) Where the owner of a property fails to comply with a notice of the Engineer pursuant to this Section, the Engineer may cause to be done all work necessary for compliance with the notice. 2008, c. 39, s. 350.

Abandonment of private wastewater facilities

434 (1) When a municipal sewer becomes available to all the properties served by private wastewater facilities, the person who owns, maintains or operates the private wastewater facilities shall cause them to be abandoned and removed or filled with suitable material.

(2) Where the person who owns, operates or maintains the private wastewater facilities fails to comply with subsection (1), the Engineer may cause to be done all work necessary for compliance. 2008, c. 39, s. 351.

Wastewater management districts

435 (1) The Council may, by bylaw, establish wastewater management districts.

(2) A bylaw establishing a wastewater management district must include

- (a) the boundaries of the wastewater management district;
- (b) the system of wastewater management to be used in the district; and

(c) the extent to which the Municipality is responsible for the repair, upgrading or replacement of private and municipal sewer systems.

(3) Where the Council has established a wastewater management district, the Municipality, its servants and agents may enter on any property within the wastewater management district to repair, upgrade or replace a public or private wastewater system and may, in accordance with the bylaw, charge any or all of the costs to the owners of the property served by the system. 2008, c. 39, s. 352.

Bylaws regarding stormwater and stormwater systems

436 (1) The Council may make bylaws,

(a) setting standards and requirements respecting stormwater management;

(b) requiring stormwater to be directed to or retained in areas specified in the bylaws;

(c) setting standards and requirements respecting the design, construction and installation of stormwater systems and related services and utilities;

(d) providing further criteria for the approval of stormwater systems that do not meet the standards and requirements set by bylaw, but that are an improvement over an existing stormwater system;

(e) regulating the use and maintenance of municipal and private stormwater systems;

(f) providing for the protection of municipal and private stormwater systems;

(g) prescribing when connection of stormwater systems to a municipal stormwater system is required;

(h) providing for exemptions from the requirement to connect stormwater systems to a municipal stormwater system;

(i) prescribing the circumstances under which the Engineer may undertake the work required to connect stormwater systems to a municipal stormwater system;

(j) regulating and setting standards for drainage;

(k) regulating and setting standards for grading, describing when the standards and requirements must be met, and exempting those classes of lots described in the bylaw;

(l) prohibiting the issuance of any municipal permits or approvals if a bylaw pursuant to this Part is not complied with and prescribing conditions under which, in such cases, the issuance of permits or approvals may be allowed, and any conditions that may be attached to them;

(m) regulating and setting standards with respect to the alteration, diversion, blocking or infilling of stormwater systems.

(2) The Engineer may direct a person to comply with a bylaw made pursuant to this Section and may direct restoration to the original condition if any work is done contrary to the bylaw.

(3) Where the Engineer undertakes the work required to connect stormwater systems to a municipal stormwater system pursuant to a bylaw, the cost may be recovered from the owner of land that the stormwater system benefits and is a first lien on that land. 2008, c. 39, s. 353.

PART XV

DANGEROUS OR UNSIGHTLY PREMISES

Requirement to maintain property

437 Every property in the Municipality must be maintained so as not to be dangerous or unsightly. 2008, c. 39, s. 354.

Delegation of authority and requirement to report

438 (1) The Council may, by policy, delegate some or all of its authority pursuant to this Part, except the authority to order demolition, to the Administrator.

(2) The Council may, by policy, delegate its authority pursuant to this Part, or such of its authority as is not delegated to the Administrator, to a community council or to a standing committee, for all or part of the Municipality.

(3) The Administrator shall at least twice per year table a public report to the Council describing the status of dangerous or unsightly property orders, including remedial progress made regarding properties for which orders were issued pursuant to this Part. 2008, c. 39, s. 355; 2011, c. 4, s. 3.

Order to remedy condition

439 (1) Where a property is dangerous or unsightly, the Council may order the owner to remedy the condition by removal, demolition or repair, specifying in the order what is required to be done.

(2) An owner may appeal an order of the Administrator to the Council, or to the committee to which the Council has delegated its authority, within seven days after the order is made.

(3) Where it is proposed to order demolition, not less than seven days notice must be given to the owner specifying the date, time and place of the meeting at which the order will be considered and that the owner will be given the opportunity to appear and be heard before any order is made.

(4) Where the Council or the committee varies or overturns the order of the Administrator, the Council or committee shall provide reasons to be recorded in the minutes of the Council or committee meeting.

(5) The notice may be served by being posted in a conspicuous place upon the property or may be served upon the owner. 2008, c. 39, s. 356; 2011, c. 4, s. 4.

Declaration and order to remedy condition

440 (1) The Municipality may apply to a court of competent jurisdiction for a declaration that a property is dangerous or unsightly and an order specifying the work required to be done to remedy the condition by removal, demolition or repair.

(2) The court may order any property found to be dangerous or unsightly to be vacated until the condition is remedied.

(3) The court may, where any property is found to be dangerous or unsightly, order that no rent becomes due, or is payable by, any occupants until the condition is remedied. 2008, c. 39, s. 357.

Service of order and failure to comply

441 (1) In this Section, “order” means an order made by the Administrator, committee, Council or court pursuant to this Part.

(2) An order may be served by being posted in a conspicuous place upon the property or may be served upon the owner.

(3) Where the owner fails to comply with the requirements of an order within the time specified in the order, the Administrator may enter upon the property without warrant or other legal process and carry out the work specified in the order.

(4) After the order is served, any person who permits or causes a dangerous or unsightly condition, continues to permit or cause a dangerous or unsightly condition or who fails to comply with the terms of the order is liable, on summary conviction, to a penalty of not less than \$100 and not more than \$5,000, and in default of payment to imprisonment for not more than three months.

(5) Any monetary penalty payable pursuant to subsection (4) may not be remitted pursuant to the *Remission of Penalties Act* unless the penalty relates to a property that is the primary residence of a person required to pay the penalty.

(6) Every day during which the condition is not remedied is a separate offence. 2008, c. 39, s. 358; 2011, c. 4, s. 5.

Removal of occupants

442 Where an order requires the demolition or removal of a building, the Administrator may cause the occupants to be removed, using force if required, in order to effect the demolition or removal. 2008, c. 39, s. 358.

Order to vacate unsafe property

443 (1) A property within the Municipality that is unsafe must be vacated forthwith upon order of the Administrator.

(2) The Administrator shall post notice that the property is unsafe in a conspicuous place on the property.

(3) The notice must remain posted until the unsafe condition is remedied. 2008, c. 39, s. 359.

Immediate action for public safety

444 Where public safety requires immediate action, the Administrator may immediately take the necessary action to prevent danger or may remove the dangerous structure or condition. 2008, c. 39, s. 360.

Proceedings where land sold for non-payment of taxes

445 Where land is sold for non-payment of taxes and the period for its redemption has not expired, proceedings may be taken in respect of the repair, removal or destruction of any structure on the land by reason of its condition and, where the purchaser of the land is

(a) the Municipality, any notice required to be given with respect to an order for removal or destruction must be given to the person who was entitled to receive it immediately before the day on which the land was sold; and

(b) any person other than the Municipality, the notice must be given to both the person entitled to receive it immediately before the day on which the land was sold and the purchaser at the tax sale. 2008, c. 39, s. 361.

Power of entry

446 (1) The Administrator may, for the purpose of ensuring compliance with this Part, enter in or upon any land or premises at any reasonable time without a warrant.

(2) Except in an emergency, the Administrator shall not enter any room or place actually being used as a dwelling without the consent of the occupier unless the entry is made in daylight hours and written notice of the time of the entry has been given to the occupier at least 24 hours in advance.

(3) Where a person refuses to allow the Administrator to exercise, or attempts to interfere or interferes with the Administrator in the exercise of a power pursuant to this Act, the Administrator may apply to a justice or a judge of the Supreme Court of Nova Scotia for an order to allow the Administrator entry to the building and an order restraining a person from further interference. 2008, c. 39, s. 362; 2014, c. 16, s. 9.

No action lies

447 No action lies against the Municipality or against the Administrator or any other employee of the Municipality for anything done pursuant to this Part. 2008, c. 39, s. 363.

PART XVI**BOUNDARIES****Municipal Government Act provisions apply**

448 Part XVI of the *Municipal Government Act* applies to the Municipality. 2008, c. 39, s. 364.

PART XVII

MUNICIPAL AFFAIRS

Municipal Government Act provisions apply

449 Part XIX of the *Municipal Government Act* applies to the Municipality. 2008, c. 39, s. 365.

PART XVIII

FREEDOM OF INFORMATION
AND PROTECTION OF PRIVACY**Municipal Government Act provisions apply**

450 Part XX of the *Municipal Government Act* applies to the Municipality. 2008, c. 39, s. 366.

PART XIX

GENERAL

Municipality may act where direction not followed

451 (1) Where the Council, a committee or a community council or the Engineer, the Administrator or another employee of the Municipality lawfully directs that anything be done and it is not done, the Council, Engineer, Administrator or employee may cause it to be done at the expense of the person in default.

(2) No action lies against the Municipality or any agent, servant or employee of the Municipality for anything done pursuant to this Section. 2008, c. 39, s. 367.

Inspections

452 (1) Where an inspection is required or conducted pursuant to a bylaw or an enactment,

(a) an inspector may enter in or upon land or premises at a reasonable time without a warrant;

(b) except in an emergency, an inspector shall not enter a room or place actually being used as a dwelling without the consent of the occupier, unless the entry is made in daylight hours and written notice of the time of the entry is given to the occupier at least 24 hours in advance.

(2) Where a person refuses to allow an inspector to exercise, or attempts to interfere or interferes with an inspector in the exercise of, a power granted pursuant to this Act, the inspector may apply to a justice or a judge of the Supreme Court of Nova Scotia for an order

(a) to allow the inspector entry to the building; and

(b) restraining a person from further interference.

(3) It is an offence to refuse access to an inspector or to interfere with an inspector in the exercise of a power granted pursuant to this Act.

(4) No action lies against the Municipality or any agent, servant or employee of the Municipality for anything done pursuant to this Section. 2008, c. 39, s. 367; 2014, c. 16, s. 10.

No liability regarding inspection of buildings or other property

453 (1) Where the Municipality inspects buildings or other property pursuant to this Act or another enactment, the Municipality and its officers and employees are not liable for a loss as a result of the manner or extent of an inspection or the frequency, infrequency or absence of an inspection, unless the Municipality was requested to inspect at appropriate stages, and within a reasonable time, before the inspection was required, and either the Municipality failed to inspect or the inspection was performed negligently.

(2) An inspection is not performed negligently unless it fails to disclose a deficiency or a defect that

- (a) could reasonably be expected to be detected; and
- (b) the Municipality could have ordered corrected.

(3) Notwithstanding the *Limitation of Actions Act* or another statute, the Municipality and its officers and employees are not liable for a loss as a result of an inspection or failure to inspect, if the claim is made more than six years after the date of the application for the permit in relation to which the inspection was required. 2008, c. 39, s. 368.

No liability where expert certification or representation

454 Where the Municipality receives a certification or representation by an engineer, architect, surveyor or other person held out to have expertise respecting the thing being certified or represented, the Municipality and its officers and employees are not liable for any loss or damage caused by the negligence of the person so certifying or representing. 2008, c. 39, s. 368.

Offence and penalty

455 (1) A person who

- (a) violates a provision of this Act or of an order, regulation or bylaw in force in accordance with this Act;
- (b) fails to do anything required by an order, regulation or bylaw in force in accordance with this Act;
- (c) permits anything to be done in violation of this Act or of an order, regulation or bylaw in force in accordance with this Act; or
- (d) obstructs or hinders any person in the performance of their duties under this Act or under any order, regulation or bylaw in force in accordance with this Act,

is guilty of an offence.

(2) Unless otherwise provided in a bylaw, a person who commits an offence is liable, upon summary conviction, to a penalty of not less than \$100 and not more than \$10,000 and in default of payment, to imprisonment for a term of not more than two months.

(3) Every day during which an offence pursuant to subsection (1) continues is a separate offence.

(4) In addition to a fine imposed for contravening a provision of this Act, a regulation or a bylaw of the Municipality made pursuant to this Act, a judge may order the person to comply with the provision, order, regulation or bylaw under which the person was convicted, within the time specified in the order. 2008, c. 39, s. 369.

Offence and penalty regarding posted notice or order

456 A person who removes, defaces or makes illegible a notice or order posted pursuant to this Act is guilty of an offence and is liable, on summary conviction, to a penalty of not less than \$100 nor more than \$5,000 and in default of payment, to imprisonment for a period of not more than 90 days. 2008, c. 39, s. 370.

Limitation period for land-use bylaw or development agreement offence

457 Notwithstanding the *Summary Proceedings Act*, the limitation period for the prosecution of an offence under a land-use bylaw or a development agreement is two years from the date of the commission of the alleged offence. 2010, c. 16, s. 9.

Cost of work is first lien

458 Where the Council, a committee or a community council or the Engineer, the Administrator or another employee of the Municipality lawfully causes work to be done pursuant to this Act, the cost of the work, with interest at the rate determined by the Council, by policy, from the date of the completion of the work until the date of payment, is a first lien on the property upon which, or for the benefit of which, the work was done. 2008, c. 39, s. 371.

Offence and penalty where not otherwise specified

459 Where no penalty is specified for the violation of this Act, a person who contravenes the provision is guilty of an offence and is liable, on summary conviction, to a penalty of not less than \$100 and not more than \$5,000 and in default of payment, to imprisonment for a period of not more than 90 days. 2008, c. 39, s. 372.

Service of notice

460 (1) Any notice, decision or other document required to be served pursuant to this Act may be served personally, by mailing it to the person at the latest address shown on the assessment roll, by electronic mail or by facsimile.

(2) A notice, decision or other document is deemed to have been served on the third day after it was sent. 2008, c. 39, s. 373.

Service on Clerk sufficient

461 Where notice is authorized or required to be served on the Municipality, service on the Clerk is sufficient service. 2008, c. 39, s. 374.

Action brought in corporate name

462 An action brought by or against the Municipality must be brought by or against it in its corporate name. 2008, c. 39, s. 375.

Limitation period and notice of intended action

463 (1) For the purpose of the *Limitation of Actions Act*, the limitation period for an action or proceeding against the Municipality, the Council, a Council member, an officer or employee of the Municipality or against any person acting under the authority of any of them, is 12 months.

(2) Subsection (1) applies, with all necessary changes, to a service commission and a board, commission, authority, agency or corporation of the Municipality or a board, commission, authority, agency or corporation jointly owned or established by the Municipality and one or more other municipalities or villages.

(3) Notice must be served on the intended defendant at least one month prior to the commencement of an action against any parties listed in subsection (1) or (2) stating the cause of action, the name and address of the person intending to sue and the name and address of that person's solicitor or agent, if any. 2008, c. 39, s. 376.

No liability—service provision, public place and enforcement

464 The Municipality or an intermunicipal corporation created pursuant to Section 92, and its officers and employees, are not liable for

(a) failure to provide a service or the manner in which a service is provided, unless the Municipality or intermunicipal corporation fails to meet a standard of care to be determined having regard to financial, economic, personnel, social, political and other factors or constraints in the circumstances, including whether the service is a volunteer or partly volunteer service;

(b) failure to maintain a public place, that is subject to the direction, control and management of the Municipality or intermunicipal corporation, in a reasonable state of repair, unless the Municipality or intermunicipal corporation has actual or constructive notice of the state of disrepair and fails to take steps to remedy or otherwise deal with the state of disrepair within a reasonable time;

(c) failure to enforce a bylaw, unless the decision not to enforce the bylaw is not made in good faith. 2008, c. 39, s. 377.

No liability—overflow

465 Where an overflow of water from a sewer, drain, ditch or watercourse is a consequence of snow, ice or rain, the Municipality or an intermunicipal corporation is not liable for a loss as a result of the overflow. 2008, c. 39, s. 377.

No liability—sewage or water

466 The Municipality or an intermunicipal corporation created pursuant to Section 92, and its officers and employees, are not liable for damages caused

- (a) directly or indirectly, by
 - (i) the operation, maintenance, repair, breaking or malfunction of wastewater facilities, a stormwater system or a water system, or
 - (ii) interference with the supply of water through a water system,

unless the damages are shown to be caused by the negligence of the Municipality or intermunicipal corporation or its officers or employees;

- (b) by the discharge of sewage or water into premises from a municipal sewer unless the discharge was caused by the improper construction, or neglect in the maintenance of, the sewer or a failure to remedy a matter that was known, or reasonably should have been known, to the Municipality or intermunicipal corporation and should reasonably have been repaired; or

- (c) in any case, where this Act or the bylaws of the Municipality or intermunicipal corporation have not been complied with by an owner or previous owner of the property. 2008, c. 39, s. 378.

No liability—operation of utility or provision of service

467 Where the Municipality or an intermunicipal corporation created pursuant to Section 92 operates a utility or provides a service, it is not liable for a loss as a result of the breakage of a pipe, conduit, pole, wire, cable or a part of the utility or service or the discontinuance or interruption of a service or connection by reason of

- (a) accident;
- (b) disconnection for non-payment or non-compliance with a term or condition of service; or
- (c) necessity to repair or replace a part of the utility or service. 2008, c. 39, s. 379.

No liability—nuisance

468 The Municipality or intermunicipal corporation is not liable for nuisance as a result of the construction or operation of a work, if the nuisance could not be avoided by any other practically feasible method of carrying out the work. 2008, c. 39, s. 379.

Right of indemnity—street or sidewalk

469 Where the Municipality is found liable for damages as a result of the unsafe condition of a street or sidewalk, or of a nuisance or encumbrance on it, the Municipality has a right of indemnity for all such damages, and for costs and expenses incurred in connection therewith, against any person whose act or omission caused the street or sidewalk to be unsafe or caused the nuisance or encumbrance. 2008, c. 39, s. 380.

Right of indemnity against Crown

470 (1) Where the Municipality is found liable for damages as a result of the unsafe condition of a street, bridge or sidewalk that was transferred to it by the Crown in right of the Province, it has a right of indemnity for all such damages, and for costs and expenses incurred in connection therewith, against the Crown.

- (2)** Subsection (1) does not apply to a street, bridge or sidewalk
- (a) reconstructed or substantially rebuilt or repaired by the Municipality; or
 - (b) after 10 years from the date on which it was transferred to the Municipality. 2008, c. 39, s. 381.

Solid-waste landfills

471 (1) The provisions of Parts VIII and IX and the municipal planning strategies, land-use bylaws and subdivision bylaws in force in the Municipality do not apply to the development, establishment, siting, operation or use of a site acquired in the Municipality as a solid-waste landfill site or to the subdivision of land in connection therewith.

(2) Where the solid-waste landfill is sited outside the bounds of the Municipality, Parts VIII and IX and the municipal planning strategies, land-use bylaws and subdivision bylaws in force in the host Municipality apply.

(3) The Municipality may not charge any costs incurred by the former Halifax County Municipality in designing or siting the sanitary landfill and in developing the integrated solid-waste resource management strategy of the Municipality solely to residents of the former Halifax County Municipality, and all such costs incurred after July 1, 1994, must be paid by the Municipality from its general rate. 2008, c. 39, s. 384.

Motor Vehicle Act

472 (1) Notwithstanding the *Motor Vehicle Act*, the use of a red light on a vehicle operated by a special constable employed by the Municipality, in the course of the special constable's duties, is permitted within municipal parks.

(2) Where subsection 249(2) of the *Motor Vehicle Act* requires that signs be erected to make effective a resolution restricting the use of a highway, the local authority of the Municipality, at least three days before the effective date of such a resolution, may cause a notice to be published in a newspaper circulating in the Municipality stating the effect of the resolution, and the publication of the notice fulfills the requirement of subsection 249(2) of the *Motor Vehicle Act* to erect signs. 2008, c. 39, s. 385.

Requirement to consult on proposed amendments

473 (1) The Minister shall consult with the Municipality respecting any proposed amendment to this Act.

(2) The Municipality shall consult with the Minister respecting any proposed amendment to this Act. 2008, c. 39, s. 382.

Regulations

- 474 (1)** The Minister may make regulations
- (a) defining any term used, but not defined, in this Act;
 - (b) prescribing forms and procedures for the purpose of this Act;
 - (c) altering forms set out in this Act;
 - (d) prescribing expense categories to be a reportable municipal expense;
 - (e) respecting expense policies, hospitality policies and codes of conduct, including requirements in respect of
 - (i) scope,
 - (ii) application,
 - (iii) content,
 - (iv) record-keeping,
 - (v) submission,
 - (vi) publication, and
 - (vii) frequency of posting or reporting;
 - (f) for the effective administration of this Act; and
 - (g) for the collection, standardization, maintenance and sharing of information related to the subdivision and development of land.

(2) Regulations made pursuant to Section 617 of the *Municipal Government Act* are regulations pursuant to subsection (1) to the extent that they may be applicable to the Municipality except as otherwise provided by those regulations or regulations made pursuant to this Section.

(3) The forms contained in the Schedule to Chapter 39 of the Acts of 2008 are deemed to be prescribed pursuant to clause (1)(b) and to have been published in accordance with the *Regulations Act* and may be amended or repealed pursuant to this Act.

(4) The exercise by the Minister of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2008, c. 39, s. 383; 2017, c. 13, s. 18.

PART XX**TRANSITIONAL****Continuation in force**

475 The bylaws, orders, policies and resolutions in force in the Municipality immediately prior to January 13, 2009, continue in force to the extent that they are authorized by this Act or another Act of the Legislature until amended or repealed. 2008, c. 39, s. 386.

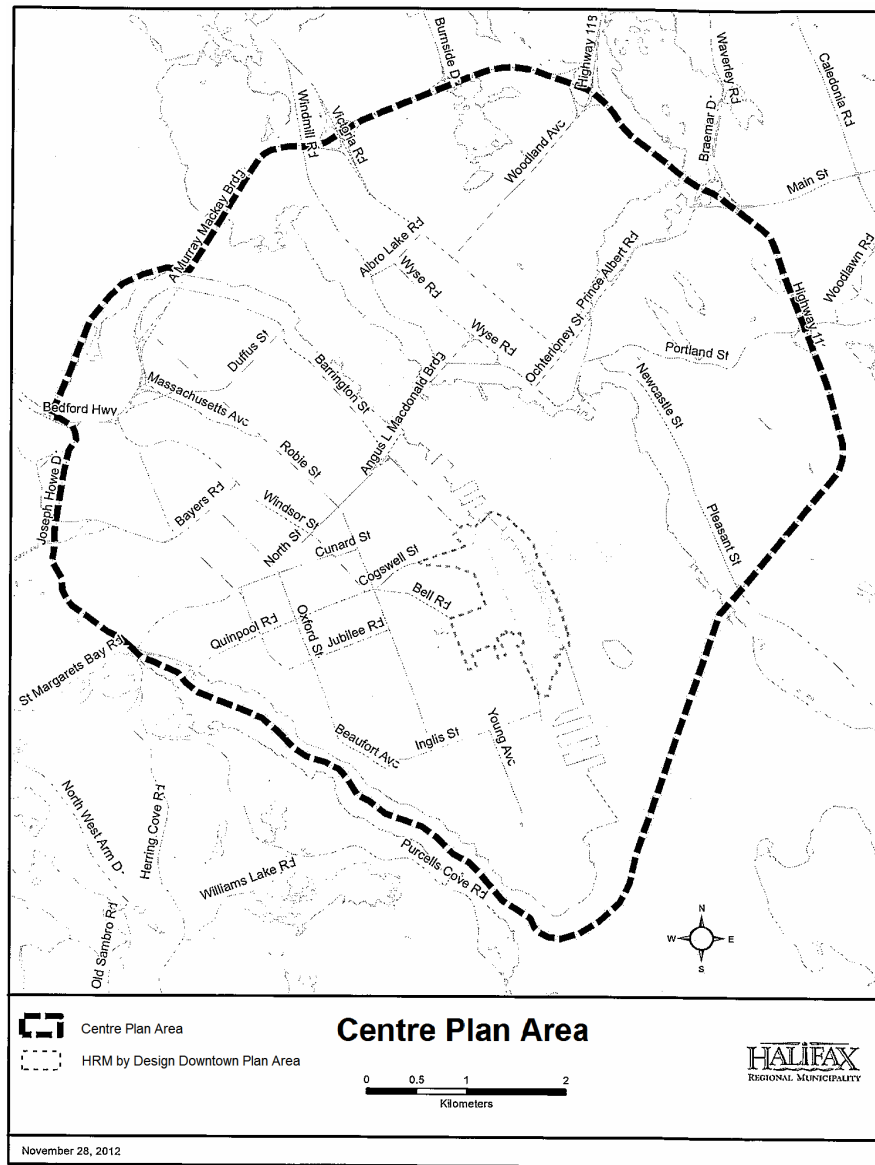
Reference to Municipal Government Act

476 A reference in an enactment to the *Municipal Government Act*, or part thereof, is, to the extent that it relates to the Municipality, to be read as including a reference to the provisions of this Act relating to the same subject-matter. 2008, c. 39, s. 390.

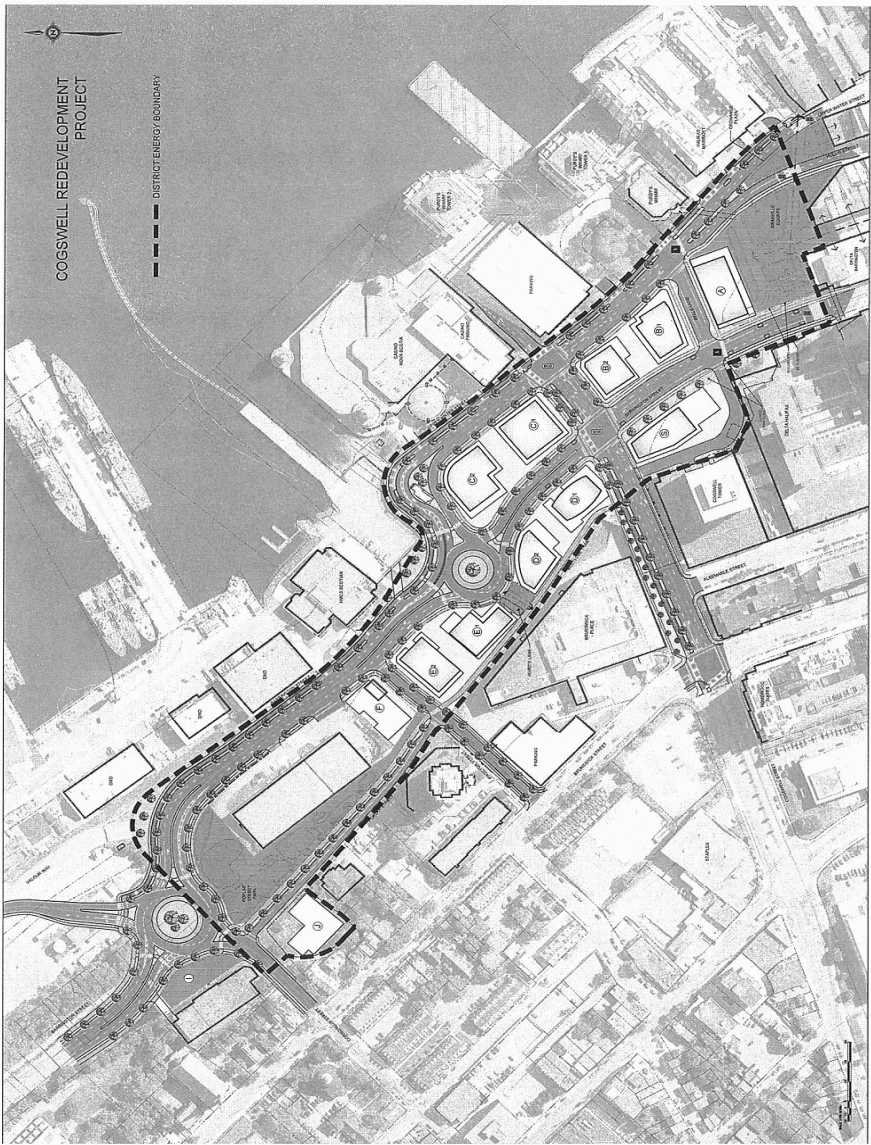
SCHEDULE A

2008, c. 41, s. 14.

SCHEDULE B



SCHEDULE C



2018, c. 9, s. 6.

CHAPTER H-3

An Act Respecting the Halifax Regional Water Commission

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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 *Halifax Regional Water Commission Act*. 2007, c. 55, s. 1.

Interpretation

- 2 (1)** In this Act,
- “Board” means the Nova Scotia Utility and Review Board;
 - “Charter” means the *Halifax Regional Municipality Charter*;
 - “Commission” means the Halifax Regional Water Commission;
 - “Commission Board” means the Board of the Commission;
 - “Commissioner” means a member of the Commission Board;
 - “Council” means the Council of the Regional Municipality;
 - “General Manager” means the person appointed as General Manager pursuant to Section 18 and, unless the context indicates otherwise, includes a person acting under the General Manager’s supervision and direction;
 - “land” includes
 - (a) any land, whether held in fee simple or for any lesser estate or interest;
 - (b) any stream, water course or land covered with water, or the right to dam up or stop any flow of water and thereby to overflow any land; and
 - (c) any easement or right in, upon or over any land or any other estate, right or interest therein, including land covered with water;
 - “Minister” means the Minister of Municipal Affairs and Housing;
 - “municipal planning strategy” means a municipal planning strategy as defined in Section 258 of the Charter;
 - “Regional Municipality” means the Halifax Regional Municipality;
 - “Regulations” means the rates, rules and regulations made by the Commission and approved by the Board;
 - “sewage” means the combination of liquid and water-carried wastes from buildings, containing animal, vegetable or mineral matter in suspension or solution, together with such groundwater, surface water or stormwater as might be present;
 - “sewer” means a pipe or conduit for carrying sewage, groundwater, stormwater or surface runoff, and includes all sewer drains,

storm sewers, clearwater sewers, storm drains and combined sewers vested in, or under the control of, the Commission;

“stormwater” means water from precipitation of all kinds, and includes water from the melting of snow and ice, groundwater discharge and surface water;

“stormwater system” means a method or means of carrying stormwater, including ditches, swales, sewers, drains, canals, ravines, gullies, pumping stations, retention ponds, streams, watercourses, floodplains, ponds, springs, creeks, streets or private roads, roadways or driveways;

“wastewater facilities” means the structures, pipes, devices, equipment, processes or other things used, or intended, for the collection, transportation, pumping or treatment of sewage and disposal of the effluent;

“water system” means the source, structures, pipes, hydrants, meters, devices, equipment or other things used, or intended, for the collection, transportation, pumping or treatment of water.

(2) Words and expressions not defined in this Act have the same meaning as in the Charter, unless the context otherwise requires. 2007, c. 55, s. 2; 2012, c. 60, s. 1; 2016, c. 23, s. 1.

Halifax Regional Water Commission continued

3 (1) The Halifax Regional Water Commission, originally incorporated as the Public Service Commission of Halifax pursuant to Chapter 47 of the Acts of 1944, is continued.

(2) The Commission is a corporation without share capital to which the *Companies Act* does not apply. 2007, c. 55, s. 3; 2016, c. 23, s. 2.

Wind-up and dissolution

4 (1) Subject to the approval of the Governor in Council, the Council may by resolution direct the wind-up and dissolution of the Commission.

(2) For the purpose of the *Companies Winding Up Act*, anything that is to be done by resolution, extraordinary resolution or special resolution of the Commission may be done by resolution of the Council. 2016, c. 23, s. 3.

Commission Board

- 5 (1) The Commission Board consists of
- (a) seven residents of the Regional Municipality, up to four of whom may be members of the Council, appointed by the Council;
 - (b) one member of the Regional Municipality staff, appointed by the Chief Administrative Officer of the Regional Municipality, who must be a non-voting member of the Commission Board.

(2) Where, for any reason, there is a vacancy on the Commission Board, the Commissioners who are appointed and have consented to act may continue to act and to exercise all the powers or functions of the Commission Board until the vacancy is filled.

(3) In making appointments to the Commission Board, the Council shall take into consideration expertise, competency and any other factors set out in policy.

(4) Each Commissioner appointed pursuant to clause (1)(a) holds office for a term of two or three years at the discretion of the Council, but ceases to hold office

(a) upon ceasing to be a member of the Council, if the Commissioner was appointed while a Council member;

(b) upon ceasing to be a resident of the Regional Municipality; or

(c) if the Commissioner, without leave of the Commission Board, is absent from three consecutive meetings of the Commission Board.

(5) The Commissioner appointed pursuant to clause (1)(b) holds office for such a term as is designated by the Chief Administrative Officer at the time of the appointment, but ceases to hold office upon ceasing to be a member of the staff of the Regional Municipality.

(6) Each Commissioner is eligible for reappointment.

(7) Subject to subsection (4), where a person appointed pursuant to clause (1)(a) ceases to be a Commissioner before the person's term of office expires, the Council shall, within two months after the person ceased to be a Commissioner, appoint a person pursuant to clause (1)(a) to fill the vacancy, and the person so appointed holds office as long as that person has the qualifications required by clause (1)(a) for the remainder of the term of the person who ceased to be a Commissioner.

(8) Where a person appointed pursuant to clause (1)(b) ceases to be a Commissioner, the Chief Administrative Officer shall appoint to the Commission Board another member of the staff of the Regional Municipality to fill the vacancy and the person so appointed holds office for such a term as is designated by the Chief Administrative Officer. 2007, c. 55, s. 4; 2012, c. 60, s. 2; 2016, c. 23, s. 4.

Commissioner an officer

6 Each Commissioner is an officer of the Commission for the purpose of any immunities conferred by this Act. 2012, c. 60, s. 3.

Chair and Vice-chair

7 The Commission Board shall appoint a Chair and a Vice-chair from among its members to hold office until their successors are appointed. 2012, c. 60, s. 3.

Secretary and Treasurer

8 (1) The Commission Board shall appoint a Secretary and a Treasurer from among its members or from among the employees of the Commission to hold office until their successors are appointed.

(2) The duties of the Secretary and of the Treasurer shall be determined by the Commission.

(3) One person may be appointed as both Secretary and Treasurer. 2012, c. 60, s. 3.

Roles and responsibilities of Commissioners

9 (1) The roles and responsibilities of the Commissioners appointed pursuant to clause 5(1)(a) who are members of the Council and the Commissioner appointed pursuant to clause 5(1)(b) are as prescribed by policy.

(2) The Commissioners appointed pursuant to clause 5(1)(a) who are members of the Council and the Commissioner appointed pursuant to clause 5(1)(b) shall share information with the Council in accordance with policy. 2016, c. 23, s. 5.

Quorum

10 Four voting Commissioners constitute a quorum of the Commission Board. 2012, c. 60, s. 3.

Honorarium

11 Commissioners who are not members of the Council may be paid from the revenue of the Commission such annual honorarium as the Commission Board determines, but the total of the annual honoraria must not exceed one tenth of one per cent of the gross annual revenue of the Commission. 2012, c. 60, s. 3.

Bylaws, rules, regulations and policies

12 The Commission Board may from time to time make such bylaws, rules, regulations and policies not inconsistent with this Act or the *Public Utilities Act*, as it considers necessary or proper for the management of its affairs. 2007, c. 55, s. 5.

Owner of business

13 The Regional Municipality is the owner of the business of the Commission for all purposes, including surplus payments as provided for herein and entitlement to the assets of the Commission in the event of dissolution or winding down of the Commission. 2007, c. 55, s. 6; 2016, c. 23, s. 6.

Conflict between Acts

14 Where there is a conflict between this Act and the Charter, this Act prevails. 2012, c. 60, s. 4.

Powers of Commission

15 (1) Subject to the supervision and regulation of the Board pursuant to the *Public Utilities Act*, the Commission may

- (a) acquire, own or operate
 - (i) water systems, facilities and utilities,
 - (ii) wastewater systems, facilities and utilities, and
 - (iii) stormwater systems, facilities and utilities,

for the purpose of providing water, wastewater and stormwater services to customers located within the Regional Municipality;

- (b) subject to the approval and direction of the Council, acquire, own or operate

- (i) water systems, facilities and utilities,
 - (ii) wastewater systems, facilities and utilities, and
 - (iii) stormwater systems, facilities and utilities,

for the purpose of providing water, wastewater and stormwater services to customers located outside of the Regional Municipality;

- (c) subject to the approval and direction of the Council, engage in business activities incidental to any of the operations of the Commission referred to in clause (a) or (b), including the generation of heat or electricity in whole or in part from by-products of any of those operations;

- (d) subject to any applicable municipal bylaw, lease land owned by the Commission for the erection, maintenance and operation of wind turbines;

- (e) exercise all necessary powers in relation to the activities, operations and purposes of the Commission as set out in this Act or any other Act, including the power to

- (i) subject to subsections (4) and (5), enter into and carry out contracts,
 - (ii) buy, sell or lease interests in real or personal property,
 - (iii) borrow and invest money,
 - (iv) receive and issue negotiable instruments, and
 - (v) hire employees and participate in pension plans or provide pension benefits.

(2) For greater certainty, the authority contained in clauses (1)(a) and (b) includes the authority to acquire, own or operate systems, facilities and utilities not located within the Regional Municipality.

(3) The Commission may carry out an activity authorized under clause (1)(b) or (c) only if the activity is carried out without subsidy from any of the operations of the Commission referred to in clause (1)(a).

(4) The Commission may not enter into a contract with a person other than a municipality, a municipal body as defined in Section 553 of the *Municipal Government Act*, a municipal water utility, the Government of the Prov-

ince or of Canada or a band council pursuant to the *Indian Act* (Canada) for the purpose of providing water, wastewater or stormwater services.

(5) The entering into of a contract with a municipality, a municipal body as defined in Section 553 of the *Municipal Government Act*, a municipal water utility, the Government of the Province or of Canada or a band council pursuant to the *Indian Act* (Canada) for the purpose of providing water, wastewater or stormwater services to the municipality, municipal body, municipal water utility, Government or band is subject to the approval and direction of the Council. 2016, c. 23, s. 7.

No action lies against Province

16 No action lies against the Crown in right of the Province as a direct or indirect result of any of the Commission's activities undertaken pursuant to Section 15. 2016, c. 23, s. 7.

No action lies against Regional Municipality

17 No action lies against the Regional Municipality or against any agent, servant or employee of the Regional Municipality for anything done by the Commission pursuant to Section 15. 2016, c. 23, s. 7.

General Manager and other personnel

18 (1) The Commission Board shall employ a General Manager and fix the salary, wages or other remuneration of the General Manager.

(2) The authority and responsibilities of the General Manager in relation to the Commission Board and Commission employees are the same as those of a municipality's chief administrative officer in relation to a municipal council and municipal employees under the Charter, with such changes as the context requires.

(3) The Commission shall employ such other staff as may be necessary or desirable to carry out its powers and responsibilities. 2007, c. 55, s. 8; 2012, c. 60, s. 6.

Powers of General Manager

19 (1) In relation to water, watershed protection, wastewater and stormwater services, systems and facilities that are within the subject-matter and territorial jurisdiction of the Commission, the General Manager has all the powers, privileges and immunities that a municipality's engineer has under the Charter, the *Municipal Government Act* or such successor legislation as may be enacted, with such changes as the context requires and, without limiting the generality of the foregoing, the General Manager's powers include

(a) where the Commission or the General Manager has authority to require that action be taken by a person, directing that the action be taken;

(b) where the General Manager directs that action be taken and no action is taken, causing the necessary work to be done at the expense of the person in default;

- (c) entry in or upon a property without a warrant at
 - (i) a reasonable hour upon reasonable notice to the owner and any occupier of the property, or
 - (ii) any time in the event of an emergency,

for the purpose of inspection, enforcement, investigation, observation, measurement, sampling, testing or work to be done in accordance with this Act or the Regulations, or in accordance with another enactment, regulation or bylaw;

(d) those powers of the engineer under Part XII of the Charter that relate to stormwater or stormwater systems, drainage or management in or near streets or roads;

(e) all the powers of the engineer under Part XIV of the Charter that relate to wastewater or stormwater facilities or systems or stormwater drainage or management, with such changes as the context requires; and

(f) all the powers of the engineer under Parts VIII and IX of the Charter in respect of subdivision applications and other municipal planning and development applications in relation to water, wastewater or stormwater services, infrastructure, systems or stormwater drainage or management, with such changes as the context requires.

(2) No person shall refuse or fail to take action when directed to do so by the General Manager pursuant to this Section.

(3) No action may be taken against the General Manager or the Commission or its officers or employees for anything done at the direction of the General Manager pursuant to this Section. 2007, c. 55, s. 9; 2012, c. 60, s. 7.

Enforcement of power

20 (1) Where a person refuses to allow the General Manager to exercise, or attempts to interfere or interferes with the General Manager in the exercise of, a power granted pursuant to this Act or another enactment, the General Manager may apply to a judge of the Supreme Court of Nova Scotia for an order

- (a) to allow the General Manager entry to premises; and
- (b) restraining a person from further interference.

(2) Any person who refuses access to the General Manager or interferes with an inspector in the exercise of a power granted pursuant to this Act or another enactment, is guilty of an offence. 2007, c. 55, s. 10.

Entry by Commission

21 Subject to the *Public Highways Act* and any applicable municipal bylaws, the Commission may, in the exercise of any of its powers, enter into and upon any streets, roads, highways, squares or other places or any lands or premises and make such excavations and do and perform such other work thereon as the Commission considers necessary or expedient, with respect to the operation and maintenance of its plant and equipment. 2007, c. 55, s. 11.

Expropriation

22 Subject to the *Expropriation Act*, the Commission may take and expropriate any land or any estate or interest in land for the purpose of the Commission. 2007, c. 55, s. 12.

Plan and description of land to be expropriated

23 Where the Commission decides to expropriate land, the Commission shall cause to be prepared a plan and description of the land and, for any purposes connected with any such expropriation, the Commission or any of its officers, servants or agents may enter upon any land in respect to which the expropriation is contemplated and survey or examine the land and, where necessary in the Commission's judgement, may make borings or other excavations therein and, where such expropriation is not made, any damage to the land must be paid for by the Commission. 2007, c. 55, s. 13.

Expropriation procedure

24 The procedures with respect to the expropriation of land and the determination of compensation are those set out in the *Expropriation Act*. 2007, c. 55, s. 14.

Compensation for expropriation

25 The amount of compensation payable for land expropriated or for injurious affection is the compensation payable under the *Expropriation Act*. 2007, c. 55, s. 15.

Bonds and debentures

26 (1) The Commission has power to issue and sell bonds or debentures to borrow sums as may be authorized and approved by the Board for the purpose of the Commission and may secure such bonds or debentures by mortgage or otherwise on the revenues and real and personal property and undertakings of the Commission, including after acquired property.

(2) Such bonds or debentures may be for such separate sums and at such rates of interest and upon such terms and conditions and in such form and payable at such period or periods or at such time or times and place or places as the Commission determines and the Board approves.

(3) Every bond or debenture issued by the Commission and every deed of trust or mortgage made by the Commission securing the same must be signed by the Chair or Vice-chair of the Commission and counter-signed by the treasurer or General Manager, whose signatures may be facsimile signatures and must bear the common seal of the Commission.

(4) The interest coupons of such bonds or debentures must be signed by the treasurer or General Manager, whose signature may be a facsimile signature, but it is not necessary for the coupons to bear the common seal.

(5) The Regional Municipality is empowered to and may from time to time guarantee unconditionally the payment of the principal and interest or the principal or the interest only of the bonds or debentures issued by the Commission or of such of the bonds or debentures issued by the Commission as the

Regional Municipality may, by resolution of the Council, determine, and the Regional Municipality may also guarantee the due performance by the Commission of all terms, provisions, covenants and conditions of every deed of trust or mortgage made by the Commission securing the same, and upon such guarantee being given by the Regional Municipality, the Regional Municipality is liable according to the terms of the same for such payment or such due performance, or both, to the same extent and in all respects whatsoever as if the Regional Municipality were the principal debtor.

(6) Each guarantee given must be in the form similar to the following, with such variations as may be necessary, and must be endorsed on every bond or debenture issued by the Commission that is subject to a guarantee:

The Halifax Regional Municipality, pursuant to the *Halifax Regional Water Commission Act*, hereby unconditionally guarantees to the lawful holder or holders hereof due payment of the principal and interest (or the principal or the interest) of the within bond (or debenture) according to its terms; and, where a deed of trust or mortgage is made, due performance by the Halifax Regional Water Commission of the deed of trust or mortgage securing the same,

dated
in favour of

Dated at Halifax, Nova Scotia 20...

IN WITNESS WHEREOF the Halifax Regional Municipality has caused its Corporate Seal to be hereunto affixed and this Guarantee to be signed by its Mayor and Clerk.

(7) The Mayor and Clerk of the Regional Municipality are authorized to and shall sign each guarantee on behalf of the Regional Municipality and shall affix the corporate seal of the Regional Municipality, and such execution is conclusive evidence for all purposes of the validity of the guarantee and that the provisions of this Act with respect to such guarantee have been duly complied with.

(8) A certificate signed by the Chair or Vice-chair and treasurer or General Manager of the Commission under the common seal of the Commission that all necessary resolutions of the Commission have been duly and regularly passed authorizing such borrowing and that such borrowings have been authorized and approved by the Board, together with such bonds or debentures and any deed of trust or mortgage, and the form and execution of the same, and that all matters precedent and incidental thereto have been duly complied with, is conclusive evidence of the fact. 2007, c. 55, s. 16.

Agreement with Regional Municipality respecting borrowing

27 Where funds are borrowed under Section 26 for purposes of providing an extension of water, wastewater or stormwater service throughout the Regional Municipality, the Commission and the Regional Municipality may enter into an agreement for the Regional Municipality to pay to the Commission the amount, in whole or in part, of the funds borrowed. 2007, c. 55, s. 17.

Imposition of charge by Regional Municipality

28 The Regional Municipality may impose a charge to cover the cost of payments made to the Commission under an agreement referred to in Section 27 as though it were a charge for the municipal portion of the capital cost of installing a

water system under clause 117(1)(e) of the *Municipal Government Act*. 2007, c. 55, s. 18.

Public utility

29 The *Public Utilities Act* applies to the Commission and any water, wastewater or stormwater facility or system owned, operated, managed or controlled by the Commission for service to the public is deemed to be a public utility within the meaning of that Act. 2007, c. 55, s. 19.

Annual report and payment from surplus

30 (1) The Commission shall annually, following the end of its fiscal year, have prepared and submit to the Council statements of revenue and expenses, surplus or deficit account and assets and liabilities all drawn or prepared in accordance with the *NOVA SCOTIA UTILITY AND REVIEW BOARD Water Utility Accounting and Reporting Handbook*, as amended from time to time, for each public utility operated by the Commission.

(2) Accompanying the financial statements referred to in subsection (1), the Commission shall, in writing, submit to the Council its recommendation of the amount or amounts of money to be paid from the surplus of the Commission's undertaking or undertakings to the Regional Municipality for the general purposes of the Regional Municipality.

(3) The amount or amounts to be paid by the Commission from the surplus of the Commission's undertaking or undertakings to the Regional Municipality for the general purposes of the Regional Municipality shall be such amount or amounts as are agreed upon by the Commission and the Council, and may be based on an amount denominated as a percentage of the Commission's rate base allocated to one or more of water, wastewater and stormwater systems or by reference to any other formula agreed to by the Commission and the Council.

(4) The amount or amounts in an agreement made pursuant to subsection (3) must be paid as

(a) a grant in lieu of taxes on taxable assets pursuant to Section 119 of the Charter regardless of whether the amount is calculated by reference to a formula that includes non-taxable assets; or

(b) a dividend.

(5) Any amount payable pursuant to subsection (3) is subject to review and approval by the Board. 2007, c. 55, s. 20; 2012, c. 60, s. 8.

Submissions to Council

31 (1) In this Section, "debt policies" and "financial instruments" include policies and instruments, as the case may be, respecting the borrowing and investing of money, guarantees and the receipt and issuance of negotiable instruments.

(2) The Commission shall prepare and submit to the Council for the Council's approval, at such times as directed by Council by resolution,

(a) a long-term strategic plan that addresses how the Commission will ensure alignment with the municipal planning strategies of the Regional Municipality; and

(b) an annual business plan that addresses how the Commission will ensure alignment with the annual priorities of the Regional Municipality.

(3) The Commission shall prepare and submit to the Council for the Council's approval the Commission's debt policies and financial instruments at such times and subject to such terms and conditions as directed by the Council by resolution and whenever the Commission is creating or amending a debt policy or financial instrument.

(4) The Commission shall provide such other information as requested by the Council at such times as directed by the Council by resolution.

(5) For greater certainty, the Council's approval of a debt policy or financial instrument is required in addition to any other approval that may be required by the Board. 2016, c. 23, s. 8.

Municipal taxes

32 Subject to any agreements made pursuant to Section 119 of the Charter, property that is owned or utilized by the Commission for the purpose of providing water service is liable to real property taxation. 2007, c. 55, s. 21; 2012, c. 60, s. 9.

Exemption from municipal taxes

33 Notwithstanding the *Assessment Act* or the Charter, property that is owned or utilized by the Commission for the purpose of providing wastewater or stormwater service is not liable to real property taxation or any other municipal rate or tax. 2007, c. 55, s. 22; 2012, c. 60, s. 10.

Municipal Grants Act

34 Notwithstanding the *Municipal Grants Act* and any other enactment, for the purpose of calculations under the *Municipal Grants Act*,

(a) the taxable assessment of property that is owned or utilized by the Commission for the purpose of providing water service is included in the calculation of uniform assessment in the same way as property of other municipal water utilities;

(b) payments made pursuant to Section 119 of the Charter are not included in the calculation of uniform assessment; and

(c) public wastewater or stormwater service provided by the Commission within a municipality is deemed to be provided by the municipality. 2007, c. 55, s. 23; 2012, c. 60, s. 11.

Agreement with Regional Municipality

35 The Regional Municipality has the authority and capacity to enter into or carry out the terms and conditions of any agreement entered into with the Commission for the purposes set out in this Act and may enter into further agree-

ments with the Commission for modifying or amending any previous agreement. 2007, c. 55, s. 24.

Protection of water supply

36 (1) No person shall place or permit to escape upon any land adjacent to Pockwock, Tomahawk, Chain, Long, Major, LaMont and Topsail Lakes, and all lakes, ponds or other bodies of water tributary thereto, or any lake or tributary of such lake at any time forming part of the water system of the Regional Municipality, or upon any land or water forming part of the watershed of any one of such lakes, any matter or thing of an offensive or deleterious nature or calculated to impair the quality of the water for use for domestic purposes.

(2) No person shall

(a) cut any ice on any lake forming part of the water system of the Commission or fish, bathe, wash in or otherwise impair the quality of the water in any such lake; or

(b) cut any wood or camp on any land of the Commission located on the watershed of any lake forming part of the water system of the Commission or haul any wood, wherever cut, across any such lake without first obtaining the consent in writing of the Commission.

(3) No person shall, upon any land forming part of the watershed of any of the lakes forming part of the water system of the Commission, erect or construct or place or cause or permit to be erected, constructed or placed, any building or structure unless such person has first obtained from the Commission permission to do so. 2007, c. 55, s. 25.

Exemption from liability re negligence

37 The Commission, its officers and employees, are not liable for damages caused

(a) directly or indirectly by

(i) the design, construction, operation, maintenance, repair, breaking or malfunction of wastewater facilities, a stormwater system or a water system, or

(ii) interference with the supply of water through a water system,

unless the damages are shown to be caused by the gross negligence of the Commission or its officers or employees;

(b) by the discharge of sewage or water into premises from a sewer unless the discharge was caused by improper construction or neglect in the maintenance of the sewer, or a failure to remedy a matter that was known, or should reasonably have been known, to the Commission and should reasonably have been repaired; or

(c) in any case where this Act or the regulations have not been complied with by an owner or previous owner of premises that have been damaged. 2007, c. 55, s. 26.

Exemption from liability re breakage or interruption

38 The Commission is not liable for a loss as a result of the breakage of a pipe, conduit, pole, wire, cable or a part of a utility or service provided by the Commission, or the discontinuance or interruption of a service or connection, by reason of

- (a) accident;
- (b) disconnection for non-payment or non-compliance with a term or condition of service; or
- (c) the necessity to repair or replace a part of a utility or service. 2007, c. 55, s. 27; 2012, c. 60, s. 12.

Exemption from liability re nuisance

39 The Commission is not liable for nuisance as a result of the construction or operation of any work owned or operated by it, including any water system, stormwater system or wastewater facilities, if the nuisance could not be avoided by any other practically feasible method of constructing or operating the work. 2012, c. 60, s. 13.

Exemption from liability re failure to provide or maintain

40 The Commission, its officers and employees, are not liable for

- (a) failure to provide water, wastewater or stormwater service, or the manner in which water, wastewater or stormwater service is provided, unless the Commission fails to meet a standard of care to be determined having regard to financial, economic, personnel, social, regulatory and other factors or constraints in the circumstances; or
- (b) failure to maintain a place or thing that is subject to the direction, control and management of the Commission, in a reasonable state of repair, unless the Commission has actual notice of the state of disrepair and fails to take steps to remedy or otherwise deal with the state of disrepair within a reasonable time. 2007, c. 55, s. 28.

Exemption from liability re overflow

41 Where an overflow of water or sewage from a water, wastewater or stormwater system or a drain, ditch or watercourse is a consequence of snow, ice or rain, the Commission is not liable for a loss as a result of the overflow. 2007, c. 55, s. 29.

Exemption from liability re inspection

42 Where an inspection is carried out or ought to have been carried out pursuant to this Act or another enactment,

- (a) the Commission, and its officers and employees are not liable for a loss as a result of the manner or extent of an inspection or the frequency, infrequency or absence of an inspection, unless the Commission was requested to inspect at appropriate stages, and within a reasonable time, before the inspection was required, and either the Commission failed to inspect or the inspection was performed negligently;
- (b) an inspection is not performed negligently unless it fails to disclose a deficiency or a defect that

- (i) could reasonably be expected to be detected, and
- (ii) that the Commission could have ordered corrected;
- (c) notwithstanding the *Limitation of Actions Act* or another Act, the Commission and its officers and employees are not liable for a loss as a result of an inspection or failure to inspect if the claim is made more than six years after the date of the application for any permit, approval or other process in relation to which the inspection was required. 2007, c. 55, s. 30.

Exemption from liability re certification

43 Where the Commission receives a certification or representation by a professional engineer, architect, surveyor, accountant or actuary or other person held out to have expertise respecting the thing being certified or represented, the Commission and its officers and employees are not liable for any loss or damage caused by the negligence of the person so certifying or representing. 2007, c. 55, s. 31; 2012, c. 60, s. 14.

Limitation period

44 For the purpose of the *Limitations of Actions Act*, the limitation period for an action or proceeding against the Commission, a Commissioner, an officer or employee of the Commission, or against any person acting under the authority of any of them, is 12 months. 2007, c. 55, s. 32.

Lien

45 (1) The Commission has a first lien upon a property when the General Manager notifies the Regional Municipality's treasurer of a lienable event.

(2) A lienable event arises when

(a) the General Manager lawfully causes work to be done upon, or for the benefit of, the property, pursuant to this Act or the Regulations, in which case the amount of the lien is the cost of the work plus interest at the rate prescribed in the Regulations calculated from the date of the work; or

(b) there is an overdue account owed to the Commission in relation to wastewater or stormwater service in respect of a property that has not been paid for a period of 90 days or longer, in which case the amount of the lien is the amount of the overdue account plus interest at the rate prescribed in the Regulations. 2007, c. 55, s. 33.

Collection by Regional Municipality

46 (1) Upon request of the Commission, or in the event of collection by the Regional Municipality of other municipal liens against a property, the Regional Municipality shall collect the lien on behalf of the Commission and, after deducting collection costs, it shall remit the proceeds to the Commission.

(2) Collection costs and proceeds must be pro-rated between the Commission and the Regional Municipality when the collection is undertaken for both the Regional Municipality and the Commission. 2007, c. 55, s. 34.

Enforcement proceedings

47 The General Manager may cause proceedings to be taken to enforce the provisions of this Act, or the provisions relating to wastewater or stormwater contained within Part XII and Part XIV of the *Municipal Government Act* and Part XII and Part XIV of the Charter, or such successor legislation as may be in force from time to time, including the prosecution of offences and or the taking of proceedings in the name of the Commission to restrain the continuance of same. 2007, c. 55, s. 35; 2012, c. 60, s. 15.

Special constables

48 The General Manager may request of the Minister of Justice that designated employees of the Commission be appointed special constables pursuant to Section 88 of the *Police Act* for the purpose of enforcing this Act, the *Public Utilities Act*, or the provisions in relation to wastewater or stormwater contained within Part XII and Part XIV of the *Municipal Government Act* and Part XII and Part XIV of the Charter, or such successor legislation as may be in force from time to time, and for the purpose of enforcing subordinate legislation relating to the Commission pursuant to those enactments. 2007, c. 55, s. 36; 2012, c. 60, s. 16.

Maps and plans as evidence

49 In any action or proceeding authorized to be taken by or for the Commission, a map or plan tendered by a witness for the Commission is sufficient evidence of the matters represented on the map or plan, in the absence of proof to the contrary. 2007, c. 55, s. 37.

Offence

50 A person who

- (a) violates this Act or any prohibition in the Regulations;
- (b) fails to do anything required by a lawful order made pursuant to this Act;
- (c) permits anything to be done in violation of this Act or any prohibition in the Regulations; or
- (d) obstructs or hinders any person in the performance of their duties under this Act or the Regulations,

is guilty of an offence. 2007, c. 55, s. 38.

Penalty

51 Unless otherwise provided, a person who commits an offence under this Act is liable, upon summary conviction, to a penalty payable to the Commission of not less than \$100 and not more than \$10,000 and, in default of payment, to imprisonment for a term of not more than two months. 2007, c. 55, s. 39.

Separate offences

52 Every day during which an offence continues is a separate offence. 2007, c. 55, s. 40.

Order to comply

53 (1) In addition to a fine imposed for an offence, a judge may order the person to comply with the provision, order or Regulation that was the subject of the offence, within the time specified in the order.

(2) Any person who fails to comply with an order made by a judge under this Section is guilty of an offence. 2007, c. 55, s. 41.

CHAPTER H-4

An Act Respecting the Halifax-Dartmouth Bridge Commission

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Short title

1 This Act may be cited as the *Halifax-Dartmouth Bridge Commission Act*. 2005, c. 7, s. 1.

Interpretation

2 In this Act,

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

“Bridges” means the bridges across Halifax Harbour, known as the Angus L. Macdonald Bridge and the A. Murray MacKay Bridge, and the approaches and other real and personal property relating to the Bridges;

“Commission” means the Halifax-Dartmouth Bridge Commission;

“electronic collection system” means the methods, equipment and other tangible and intangible personal property used in the collection of tolls,

fees, rates and related charges, by which the construction, operation and maintenance of certain facilities are paid for in whole or in part by the users of the facilities and, without limiting the generality of the foregoing, includes

- (a) toll booths;
- (b) paying stations;
- (c) equipment for receiving and accounting for cash, tokens and debit and credit card payments;
- (d) transponders and transponder readers;
- (e) the computer hardware and software used in connection with the collection of tolls, rates, fees and related charges and the preparation of reports relating to tolls;
- (f) manuals and other documentation;
- (g) such other tangible and intangible personal property that may be used in connection with the collection of tolls, rates, fees and related charges;

“funded obligation” means any money indebtedness the principal amount of which, by its terms, is not payable on demand and the maturity date of which is more than 12 months after such indebtedness was incurred or, where renewed, last renewed;

“Minister” means the Minister of Finance and Treasury Board;

“Municipality” means the Halifax Regional Municipality;

“transportation project” means a bridge, tunnel, fixed crossing or similar structure and the approaches, facilities and other real and personal property relating to it, while the construction, operation and maintenance of such structure or facility is financed in whole or in part by tolls, rates, fees and other charges charged to its users. 2005, c. 7, s. 2; 2014, c. 34, s. 11.

Halifax-Dartmouth Bridge Commission continued

3 The Halifax-Dartmouth Bridge Commission is continued as a body corporate and continues to possess and may exercise all powers conferred upon and vested in it by law and continues to have title to and control of property and funds vested in or held by or belonging to it and consists of

- (a) five members appointed by the Governor in Council, one of whom is the Chair and one of whom is the Vice-chair; and
- (b) four members appointed by the Municipality. 2005, c. 7, s. 3.

Terms of office

4 (1) Subject to subsection (2) and Section 5, each member of the Commission holds office for three years and is eligible for reappointment.

(2) The terms of members of the Commission are for one year, two years or three years, as may be determined by the Governor in Council in the case of members appointed by the Governor in Council and by the Council of the Municipality in the case of members appointed by the Municipality, so that

(a) each year the terms of two members appointed by the Governor in Council and one member appointed by the Municipality expire; and

(b) the terms of the Chair and the Vice-chair do not expire in the same year. 2005, c. 7, s. 4.

Termination of membership

5 (1) Where a member of the Commission who at the date of the member's appointment was the Mayor or a councillor of the Municipality ceases to be the Mayor or councillor, that person ceases to be a member of the Commission effective the date the person ceases to be the Mayor or councillor.

(2) Where a member of the Commission, because of mental or physical disability, is unable to perform the duties of Chair, Vice-chair or a member of the Commission, that person ceases to be the Chair, Vice-chair or a member of the Commission, as the case may be.

(3) Where a vacancy occurs pursuant to subsection (2) or because of a death or resignation, the Governor in Council, in the case of a member appointed by the Governor in Council, and the Municipality, in the case of a member appointed by the Municipality, shall appoint a Chair, Vice-chair or a member of the Commission, as the case may be, to complete the vacant term of office.

(4) A vacancy on the Commission does not impair the ability of the remaining members to act. 2005, c. 7, s. 5.

Remuneration and expenses

6 Each member of the Commission is entitled to receive such remuneration and reasonable expenses as determined by the Governor in Council. 2005, c. 7, s. 6.

Rules and regulations

7 (1) The Commission may make, alter and repeal rules and regulations that in any manner relate to its schedule of rates, tolls, fees and charges and such rules and regulations come into force upon being approved by the Board.

(2) Subject to the approval of the Governor in Council, the Commission may make, alter and repeal bylaws not inconsistent with this Act and not relating to its schedule of rates, tolls, fees and charges as it considers necessary or proper for the direction, conduct and government of the Commission and its employees and for the management and control of the Bridges or a transportation project authorized by Section 27 and traffic thereon and all other property of the Commission and generally as it may determine necessary or proper for the management of its affairs.

(3) The *Summary Proceedings Act* applies to any violation of a rule, regulation or bylaw of the Commission.

(4) Notwithstanding this Act and the *Motor Vehicle Act*, the Minister of Public Works may appoint the Commission to be a traffic authority and, upon such appointment, the *Motor Vehicle Act* applies with necessary changes to all

property of the Commission and persons and vehicles making use of the same. 2005, c. 7, s. 7.

Personnel

8 The Commission shall appoint such officers and employees as it considers necessary for the administration of the affairs of the Commission and shall fix the salaries, wages and other remuneration of such officers and employees and determine their powers and duties. 2005, c. 7, s. 8.

Objects of Commission

9 The objects of the Commission are to

- (a) maintain and operate the Bridges and any other transportation project authorized by Section 28; and
- (b) assess, market, license, implement, provide, maintain and integrate such electronic collection systems as are approved by the Governor in Council. 2005, c. 7, s. 9.

Powers of Commission

10 (1) Without limiting the generality of any powers conferred by this Act, the Commission has the following powers:

- (a) to pay the costs, charges and expenses preliminary and incidental to the formation and establishment of the Commission;
- (b) to enter into contracts and to make and grant any lease or licence of, or in respect of, real or personal property of the Commission, including any approved electronic collection systems, that may seem directly or indirectly calculated to benefit the Commission and to do all such acts, deeds and things and to execute all such documents as may be considered expedient in the attainment of the objects of the Commission;
- (c) to charge and collect rates, tolls, fees and charges for the use by the public of the Bridges and any transportation project authorized by Section 27;
- (d) to institute, conduct, defend, compound or abandon any legal proceeding by or against the Commission, its officers, servants or agents or otherwise concerning the affairs of the Commission, and to compound and allow time for payment for satisfaction on any debts due, and of any claims or demands by or against the Commission;
- (e) to make and give receipts, releases and other discharges for money payable to the Commission and for the claims and demands of the Commission;
- (f) subject to the approval of the Governor in Council, to borrow or raise or secure the payment of money in such manner as the Commission thinks fit, including by mortgage, charge, hypothecation or pledge of or upon all or any of the property of the Commission, both present and future, and to draw, make, discount and issue promissory notes and other evidences of indebtedness and generally to make, accept, endorse, execute and issue bills of exchange, bills of lading, warrants and other negotiable or transferable instruments;

(g) to determine who is entitled to sign, on behalf of the Commission, bills, notes, receipts, acceptances, endorsements, cheques, releases, contracts and documents;

(h) to sell such property and assets as are not required for the purposes of the Commission or that may advantageously be disposed of but, where the property or assets are valued at \$100,000 or more, only with the approval of the Governor in Council;

(i) to invest and deal with any of the money of the Commission not immediately required for its purposes in such manner as trust funds may be invested under the *Trustee Act*;

(j) to charge third parties for supplying electronic-collection-system services on a fee for service basis;

(k) to provide for proper and adequate depreciation of its property and assets and to establish and maintain such depreciation and reserves as it considers prudent from time to time; and

(l) generally to do all acts and things necessary or incidental or conducive to or consequential upon the carrying out of the foregoing powers or any of them.

(2) Except as otherwise provided in this Act, the *Finance Act* or by order of the Governor in Council, the Commission has all the powers of a company limited by shares incorporated pursuant to the *Companies Act*. 2005, c. 7, s. 10; 2010, c. 2, s. 104.

Action in court

11 The Commission may sue and be sued in any court of competent jurisdiction. 2005, c. 7, s. 11.

Procedure on expropriation

12 (1) Where the Commission considers it necessary to acquire real property for a purpose relating to the Bridges or a transportation project authorized by Section 27, the Commission may expropriate the real property.

(2) Where real property is proposed to be expropriated,

(a) the Commission shall survey the property and prepare a description of it;

(b) Commission employees and agents of the Commission may enter upon the property to survey or examine it; and

(c) the Commission may make borings or other excavations in the property and shall reimburse the owner for any damage done if the expropriation is not completed.

(3) The *Expropriation Act* applies to expropriation by the Commission. 2005, c. 7, s. 12.

Borrowing powers

13 (1) Subject to the *Finance Act* and with the approval of the Governor in Council, the Commission has the power and may borrow such sums as

it may require for the objects of the Commission and issue and sell bonds or debentures for that purpose, and may secure such bonds or debentures or other borrowings by mortgage or deed of trust or otherwise on the revenues and real and personal property and undertaking of the Commission, including after-acquired property.

(2) The bonds or debentures may be for such separate sums and at such rates of interest and upon such terms or conditions and in such form and payable at such period or periods or at such time or times and place or places as the Commission recommends and the Governor in Council approves.

(3) Every bond or debenture issued by the Commission must be signed by the Vice-chair of the Commission and bear the engraved, lithographed or other facsimile signature of the Chair or a member designated by the Commission, and be sealed with the common seal of the Commission, and the interest coupons must bear the engraved, lithographed or other facsimile signature of the Vice-chair but need not be sealed. 2005, c. 7, s. 13; 2010, c. 2, s. 105.

Guarantee by Province

14 The Government of the Province may unconditionally guarantee the bonds or debentures issued by the Commission as to principal and interest. 2005, c. 7, s. 14.

Payment by Minister

15 The Minister may pay such amounts as are appropriated for the purpose of Section 14 or, with the approval of the Governor in Council, advance to the Commission such amounts as the Minister considers necessary for that purpose. 2005, c. 7, s. 15.

Agreement to reimburse Province

16 Upon the Government of the Province guaranteeing the bonds or debentures of the Commission as provided in Section 14, the Municipality may, by agreement with the Government of the Province, undertake to reimburse the Province for 40% of any sum or sums that the Minister pays by reason of the guarantee. 2005, c. 7, s. 16.

Municipality empowered to pay and borrow

17 Notwithstanding any enactment, the Municipality is empowered and authorized to

(a) make such payments to the Minister as are required to comply with the agreement referred to in Section 16; and

(b) borrow the amount so required, or any part of that amount, from any chartered bank for such time, not exceeding 12 months, and on such terms as are agreed upon,

and such borrowing may be in addition to that authorized for other municipal purposes under any other Act. 2005, c. 7, s. 17.

Source of funds

18 Every sum required by the Municipality pursuant to its agreement with the Government of the Province is deemed to be a sum required for ordinary lawful purposes of the Municipality and must be raised, levied and collected in the

same manner and in all respects as other sums required for the ordinary lawful purposes of the Municipality are raised, levied and collected. 2005, c. 7, s. 18.

Interpretation of Sections 20 and 21

19 In Sections 20 and 21, “property and assets” means the property and assets of the Commission used and useful in furnishing, rendering or supplying its services and facilities. 2005, c. 7, s. 19.

Public Utilities Act

20 (1) The Commission is a public utility within the meaning of the *Public Utilities Act* and is subject to that Act, except that the provisions of that Act relating to

(a) new construction, improvements or betterments in, or extensions or additions to the property of a public utility and relating to the issuance of shares, stocks, bonds, debentures or any evidence of indebtedness issued by a public utility;

(b) the provision of proper and adequate annual depreciation of its property and assets and the setting up, maintaining, use and disposal of depreciation reserve funds; and

(c) the assessment, marketing, licensing, implementing and integrating of electronic collection systems that do not relate to either of the Bridges or a transportation project authorized by Section 28, including the earning of income and the incurring of expenses,

do not apply to the Commission nor may any such income or expense or any property of the Commission devoted to the activities set out in clause (c) be taken into account by the Board in regulating the Bridges, unless the Governor in Council otherwise directs.

(2) The Commission, for a reasonable compensation, shall permit the use of its works by any other public utility if public convenience and necessity require such use and such use will not result in any substantial detriment in the service to be rendered by the Commission.

(3) In case of failure to agree upon such use, or the conditions or compensation for such use, any public utility or any person or corporation interested may apply to the Board and, where, after investigation, the Board determines that public convenience and necessity require such use and that it would not result in any substantial detriment to the service to be rendered by the Commission, the Board shall, by order, direct that such use be permitted and prescribe conditions and compensation for such joint use.

(4) The use ordered pursuant to subsection (3) must be permitted and the conditions and compensation so prescribed are the lawful conditions and compensation to be observed, followed and paid.

(5) An order of the Board made pursuant to this Section may be revised by the Board upon application of any interested party or upon its own motion. 2005, c. 7, s. 20.

Utility and Review Board

21 (1) Notwithstanding Section 20 and the *Public Utilities Act*, the Board may, on any application of the Commission to the Board to set the tolls, rates, fees and charges to be paid to the Commission for services rendered and facilities provided, take into account any allowance for proper and adequate annual depreciation of its property and assets that the Commission wishes to provide, set aside and maintain.

(2) All orders and directions of the Board previously made under this Act and the *Public Utilities Act*, relating to the provision of proper and adequate annual depreciation of its property and assets and the setting up, maintaining, use and disposal of depreciation reserve funds or special depreciation reserves, cease to bind the Commission and the Commission may dispose of or use as it sees fit in its undertakings any funds or assets held in the depreciation reserve fund or the special depreciation reserve. 2005, c. 7, s. 21.

Taxes

22 (1) The property of the Commission is exempt from taxation except that the Commission shall annually pay to any municipality, with respect to real property located in the municipality, a grant in lieu of taxes on

(a) real property acquired by it within the municipality before July 1, 2005, in relation to

(i) the Angus L. Macdonald Bridge, on the assessed value of such property and the classification thereof as appears in the respective assessment rolls for the year 1950, and

(ii) the A. Murray MacKay Bridge, on the assessed value of such property and the classification thereof as appears in the respective assessment rolls for the year 1964;

(b) real property acquired by it within the municipality in relation to the Bridges, other than the property referred to in clause (a), or a transportation project authorized by Section 28 on the assessed value of such property and the classification of that property as it appears in the respective assessment roll for the year in which the property is acquired by the Commission, any such assessment to be based on the unimproved value of such property excluding the value of any transportation project or any past, present or future improvement constructed on the property; and

(c) the assessed value of any real property not related to the Bridges or a transportation project authorized by Section 28.

(2) A municipality may also assess, rate, impose and levy real property taxes on lessees of the Commission as if they were owners, and also on occupiers of real property situate within the municipality owned by the Commission and leased by it, and such assessment is to be on the land and improvements to the land so leased, and such assessment and rating done pursuant to the *Municipal Government Act*. 2005, c. 7, s. 22.

Rates and taxes on buildings

23 Notwithstanding Section 22 and in addition to the amounts required to be paid pursuant to that Section, buildings owned by the Commission and used for administration purposes, and being within the Municipality, are subject to assessment and taxation in the normal way, and the Commission shall pay a grant in lieu of the normal rates and taxes on the buildings, but not including the land on which the buildings stand, except as provided in Section 22, and not including gates, staff compartments or structures that form part of or are situated at the entrance or exit of the bridges owned or operated by the Commission. 2005, c. 7, s. 23.

Use of profits

24 (1) Profits of the Commission in any year, after providing for interest and principal payments on funded obligations, retirement fund or sinking funds for funded obligations, depreciation and all expenses of maintenance and operation, must be paid into a reserve account, which may be invested and which may be used only for the following purposes and in the following order:

- (a) to pay interest on any funded obligation;
- (b) for the ordinary expenses of the Commission in any year that the current revenue of the Commission is insufficient for those purposes;
- (c) to pay principal on any funded obligation;
- (d) to purchase and retire bonds of the Commission on such terms as may be determined by the bylaws of the Commission;
- (e) for such purposes as the Commission, the Government of the Province and the Municipality may unanimously agree.

(2) Notwithstanding subsection (1), no payment may be made that would result in a default by the Commission under any funded obligation, bond, indenture, loan agreement, security or other obligation to any third party. 2005, c. 7, s. 23.

Acquisition by Province

25 The Government of the Province, after all bonded indebtedness of the Commission has been retired, may, on payment to the Municipality of any sum or sums that the Municipality may have paid to the Minister pursuant to Section 16 together with interest on such sum or sums at the rate of three per cent per year and on the Province assuming all the obligations and liabilities of the Commission, take and on proclamation acquire and take over all right, title and interest to the real and personal property, assets and undertakings of the Commission, and on such proclamation the right, title and interest to the real and personal property, assets and undertakings of the Commission vest in the Government of the Province. 2005, c. 7, s. 25.

Annual report

26 The Commission shall make an annual report to the Government of the Province and the Municipality and the report must include an audited statement of the affairs of the Commission certified by an accountant or firm of accountants named by the Governor in Council. 2005, c. 7, s. 26.

Restriction of traffic

27 (1) Notwithstanding the *Public Utilities Act*, the Commission may at any time suspend all traffic or restrict traffic or classes of traffic across either of the Bridges for such time and to such extent as the Commission in its discretion considers advisable.

(2) Where the violation of any rule, regulation or bylaw of the Commission is attended with danger or annoyance to the public or hindrance to the Commission in the use or operation of either of the Bridges or a transportation project, the Commission may, by or through its officers or employees, prevent or stop such violation and may use reasonable force for such purpose, without prejudice to any liability for any penalty that may be incurred by reason of such violation.

(3) Notwithstanding the *Expropriation Act*, the Commission is not liable for injurious affection as a result of suspending all traffic or restricting traffic or classes of traffic across either of the Bridges or a transportation project during periods of construction or maintenance. 2005, c. 7, s. 27.

Power to construct, maintain and operate projects

28 (1) With the approval of the Governor in Council, the Commission may construct, maintain and operate a transportation project across Halifax Harbour and the North West Arm, or either of them.

(2) Where the Government of the Province or the Municipality request the Commission to investigate the sufficiency of the means of access to Halifax provided by the Bridges or the present or future need of a transportation project referred to in subsection (1), the Commission may

(a) conduct such investigation and studies as it considers advisable respecting

(i) the need or advisability of a transportation project referred to in subsection (1),

(ii) the proper location of any such transportation project,

(iii) the manner or method of financing and operating any such transportation project,

(iv) the probable cost of acquiring lands for the purposes of an additional transportation project and the cost of constructing such transportation project,

(v) any other matter related to the construction, operation or financing of a transportation project referred to in subsection (1) that the Commission considers relevant;

(b) for the purpose of making investigation and studies, engage expert or technical assistance;

(c) defray the cost of its investigations and studies out of the ordinary revenue of the Commission;

(d) make reports and recommendations to the Government of the Province and the Municipality.

(3) Any costs incurred by the Commission under this Section are expenses of operating the Bridges or a transportation project in respect of which the Commission is collecting tolls, fees, rates and other charges. 2005, c. 7, s. 28.

CHAPTER H-5

An Act to Incorporate the Nova Scotia Association of Health Organizations

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Short title

- 1** This Act may be cited as the *Health Association Nova Scotia Act*.

Nova Scotia Association of Health Organizations

2 (1) Michael McDonald of Sydney, in the County of Cape Breton, Hospital Administrator, Margaret McLean, of Glace Bay, in the County of Cape Breton, Hospital Administrator, Donald Joseph Gillis, of Glace Bay, in the County of Cape Breton, Barrister, John Davison McClearn, of Liverpool, in the County of Queens, Transportation Officer, John Henry McCallum, of New Glasgow, in the County of Pictou, Business Manager, Cyril Fraser Matheson, of the former City of Halifax, in the County of Halifax, Hospital Administrator, and John Douglas Mosher, of Kentville, in the County of Kings, Business Administrator, and such other persons and corporations as pursuant to the bylaws become members of the body incorporated by this Act are created a body corporate, under the name “Nova Scotia Association of Health Organizations”, hereinafter called the Association.

(2) The Association may also be known as Health Association Nova Scotia. 1960, c. 111, s. 1; 1974, c. 125, s. 1; 2012, c. 29, s. 1.

Objects

- 3** The objects of the Association are to
- (a) seek and accept membership in the Association from organizations or persons involved in healthcare or organizations or persons that affect the social determinants of health;
 - (b) study, consider, discuss, accumulate and distribute information and advice to members of the Association regarding
 - (i) the construction, equipment and administration of institutions involved in the delivery of healthcare,

- (ii) the care of the people they serve,
- (iii) such other matters as may be related to institutions involved in the delivery of healthcare as factors in public health and welfare and any other healthcare undertaking,
- (iv) the coordination and work of the staffs of institutions involved in the delivery of healthcare and bylaws and regulations relating to the same,
- (v) legislation, bylaws, regulations and similar measures affecting the interests of institutions involved in the delivery of healthcare,
- (vi) the education and training of personnel in institutions involved in the delivery of healthcare and laws, rules, regulations or bylaws relating to the same, and
- (vii) any other matters affecting the operation, administration or financing of institutions involved in the delivery of healthcare;
- (c) administer or provide for and pay for the administration of a pension plan or plans for employees of the Association and of any member thereof;
- (d) administer or provide for the administration of group life, long-term disability and other health and welfare plans for employees of the Association and of any member thereof;
- (e) provide liaison with and representation to the Government of Nova Scotia, the Health Services and Insurance Commission or any department of Government as may be required from time to time, on behalf of members of the Association;
- (f) provide a method and means of discussing matters of mutual interest with associations or persons employed or retained by members of the Association and to make recommendations regarding such matters to the members;
- (g) provide a method and means of discussing matters that affect or concern members of the Association with municipal and local governments or associations of the same;
- (h) develop and provide educational programs for persons involved in the delivery of healthcare, either by itself or in association with other associations and to initiate, develop or participate in such research programs as may be desired;
- (i) make known to the public the aims and objects of the Association and the attitudes of the Association on matters affecting or concerning the members of the Association;
- (j) for the purposes aforesaid, acquire the property and assets, and the rights and privileges and assume the obligations of an unincorporated association known as Nova Scotia Hospital Association;
- (k) provide services that best meet members' needs; and
- (l) provide services to non-members in which the benefits accrue to the members.

1974, c. 125, s. 2; 2012, c. 29 s. 2.

Powers

- 4** The Association may
- (a) become associated with or be a member of any provincial, national or international association of institutions involved in the delivery of healthcare that the Association considers advisable to carry out the objects of the Association;
 - (b) develop or participate in accreditation programs or other services available for the voluntary inspection of facilities and services for the delivery of healthcare and for the general improvement of standards and procedures in institutions involved in the delivery of healthcare and their plant and equipment;
 - (c) engage, employ or retain such persons as may be required from time to time to carry out the objects of the Association;
 - (d) purchase, acquire, lease and hold such real and personal property as may be required for its purposes and from time to time sell, convey, mortgage and lease the same;
 - (e) by its proper signing officers, make, accept, draw and endorse, discount and execute such promissory notes, bills of exchange, cheques and other negotiable instruments as may be necessary to carry out the objects and purposes of the Association;
 - (f) do all such things as are incidental or conducive to the exercise of its powers and the attainment of its objects. 1960, c. 111, s. 3; 1974, c. 125, s. 3; 2012, c. 29, s. 3.

Bylaws

- 5** The Association may make and adopt bylaws, rules and regulations for the following:
- (a) the membership of organizations or persons involved in healthcare or organizations or persons that affect the social determinants of health and their representation in the Association and for the admission, suspension and retirement of such members;
 - (b) the establishment of different classes of membership and for the admission of persons to any class of membership;
 - (c) the establishment and collection of fees and dues;
 - (d) the election and appointment of officers, directors and committees and the definition of their duties;
 - (e) prescribing the powers and duties of the directors and providing for the delegation of any or all of the powers of the Association to the directors;
 - (f) the safe-keeping and protection of the assets and funds of the Association and the regulation, management and preservation of its property and interests;
 - (g) the organization within the Association of such regional or other groups as may be required; and
 - (h) the convening and holding of meetings of the Association. 1960, c. 111, s. 4; 1974, c. 125, s. 4; 2012, c. 29, s. 4.

Pension plans

6 With respect to the pension plan or plans referred to in clause 3(c) the Association may

- (a) make and adopt bylaws, rules and regulations governing the said pension plan or plans;
- (b) establish methods of contribution to the said pension plan or plans and fix and collect the contributions required for the same;
- (c) select and contract with such insurance underwriters as may be required and execute trust agreements appointing trustees to administer the funds of the said pension plan or plans;
- (d) negotiate and execute agreements with members of the Association for their participation in the said pension plan or plans. 1960, c. 111, s. 5; 1974, c. 125, s. 5.

Life, health and welfare plans

7 With respect to group life, long-term disability and other health and welfare plans referred to in clause 3(d), the Association may

- (a) make and adopt bylaws, rules and regulations governing the said group life, long-term disability and other health and welfare plans;
- (b) establish methods of contribution to the said group life, long-term disability and other health and welfare plans and fix and collect the contributions and premiums required for the same;
- (c) select and contract with such insurance underwriters, administrators or service providers as may be required;
- (d) negotiate and execute agreements with members of the Association for their participation in the said group life, long-term disability and other health and welfare plans. 1960, c. 111, s. 6; 1974, c. 125, s. 6; 2012, c. 29, s. 5.

Board of Directors

8 (1) The management of the Association is vested in a Board of Directors.

(2) The number of persons comprising the Board of Directors and the manner and time of their election and their qualifications must be determined by the bylaws.

(3) The directors may exercise all of the powers of the Association not required by the bylaws to be exercised by the members at a general meeting. 1960, c. 111, s. 7.

Participation in plans

9 (1) In order to participate in group life, long-term disability and other health and welfare plans referred to in clause 3(d), organizations must be a member of the Association.

(2) In order to participate in the pension plan referred to in clause 3(c), an employee must be an employee of a sponsor of the pension plan. 1960, c. 111, s. 8; 1974, c. 125, s. 7; 2012, c. 29, s. 6.

CHAPTER H-6

An Act to Provide for Health Authorities and Community Health Boards

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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 *Health Authorities Act*. 2014, c. 32, s. 1.

Interpretation

- 2 (1)** In this Act,
- “accountability framework” means an agreement between the Minister and the health authorities that describes the respective roles, responsibilities and obligations of the Minister and health authorities in achieving strategic priorities and expected results for the health system;
- “administrator” means a person appointed to act as an administrator of a health authority under subsection 10(2);
- “bargaining unit” has the same meaning as “unit” in the *Trade Union Act*;
- “board” means the board of directors of a health authority;
- “capital surplus or deficit” means, in respect of a fiscal year, the surplus or deficit, as the case may be, calculated by subtracting the cost in that fiscal year of acquisitions of tangible capital assets by a health authority from the tangible capital asset revenues of the health authority and the debt incurred by the health authority as a result of borrowing money in accordance with Section 34 in that fiscal year for tangible capital asset acquisitions;
- “chair” means the chair of a board;
- “community” means the area for which a community health board has been established or continued under this Act;
- “community health board” means a community health board established or continued under this Act;
- “community health plan” means a plan for health promotion initiatives and the improvement of the health of the community that is to be prepared under subsection 73(1);
- “council of unions” means

- (a) the Nova Scotia Council of Nursing Unions;
- (b) the Nova Scotia Council of Health Care Unions;
- (c) the Nova Scotia Council of Health Administrative Professional Unions; or
- (d) the Nova Scotia Council of Health Support Unions;

“director” means a member of a board and, for greater certainty, includes a non-voting member of the board;

“district health authority” means a district health authority established under the former Act;

“filing date” means the date on which the last of the constitutions of the four councils of unions is filed with the Labour Board under subsection 83(2);

“former Act” means Chapter 6 of the Acts of 2000, the *Health Authorities Act*;

“former IWK Health Centre Act” means Chapter 26 of the Acts of 1996, the *Izaak Walton Killam Health Centre Act*;

“foundation” means a foundation established, in respect of a hospital, by an enactment, trust or agreement;

“health authority” means the provincial health authority or the IWK Health Centre;

“health services” means services related to the prevention of illness or injury, the promotion or maintenance of health or the care and treatment of sick, infirm or injured persons, and includes services provided in the Province through hospitals and other healthcare institutions, public-health services, addiction services, emergency services, mental-health services, home-care services, long-term care services, primary-care services and such other services as may be prescribed by the regulations;

“health-services business plan” means the annual health-services business plan required to be prepared by a health authority under subsection 39(1);

“hospital” means a hospital as defined in the *Hospitals Act*;

“IWK Health Centre” means the Izaak Walton Killam Health Centre;

“Labour Board” means the Labour Board established by the *Labour Board Act*;

“licensed practical nurse” has the same meaning as in the *Nursing Act*;

“management zone” means a management zone established under subsection 59(1);

“mediator-arbitrator” means the mediator-arbitrator appointed by the Minister under Section 85 as enacted by Chapter 32 of the Acts of 2014;

“Minister” means the Minister of Health and Wellness;

“operating funding surplus or deficit” means, in respect of a fiscal year, the surplus or deficit, as the case may be, calculated by subtracting the operating expenses of a health authority in that fiscal year, excluding amortization costs, from the health authority’s net revenues in that fiscal year from operations;

“operating revenue” means, in respect of a fiscal year, the total of all revenue of a health authority in that fiscal year less the tangible capital asset revenue of the health authority in that fiscal year;

“personal health information” has the same meaning as in the *Personal Health Information Act*;

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

“provincial health authority” means the health authority for the Province established by subsection 48(1);

“provincial health plan” means the provincial health plan established by the Minister under clause 6(a);

“public engagement plan” means a plan by a health authority to engage and consult with the public in respect of the health services provided by the health authority;

“Queen Elizabeth II Health Sciences Centre” means the collection of buildings and sites referred to in subsection 50(2);

“registered nurse” has the same meaning as in the *Nursing Act*;

“tangible capital asset” means a tangible capital asset prescribed by or determined in accordance with a health authority’s accounting policy;

“tangible capital asset revenue” means, in respect of a fiscal year, the total of all revenue received by a health authority in that fiscal year for the purpose of acquiring tangible capital assets;

“union” means

- (a) the Canadian Union of Public Employees;
- (b) the Nova Scotia Government Employees Union;
- (c) the Nova Scotia Nurses’ Union;
- (d) Unifor; or
- (e) a successor or affiliated local of a union referred to in clauses (a) to (d);

“unionized employee” means an employee who is represented by a union.

(2) Except as otherwise provided in this Act, words and expressions used in Sections 80 to 90 and 93 to 95 have the same meaning as in Part I of the *Trade Union Act*. 2014, c. 32, s. 2; 2015, c. 1, s. 1; 2019, c. 8, s. 183.

Supervision and management of Act

3 The Minister is responsible for the general supervision and management of this Act. 2014, c. 32, s. 3.

Conflict

4 (1) Subject to subsection (2), in the event of a conflict between this Act or the regulations and any enactment respecting a hospital, this Act and the regulations prevail.

(2) In the event of a conflict between Sections 80 to 90 and 93 to 95 and any other enactment or any collective agreement, arbitral or other award or decision, obligation, right, claim, agreement or arrangement of any kind, Sections 80 to 90 and 93 to 95 prevail. 2014, c. 32, s. 4; 2015, c. 1, s. 2.

MINISTER'S DUTIES AND POWERS**Role of Minister**

5 The role of the Minister is to

- (a) provide leadership for the health system by setting the strategic policy direction, priorities and standards for the health system; and
- (b) ensure accountability for funding and for the measuring and monitoring of health-system performance. 2014, c. 32, s. 5.

Duties of Minister

6 The Minister shall

- (a) in consultation with the health authorities, set the strategic direction of the health system by establishing a multi-year provincial health plan;
- (b) in consultation with the health authorities, establish an accountability framework for the purpose of ensuring that the provincial health plan is implemented;
- (c) establish policies, standards and guidelines for the provision of health services and the administration of the provision of health services;
- (d) determine the health services to be provided by a health authority and administer the allocation of available resources for the provision of such health services by the health authority;
- (e) require a health authority to prepare and implement a health-services business plan and such other plans as the Minister considers appropriate, including information management and technology plans and health human-resource plans;
- (f) establish technical and informational requirements and standards for health-information systems; and
- (g) conduct financial and human resource planning. 2014, c. 32, s. 6.

Provincial health plan

- 7 The provincial health plan may prescribe
- (a) the health services to be provided or made available in the Province;
 - (b) the principles upon which the provision of health services are to be based;
 - (c) the goals, objectives and priorities for the provision of health services, including goals, objectives and priorities in respect of quality and patient safety;
 - (d) resource management and planning objectives, including human resources planning and financial planning objectives;
 - (e) priorities for teaching, learning and research; and
 - (f) any other matters prescribed by the regulations. 2014, c. 32, s. 7.

Accountability framework

- 8 An accountability framework must
- (a) establish performance targets for inclusion in the health-services business plan respecting operations, financial management, the provision of health services, the achievement of satisfactory patient and quality outcomes and any other matter prescribed by the regulations;
 - (b) provide for the monitoring, measurement and evaluation of the progress of the health authority in meeting the performance targets referred to in clause (a) and the quality, efficiency, accessibility and comprehensiveness of health services; and
 - (c) direct such health system improvements as are necessary to ensure that the provincial health plan is implemented. 2014, c. 32, s. 8.

Powers of Minister

- 9 The Minister may
- (a) determine the organization and internal management of a health authority, including
 - (i) organizational structures and management responsibilities,
 - (ii) appropriate levels of administrative services, and
 - (iii) the percentage of the total budget administered by a health authority that may be spent on administrative expenses;
 - (b) appoint such advisory groups or committees as the Minister considers appropriate;
 - (c) establish requirements for the public engagement plan of a health authority; and
 - (d) collect, use and disclose any personal information and any personal health information that is provided to the Minister by
 - (i) a health authority under clause 19(1)(i), or

- (ii) a person appointed by the Minister to conduct an audit or review under Section 12. 2014, c. 32, s. 9.

Administrator

10 (1) The Minister may dismiss all of the directors of a health authority if

- (a) the health authority has requested the appointment of an administrator to replace the board; or
- (b) the Minister considers that
 - (i) the health authority has contravened an agreement with the Minister,
 - (ii) the health authority has ceased to function,
 - (iii) the health authority has failed, or is about to fail, to pay any of its debts or liabilities whatsoever when due,
 - (iv) the health authority has failed to comply with any direction of the Minister,
 - (v) the health authority is not properly exercising its powers or carrying out its duties, or
 - (vi) it is in the public interest to dismiss the directors of the health authority.

(2) Where the Minister dismisses all of the directors of a health authority, the Minister shall appoint an administrator to act in place of the board.

(3) Where an administrator is appointed under subsection (2), the dismissed directors shall, at the administrator's request, deliver to the administrator all funds of the health authority and such books, records and documents respecting the management and activities of the health authority as the administrator may require.

- (4)** An administrator appointed under subsection (2)
- (a) has all of the powers and authority of the board;
 - (b) shall perform all of the duties of the board; and
 - (c) may, at the cost of the health authority, be paid such salary and reimbursed for such expenses as the Minister determines.

(5) When the Minister considers that an administrator is no longer required, the Minister shall revoke the appointment of the administrator and, notwithstanding Section 43, appoint new directors to the board.

(6) For greater certainty, when appointing new directors to the board of the IWK Health Centre under subsection (5), the Minister is authorized to make any appointment that could be made under clause 43(1)(a) by whoever is authorized by the bylaws of the IWK Health Centre to appoint directors under that clause. 2014, c. 32, s. 10.

Binding directions

11 Notwithstanding the duties and powers of health authorities under this Act, the Minister may give binding directions to a health authority with respect to any matter the Minister considers relevant to the exercise of the Minister's powers or the discharge of the Minister's duties under this Act, including directions for the purpose of

- (a) establishing priorities and guidelines for the health authority to follow in the exercise of its powers;
- (b) coordinating the work of the health authority with the objectives and strategic direction of the health system in the Province in order to achieve the best possible results and to avoid duplication of effort and expense;
- (c) ensuring the achievement of Provincial objectives and health services; and
- (d) ensuring the proper discharge by the health authority of its duties and powers regarding the boundaries, composition, membership, formation and support of community health boards. 2014, c. 32, s. 11.

Audit or review

12 (1) The Minister may, at any time, direct an audit or review of a health authority or any program, facility, service or action of a health authority.

(2) The Minister may appoint a person to conduct an audit or review directed under subsection (1).

(3) The person appointed by the Minister to conduct an audit or review must, for that purpose, be provided access to all relevant health records and all books of account, securities, cash, documents, bank accounts, vouchers, correspondence and other records of the health authority.

(4) In the course of an audit or review being conducted, a health authority shall disclose, and the person appointed by the Minister to conduct the audit or review may collect, use and disclose, any personal information or personal health information that the person considers necessary for the purpose of conducting the audit or review.

(5) The collection, use and disclosure of personal information and personal health information by the person appointed by the Minister to conduct an audit or review must be limited to the minimum amount of personal information and personal health information necessary for the purpose conducting the audit or review. 2014, c. 32, s. 12.

HEALTH AUTHORITIES**Body corporate**

13 (1) A health authority is a body corporate with the capacity and, subject to this Act, the rights, powers and privileges of a natural person.

(2) The membership of a health authority as a body corporate comprises the individuals who are appointed as its directors. 2014, c. 32, s. 13.

Management and control

14 The management and control of the affairs of a health authority is vested in its board and the board may, subject to this Act, exercise the powers and authority of the health authority. 2014, c. 32, s. 14.

Remuneration and expenses of directors

15 (1) Subject to subsection (2), no director may receive an honorarium or any other remuneration in connection with the director's activities as a director.

(2) Subject to the regulations and to any more restrictive policy adopted by the board, a director may be reimbursed by the health authority for the reasonable expenses necessarily incurred by the director in the performance of the director's duties. 2014, c. 32, s. 15.

Removal or suspension of directors

16 The Minister may, where the Minister considers there is cause or incapacity, remove or suspend any director and may reappoint, reinstate or replace that director, regardless of whether the director's term has expired. 2014, c. 32, s. 16.

Effect of vacancy on board

17 A vacancy on a board does not impair the ability of the remaining directors to act. 2014, c. 32, s. 17.

Status of health authorities and employees

18 (1) A health authority is not an agent of the Crown in right of the Province.

(2) A person employed or engaged by a health authority is not an officer, servant or agent of the Crown in right of the Province.

(3) Nothing in subsection (2) affects the application of the *Public Service Superannuation Act* or the Nova Scotia Public Service Long Term Disability Plan to any person. 2014, c. 32, s. 18.

Duties of health authorities

- 19 (1)** A health authority shall
- (a) subject to any determination by the Minister under clause 9(a), determine priorities in the provision of health services by the health authority and allocate resources accordingly;
 - (b) recommend to the Minister which health services should be made available by the health authority;
 - (c) consult with the Minister and implement the provincial health plan;
 - (d) prepare and submit to the Minister a health-services business plan for each fiscal year;
 - (e) implement the health-services business plan for the health authority;

(f) assist the Minister in the development of and implementation of health policies and standards, health-information systems, human-resource plans for the health system and other Provincial health-system initiatives;

(g) meet any standards established by the Minister respecting the quality of health services provided by the health authority;

(h) comply with any directions, policies or guidelines issued or established by the Minister in respect of the health services provided by the health authority and the administration of such health services;

(i) provide to the Minister such information, including personal information and personal health information, as is required by the Minister for the purpose of monitoring and evaluating the quality, efficiency, accessibility and comprehensiveness of health services and health-system planning;

(j) report on health-system performance as required by the Minister;

(k) develop and implement health-system improvement plans as required by the Minister;

(l) operate in accordance with any accountability framework established by the Minister;

(m) assess the health needs of the residents of the Province and create community profiles according to the requirements established by the Minister;

(n) provide to the Minister any other reports as required by the Minister; and

(o) carry out such additional responsibilities as the Minister may assign or as are prescribed by the regulations.

(2) The disclosure of personal information and personal health information to the Minister under clause (1)(i) must be limited to the minimum amount of personal information and personal health information necessary for the purpose of monitoring and evaluating the quality, efficiency, accessibility and comprehensiveness of health services and health-system planning. 2014, c. 32, s. 19.

Ministerial bylaws re conduct and management

20 (1) The Minister may make bylaws respecting the conduct and management of the affairs of a health authority, including bylaws

(a) respecting the appointment, removal, functions and duties of officers, agents and servants of the health authority;

(b) establishing standing and special committees of the board, including committees dealing with quality and patient safety;

(c) respecting the delegation of powers and duties to officers and committees;

(d) designating banking authorities and signing officers;

(e) respecting conflicts of interest of directors;

(f) governing the calling of meetings of the board and the rules of procedure at such meetings; and

(g) respecting the management and administration of the board.

(2) Subject to the approval of the Minister, a health authority may amend the bylaws made under subsection (1) in respect of that health authority. 2014, c. 32, s. 20.

Ministerial bylaws re privileges

21 The Minister may make bylaws respecting the granting, variation, suspension and revocation of privileges in relation to physicians, dentists and any other class of health professionals not employed by a health authority that is prescribed by the regulations. 2014, c. 32, s. 21.

Health authority bylaws

22 (1) Subject to the approval of the Minister, a health authority may make bylaws respecting medical and dental staff and any other class of health professionals not employed by a health authority that is prescribed by the regulations, including bylaws respecting

(a) the membership of a medical or clinical advisory committee;

(b) categories of privileges;

(c) the duties and functions of senior medical officers appointed by the health authority; and

(d) the rules governing medical and clinical staff.

(2) Where there is a conflict between bylaws made under Section 21 and bylaws made under subsection (1), the bylaws made under Section 21 prevail.

(3) Where a health authority has not made bylaws under subsection (1), the Minister may, where the Minister considers it advisable, make the bylaws referred to in that subsection.

(4) Where the Minister makes bylaws under subsection (3), the health authority may, subject to the approval of the Minister, amend those bylaws. 2014, c. 32, s. 22.

Ministerial power to amend, revoke or replace bylaws

23 The Minister may amend, revoke or replace any of the bylaws made under subsection 22(1). 2014, c. 32, s. 23.

No effect until approved by Minister

24 For greater certainty, neither an amendment to a bylaw under subsection 20(2) nor a bylaw made under subsection 22(1) has any effect until it is approved by the Minister. 2014, c. 32, s. 24.

Health authority deemed to be hospital

25 (1) A health authority is deemed to be a hospital within the meaning of the *Hospitals Act*.

- (2)** A health authority is deemed to be a hospital for the purpose of
- (a) the *Health Act*; and
 - (b) the *Revenue Act*.

(3) A health authority is deemed to be a hospital authority for the purpose of an Agreement as defined by the *Sales Tax Act*. 2014, c. 32, s. 25.

Fiscal year

26 The fiscal year of a health authority begins on April 1st and ends on March 31st in the following year. 2014, c. 32, s. 27.

Annual report

27 (1) In each fiscal year, a health authority shall deliver to the Minister an annual report in the form and containing the content prescribed by the Minister.

(2) An annual report must include information on the results achieved by the health authority with respect to any performance targets established for the health authority by the Minister, including performance targets established in the approved health-services business plan for that fiscal year.

(3) An annual report must be delivered to the Minister by such date as the Minister may prescribe. 2014, c. 32, s. 28.

Property of health authority

28 (1) A health authority may, for the purpose of providing health services,

- (a) acquire, hold, operate and maintain real and personal property; and
- (b) subject to this Act, lease, sell or convey any real or personal property.

(2) Where a health authority determines that real property formerly owned by a hospital is no longer useful for the purpose of the health authority, the health authority shall convey the real property, subject to any lien, mortgage or other charge to which it was subject when acquired by the health authority under this Act, to any municipality, foundation, trustee or other group or person to whom the property would have been transferred upon the dissolution of the hospital but for this Act.

(3) A health authority is exempt from taxation under any Act of the Legislature. 2014, c. 32, s. 29.

Powers of health authority

29 A health authority may

- (a) execute and carry out any trusts respecting real or personal property that is donated, devised, bequeathed, granted, conveyed or given to the health authority;
- (b) make, accept, draw, execute, issue and endorse bills of exchange, cheques, promissory notes, hypothecations or other instruments necessary or convenient in the conduct of the business of the health authority;
- (c) subject to this Act and the *Trustee Act*, invest money received by the health authority;
- (d) subject to this Act, erect, maintain, improve, repair or alter buildings for the health authority's purposes;
- (e) retain any investment, bequest, devise or gift in the form in which it is received by the health authority for as long as the health authority considers proper and invest the interest accrued on, or the proceeds of the sale or disposition of, any such investment, bequest, devise or gift;
- (f) subject to this Act, hold any real or personal property subject to and upon any trusts, terms or conditions imposed in the acquisition of the property. 2014, c. 32, s. 30.

Financial reports and statements

30 A health authority shall deliver to the Minister

- (a) monthly financial reports;
- (b) audited financial statements and reports as required under subsection 35(5); and
- (c) such other financial reports as are required by the Minister,

in the form and containing the content prescribed by the Minister. 2014, c. 32, s. 31.

Capital expenditures

31 A health authority may not make any expenditure for the acquisition of capital items unless the acquisition

- (a) is provided for in a capital plan in an approved health-services business plan; or
- (b) has the prior written approval of the Minister. 2014, c. 32, s. 32.

Deficits

32 (1) A health authority may not plan for, or incur or make an expenditure that will result in, an operating funding deficit or a capital deficit in any fiscal year.

(2) Notwithstanding subsection (1), where a health authority incurs an operating funding deficit or capital deficit in a fiscal year, the health authority shall submit a plan to the Minister indicating how the operating funding deficit or capital deficit, as the case may be, is to be made up during the following fiscal year.

(3) The Minister may approve a plan submitted by a health authority under subsection (2) and, before doing so, may make any amendment to the plan that the Minister considers appropriate.

(4) A health authority that submitted a plan approved under subsection (3) must make up its operating funding deficit or capital deficit in accordance with the plan as approved by the Minister. 2014, c. 32, s. 33.

Surpluses

33 (1) Where a health authority realizes an operating funding surplus at the end of a fiscal year, the health authority may request that the Minister allow it to overspend in a subsequent fiscal year by an amount not exceeding the amount of the operating funding surplus realized.

(2) The Minister may allow the request of a health authority under subsection (1) to the extent that the Minister considers appropriate. 2014, c. 32, s. 34.

Borrowing money

34 A health authority may borrow money if the borrowing

- (a) is in accordance with the *Finance Act*;
- (b) has the prior written approval of the Minister; and
- (c) meets any terms and conditions that the Minister prescribes.

2014, c. 32, s. 35.

Auditor

35 (1) A board shall appoint a person licensed as a public accountant under the *Chartered Professional Accountants Act* to be the auditor of the health authority.

(2) The term of an appointment under subsection (1) must not exceed three years without the prior written approval of the Minister and must not exceed five years in any event.

(3) The audited financial statements of a health authority must be in compliance with the financial accounting policies prescribed by the Minister of Finance and Treasury Board.

(4) The audited financial statements and the auditor's reports must be delivered by the auditor of a health authority to the board and to the Minister no later than June 30th immediately following the end of each fiscal year, or by such other date as the Minister may prescribe.

(5) The auditor of a health authority shall report any management letter and any communication detailing weaknesses in internal control, deficiencies in management information systems or other areas requiring attention for improvement, including all audit reports and the auditor's observations and recommendations to management relating to significant findings from the audit activity, to the board and to the Minister.

(6) A health authority shall prepare an annual audited schedule, separate from the audited financial statement, showing, for the fiscal year to which the annual audited schedule relates, a reconciliation of the operating funding surplus or deficit and capital surplus or deficit, as defined by this Act, to the operating surplus or deficit and capital surplus or deficit reported in the annual audited financial statements. 2014, c. 32, s. 36.

Auditor's access to records

36 (1) The auditor of a health authority is entitled to access at all times to the books, accounts and records of the health authority and may require from the employees of the health authority such information and explanations as may be necessary for the performance of the auditor's duties.

(2) The employees of a health authority shall promptly provide access, information and explanations to the auditor of the health authority upon the auditor's request. 2014, c. 32, s. 37.

Audit committee

37 (1) A board shall annually appoint an audit committee.

(2) An audit committee shall

(a) review in detail the financial statements of the health authority with the auditor;

(b) evaluate internal control systems and any management letter and audit reports with the auditor;

(c) review the conduct and adequacy of the audit;

(d) investigate such matters arising out of the audit that the committee considers require investigation; and

(e) perform such additional duties as may be prescribed by the bylaws or the regulations. 2014, c. 32, s. 38.

Quality improvement and safety committee

38 (1) A board shall appoint a quality improvement and safety committee.

(2) A quality improvement and safety committee shall maintain and evaluate a health-authority-wide quality improvement and safety program in relation to quality planning control, quality improvement, risk management and utilization review.

(3) A quality improvement and safety committee shall

(a) create and administer health-authority-wide quality improvement programs and plans that encourage a multi-disciplinary approach to the continuous quality improvement of the health services provided by the health authority;

(b) regularly assess the efficiency and effectiveness of health services delivered by the health authority and identify opportunities to improve the utilization of available resources;

- (c) provide such reports to the board as the board may request;
- (d) provide an annual quality improvement plan to the board containing such elements as the board may determine; and
- (e) carry out such other duties as may be prescribed by the bylaws or the regulations. 2014, c. 32, s. 39.

HEALTH-SERVICES BUSINESS PLANS

Preparation of health-services business plan

39 (1) A health authority shall prepare and submit a health-services business plan in the form and containing the information prescribed by the Minister.

(2) A health-services business plan must be submitted to the Minister no later than November 1st before the commencement of each fiscal year, unless the Minister or the regulations prescribe a different date on or before which the health-services business plan is to be submitted.

(3) Where directed to do so by the Minister, the health authorities shall collaborate with each other on all or part of their health-services business plans.

(4) A health-services business plan must not be implemented until it has been approved by the Minister.

(5) A health-services business plan must conform with the priorities and policy directions described in the provincial health plan and satisfy any requirements prescribed by the regulations.

(6) A health-services business plan must contain a public engagement plan that

- (a) describes the scope and purpose of the health authority's planned public engagement activities;
- (b) explains how the health authority's engagement activities will allow it to become informed about the views, opinions and experiences of the members of the public whom the health authority serves;
- (c) specifies the ways in which the health authority will advise the public of the outcome of issues on which the public is consulted; and
- (d) includes any other requirements prescribed by the Minister.

(7) A public engagement plan contained in a health-services business plan prepared by the provincial health authority must provide direction to community health boards in respect of their consultations with the residents of the communities they serve under clause 69(1)(e).

(8) A health-services business plan prepared by the provincial health authority must demonstrate that the provincial health authority has consid-

ered the community health plans provided to it and, where the health-services business plan does not provide for implementation of elements of a community health plan, set out the reasons for those elements not being recommended for implementation.

(9) In preparing its health-services business plan, the IWK Health Centre shall consider the elements of the community health plans provided to it by the provincial health authority that relate to children, youth, women and families.

(10) In considering whether to approve a proposed health-services business plan, the Minister shall consider whether the requirements of subsections (5), (8) and, in the case of the IWK Health Centre, (9) have been satisfied. 2014, c. 32, s. 40.

Approval by Minister

40 (1) The Minister may

- (a) approve the health-services business plan, with or without any amendments that the Minister considers appropriate; or
- (b) refuse to approve the plan.

(2) Where the Minister refuses to approve a health-services business plan, the Minister shall provide reasons and the health authority shall submit for approval a plan that addresses the problems identified by the Minister on or before the date prescribed by the Minister.

(3) The Minister shall inform a health authority whether its health-services business plan has been approved, approved with amendments or not approved.

(4) Where a health authority is not informed by March 31st immediately preceding the fiscal year for which a health-services business plan is prepared that the health-services business plan has been approved, approved with amendments or not approved, the health authority may expend funds not exceeding one half of the total operating expenditures provided for in its health-services business plan for the previous fiscal year before the plan is approved by the Minister. 2014, c. 32, s. 41.

IWK HEALTH CENTRE

IWK Health Centre continued

41 The Izaak Walton Killam Health Centre constituted by the former *IWK Health Centre Act* is continued as a body corporate. 2014, c. 32, s. 42.

Objects

42 (1) The objects of the IWK Health Centre are to operate a health centre and to provide health services and programs for children, youth, women and families.

(2) The IWK Health Centre is dedicated to, and shall conduct its business and affairs with a view to, improving the health and health status of children, youth, women and families. 2014, c. 32, s. 43.

Board

- 43** (1) The board of the IWK Health Centre is composed of
- (a) such number of directors as is prescribed by the bylaws of the IWK Health Centre; and
 - (b) two directors appointed by the Minister.

(2) Directors appointed under clause (1)(a) must possess the qualifications prescribed by, and be elected or appointed in accordance with, the bylaws of the IWK Health Centre.

(3) Subject to subsection (4), a director of the IWK Health Centre appointed under clause (1)(b) holds office for the term prescribed by the regulations or, where the regulations do not prescribe the term, for the term specified in the director's appointment.

(4) A director of the IWK Health Centre appointed under clause (1)(b) holds office until such time as the director's successor is appointed, even if such appointment does not occur until after the director's term of office has expired. 2014, c. 32, s. 44.

Offices

44 Subject to the bylaws and subclause 9(a)(i), the board of the IWK Health Centre shall

- (a) determine the offices of the IWK Health Centre and the duties and authorities of each such office; and
- (b) appoint individuals to hold such offices. 2014, c. 32, s. 45.

Delegation

45 The board of the IWK Health Centre may delegate authority to any person or committee to conduct and manage affairs of the IWK Health Centre to the extent the board determines in accordance with the bylaws of the IWK Health Centre. 2014, c. 32, s. 46.

Bylaws

46 (1) Subject to the approval of the Minister and to any bylaws made by the Minister under subsection 20(1), Section 21 or subsection 22(3), the IWK Health Centre may make bylaws respecting the conduct and management in all respects of the business and affairs of the IWK Health Centre and the exercise of the powers of the IWK Health Centre.

- (2) A bylaw may be made
- (a) by a resolution passed at a meeting, or approved in writing, by a majority of the directors of the IWK Health Centre; or
 - (b) as otherwise prescribed by the bylaws of the IWK Health Centre.

(3) For greater certainty, a bylaw made under subsection (1) has no effect until it is approved by the Minister. 2014, c. 32, s. 47.

Signing authorities

47 The signing authorities for the IWK Health Centre may be prescribed by the bylaws and, in the absence thereof, any agreement, instrument or document to be executed by the IWK Health Centre may be signed by such officers of the IWK Health Centre or other persons as the board of the IWK Health Centre may determine and, unless otherwise required by the bylaws, all agreements, instruments or documents so signed are valid and binding on the Corporation without the necessity of affixing a corporate seal. 2014, c. 32, s. 48.

PROVINCIAL HEALTH AUTHORITY**Provincial health authority established**

48 (1) A health authority for the Province is established as a body corporate, which shall provide health services to the entire Province, except for those health services provided by the IWK Health Centre.

(2) The name of the provincial health authority may be prescribed by the regulations. 2014, c. 32, s. 49.

Objects

49 The objects of the provincial health authority are to govern, manage and provide health services in the Province and to implement the strategic direction set out in the provincial health plan. 2014, c. 32, s. 50.

Queen Elizabeth II Health Sciences Centre

50 (1) The provincial health authority is responsible for the Queen Elizabeth II Health Sciences Centre.

- (2)** The Queen Elizabeth II Health Sciences Centre includes
- (a) the Abbie J. Lane Memorial Building;
 - (b) the Bethune Building;
 - (c) the Camp Hill Veterans' Memorial Building;
 - (d) the Centennial Building;
 - (e) the Centre for Clinical Research;
 - (f) the Dickson Building;
 - (g) the Halifax Infirmary, including the Charles V. Keating Emergency and Trauma Centre;
 - (h) the McKenzie Building;
 - (i) the Nova Scotia Rehabilitation Centre;
 - (j) the Victoria Building; and
 - (k) any building or site prescribed by the regulations.

(3) The Queen Elizabeth II Health Sciences Centre is a centre for adult tertiary health services and research and academic activities. 2014, c. 32, s. 51.

Board

- 51** (1) The board of the provincial health authority is composed of
- (a) such number of directors as is prescribed by the regulations, up to a maximum of 13 directors; and
 - (b) such number of non-voting directors as the Minister considers appropriate.

(2) The Minister shall appoint the directors of the provincial health authority. 2014, c. 32, s. 52.

Disqualification from appointment

52 (1) No person is qualified to be appointed or serve as a director of the provincial health authority who

- (a) is a member of
 - (i) the House of Commons or the Senate of Canada,
 - (ii) the House of Assembly,
 - (iii) a council of a regional municipality, a town or a municipality of a county or district, or
 - (iv) the Conseil scolaire acadien provincial;
- (b) is an employee of a health authority or the Department of Health and Wellness or has privileges in a health authority; or
- (c) is a person or a member of a class of persons prescribed by the regulations.

(2) Notwithstanding clause (1)(b), an employee of a health authority or a physician who has privileges in a health authority may be appointed or serve as a non-voting director of the provincial health authority. 2014, c. 32, s. 53; 2018, c. 1, Sch. A, s. 120.

Term of directors

53 (1) Subject to subsection (2), a director of the provincial health authority holds office for the term prescribed by the regulations or, where the regulations do not prescribe the term, for the term specified in the director's appointment.

(2) A director of the provincial health authority holds office until such time as the director's successor is appointed, even if such appointment does not occur until after the director's term of office has expired. 2014, c. 32, s. 54.

Chair

54 (1) The Minister shall appoint an individual from among the voting directors of the provincial health authority to be the chair of the provincial health authority.

(2) The chair of the provincial health authority holds office for a term of three years and may be reappointed for one additional three-year term. 2014, c. 32, s. 55.

Chief executive officer

55 The board of the provincial health authority shall appoint a chief executive officer who is responsible to the board for the general management and conduct of the affairs of the provincial health authority in accordance with the policies and directions of the board. 2014, c. 32, s. 56.

Quorum

56 A majority of the voting directors of the provincial health authority constitutes a quorum. 2014, c. 32, s. 57.

Committees

57 (1) The board of the provincial health authority may establish advisory and other committees to assist the board in carrying out its responsibilities, including any committees it considers necessary or advisable for ensuring adequate opportunity for consultation with and participation by the public in respect of health services provided by the provincial health authority.

(2) The members of a committee established under subsection (1) need not be directors of the provincial health authority. 2014, c. 32, s. 58.

Liability of directors

58 No director of the provincial health authority is 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 the director by this Act. 2014, c. 32, s. 59.

Management zones

59 (1) Management zones within the Province may be established by the regulations for the purpose of delivering and managing health services on a regional level at the direction of the provincial health authority.

(2) Subject to clause 9(a), the provincial health authority shall determine the uses of management zones in the delivery and management of health services by the provincial health authority. 2014, c. 32, s. 60.

COMMUNITY HEALTH BOARDS**Community health boards continued**

60 (1) Subject to subsection (2), the community health boards established under the former Act are continued.

(2) For greater certainty, a community health board is not a body corporate. 2014, c. 32, s. 61.

Objects

61 The objects of a community health board are to advise the provincial health authority on local perspectives, trends, issues and priorities, and to contribute to health-system accountability by facilitating an exchange of information and feedback between the community and the provincial health authority. 2014, c. 32, s. 62.

Community boundaries

62 (1) Subject to the approval of the Minister, the provincial health authority may alter the boundaries of a community or amalgamate or reduce the number of community health boards.

(2) A community health board may recommend to the provincial health authority that it change the boundaries of its community or amalgamate or reduce the number of community health boards. 2014, c. 32, s. 63.

Composition

63 Unless otherwise prescribed by the regulations, a community health board is composed of a minimum of nine and a maximum of 15 members. 2014, c. 32, s. 64.

Members

64 (1) Members of a community health board must be appointed by the person or entity prescribed by the regulations.

(2) Members of a community health board must be appointed under an open and transparent selection process prescribed by the regulations.

(3) Each member of a community health board must ordinarily reside within the community. 2014, c. 32, s. 65.

Term of office

65 (1) Subject to subsection (2), members of a community health board appointed on or after April 1, 2015, hold office for a term of three years.

(2) Where a new community health board is created by the amalgamation of two or more existing community health boards, one third of the initial membership of the new community health board must be appointed for a term of two years, one third must be appointed for a term of three years and the remaining one third must be appointed for a term of four years. 2014, c. 32, s. 66.

Reimbursement of expenses

66 Subject to the regulations and to any more restrictive policy adopted by the provincial health authority, a member of a community health board may be reimbursed by the provincial health authority for the reasonable expenses necessarily incurred by the member in the performance of the member's duties. 2014, c. 32, s. 67.

Chair

67 A community health board shall select its chair from among its members. 2014, c. 32, s. 68.

Responsibilities withheld

68 (1) A community health board shall not govern or manage the delivery of health services.

(2) A community health board is not responsible for resolving individual patient care concerns. 2014, c. 32, s. 69.

Duties

- 69** (1) A community health board shall
- (a) work with the community to identify and promote community health promotion initiatives for inclusion in the community health plan;
 - (b) participate in health promotion initiatives identified in the community health plan that have been approved in the provincial health authority's health-services business plan;
 - (c) provide guidance to the provincial health authority on strategies to further engage the community on issues respecting health services;
 - (d) provide such other advice and assistance as the provincial health authority may request;
 - (e) as directed by the provincial health authority's public engagement plan, consult with the residents of the communities they serve respecting
 - (i) issues relating to health, including income and social status, social support networks, education, employment, physical environments, inherited factors in determining health outcomes, personal health practices and coping skills, child development and health services in the community,
 - (ii) health needs and priorities,
 - (iii) access to health services, and
 - (iv) the promotion of health;
 - (f) provide advice, information and feedback to the provincial health authority respecting information obtained under clause (e); and
 - (g) participate with the provincial health authority in the selection of community development grant recipients to advance health promotion initiatives in the community.

(2) All meetings of a community health board must be open to the public. 2014, c. 32, s. 70.

Advisory committees

70 The provincial health authority may establish advisory committees to assist a community health board in carrying out its responsibilities. 2014, c. 32, s. 71.

Support of provincial health authority

71 (1) The provincial health authority shall provide each community health board with administrative support services and information resources to assist in the carrying out of the community health board's duties as prescribed by Section 69.

(2) The provincial health authority may enter into contracts with any person for the purpose of subsection (1). 2014, c. 32, s. 72.

Liability of members

72 No member of a community health board is 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 by this Act. 2014, c. 32, s. 73.

COMMUNITY HEALTH PLANS**Preparation**

73 (1) Every three years, each community health board shall, either solely or in conjunction with one or more other community health boards, prepare a three-year community health plan to be submitted to the provincial health authority.

(2) A community health plan must include

(a) the goals and objectives of the plan as determined by the community health board through public engagement;

(b) the health promotion priorities and initiatives recommended by the community health board for the improvement of the health of the community;

(c) a demonstration that the recommended priorities and initiatives have been established through community consultation; and

(d) proposals for ongoing formal consultation and engagement activities with communities, in accordance with the health authority's public engagement plan.

(3) A community health board shall support the implementation at the community level of those components of the community health plan that are incorporated into the health-services business plan of the provincial health authority. 2014, c. 32, s. 74.

Role of provincial health authority

74 (1) The provincial health authority shall ensure that community health plans are prepared by community health boards.

(2) The provincial health authority shall provide a copy of each community health plan to the IWK Health Centre to assist it in the preparation of its health-services business plan. 2014, c. 32, s. 75.

FOUNDATIONS**Duties**

75 Notwithstanding any enactment, trust or agreement by which a foundation is established in respect of a hospital, the foundation shall, as the foundation considers appropriate,

(a) continue to use its funds to benefit the hospital or for any other charitable purpose for which the foundation is established; or

(b) where the hospital is no longer operated as a hospital or no longer exists, use its funds to benefit the health services of the area formerly served by the hospital, subject to the terms of any trust relating to the use of those funds. 2014, c. 32, s. 76.

Audited financial statements

76 (1) A foundation that uses its funds to benefit the provincial health authority or a hospital located in the Province, other than the IWK Health Centre, shall annually provide the provincial health authority with copies of its audited year-end financial statements.

(2) A foundation that uses its funds to benefit the IWK Health Centre shall annually provide the IWK Health Centre with copies of its audited year-end financial statements. 2014, c. 32, s. 77.

REGULATIONS

Governor in Council regulations

- 77 (1)** The Governor in Council may make regulations
- (a) prescribing services for the purpose of the definition of “health services”;
 - (b) respecting the reimbursement for expenses of directors;
 - (c) prescribing additional responsibilities of health authorities;
 - (d) prescribing classes of health professionals in relation to which the Minister may make bylaws respecting the granting, variation, suspension and revocation of privileges;
 - (e) prescribing classes of health professionals in relation to which a health authority may make bylaws;
 - (f) prescribing the name of the provincial health authority;
 - (g) prescribing the number of voting and non-voting directors on the board of the provincial health authority;
 - (h) prescribing persons who or classes of persons that are not qualified to be appointed or serve as a director of the provincial health authority;
 - (i) prescribing the term of office for directors of the provincial health authority;
 - (j) establishing management zones within the Province;
 - (k) respecting the reimbursement for expenses of a member of a community health board;
 - (l) defining any word or expression used but not defined in this Act;

(m) further defining any word or expression defined in this Act;

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

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*, 2014, c. 32, s. 78.

Ministerial regulations

78 (1) The Minister may make regulations

(a) prescribing matters to be included in the provincial health plan;

(b) prescribing matters to be included in an accountability framework;

(c) respecting the reporting requirements for the borrowing of funds by a health authority;

(d) prescribing the duties of an audit committee;

(e) prescribing the duties of a quality improvement and safety committee;

(f) prescribing matters for which performance targets may be established for inclusion in health-services business plans;

(g) respecting health-services business plans;

(h) prescribing buildings or sites as being part of the Queen Elizabeth II Health Sciences Centre;

(i) prescribing the minimum and maximum number of members of a community health board;

(j) prescribing the person or entity responsible for appointing members of a community health board;

(k) respecting the process for selecting and appointing members of a community health board;

(l) respecting the internal reporting and business practices of health authorities;

(m) designating organizations that transport people with disabilities who have been determined to be eligible for Community Transportation Assistance Program funding or funding in substitution for the Program;

(n) prescribing parking fees and other parking costs at the facilities of a health authority; and

(o) notwithstanding any enactment, exempting designated organizations from paying the parking fees and other parking costs at the facilities of a health authority.

(2) The exercise by the Minister of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2014, c. 32, s. 79.

Incorporation by reference

79 (1) A regulation made under this Act may adopt or incorporate by reference, in whole or in part or with modifications, a written standard, rule, regulation or other document relating to any matter in respect of which a regulation may be made under this Act.

(2) A standard, rule, regulation or other document that is adopted or incorporated by reference under subsection (1) may be adopted or incorporated as it reads on a prescribed day or as it is amended from time to time.

(3) Where a standard, rule, regulation or other document is adopted or incorporated by reference under subsection (1), the Minister shall ensure that a copy of the standard, rule, regulation or other document is made publicly available. 2014, c. 32, s. 80.

LABOUR RELATIONS

Application of Trade Union Act

80 (1) Clause 37(3)(c), subsection 45(3) and Sections 48 and 49 of the *Trade Union Act* do not apply to labour relations between the health authorities, their unionized employees and the councils of unions.

(2) Sections 48 and 49 of the *Trade Union Act* do not apply to labour relations between the health authorities, their unionized employees and the unions. 2015, c. 1, s. 4.

Bargaining units

81 (1) Effective April 1, 2015, there are four bargaining units of unionized employees for each health authority, namely,

(a) a nursing bargaining unit composed of all unionized employees who occupy positions that must be occupied by a registered nurse or a licensed practical nurse;

(b) a healthcare bargaining unit composed of all unionized employees who

(i) occupy positions that require them to be engaged primarily in a clinical capacity to provide patient care, and

(ii) are not included in the nursing bargaining unit;

(c) an administrative professionals bargaining unit composed of all unionized employees who occupy positions that require them to be engaged primarily in a non-clinical capacity to perform functions that are predominantly administrative or clerical; and

(d) a support bargaining unit composed of all unionized employees who

(i) occupy positions that require them to be engaged primarily in a non-clinical capacity to provide operational support in respect of the provision of health services, and

(ii) are not included in the administrative professionals bargaining unit.

(2) The initial composition of each bargaining unit is as determined in Schedules 3 to 7 to the decision of the mediator-arbitrator dated February 19, 2015.

(3) The integration of seniority of unionized employees in each bargaining unit and the process for determining unionized employees' integrated seniority and resolving any disputes over unionized employees' integrated seniority must be determined in accordance with Schedule 1 to the decision of the mediator-arbitrator dated February 19, 2015. 2015, c. 1, s. 4.

Councils of unions

82 (1) There are four councils of unions, to be known as

(a) the Nova Scotia Council of Nursing Unions;

(b) the Nova Scotia Council of Health Care Unions;

(c) the Nova Scotia Council of Health Administrative Professional Unions; and

(d) the Nova Scotia Council of Health Support Unions.

(2) A council of unions must be composed of each union that represents one or more of the unionized employees who compose the bargaining unit that the council of unions is to represent. 2015, c. 1, s. 4.

Constitutions of council of unions

83 (1) The unions that compose a council of unions shall agree to a constitution for the council of unions that

(a) is consistent with this Act and Part I of the *Trade Union Act*, except clause 37(3)(c), subsection 45(3) and Sections 48 and 49 of that Act;

(b) provides the council of unions with the exclusive jurisdiction to bargain on behalf of the bargaining units for which the council of unions is to be certified as the bargaining agent and to conclude a single collective agreement in respect of those bargaining units;

(c) establishes a process for concluding essential health and community services agreements within the meaning of the *Essential Health and Community Services Act* with the health authorities;

(d) provides the council of unions with the right and obligation to resolve differences among its members in respect of the

administration of a collective agreement, including differences respecting the right or obligation to belong to a particular union within the council of unions; and

(e) includes provisions respecting the ratification of collective agreements and other collective bargaining processes that reflect the relative membership size of union representation in the bargaining units within the council of unions, while ensuring that no member or group of members of a constituent union is treated in a manner that is arbitrary, discriminatory or in bad faith by the council of unions.

(2) On or before May 1, 2015, the constitution of a council of unions must be filed with the Labour Board.

(3) On and after the filing date, the constitution of a council of unions

(a) is deemed to be an order of the Labour Board; and

(b) is binding upon the unions that compose the council of unions and the unionized employees represented by those unions.

(4) One or more of the unions that compose a council of unions may, in accordance with the constitution of the council of unions, apply to the Labour Board to amend the constitution.

(5) The parties to an application made under subsection (4) are

(a) the health authorities;

(b) the council of unions, the amendment of whose constitution is the subject of the application; and

(c) the unions that compose the council of unions.

(6) The Labour Board shall decide an application made under subsection (4) in the same manner as it would reconsider, under subsection 26(1) of the *Trade Union Act*, any decision or order made by it under that Act.

(7) In deciding an application made under subsection (4), the Labour Board shall be guided by any principles respecting the amendment of the constitution of the council of unions that are set out in the constitution. 2015, c. 1, s. 4.

Bargaining agent

84 (1) On and after the filing date,

(a) the Nova Scotia Council of Nursing Unions is deemed to be certified as the bargaining agent for the nursing bargaining unit for each health authority;

(b) the Nova Scotia Council of Health Care Unions is deemed to be certified as the bargaining agent for the healthcare bargaining unit for each health authority;

(c) the Nova Scotia Council of Health Administrative Professional Unions is deemed to be certified as the bargaining agent

for the administrative professionals bargaining unit for each health authority; and

(d) the Nova Scotia Council of Health Support Unions is deemed to be certified as the bargaining agent for the support bargaining unit for each health authority,

for the purpose of Sections 40 to 44, subsections 45(1) and (2) and Sections 46, 47, 69 to 74 and 93 to 107 of the *Trade Union Act*.

(2) On and after the filing date, except for the purposes described by subsection (1), a union that, immediately before the filing date, was certified or recognized as bargaining agent for unionized employees in a bargaining unit of a health authority continues to be certified or recognized as the bargaining agent for those unionized employees. 2015, c. 1, s. 4.

Trade Union Act and Essential Health and Community Services Act

85 (1) A council of unions is deemed to be a trade union for the purpose of the *Trade Union Act*.

(2) A council of unions is deemed to be a bargaining agent for the purpose of the *Essential Health and Community Services Act*. 2015, c. 1, s. 4.

Multi-employer collective bargaining

86 The health authorities shall engage in multi-employer collective bargaining to conclude a single collective agreement between the health authorities and a council of unions in respect of the two bargaining units represented by the council of unions. 2015, c. 1, s. 4.

Conduct of votes

87 (1) For the purpose of conducting a vote to ratify a proposed collective agreement or a vote as to whether to strike or not to strike, the two bargaining units represented by a council of unions are deemed to be a single bargaining unit.

(2) The majority required when conducting a vote to ratify a proposed collective agreement between the health authorities and a council of unions is a majority of the votes cast by the unionized employees represented by the council of unions.

(3) For greater certainty, the majority required when conducting a vote as to whether the unionized employees represented by a council of unions are to strike or not to strike is a majority of the unionized employees represented by the council of unions. 2015, c. 1, s. 4.

Collective agreement binding

88 A collective agreement entered into between the health authorities and a council of unions is binding upon the health authorities, the council of unions, the unions that compose the council of unions and every unionized employee in the two bargaining units represented by the council of unions. 2015, c. 1, s. 4.

Application to Labour Board

89 (1) A health authority, a council of unions or a union may apply to the Labour Board for the resolution of any question or problem that has arisen or may arise in relation to the implementation of the provisions of this Act respecting labour relations.

(2) Upon the application being made, the Labour Board shall, by order, make whatever award, give whatever direction or take any other action that in its discretion the Board considers appropriate to resolve any relevant question or problem, including any question relating to the interpretation or application of Schedules 1 to 7 of the decision of the mediator-arbitrator dated February 19, 2015.

(3) Where an application is made under this Section, the Labour Board may make or cause to be made any examination of records or other inquiries, and may hold any hearings that it considers necessary and prescribe the nature of evidence to be furnished to the Labour Board. 2015, c. 1, s. 4.

Where council of unions guilty of offence

90 Where a council of unions is guilty of an offence under any enactment, each of the unions that compose the council of unions is also guilty of an offence and is liable on summary conviction to the penalties set out in the enactment, whether or not the council of unions has been prosecuted or convicted. 2015, c. 1, s. 4.

TRANSITIONAL**Consequences of Act coming into force**

91 (1) In this Section, “district health authority” means a district health authority as defined in the former Act but does not include the IWK Health Centre.

(2) Effective April 1, 2015,

(a) all assets and liabilities of all district health authorities, including all employee benefits and entitlements, become the assets and liabilities of the provincial health authority;

(b) all employees of all the district health authorities become employees of the provincial health authority;

(c) the continuity of employment of the employees of a district health authority is not broken by the effect of clause (b);

(d) the provincial health authority is substituted for a district health authority in respect of any agreement to which the district health authority is a party;

(e) every employee of the provincial health authority who was an employee of a district health authority immediately before April 1, 2015, is employed by the provincial health authority on the same terms and conditions as to salary and benefits as those under which the employee was an employee of the district health authority, until changed by collective agreement or contract of employment;

(f) every employee of a district health authority who becomes an employee of the provincial health authority under clause (b) is deemed to have been employed by the provincial health authority for the same period of employment that the employee was credited with as an employee of the district health authority;

(g) benefits accumulated by an employee of a district health authority while employed by the district health authority are vested in the employee and the employee is entitled to receive those benefits from the provincial health authority; and

(h) the provincial health authority is a successor employer for the purpose of the *Pension Benefits Act*.

(3) The vesting under subsection (2) of any asset of a district health authority in the provincial health authority does not void any policy of insurance with respect to the asset, including any public liability policy, and the provincial health authority is deemed to be the insured party for the purpose of any such policy. 2014, c. 32, s. 81.

Bylaws

92 (1) Where, immediately before April 1, 2015, bylaws respecting the matters referred to in subsection 20(1), Section 21 and subsection 22(1) were

(a) made by the Minister under Sections 22 and 23 of the former Act; or

(b) made by the Capital District Health Authority, as defined by the former Act, and approved by the Minister under subsection 24(1) of the former Act,

those bylaws remain in effect and apply to the provincial health authority until such time as they are replaced with new bylaws made under this Act.

(2) Where, immediately before April 1, 2015, bylaws respecting the matters referred to in subsection 20(1), Section 21 and subsection 22(1) were made by the Board of Directors of the IWK Health Centre under Section 10 of the former *IWK Health Centre Act* and approved by the Minister under the former Section 6 of the *Hospitals Act*, those bylaws remain in effect and apply to the IWK Health Centre until such time as they are replaced with new bylaws made under this Act. 2014, c. 32, s. 82.

Application of collective agreements in force before April 1, 2015

93 (1) Subject to subsection (2), for each bargaining unit, until a new collective agreement is concluded, the collective agreements pertaining to the unionized employees in the bargaining unit and in force immediately before April 1, 2015, must be applied in accordance with the protocol set out in Schedule 2 to the decision of the mediator-arbitrator dated February 19, 2015.

(2) Notwithstanding Schedule 2 to the decision of the mediator-arbitrator dated February 19, 2015, any dispute between a health authority and a union regarding the interpretation or implementation of the protocol set out in Schedule 2 must be resolved by the Labour Board. 2015, c. 1, s. 5.

Application of Trade Union Act before conclusion of first collective agreement

94 Until the first collective agreement is concluded between a health authority and a council of unions, Sections 29 to 33 of the *Trade Union Act* do not apply to labour relations between the health authority, its unionized employees and

- (a) the council of unions; or
- (b) the unions that compose the council of unions in their capacity as bargaining agents for the unionized employees. 2015, c. 1, s. 5.

Orders of mediator-arbitrator

95 (1) The order of the mediator-arbitrator dated February 19, 2015, to the extent that it declares the Nova Scotia Government Employees Union to be the exclusive bargaining agent for the unionized employees in the healthcare bargaining units of the provincial health authority and the IWK Health Centre, is void *ab initio*.

(2) The order of the mediator-arbitrator dated February 25, 2015, is void *ab initio*. 2015, c. 1, s. 5.

REPEAL**Unproclaimed amendment to this Act**

96 (1) Subsection 80(2) is repealed.

(2) Subsection (1) comes into force on such day as the Governor in Council orders and declares by proclamation. 2014, c. 32, s. 155; 2015, c. 1, ss. 10, 11.

CHAPTER H-7

An Act to Provide for the Protection of Health

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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 *Health Protection Act*. 2004, c. 4, s. 1.

Restrictions on private rights and freedoms limited

- 2 Restrictions on private rights and freedoms arising as a result of the exercise of any power under this Act may be no greater than are reasonably required, considering all of the circumstances, to respond to a health hazard, notifiable disease or condition, communicable disease or public health emergency. 2004, c. 4, s. 2.

Interpretation

- 3 In this Act,

“dwelling” means a building or a portion of a building that is occupied and used as a residence, and includes a house, condominium, apartment, cottage, mobile home, trailer or boat that is occupied and used as a residence;

“health hazard” means

- (a) a condition of premises;
- (b) a substance, thing, plant, animal or organism other than a human;
- (c) a solid, liquid or gas;
- (d) radiation, noise, vibration or heat; or
- (e) an activity,

or combination of any of them, that presents or may present a threat to the public health;

“justice of the peace” does not include a staff justice of the peace or administrative justice of the peace appointed pursuant to the *Justices of the Peace Act*;

“medical officer” means a medical officer of health appointed pursuant to this Act, and includes the Chief Medical Officer and the Deputy Chief Medical Officer;

“occupier” means an occupier at common law, and includes

- (a) a person who is in physical possession of premises; or
- (b) a person who has responsibility for, and control over, the condition of premises, the activities conducted on the premises or the persons allowed to enter the premises,

and, for the purpose of this Act, there may be more than one occupier of the same premises;

“premises” means lands and structures, or either of them, and any adjacent yards and associated buildings and structures, whether of a portable, temporary or permanent nature, and includes

- (a) a body of water;
- (b) a motor vehicle or trailer;
- (c) a train or railway car;
- (d) a boat, ship or similar vessel; and
- (e) an aircraft;

“public health inspector” means a public health inspector designated pursuant to this Act. 2004, c. 4, s. 3.

PART I

DISEASES AND HEALTH HAZARDS

Interpretation of Part

4 In this Part,

“Chief Medical Officer” means the Chief Medical Officer of Health appointed pursuant to this Part;

“communicable disease” means a disease, due to a specific infectious agent or its toxic products, that arises through the transmission of that agent or its toxic products

- (a) directly or indirectly from an infected person or animal; or
- (b) directly or indirectly through the agency of a disease vector, an inanimate object or the environment;

“dangerous disease” means Ebola, Lassa fever, plague, smallpox, severe acute respiratory syndrome or tuberculosis or any other communicable disease designated as a dangerous disease in the regulations;

“Deputy Chief Medical Officer” means the Deputy Chief Medical Officer of Health appointed pursuant to this Part;

“disease vector” means a plant or animal that is a carrier of a communicable disease or a notifiable disease or condition;

“examination” includes the taking of a medical history, a physical inspection, palpation, percussion, auscultation of the human body, ancillary laboratory tests and other investigations such as x-rays;

“health authority” has the same meaning as in the *Health Authorities Act*;

“hospital” means a hospital within the meaning of the *Hospitals Act*;

“institution” means

(a) a child-caring facility within the meaning of the *Children and Family Services Act*;

(b) a facility within the meaning of the *Early Learning and Child Care Act*;

(c) any place licensed pursuant to the *Homes for Special Care Act*;

(d) a hospital;

(e) a correctional facility within the meaning of the *Corrections Act*;

(f) a place or facility designated as a youth custody facility under subsection 85(2) of the *Youth Criminal Justice Act* (Canada);

(g) a place or facility designated as a place of temporary detention under subsection 30(1) of the *Youth Criminal Justice Act* (Canada);

(h) any place that for compensation provides supervisory or personal care to individuals; and

(i) any other place prescribed in the regulations;

“isolation” means the requirement of any person who has a communicable disease or is infected with an agent of a communicable disease to remain separate from others in such places and under such conditions so as to prevent or limit the direct or indirect transmission of the communicable disease or infectious agent to those who are susceptible to the agent or who may spread the agent to others;

“isolation facility” means a hospital or other place designated by the Minister for the purpose of isolation;

“Minister” means the Minister of Health and Wellness;

“notifiable disease or condition” means a disease or condition designated as a notifiable disease or condition in the regulations;

“personal services facility” means the place of business of a tattooist, esthetician, pedicurist, hairdresser, cosmetologist, barber or person who performs body piercing, or any other place of business of a type prescribed in the regulations as a personal services facility;

“physician” means a duly qualified medical practitioner;

“public health emergency” means an imminent and serious threat to the public health that is posed by a dangerous disease or a health hazard;

“public health laboratory” means a laboratory established or designated by the Minister to carry out laboratory functions required for public health work in the Province;

“public health nurse” means

- (a) a public health nurse employed by a health authority; or
- (b) any other individual designated as a public health nurse by the Minister;

“quarantine” means the requirement of any person who has been exposed or may have been exposed to a communicable disease during its period of communicability to restrict that person’s activities in order to prevent disease transmission during the incubation period for that disease;

“quarantine facility” means a dwelling or a place designated by the Minister for the purpose of quarantine;

“sanitary facilities” means a room or rooms containing one or more toilets and one or more washbasins. 2004, c. 4, s. 4; 2014, c. 32, s. 122; 2018, c. 33, s. 19.

ADMINISTRATION

Supervision and management of Part

5 The Minister has the general supervision and management of this Part and the regulations. 2004, c. 4, s. 5.

Duties and powers of Minister

6 (1) The Minister shall

- (a) appoint a Chief Medical Officer of Health, a Deputy Chief Medical Officer of Health and medical officers of health;
- (b) establish the qualifications, skills and standards that individuals must have to be appointed pursuant to clause (a);
- (c) establish the qualifications, skills and standards required for a public health nurse to carry out duties and functions under this Part;
- (d) publish guidelines, standards and targets for the provision of health-protection programs and services under this Part;
- (e) require a health authority or an institution to comply with any guideline, standard or target published pursuant to clause (d);
- (f) provide a report to the House of Assembly on an annual basis outlining the progress of the Department of Health and Wellness with respect to the surveillance of and response to health hazards, notifiable diseases or conditions and communicable diseases;
- (g) after a public health emergency has ended, direct that a review be conducted and, within one year, report to the House of Assembly on the cause and duration of the emergency and on the measures implemented in response to the emergency.

- (2) The Minister may
- (a) give directions to the Chief Medical Officer;
 - (b) direct a health authority or an institution to take action to prevent, eliminate or decrease a risk of a communicable disease, a notifiable disease, a dangerous disease or a health hazard;
 - (c) subject to the *Public Service Act*, enter into agreements with
 - (i) the government of Canada or the government of a province of Canada, or a department, agency or body under the jurisdiction of one of those governments,
 - (ii) the government of the United States of America or the government of a state of the United States of America, or a department, agency or body under the jurisdiction of any of those governments,
 - (iii) a municipality within the meaning of the *Municipal Government Act*,
 - (iv) a band council as defined in the *Indian Act* (Canada), or
 - (v) any other person, organization or other government department in the Province,
- in order to carry out the provisions of this Part;
- (d) establish and maintain such public health laboratories and other laboratory services as the Minister considers necessary or advisable for properly carrying on public health work in the Province with appropriate equipment and staff;
 - (e) designate an existing laboratory operated by a health authority as a public health laboratory;
 - (f) direct a public health laboratory as to its operation and the nature and extent of its work.

(3) No person may be appointed pursuant to clause (1)(a) who is not a physician. 2004, c. 4, s. 6; 2014, c. 32, s. 123.

Duties of Minister of Environment and Climate Change

- 7 (1) The Minister of Environment and Climate Change shall
- (a) designate public health inspectors and public health nurses for the purpose of this Part from among employees in the public service of the Province or employees of the Government of Canada or the government of another province of Canada;
 - (b) establish the qualifications, skills and standards required for a public health inspector to carry out duties and functions under this Part.

(2) No person may be designated as a public health nurse pursuant to clause (1)(a) who is not a duly qualified registered nurse. 2004, c. 4, s. 6; O.I.C. 2016-230.

Medical officers accountable to Minister

8 Medical officers are accountable to the Minister. 2004, c. 4, s. 7.

Medical officers to protect public health

9 (1) Medical officers may take such reasonable actions as they consider necessary in the circumstances to protect the public health, including the issuance of public health advisories and bulletins.

(2) A medical officer shall inform the Minister and the Deputy Minister of Health and Wellness of any action carried out pursuant to the authority in subsection (1) either before taking it or as soon as practicable after taking it.

(3) A medical officer may investigate any situation and take such actions as the medical officer considers appropriate to prevent, eliminate or decrease a risk to the public health if the medical officer is of the opinion that a situation exists anywhere in the Province that constitutes or may constitute a risk to the public health. 2004, c. 4, s. 8.

Powers, duties and functions of Chief Medical Officer

10 (1) The Chief Medical Officer may delegate any of the Chief Medical Officer's powers, duties or functions to the Deputy Chief Medical Officer, a medical officer, a public health nurse or a public health inspector and the person to whom the power, duty or function has been delegated has authority to the same extent as if the power, duty or function was being exercised by the Chief Medical Officer.

(2) The Chief Medical Officer may give directions to the Deputy Chief Medical Officer or a medical officer for the purpose of enforcing this Act and the regulations.

(3) The Deputy Chief Medical Officer has all the powers and authority of the Chief Medical Officer in the absence of the Chief Medical Officer, or when the Chief Medical Officer is unable to act. 2004, c. 4, s. 9.

Chief Medical Officer directs and monitors medical officers

11 The Chief Medical Officer is responsible for directing and monitoring the work of the medical officers. 2004, c. 4, s. 10.

Medical officers may direct inspectors and nurses

12 A medical officer may direct a public health inspector or a public health nurse to assist the medical officer in enforcing this Act and the regulations. 2004, c. 4, s. 11.

Immunity from liability

13 The Chief Medical Officer, the Deputy Chief Medical Officer, a medical officer, a public health inspector or a public health nurse has immunity for the performance of any duty or any power exercised under this Act that has been exercised in good faith. 2004, c. 4, s. 12.

Epidemiological studies

14 Subject to the *Fatality Investigations Act*, the Chief Medical Officer may carry out epidemiological studies that may include an investigation as to the cause of any communicable disease, notifiable disease, health hazard or illness related to a health hazard, or any death, accident or injury. 2004, c. 4, s. 13.

Duties and powers of Chief Medical Officer

- 15** (1) The Chief Medical Officer shall
- (a) develop plans for ongoing surveillance of communicable diseases, notifiable diseases and dangerous diseases; and
 - (b) develop a communications plan and protocol designed to ensure that information necessary for proper response to the presence of a health hazard, notifiable disease or condition, communicable disease or public health emergency is promptly provided to all necessary and appropriate persons while ensuring that appropriate privacy protections are adhered to.
- (2) The Chief Medical Officer may
- (a) afford such medical relief to and among persons in need in the Province as in the opinion of the Chief Medical Officer is required for the protection of the public health;
 - (b) order any person who owns or occupies premises or any organization, corporation or municipality to control disease vectors in the manner prescribed by the regulations. 2004, c. 4, s. 14.

Access to data or records

16 (1) A medical officer may access or order data or records from all possible sources of information, including municipalities, Canadian Blood Services and other government departments, for the purpose of carrying out the duties of the medical officer under this Act and the regulations.

(2) The Chief Medical Officer may share with other jurisdictions or parties any information the Chief Medical Officer considers necessary to carry out the functions and duties of the Chief Medical Officer.

(3) A medical officer may communicate to the public the identity of a person who has a communicable disease if the medical officer reasonably believes that such action is required to protect the public health and that such protection cannot be achieved by any less intrusive means. 2004, c. 4, s. 15.

Disclosure to medical officer

17 Any hospital shall, upon request from a medical officer, immediately make full disclosure to the medical officer of all information, records, particulars and documents of whatever description, including x-rays, photographs and laboratory or blood samples, that relate in any way to any matter about which the medical officer has inquired. 2004, c. 4, s. 16; 2010, c. 41, s. 112.

Information privileged

18 (1) The information, records of interviews, reports, statements, notes, memoranda or other data or material prepared by or supplied to or received by a medical officer, public health inspector or public health nurse, in connection with research, studies or evaluations relating to morbidity, mortality or the cause, prevention, treatment or incidence of disease, or prepared by, supplied to or received by any person engaged in such research or study with the approval of the Minister, are privileged and are not admissible in evidence in any court or before any tribunal, board or agency except as and to the extent that the Minister directs.

(2) Nothing in this Section prevents the publication of reports or statistical compilations relating to research or studies that do not identify individual cases or sources of information or religious affiliations.

(3) A medical officer, a public health nurse or a public health inspector shall not be compelled to give evidence in court or in proceedings of a judicial nature concerning knowledge of any of the matters referred to in subsection (1) gained in the exercise of a power or duty under this Act except as and to the extent that the Minister directs.

(4) Notwithstanding subsections (1) and (3), where a judge of the Supreme Court of Nova Scotia is satisfied, upon application, that it is in the public interest to do so, the judge may order the disclosure of any information or the giving of any evidence for the purpose of an inquiry authorized by the Governor in Council pursuant to the *Public Inquiries Act*. 2004, c. 4, s. 17.

HEALTH HAZARDS**Risk assessments**

19 (1) A medical officer may conduct risk assessments in relation to existing or potential health hazards.

(2) A medical officer may monitor or audit potential or existing health hazards. 2004, c. 4, s. 18.

Duty to report health hazard

20 (1) In this Section, “prescribed health hazard” means a health hazard of a type prescribed in the regulations.

(2) Every person who is

(a) required by the regulations to report a prescribed health hazard; or

(b) a member of a class of persons that is required by the regulations to report a prescribed health hazard,

shall, where that person has reasonable and probable grounds to believe that a prescribed health hazard exists, forthwith report that belief to a medical officer. 2004, c. 4, s. 19.

Orders respecting health hazards

- 21 (1)** Where a medical officer reasonably believes that
- (a) a health hazard exists or may exist; and
 - (b) an order is necessary to prevent, remedy, mitigate or otherwise deal with the health hazard,

the medical officer may make any order that the medical officer considers necessary to prevent, remedy, mitigate or otherwise deal with the health hazard.

(2) A medical officer may make an order orally if a delay is likely to increase substantially the hazard to the public health.

(3) Where an order is made orally pursuant to subsection (2), the contents and reasons for the order must be put into writing and served on each person to whom the order was directed within 72 hours after the making of the oral order, but a failure to comply with this subsection does not invalidate the order.

(4) A public health inspector has the same power as a medical officer to make an order under subsections (1) to (3) if the public health inspector reasonably believes that

- (a) a health hazard exists or may exist and an order is necessary to prevent, remedy, mitigate or otherwise deal with the health hazard; and
- (b) in the time necessary for a medical officer to make an order, a health hazard could arise that presents or may present a serious and imminent threat to the public health or an existing health hazard could worsen and pose a serious and imminent threat to the public health.

(5) Any action taken pursuant to subsection (4) must be the minimum action that the public health inspector reasonably believes necessary to deal with the health hazard and protect the public health.

(6) A public health inspector who takes action under subsection (4) must notify a medical officer about the action taken as soon as practicable. 2004, c. 4, s. 20.

Orders respecting premises

22 (1) A medical officer may make an order under subsection 21(1) against any person that

- (a) owns or occupies premises;
- (b) is or appears to be responsible for any
 - (i) condition of premises,
 - (ii) substance, thing, plant, animal or organism other than a human on the premises,
 - (iii) solid, liquid or gas on or emanating from the premises, or
 - (iv) radiation, noise, vibration or heat on or emanating from premises;

(c) is engaged in or administers an activity in or on any premises; or

(d) is a person or class of persons specified in the regulations.

(2) Without limiting the generality of subsection 21(1), an order made under subsection (1) may

(a) require the vacating of premises;

(b) require the owner or occupier of premises to close the premises or a part of the premises or restrict access to the premises;

(c) require the displaying of signage on premises to give notice of an order requiring the closing of the premises;

(d) require the doing of work specified in the order in, on or about premises specified in the order;

(e) require the removal of any thing that the order states is a health hazard from the premises or the environs of the premises specified in the order;

(f) require the cleaning or disinfecting, or both, of the premises or the thing specified in the order;

(g) require the destruction of a matter or thing specified in the order;

(h) prohibit or regulate the manufacturing, processing, preparation, storage, handling, display, transportation, sale, offering for sale or distribution of any thing;

(i) prohibit or regulate the use of any premises or thing;

(j) require a person who is the subject of an order made pursuant to subsection 21(1) to investigate the situation, or undertake tests, examination, analysis, monitoring or recording, and provide the medical officer with any information the medical officer requires;

(k) require a person to whom an order made pursuant to subsection 21(1) is directed to isolate, hold or contain a substance, thing, solid, liquid, gas, plant, animal or other organism specified in the order. 2004, c. 4, s. 21.

Requirements respecting orders

23 (1) Actions specified in an order must be necessary to achieve a decrease in the effect of or to eliminate the health hazard.

(2) Actions included in an order must be framed as clear directions or requirements to terminate or mitigate the health hazard and a medical officer must give reasons for the order in the order.

(3) A medical officer shall give the person or organization to whom an order is directed every reasonable opportunity to comply with the order.

(4) An order may be hand delivered or sent by registered mail to a person or organization to whom the order is directed.

(5) Where an order is served on a person to whom it is directed, that person shall comply with the order forthwith or, where a period of compliance is specified in the order, within the time period specified.

(6) It is sufficient in an order made under Section 21 or 22 to direct the order to a person or class of persons described in the order, and an order under Section 21 or 22 is not invalid by reason only of the fact that a person to whom the order is directed is not named in the order.

(7) A medical officer who makes an order under Section 21 or 22 may require the person to whom the order is directed to communicate the contents of the order to other persons as specified by the medical officer.

(8) An order must specify the time within which or the date by which the person or persons to whom it is directed must comply with the order. 2004, c. 4, s. 22.

Extension, revocation or amendment of orders

24 A medical officer may

(a) extend an order made under subsection 21(1) for any additional period the medical officer reasonably believes is necessary; or

(b) revoke or amend an order made under subsection 21(1), to the extent that it has not yet been carried out. 2004, c. 4, s. 23.

Power to ensure compliance

25 (1) Where a medical officer has reasonable and probable grounds to believe that a health hazard exists and the person to whom an order is or would be directed

(a) has refused to comply with or is not complying with the order;

(b) is not likely to comply promptly with the order;

(c) cannot be readily identified or located and as a result the order would not be carried out promptly; or

(d) has requested the assistance of the medical officer in complying with the order,

the medical officer may take whatever action the medical officer considers necessary, including providing authority for such persons, materials and equipment to enter upon premises and to use such force as the medical officer considers necessary to carry out the terms of the order, and the Chief Medical Officer may order the person who failed to comply to pay the costs of taking that action.

(2) Where a person requests assistance from a medical officer in complying with an order made by a medical officer, the officer to whom the request is made shall render such reasonable assistance as is practicable in the circumstances.

(3) Where a medical officer authorizes persons to enter upon premises pursuant to subsection (1), those persons have the authority to act to the same extent as if the act were carried out by the medical officer.

(4) Without limiting the generality of subsection (1), actions under that subsection may include

- (a) the displaying of signage on premises to give notice of the existence of a health hazard or of an order made under this Part;
- (b) doing any work the medical officer considers necessary in, on or about any premises;
- (c) removing any thing from premises or the environs of the premises;
- (d) detaining any thing removed from any premises or the environs of any premises;
- (e) the delivery of notice to the public through any media a medical officer considers appropriate indicating the risk of the health hazard;
- (f) closing premises or a part of premises or restricting access to premises;
- (g) cleaning or disinfecting, or both, of any premises or thing; and
- (h) destroying any thing found on premises or the environs of premises.

(5) No person shall conceal, alter, deface or remove signage that has been placed or posted pursuant to clause 22(2)(c) or clause (4)(a). 2004, c. 4, s. 24.

Powers respecting serious and imminent threats

26 (1) Notwithstanding any other provision of this Part, a medical officer may take any action under subsection 25(1) if the medical officer reasonably believes that in the time necessary to make an order under Section 21, or allow for compliance, a health hazard could arise that would pose a serious and imminent threat to the public health or that an existing health hazard could worsen and pose a serious and imminent threat to the public health.

(2) A public health inspector has the same power as a medical officer under subsection (1) if the public health inspector reasonably believes that, in the time necessary for a medical officer to take action, a health hazard could arise or an existing health hazard could worsen.

(3) Any action taken under this Section must be the minimum action that the person taking it reasonably believes necessary to deal with the health hazard and protect the public health.

(4) A public health inspector who takes action pursuant to subsection (2) shall notify a medical officer about the action taken as soon as practicable.

(5) After any action is taken under Section 25, the Chief Medical Officer may order any person to whom an order was directed or would have been directed under subsection 22(1) by either a medical officer or a public health inspector to pay the costs of taking the action. 2004, c. 4, s. 25.

Recovery of costs

27 (1) Reasonable costs, expenses or charges incurred by a medical officer or public health inspector pursuant to Section 25 or 26 are recoverable by order of the Chief Medical Officer and are payable to the Minister by

(a) the person to whom an order was directed; or

(b) any person who has purchased real property from the person to whom an order was directed from any money that is still owed to the vendor, where the person who purchased the property is directed by the Minister to pay a sum not to exceed the amount owing in respect of the costs, expenses or charges.

(2) A purchaser who pays an amount to the Minister pursuant to clause (1)(b) is discharged from any obligation to pay that amount to the vendor.

(3) In any claim or action under this Section, a certificate purporting to be signed by the Minister setting out the amount of the cost, expense or charge is admissible in evidence and is, in the absence of evidence to the contrary, proof

(a) of the amount of the cost, expense or charge set out in the certificate; and

(b) that the cost, expense or charge was made necessary or caused by the termination or mitigation of the health hazard to which the claim or action relates.

(4) Where an order to pay is issued by the Chief Medical Officer pursuant to subsection (1), the order must be filed with the prothonotary of the Supreme Court of Nova Scotia and, when so filed,

(a) the order is of the same force and effect as if it were a judgment against real property that the person named in the order may then or thereafter own;

(b) a lien is established on the property referred to in clause (a) for the amount stated and it is deemed to be taxes in respect of the real property and may be collected in the same way and in the same priority as taxes under the *Assessment Act*; and

(c) the order may be enforced in the same manner as a judgment of the Supreme Court in civil proceedings. 2004, c. 4, s. 26.

Court may order compliance

28 Where a person has failed to comply with an order made under subsection 23(5), a court may, in addition to any other penalty it may impose, order the person to comply with subsection 23(5). 2004, c. 4, s. 27.

Joint and several liability

29 (1) Where an order made pursuant to Section 21 is directed to more than one person, all persons named in the order are jointly responsible for carrying out the terms of the order and are jointly and severally liable for payment of the costs of doing so, including any costs incurred by a medical officer pursuant to Section 25.

(2) Subsection (1) does not apply to an order where the Chief Medical Officer and the persons responsible for carrying out the terms of the order have agreed to an apportionment of costs. 2004, c. 4, s. 28.

Costs are in addition to penalties

30 Costs recoverable pursuant to Section 27 are in addition to any penalties under this Act and the regulations. 2004, c. 4, s. 29.

Appeal

31 (1) A person to whom an order made pursuant to Section 21 is directed may, within 10 days of the order being made, appeal to the Minister, by notice in writing, stating concisely the reasons for the appeal.

(2) The appeal must be conducted in the manner prescribed by the regulations.

(3) The Minister may dismiss the appeal, allow the appeal or make any decision the medical officer or public health inspector was authorized to make.

(4) A decision of the Minister may, within 30 days of the decision, be appealed on a question of law or on a question of fact, or on a question of law and fact, to a judge of the Supreme Court of Nova Scotia, and the decision of the judge is final and binding on the Minister and the appellant, and the Minister and the appellant shall take such action as may be necessary to implement the decision.

(5) An appeal taken pursuant to subsection (4) does not operate as a stay of the decision appealed from except in so far as the judge directs. 2004, c. 4, s. 30.

NOTIFIABLE DISEASES OR CONDITIONS

Reporting notifiable disease or condition

32 (1) A physician, a registered nurse licensed pursuant to the *Nursing Act* or a medical laboratory technologist licensed pursuant to the *Medical Laboratory Technology Act* who has reasonable and probable grounds to believe that a person

(a) has or may have a notifiable disease or condition; or

(b) has had a notifiable disease or condition,

shall forthwith report that belief to a medical officer.

(2) A principal of a public school or the operator of a private school under the *Education Act* who has reasonable and probable grounds to believe that a student in the school

(a) has or may have a notifiable disease or condition; or

(b) has had a notifiable disease or condition,

shall forthwith report that belief to a medical officer.

(3) An administrator of an institution who has reasonable and probable grounds to believe that a person who is a resident of the institution

(a) has or may have a notifiable disease or condition; or

(b) has had a notifiable disease or condition,

shall forthwith report that belief to a medical officer.

(4) An individual or member of a class of individuals, under such circumstances as prescribed by the regulations, who has reasonable and probable grounds to believe that a person

(a) has or may have a notifiable disease or condition; or

(b) has had a notifiable disease or condition,

shall forthwith report that belief to a medical officer.

(5) A physician, a registered nurse licensed pursuant to the *Nursing Act* or an administrator of an institution who believes that an illness is serious and is occurring at a higher rate than is normal, shall forthwith report that belief to a medical officer.

(6) A physician signing a death certificate who has reasonable and probable grounds to believe that the person who died suffered from a notifiable disease or condition at the time of death shall forthwith report that belief to a medical officer. 2004, c. 4, s. 31; 2019, c. 8, s. 184.

COMMUNICABLE DISEASES

Powers respecting communicable diseases

33 (1) Where a medical officer is of the opinion, upon reasonable and probable grounds, that

(a) a communicable disease exists or may exist or that there is an immediate risk of an outbreak of a communicable disease;

(b) the communicable disease presents a risk to the public health; and

(c) the requirements specified in the order are necessary in order to decrease or eliminate the risk to the public health presented by the communicable disease,

the medical officer may by written order require a person to take or to refrain from taking any action that is specified in the order in respect of a communicable disease.

(2) In an order made under this Section, a medical officer may specify the time or times when or the period or periods of time within which the person to whom the order is directed must comply with the order.

(3) Without limiting the generality of subsection (1), an order made under this Section may

(a) require the owner or occupier of premises to close the premises or a part of the premises or to restrict access to the premises;

(b) require the displaying of signage on premises to give notice of an order requiring the closing of the premises;

(c) require any person that the order states has been exposed or may have been exposed to a communicable disease to self-quarantine from other persons;

(d) require any person who has a communicable disease or is infected with an agent of a communicable disease to self-isolate from other persons;

(e) require the cleaning or disinfecting, or both, of the premises or any thing specified in the order;

(f) require the destruction of any matter or thing specified in the order;

(g) require the person to whom the order is directed to submit to an examination by a physician who is acceptable to a medical officer and to deliver to the medical officer a report by the physician as to whether or not the person has a communicable disease or is or is not infected with an agent of a communicable disease;

(h) require the person to whom the order is directed in respect of a communicable disease to arrange forthwith the person's care and treatment by a physician who is acceptable to a medical officer;

(i) require the person to whom the order is directed to behave in such a manner as not to expose another person to infection.

(4) An order under this Section is subject to such conditions as are determined by the medical officer and set out in the order.

(5) Where an order made under this Section is to be carried out by a physician or other health professional, the failure of the person subject to such an order to consent does not constitute an assault or battery against that person by the physician or other health professional should the order be carried out. 2004, c. 4, s. 32.

Communication of order

34 (1) A medical officer who makes an order under Section 33 may require the person to whom the order is directed to communicate the contents of the order to other persons specified by the medical officer.

(2) An order made under Section 33 may be directed to a person who

- (a) resides or is present in premises;
- (b) owns or is the occupier of premises;
- (c) owns or is in charge of any thing; or
- (d) is engaged in or administers an enterprise or activity,

in the Province.

(3) An order made under Section 33 may be made with respect to a class of persons who reside or are present in the Province.

(4) Where a class of persons is the subject of an order made under subsection (3), notice of the order must be delivered to each member of the class if it is practicable to do so in a reasonable amount of time.

(5) Where delivery of notice of an order to each member of a class of persons is likely to cause a delay that could, in the opinion of the medical officer, significantly increase the risk to the health of any person, the medical officer may deliver a general notice to the members of the class through any communications media that the medical officer considers appropriate, and the medical officer shall post the order at an address or at addresses that is or are most likely to bring the notice to the attention of the members of the class.

(6) A notice under subsection (5) must contain sufficient information to allow members of the class to understand to whom the order is directed, the terms of the order and where to direct inquiries. 2004, c. 4, s. 33.

Requirements for a report

35 In an order made under Section 33, a medical officer may specify

(a) that a report will not be accepted as complying with the order unless it is a report by a physician specified or approved by the medical officer; and

(b) the period of time within which the report mentioned in this Section must be delivered to the medical officer. 2004, c. 4, s. 34.

Reasons required

36 An order made under Section 33 is not effective unless the reasons for the order are set out in the order. 2004, c. 4, s. 35.

Oral order

37 (1) Where the delay necessary to put an order made under Section 33 in writing will or is likely to increase substantially the risk presented by a communicable disease to the public health, a medical officer may make an order orally and Section 36 does not apply.

(2) Where an oral order is made under subsection (1), the contents of the order and the reasons for the order must be put into writing and served on each person to whom the order was directed within 72 hours after the making of the oral order, but a failure to comply with this subsection does not invalidate the order. 2004, c. 4, s. 36.

Power to ensure compliance

38 (1) Where a medical officer has grounds to issue an order pursuant to subsection 33(1) and has reasonable and probable grounds to believe that the person to whom an order is or would be directed under subsection 34(2)

(a) has refused to or is not complying with the order;

(b) is not likely to comply with the order promptly;

(c) cannot be readily identified or located and as a result the order would not be carried out promptly; or

(d) has requested the assistance of the medical officer in eliminating or decreasing the risk to health presented by the communicable disease,

the medical officer may take whatever action the medical officer considers necessary, including providing authority for such persons, materials and equipment to enter upon any premises and to use such force as the medical officer considers necessary to carry out the terms of the order, and the Chief Medical Officer may order a person who fails to comply to pay the costs of taking any actions necessary to comply with clause 33(3)(a), (b), (e) or (f).

(2) Where a person requests assistance from a medical officer in complying with an order made by a medical officer, the officer to whom the request is made shall render such reasonable assistance as is practicable in the circumstances.

(3) Where a medical officer authorizes persons to enter upon premises pursuant to subsection (1), such persons have the authority to act to the same extent as if the act were carried out by the medical officer.

(4) Without limiting the generality of subsection (1), actions under this Section may include

(a) the displaying of signage on premises to give notice of the existence of a communicable disease or of an order made pursuant to this Part;

(b) the delivery of notice to the public through any communications media the medical officer considers appropriate indicating the risk of the communicable disease;

(c) the cleaning or disinfecting, of any thing or any premises;

(d) the destruction of any thing found on the premises or the environs of the premises; and

(e) closing the premises or part of the premises or restricting access to the premises. 2004, c. 4, s. 37.

Court may ensure compliance

39 (1) Where, upon application by a medical officer, a judge of the provincial court is satisfied that

(a) a person has failed to comply with an order by a medical officer made under Section 33 that

(i) the person self-quarantine from other persons,

(ii) the person self-isolate from other persons,

(iii) the person submit to an examination by a physician who is acceptable to the medical officer,

(iv) the person arrange the person's care and treatment by a physician who is acceptable to the medical officer, or

(v) the person behave in such a manner as not to expose another person to infection,

the judge may order that the person who has failed to comply with the order of the medical officer

(b) be taken into custody and be admitted to and detained in a quarantine facility named in the order;

(c) be taken into custody and be admitted to, detained and treated in an isolation facility named in the order;

(d) be examined by a physician who is acceptable to the medical officer to ascertain whether or not the person is infected with an agent of a communicable disease; or

(e) where found on examination to be infected with an agent of a communicable disease, be treated for the disease.

(2) Where an order made by a judge pursuant to subsection (1) is to be carried out by a physician or other health professional, the failure of the person subject to such an order to consent does not constitute an assault or battery against that person by the physician or other health professional should the order be carried out.

(3) A physician or other health professional carrying out an order pursuant to subsection (1) may obtain such assistance from a peace officer or other person as the physician or health professional reasonably believes is necessary.

(4) A judge shall not name an isolation facility or quarantine facility in an order under this Section unless the judge is satisfied that the isolation facility or quarantine facility is able to provide detention, care and treatment as required for the person who is the subject of the order. 2004, c. 4, s. 38.

Authority to apprehend and isolate or quarantine

40 (1) An order made under Section 39 is authority for any person to

(a) locate and apprehend the person who is the subject of the order; and

(b) deliver the person who is the subject of the order to the isolation facility or quarantine facility named in the order or to a physician for examination.

(2) An order made under Section 39 may be directed to a police force that has jurisdiction in the area where the person who is the subject of the order may be located, and the police force shall do all things reasonably able to be done to locate, apprehend and deliver the person to an isolation or quarantine facility in the jurisdiction where the person was apprehended or to an isolation or quarantine facility specified in the order.

(3) A person who apprehends a person who is the subject of an order pursuant to subsection (2) shall promptly

(a) inform the person of the reasons for the apprehension and of the person's right to retain and instruct counsel without delay; and

(b) tell the person where the person is being taken.

(4) An order made under clause 39(1)(b) is authority to detain the person who is the subject of the order in the quarantine facility named in the order and to care for and examine the person for the incubation period of the communicable disease as determined by the judge.

(5) An order made under clause 39(1)(c) is authority to detain the person who is the subject of the order in the isolation facility named in the order and to care for and examine the person and to treat the person for the communicable disease in accordance with generally accepted medical practice for a period of not more than four months from and including the day that the order was issued.

(6) In the case of an order made under clause 39(1)(c),

(a) where a hospital is named as the isolation facility, the person authorized by the bylaws of the hospital shall designate a physician to have responsibility for the treatment of the person named in the order or, where the bylaws do not provide the authorization, the chief executive officer of the hospital or a person delegated by the chief executive officer shall designate a physician who is acceptable to the medical officer to have responsibility for the person named in the order;

(b) where an institution is named as the isolation facility, the administrator of the institution shall designate a physician who is acceptable to the medical officer to have responsibility for the person named in the order; or

(c) where the isolation facility is not a hospital or an institution, the chief executive officer of the provincial health authority, as defined by the *Health Authorities Act*, shall designate a physician who is acceptable to the medical officer to have responsibility for the person named in the order. 2004, c. 4, s. 39; 2014, c. 32, s. 124.

Duty of treating physicians

41 A physician responsible for treating a person pursuant to subsection 39(1) shall report in respect of the treatment and the condition of the person to a medical officer. 2004, c. 4, s. 40.

Monitoring person and reporting condition

42 In the case of an order made under clause 39(1)(b),

(a) a medical officer shall designate a public health inspector or a public health nurse to be responsible for the monitoring of the person named in the order; and

(b) the designated public health inspector or public health nurse shall report in respect of the condition of the person to the medical officer. 2004, c. 4, s. 41.

Duty to report

43 Where ordered by a medical officer, a physician, public health inspector or public health nurse shall report to the medical officer on any matter in the manner, at the times and with the information specified by the medical officer in the order. 2004, c. 4, s. 42.

Court may extend detention and treatment

44 (1) Where, upon an application by a medical officer, a judge of the Provincial Court is satisfied that

- (a) a person continues to be infectious and contagious; and
- (b) the discharge of the person from the isolation facility would present a significant risk to the public health,

the judge may, by order, extend the period of detention and treatment ordered pursuant to clause 39(1)(c) for not more than four months and, upon further applications by the medical officer, the judge may extend the period of detention and treatment for further periods each of which is not for more than four months.

(2) A person detained in accordance with an order made under this Section shall be released from detention and discharged from the isolation facility or quarantine facility upon the certificate of a medical officer.

(3) A medical officer shall monitor the treatment and condition of a detained person and shall issue a certificate authorizing the release and discharge of the person as soon as the medical officer is of the opinion that the person is no longer infectious or contagious or that the release and discharge of the person will not present a significant risk to the public health. 2004, c. 4, s. 43.

Exceptions to public hearings

45 (1) An application referred to in subsection 39(1) or 44(1) must be heard in public unless

- (a) the judge hearing the application is satisfied that
 - (i) matters involving public security may be disclosed,
 - (ii) the possible disclosure of intimate financial or personal matters of any person outweighs the desirability of holding the hearing in public, or
 - (iii) a medical officer is of the opinion that the person in respect of whom the application is made is infectious and to conduct the hearing in public would be a risk to the public health; or
- (b) the person in respect of whom the application is made requests otherwise and the judge hearing the application is satisfied that it is appropriate in the circumstances to conduct the hearing in private.

(2) Any party to an application under subsection 39(1) or 44(1) may appeal from the decision or order to the Nova Scotia Court of Appeal.

(3) The filing of a notice of appeal does not apply to stay the decision or order appealed from unless a judge of the court to which the appeal is taken so orders. 2004, c. 4, s. 44.

Withdrawal from treatment or failure to continue

46 Where a medical officer has made an order pursuant to Section 33 requiring a person to be placed under the care and treatment of a physician or to take other action specified in the order and the person withdraws from the care and treatment or fails to continue the specified action, Section 39 applies with necessary changes and the person is deemed to have failed to comply with an order of the medical officer. 2004, c. 4, s. 45.

Apprehension and detention where disease dangerous

47 A medical officer may apprehend and detain an individual where that individual has failed to comply with an order that was issued in relation to a dangerous disease and the medical officer reasonably believes that the individual poses a significant and imminent threat to the public health if not apprehended and detained. 2004, c. 4, s. 46.

Rights of detainee

48 (1) An individual apprehended and detained pursuant Section 47 must be informed of the individual's right to counsel.

(2) An individual apprehended and detained pursuant to Section 47 shall not be held for longer than 72 hours unless a hearing is held within that time period and an order is made under Section 39. 2004, c. 4, s. 47.

Persons found to have communicable disease in detention facilities

49 (1) In this Section,

“correctional facility” has the same meaning as in the *Municipal Corrections Act*;

“lock-up facility” has the same meaning as in the *Municipal Corrections Act*;

“place of temporary detention” means a place or facility designated as a place of temporary detention under subsection 30(1) of the *Youth Criminal Justice Act* (Canada);

“youth custody facility” means a place or facility designated as a place of secure custody under subsection 85(2) of the *Youth Criminal Justice Act* (Canada).

(2) A medical officer by order may require the superintendent of a correctional facility, a youth custody facility, a lock-up facility or a place of temporary detention to take such action as is specified in the order to prevent the infection of others by a person who is detained in the correctional facility, youth custody facility, lock-up facility or place of temporary detention and who has been examined and found to be infected with an agent of a communicable disease. 2004, c. 4, s. 48.

General immunization program

50 The Minister may order a general immunization program in the Province or any part of the Province for the purpose of preventing the spread of a communicable disease. 2004, c. 4, s. 49.

Medical officer may require further information

51 A medical officer may require any person to provide further information on any report of a notifiable disease or condition at times determined by the medical officer. 2004, c. 4, s. 50.

Death from dangerous disease

52 In the case of a death of a person from a dangerous disease, access to the body of that person and the care, handling and transport of the body of that person must be carried out in the manner directed by a medical officer unless otherwise provided for in the regulations. 2004, c. 4, s. 51.

Disinterment

53 (1) No person shall disinter or remove a buried human body except at the instance of the Attorney General unless with the written permission of the medical officer for the place in which the body is buried.

(2) The disinterment, removal, transportation and reinterment of a human body must be carried out in the manner directed by a medical officer unless otherwise provided for in the regulations. 2004, c. 4, s. 52.

PUBLIC HEALTH EMERGENCIES**Declaration of emergency**

54 (1) Where the Chief Medical Officer reasonably believes that a public health emergency exists in the Province, and reasonably believes that the public health emergency cannot be mitigated or remedied without the implementation of special measures pursuant to this Section, the Chief Medical Officer shall recommend to the Minister that a public health emergency be declared for all or part of the Province and the Minister may declare a public health emergency for all or part of the Province.

(2) Where the Minister has declared a public health emergency, the Chief Medical Officer may implement special measures to mitigate or remedy the emergency, including

- (a) establishing a voluntary immunization program for the Province or any part of the Province;
- (b) preparing a list of individuals or classes of individuals to be given priority for active and passive immunizing agents, drugs, medical supplies or equipment;
- (c) ordering the closing of any educational setting or place of assembly;
- (d) prohibiting or limiting access to certain areas of the Province or evacuating persons from an area of the Province;
- (e) ensuring that necessities are provided to a person who is quarantined if the person has no alternative means of obtaining such necessities;
- (f) ordering construction of any work or the installation of facilities required for this Section, including sanitary facilities;

(g) procuring first right at a reasonable cost to active and passive immunizing agents, drugs, medical supplies or equipment from any organization or corporation;

(h) confiscating active and passive immunizing agents, drugs, medical supplies or equipment from wholesalers, health authorities, pharmacies, physicians, institutions or any other persons or classes of persons prescribed in the regulations; and

(i) any other measure the Chief Medical Officer reasonably believes is necessary for the protection of public health during the public health emergency.

(3) Where the Chief Medical Officer determines that a public health emergency has ended, the Chief Medical Officer shall advise the Minister and the Minister may make a declaration to that effect. 2004, c. 4, s. 53; 2014, c. 32, s. 125.

Minister may provide grant

55 Where the Minister considers it appropriate to do so, the Minister may provide a grant to any person to

(a) assist that person to comply with special measures implemented by the Chief Medical Officer; or

(b) reimburse that person for costs that person incurred in complying with special measures implemented by the Chief Medical Officer. 2004, c. 4, s. 54.

Possession of premises for temporary isolation or quarantine facility

56 (1) The Minister, in the circumstances mentioned in subsection (3), may, by order, require the owner or occupier of any premises to deliver possession of all or any specified part of the premises to the Minister to be used as an isolation or quarantine facility or as part of an isolation or quarantine facility.

(2) An order made under subsection (1) must set out an expiry date for the order that is not more than 12 months after the day of its making and the Minister may, by a further order, extend the order for a further period of not more than 12 months.

(3) The Minister may make an order in writing under subsection (1) where the Chief Medical Officer certifies to the Minister that

(a) there exists or there is an immediate risk of an outbreak of a dangerous disease anywhere in the Province; and

(b) the premises are needed for use as an isolation or quarantine facility or as part of an isolation or quarantine facility in respect of the dangerous disease.

(4) An order made under subsection (1) may require delivery of possession of the premises on a date specified in the order.

(5) The Minister need not hold or afford to any person an opportunity for a hearing or afford to any person an opportunity to make submissions before making an order under subsection (1). 2004, c. 4, s. 55.

Order for possession of premises

57 (1) Where a judge of the Supreme Court of Nova Scotia is satisfied on evidence upon oath that

- (a) there exists or there is an immediate risk of an outbreak of a dangerous disease anywhere in the Province;
- (b) premises are needed for use as an isolation or quarantine facility or as part of an isolation or quarantine facility in respect of the dangerous disease; and
- (c) the owner or occupier of the premises
 - (i) has refused to deliver possession of the premises to the Minister in accordance with an order under subsection 56(1),
 - (ii) is not likely to comply with an order under subsection 56(1), or
 - (iii) cannot be readily identified or located and as a result an order under subsection 56(1) cannot be carried out promptly,

the judge may make an order directing a peace officer for the area in which the premises are located, or any other person whom the judge considers suitable, to put and maintain the Minister and any person designated by the Minister in possession of the premises, by force if necessary.

(2) An order made under this Section must be executed at reasonable times as specified in the order.

(3) A judge may receive and consider an application for an order under this Section without notice to and in the absence of the owner or the occupier of the premises.

(4) The Minister shall, before restoring the possession of premises to the owner or occupier, cleanse and disinfect it and put it in the same state of repair as it was in when possession was taken, and shall give notice to the owner or occupier that this has been done. 2004, c. 4, s. 56.

Compensation

58 (1) The occupier of premises used or occupied pursuant to Section 56 or 57 is entitled to compensation from the Crown in right of the Province for the use and occupation of the premises and, in the absence of agreement as to the compensation, the Nova Scotia Utility and Review Board, upon application in accordance with the rules governing the practice and procedure of that Board, shall determine the compensation in accordance with the *Expropriation Act*.

(2) Except in respect of proceedings before the Nova Scotia Utility and Review Board in accordance with subsection (1), the *Expropriation Act* does not apply to proceedings under this Section. 2004, c. 4, s. 57.

POWER TO ENTER

Powers of entry to administer or investigate

59 (1) When reasonably required to administer or determine compliance with this Act or the regulations or to investigate a potential health hazard or communicable disease, a medical officer may enter any premises, other than a dwelling, at any reasonable time, and may

(a) make any inspection, investigation, examination, test, analysis or inquiry that the medical officer considers necessary;

(b) detain or cause to be detained any motor vehicle, trailer, train, railway car, aircraft, boat, ship or similar vessel;

(c) require any substance, thing, solid, liquid, gas, plant, animal or other organism to be produced for inspection, examination, testing or analysis;

(d) seize or take samples of any substance, thing, solid, liquid, gas, plant, animal or other organism, other than samples of human bodily substances;

(e) require any person to

(i) provide the medical officer with information, including personal information, personal health information or proprietary or confidential business information, and

(ii) produce any document or record, including a document or record containing personal information, personal health information or proprietary or confidential business information,

and examine or copy the information, document or record, or take it to copy or retain as evidence;

(f) take photographs or videotapes of premises, or any condition, process, substance, thing, solid, liquid, gas, plant, animal or other organism located in or on the premises;

(g) bring any machinery, equipment or other thing into or onto the premises;

(h) use any machinery, equipment or other thing located in or on the premises;

(i) require that any machinery, equipment or other thing be operated, used or dismantled in or on the premises under specified conditions;

(j) make or cause an excavation to be carried out in or on the premises.

(2) Where

(a) an owner or occupier of premises denies entry or access to, through or over the premises to a medical officer or there are reasonable grounds for believing that the owner or occupier may deny entry or access to, through or over the premises to a medical officer;

(b) an owner or occupier of premises obstructs a medical officer in the exercise of powers under subsection (1);

(c) an owner or occupier of premises refuses to produce any substance, thing, solid, liquid, gas, plant, animal or other organism for the purpose of inspection, examination, test or inquiry;

(d) there are reasonable grounds to believe that the owner or occupier of premises may prevent a medical officer from carrying out powers under subsection (1) or may deny access to any thing as a result of which the medical officer may be unable to carry out powers under subsection (1); or

(e) no person is present to grant access to premises that are locked or otherwise inaccessible,

a medical officer may apply to a justice of the peace for a warrant under Section 60.

(3) Notwithstanding subsection (1), a medical officer may enter and inspect a dwelling with the consent of the owner or occupier of the dwelling.
2004, c. 4, s. 58.

Warrant for entry into premises or dwelling

60 (1) Where a justice of the peace is satisfied on the evidence upon oath that

(a) there are reasonable and probable grounds for believing that it is necessary to

(i) enter and have access to, through or over any premises,

(ii) make examinations, tests and inquiries,

(iii) make, take and remove samples other than samples of human bodily substances, or to make, take and remove copies or extracts related to an examination, investigation, test or inquiry,

or to do any of such things, for the purpose of this Part or the regulations, the enforcement of any Section of this Part or the regulations, the exercise of a power or the carrying out of a duty under this Part or the regulations or the carrying out of a direction given under this Part; and

(b) a medical officer, a public health inspector or public health nurse or a person acting under a direction given by a medical officer

(i) has been denied entry to the premises,

(ii) has been instructed to leave the premises,

(iii) has been obstructed, or

(iv) has been refused production of any substance, thing, solid, liquid, gas, plant, animal or other organism related to an examination, investigation, test or inquiry,

by the owner or occupier of the premises, or with respect to premises or a dwelling

- (v) entry has been refused or there are reasonable grounds to believe that entry will be refused,
- (vi) the owner or occupier of the premises or the occupant of the dwelling is temporarily absent, or
- (vii) the premises or dwelling is unoccupied,

the justice of the peace may at any time issue a warrant authorizing the medical officer, a public health inspector, a public health nurse and any person who is acting under a direction given by a medical officer, or any of them, to carry out any action under subsection 59(1), by force if necessary, together with such peace officers as they call upon to assist them.

(2) A warrant issued under this Section must state the date on which it expires, which must be a date not later than 15 days after the warrant is issued.

(3) A justice of the peace may receive and consider an application for a warrant under subsection 59(2) without notice to and in the absence of the owner or occupier of the premises or the occupier of the dwelling.

(4) A warrant may be made subject to any conditions that are specified in it. 2004, c. 4, s. 59.

Entry without warrant in public health emergency

61 Where the Minister has declared a public health emergency, a medical officer may

- (a) enter and inspect any premises, including a dwelling, at any time and without a warrant; and
- (b) take such action under this Act and the regulations as the medical officer reasonably believes is necessary to prevent, control or deal with the public health emergency. 2004, c. 4, s. 60.

Entry by public health inspector

62 (1) A public health inspector

- (a) has the same powers as a medical officer under subsections 59(1), (2) and (3) and Section 60; and
- (b) has the same powers as a medical officer under Section 61 if
 - (i) a medical officer has authorized the public health inspector to exercise the powers, or
 - (ii) the public health inspector reasonably believes that immediate action is necessary and there is no time to locate a medical officer.

(2) A public health nurse has the same powers as a medical officer under clauses 59(1)(a) and (e) and subsection 59(3) for the purpose of investigating a suspected case of a communicable disease or exposure to a health hazard.

(3) In exercising a power under this Part, a medical officer, public health inspector or public health nurse may use such reasonable force or obtain such assistance from a peace officer or other person as the medical officer, public health inspector or public health nurse reasonably believes is necessary. 2004, c. 4, s. 61.

Removal of documents

63 (1) Where a medical officer, public health nurse or public health inspector removes documents or records from premises for the purpose of clause 59(1)(e) and makes a copy or extract of them or any part of them, the medical officer, public health nurse or public health inspector shall give a receipt to the occupier for the documents or records removed.

(2) Where documents or records are removed from premises, the documents or records must be returned to the occupier as soon as possible after the making of the copies or extracts.

(3) A copy or extract of any document or record related to an inspection, examination, test or inquiry and purporting to be certified by a person referred to in subsection (1) is admissible in evidence in any action, proceeding or prosecution as proof, in the absence of evidence to the contrary, of the original without proof of the appointment, designation, authority or signature of the person purporting to have certified the copy. 2004, c. 4, s. 62.

Other persons may accompany

64 A medical officer, public health inspector or public health nurse may be accompanied by other persons for any purpose mentioned in subsection 59(1) and those persons may carry out inspections, examinations, tests and inquiries and take such samples or do such other things as directed by the medical officer, public health inspector or public health nurse. 2004, c. 4, s. 63.

Minister may make recommendations respecting emergency management

65 The Minister may make recommendations to the member of the Executive Council to whom is assigned the administration of the *Emergency Management Act* respecting matters relating to public health emergencies that should be included in emergency management plans made or required to be made under that Act. 2004, c. 4, s. 64.

GENERAL

Duty to assist

66 (1) An owner or occupier of premises and any employees or agents of the owner or occupier shall give all reasonable assistance to a medical officer, public health nurse or public health inspector to enable the medical officer, public health nurse or public health inspector to exercise powers or carry out duties and functions under this Part and the regulations, and shall furnish the medical officer, public health nurse or public health inspector with such information that the medical officer, public health nurse or public health inspector reasonably requires for purposes referred to in subsection 59(1).

(2) A medical officer, public health inspector, public health nurse or other person who is exercising powers or performing duties or functions under

this Part may call for the assistance of any constable, police officer or other peace officer and, where called for such assistance, it is the duty of the constable, police officer or peace officer to render the assistance. 2004, c. 4, s. 65.

Hindering or obstructing

67 (1) No person shall hinder or obstruct a medical officer, public health nurse or public health inspector in the exercise of powers or carrying out of duties or functions under this Part and the regulations.

(2) A refusal of consent to enter a private dwelling is not and shall not be considered to be hindering or obstructing within the meaning of subsection (1), except where a warrant has been obtained or entry is carried out pursuant to Section 61. 2004, c. 4, s. 66.

False or misleading statements

68 No person shall knowingly make a false or misleading statement, either orally or in writing, to a medical officer, public health nurse or public health inspector while the medical officer, public health nurse or public health inspector is exercising powers or carrying out duties or functions under this Part or the regulations. 2004, c. 4, s. 67.

Analysts

69 The Minister may designate persons as analysts for the purpose of this Part. 2004, c. 4, s. 68.

Certificate of analyst

70 (1) Subject to this Section, a certificate of an analyst stating that the analyst has analyzed or examined a sample submitted to the analyst by a medical officer, public health nurse or public health inspector and stating the result of the analysis or examination is admissible in evidence in a prosecution with respect to an offence under this Part or the regulations and, in the absence of evidence to the contrary, is proof of the statements contained in the certificate without proof of the appointment, authority or signature of the person purporting to have signed the certificate.

(2) A party against whom a certificate of an analyst is produced under subsection (1) may, with leave of the court, require the attendance of the analyst for purposes of cross-examination.

(3) A certificate may not be received in evidence under subsection (1) unless the party intending to produce it has given reasonable notice of the intention, together with a copy of the certificate, to any party against whom it is intended to be produced. 2004, c. 4, s. 69.

Copy of order as evidence

71 A copy of an order purporting to be made by a medical officer, public health nurse or a public health inspector is, without proof of the office or signature of the medical officer, public health nurse or a public health inspector, as the case may be, receivable in evidence as proof, in the absence of evidence to the contrary, of the making of the order and of its contents for all purposes in any action, proceeding or prosecution. 2004, c. 4, s. 70.

Offences and penalties

72 (1) Every person who fails to comply with this Part or the regulations or with an order made pursuant to this Part or the regulations is guilty of an offence and is liable on summary conviction to

(a) in the case of a corporation, a fine not exceeding \$10,000; or

(b) in the case of an individual, a fine not exceeding \$2,000 or to imprisonment for a term of not more than six months, or both.

(2) Where an offence under this Part or the regulations is committed or continued on more than one day, the person who committed the offence is liable to be convicted for a separate offence for each day on which the offence is committed or continued.

(3) Notwithstanding subsection (1), a person who is guilty of a second or subsequent offence, other than by virtue of subsection (2), is liable to

(a) in the case of a corporation, a fine not exceeding \$50,000; or

(b) in the case of an individual, a fine not exceeding \$10,000 or to imprisonment for a period of not more than one year, or both. 2004, c. 4, s. 71.

Offences by employees, agents or corporations

73 (1) In a prosecution for an offence under this Part or the regulations, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused, whether or not the employee or agent is identified or has been prosecuted for the offence, unless the accused establishes that the offence was committed without the knowledge or consent of the accused.

(2) Where a corporation commits an offence under this Part or the regulations, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the violation of this Part or the regulations is guilty of the offence and is liable to the punishment provided for the offence, whether or not the corporation has been prosecuted.

(3) Unless otherwise provided in this Part, no person shall be convicted of an offence under this Part or the regulations if the person establishes that the person exercised all due diligence to prevent the commission of the offence. 2004, c. 4, s. 72.

Prohibition on sale of immunizing agents

74 (1) No person shall sell any active or passive immunizing agent that has been provided free of charge to that person by the Minister.

(2) Every person who contravenes subsection (1) and a director or officer of a corporation who authorizes, permits or concurs in such a contravention by the corporation is guilty of an offence and, notwithstanding Section 72, is liable on summary conviction to a penalty of not more than \$5,000. 2004, c. 4, s. 73.

Regulations

- 75** (1) The Governor in Council may make regulations
- (a) prescribing the duties of the Chief Medical Officer and the Deputy Chief Medical Officer;
 - (b) respecting the detection, investigation, prevention, reduction, control and removal of health hazards;
 - (c) requiring persons or classes of persons to report prescribed health hazards;
 - (d) prescribing health hazards that must be reported to a medical officer;
 - (e) classifying persons, organizations, premises, places, animals, plants and things, or any of them, for the purpose of this Part and the regulations;
 - (f) establishing standards and requirements in relation to this Part and the regulations;
 - (g) exempting any person, organization, premises, institution, food, substance, thing, plant, gas, heat, radiation or class of them for any provision of this Part and the regulations and prescribing conditions that apply in respect of such an exemption;
 - (h) establishing standards and requirements for the construction, equipment, facilities, including sanitary facilities, establishment and maintenance of recreational camps;
 - (i) establishing standards and requirements in respect of industrial or construction camps or other places where labour is employed and requiring owners and operators of such camps, works or other places to comply with such standards and requirements;
 - (j) respecting the detention, isolation, examination, disposition or destruction of any animal that has or may have a disease or a condition that may adversely affect the health of any person;
 - (k) requiring the immunization of domestic animals against any disease that may adversely affect the health of any person;
 - (l) requiring the reporting of cases of animals that have or may have diseases that may adversely affect the health of any person;
 - (m) prescribing the classes of persons who must make and receive reports concerning animals that have or may have diseases that adversely affect the health of any person;
 - (n) respecting the procurement, storage, distribution, use and availability of drugs, medical supplies and equipment, and active and passive immunizing agents;
 - (o) requiring the payment of fees for active and passive immunizing agents;
 - (p) respecting the immune status of employees who work in hospitals and institutions;
 - (q) respecting certificates or other means of identification for medical officers, public health nurses and public health inspectors;

- (r) governing the handling, transportation, burial, disinterment and reinterment of bodies of persons who have died of a communicable disease or who had a communicable disease at the time of death;
- (s) specifying additional persons or classes of persons who must report the existence or the probable existence of a notifiable disease or condition, specifying circumstances under which such a report must be made and specifying to whom the report is to be made;
- (t) respecting the reporting of communicable diseases, notifiable diseases or conditions and dangerous diseases;
- (u) respecting the control and classification of communicable diseases, notifiable diseases or conditions and dangerous diseases, including control of disease vectors;
- (v) designating a disease or condition as a notifiable disease or condition or as a dangerous disease;
- (w) requiring the evacuation of persons from localities where there are a large number of cases of a communicable disease or a dangerous disease;
- (x) respecting the isolation or quarantine of persons having or who have been exposed to a communicable disease or a dangerous disease;
- (y) requiring the mandatory reporting of immunizations;
- (z) respecting the establishment, operation and maintenance of personal service facilities;
- (aa) prescribing places of business or classes of places as personal service facilities;
- (ab) prescribing places as institutions;
- (ac) respecting any matter related to the health or safety of persons in, on or about public pools, including standards and requirements to protect the health and safety of such persons;
- (ad) establishing responsibilities, guidelines and standards for public health laboratories;
- (ae) respecting appeals of orders made respecting health hazards;
- (af) respecting the determination of costs associated with actions taken by medical officers where orders are not complied with;
- (ag) establishing standards and requirements regarding the health or safety of persons in, on or about recreational waters;
- (ah) establishing standards and requirements regarding the health or safety of persons at exhibitions, fairs, festivals and mass gatherings;
- (ai) respecting a public health emergency;
- (aj) prescribing persons or classes of persons for the purpose of clause 54(2)(h);

- (ak) establishing reporting requirements for a health authority;
- (al) incorporating and adopting by reference, in whole or in part, a written standard, rule, regulation, guideline, code or document as it reads on a prescribed day or as it is amended;
- (am) establishing standards for confidentiality of records or information obtained by a medical officer pursuant to this Part.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2004, c. 4, s. 74; 2014, c. 32, s. 126.

PART II

FOOD SAFETY

Interpretation of Part

76 In this Part,

“administrator” means an inspector who is appointed as an administrator by the Minister for the purpose of this Part;

“food” means a raw or processed substance, ice, beverage, milk or milk product, used or intended to be used for human consumption and an ingredient that may be mixed with food for human consumption;

“food establishment” means any premises, including a mobile, stationary, temporary or permanent facility or location and the surroundings under control of the same person, in which food is processed, manufactured, prepared, labelled, served, sold, offered for sale or distributed free of charge, dispensed, displayed, stored or distributed, but does not include a dwelling except a dwelling used for commercial food preparation;

“inspector” means a person appointed as an inspector by the Minister;

“Minister” means the Minister of Environment and Climate Change;

“permit” means a permit issued pursuant to this Part;

“prepare” includes cut, wrap, package, freeze, cure or smoke. 2004, c. 4, s. 75; O.I.C. 2006-121; O.I.C. 2016-230; 2021, c. 6, s. 9.

Supervision and management of Part

77 The Minister has the general supervision and management of this Part and the regulations. 2004, c. 4, s. 76.

Delegation of Minister’s duties or functions

78 The Minister may delegate to any person, any duty or function conferred on the Minister under this Part. 2004, c. 4, s. 77.

Administrator

79 The administrators and inspectors necessary for the administration and enforcement of this Part and the regulations must be appointed in accordance with the *Civil Service Act*. 2004, c. 4, s. 78; 2021, c. 6, s. 10.

Qualifications and powers of Administrator

80 (1) An administrator must have a Certified Public Health Inspector designation from the Canadian Institute of Public Health Inspectors or an equivalent designation, together with such other qualifications, as are prescribed in the regulations.

(2) An administrator has all the powers of a public health inspector under Part I. 2004, c. 4, s. 79; 2021, c. 6, s. 11.

Personnel

81 The Minister may engage, upon such terms and conditions as the Minister considers necessary, the services of such professional or technical persons to assist in the efficient carrying out of the intent and purpose of this Part and the regulations. 2004, c. 4, s. 80.

Establishment or operation of food establishment

82 No person shall establish or operate a food establishment except in accordance with this Part and the regulations. 2004, c. 4, s. 81.

Permit required

83 (1) No person shall operate a food establishment, unless exempted by an administrator, without first having obtained a permit from an administrator.

(2) An application for a permit in respect of a food establishment must be made to an administrator in accordance with the regulations.

(3) Subject to this Part and the regulations, an administrator shall issue a permit in respect of a food establishment to an applicant upon payment of the prescribed fee. 2004, c. 4, s. 82; 2021, c. 6, s. 12.

Closure order

84 Where a person operates a food establishment without having obtained a permit or an exemption under Section 83, an administrator may order the closure of the food establishment or take any other action the administrator considers appropriate. 2021, c. 6, s. 13.

Where permit is not to be issued or may be revoked

85 (1) An administrator shall not issue or renew a permit, or may suspend or revoke a permit, in respect of a food establishment to an applicant where the administrator is of the opinion that

(a) the past conduct of the applicant or, where the applicant is a corporation, of any of its officers or directors, affords reasonable grounds to believe that the operation of the food establishment would not be carried on in accordance with this Part and the regulations;

(b) the applicant does not have or will not have available all premises, facilities and equipment necessary to operate a food establishment in accordance with this Part and the regulations;

(c) the applicant is not complying or will not be able to comply with this Part and the regulations; or

(d) the operation of the food establishment represents or would represent a risk to human health.

(2) Any condition that is injurious to human health or, in the opinion of an administrator, is potentially injurious to human health is deemed a risk under this Part. 2004, c. 4, s. 83; 2021, c. 6, s. 14.

Investigation may be requested

86 An inspector or an administrator may request a medical officer to investigate pursuant to Part I if a food-related health hazard exists or may exist. 2004, c. 4, s. 84; 2021, c. 6, s. 15.

Appeal

87 (1) Where an applicant or permit holder has received notification that an administrator has refused to grant or renew a permit or has suspended or revoked a permit, the permit holder may appeal to the Minister, by notice in writing, stating concisely the reasons for the appeal.

(2) An appeal must be conducted in the manner prescribed by the Minister.

(3) The Minister may dismiss an appeal, allow the appeal or make any decision the administrator was authorized to make.

(4) The decision of the Minister is final and binding on the appellant and the Minister, and the appellant shall take such action as may be necessary to implement the decision. 2004, c. 4, s. 85; 2021, c. 6, s. 16.

Designation of types or classes of food establishments

88 An administrator may designate types or classes of food establishments for which permits are issued under Section 83. 2004, c. 4, s. 86; 2021, c. 6, s. 17.

Terms and conditions on permit

89 An administrator may amend, add or impose terms and conditions on a permit. 2004, c. 4, s. 87; 2021, c. 6, s. 18.

Permit holder shall comply with terms and conditions

90 A person to whom a permit is issued shall comply with all terms and conditions of the permit. 2004, c. 4, s. 88.

Construction and maintenance of food establishment

91 A food establishment must be constructed and maintained in such a manner that no condition exists that is injurious to human health or that, in the opinion of an administrator, is potentially injurious to human health. 2004, c. 4, s. 89; 2021, c. 6, s. 19.

Control of contamination

92 A food establishment must have appropriate maintenance, cleaning and sanitation programs to control physical, chemical and microbiological contamination of food, equipment, utensils and other facilities in the food establishment. 2004, c. 4, s. 90.

Unwholesome, stale or decayed food

93 (1) No person shall sell or offer for sale, or have in that person's possession for the purpose of sale, any unwholesome, stale or decayed article of food, and any such article may be seized and destroyed by an inspector with the approval of a medical officer.

(2) Notwithstanding subsection (1), an inspector may seize an article of the type described in that subsection and may destroy it without the approval of a medical officer where the inspector reasonably believes that the article poses a serious and imminent threat to the public health. 2004, c. 4, s. 91.

Restrictions on diseased persons

94 No person who is infected with a disease or condition prescribed in the regulations or is known to be a carrier of such a disease shall participate in any way in the storage, production, manufacture, transportation, preparation, dispensing, serving, keeping for sale or sale of milk, milk products and other food, except as prescribed by the regulations. 2004, c. 4, s. 92.

Entry and inspection without warrant

95 (1) An administrator or an inspector may, at any reasonable time, for the purpose of carrying out the administrator's duties or inspector's duties, as the case may be, under this Part or the regulations,

(a) enter without a warrant any premises where there are reasonable and probable grounds to believe that the premises are a food establishment and that records relating to the food establishment are to be found in the premises; and

(b) inspect the premises and any food or records relating to food.

(2) Notwithstanding subsection (1), an administrator or an inspector shall not enter any part of a dwelling without the consent of the occupier unless pursuant to a warrant. 2004, c. 4, s. 93; 2021, c. 6, s. 20.

Hindering or obstructing

96 No person shall hinder or obstruct an administrator or an inspector in the performance of that person's duties, provide an administrator or an inspector with false information or refuse to provide an administrator or an inspector with information required for the purpose of this Part and the regulations. 2004, c. 4, s. 94; 2021, c. 6, s. 21.

Use of force

97 Where an administrator or an inspector is empowered, authorized or required by any of the provisions of this Part or of the regulations to do any act,

matter or thing, the administrator or the inspector may use such force as is reasonably necessary. 2004, c. 4, s. 95; 2021, c. 6, s. 22.

Administrator or inspector may call for assistance

98 An administrator or an inspector may, in the performance of duties under this Part, call for the assistance of any constable, police officer or other peace officer and, where called for such assistance, it is the duty of the constable, police officer or peace officer to render the assistance. 2004, c. 4, s. 96; 2021, c. 6, s. 23.

Certificate of appointment as proof

99 The production by an inspector of a certificate of appointment purporting to be signed by the Minister is admissible in evidence as proof of the appointment without further proof of the signature or authority of the Minister. 2004, c. 4, s. 97.

Offences by employees or agents

100 In a prosecution for a violation of this Part or the regulations, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused whether or not the employee or agent is identified or has been prosecuted for the offence, unless the accused establishes that the offence was committed without the knowledge or consent of the accused. 2004, c. 4, s. 98.

Prima facie proof respecting food or packaging

101 Proof that food, or a package containing food, bore

(a) a name and address purporting to be the name and address of the person by whom it was produced, processed or prepared; or

(b) a registered number or brand mark purporting to be the registered number or brand mark of the establishment where it was produced, processed or prepared,

is prima facie proof that the food was produced, processed or prepared and that the food or package was marked by the person whose name or address appeared on the food product or package or by the person operating the food establishment whose registered number or brand mark appeared on the package, as the case may be. 2004, c. 4, s. 99.

Other persons may accompany

102 An administrator or an inspector in carrying out any duties or exercising any powers under this Part or the regulations may be accompanied by any persons considered by the administrator or the inspector, as the case may be, to be necessary to enable the administrator or inspector to carry out those duties and exercise those powers. 2004, c. 4, s. 100; 2021, c. 6, s. 24.

Agreements between the Province and Canada

103 (1) Subject to the *Public Service Act*, the Minister may enter into agreements with the Government of Canada for

(a) the performance by the Government of Canada, on behalf of the Province, of functions and duties under this Part and the regulations that are the responsibility of the Province;

(b) the performance by the Province, on behalf of the Government of Canada, of functions and duties that are the responsibility of the Government of Canada under an Act of the Parliament of Canada.

(2) The Minister may enter into agreements for the more efficient carrying out of the object and purpose of this Part and the regulations. 2004, c. 4, s. 101.

Offences

104 (1) A person who contravenes this Part or the regulations, and a director or officer of a corporation who authorizes, permits or concurs in such a contravention by the corporation, is guilty of an offence and upon summary conviction is liable for a first offence to a fine of not more than \$2,000 or to imprisonment for a term of not more than six months, or to both, and for a subsequent offence to a fine of not more than \$10,000 or to imprisonment for a term of not more than one year, or to both.

(2) Notwithstanding subsection (1), a corporation that is convicted of an offence is liable for a first offence to a fine of not more than \$10,000 and for a subsequent offence to a fine of not more than \$50,000. 2004, c. 4, s. 102.

Conflict with Part

105 (1) Where the provisions of any Act or bylaw or regulation of a regional municipality, town, municipality of a county or district or other local body are in conflict with this Part or the regulations, this Part and the regulations prevail to the extent of the conflict.

(2) Notwithstanding subsection (1), a bylaw or regulation referred to in subsection (1) may impose or prescribe higher or more stringent standards or requirements than those provided for by this Part or the regulations where an enactment authorizes the bylaw or regulation to impose or prescribe such standards or requirements. 2004, c. 4, s. 103.

Duties and powers of Minister and privilege

106 (1) Clause 6(1)(f) applies with necessary changes to the Minister.

(2) Section 18 applies with necessary changes to the Minister, the administrators and the inspectors. 2004, c. 4, s. 104; 2021, c. 6, s. 25.

Regulations

107 (1) The Governor in Council may make regulations

(a) prescribing the powers and duties of administrators and inspectors or any class of administrators or inspectors;

(b) prescribing the qualifications of administrators;

(c) providing for the exemption from this Part or the regulations, or any part thereof, of any person or any class of persons or of any food product and prescribing the terms and conditions of the exemption;

- (d) prescribing the manner of and the devices to be used in the operation of food establishments;
- (e) prescribing the facilities and equipment to be provided and maintained at food establishments and the operation of food establishments;
- (f) respecting cleanliness and sanitation of food establishments;
- (g) requiring and governing the detention and disposal of any food at a food establishment and prescribing the procedures for the detention and disposal of food;
- (h) respecting the transportation and delivery of food from a food establishment;
- (i) prescribing the records to be made and kept by the operator of a food establishment;
- (j) providing for the issue, renewal, suspension, reinstatement or revocation of or refusal to issue or renew permits and prescribing the fees payable for permits or the renewal of permits;
- (k) providing for the inspection of food establishments and of vehicles in which food is transported;
- (l) prohibiting the sale or delivery of milk, milk products or any other food from a food establishment if conditions in that food establishment are unsanitary or if the person in charge of the food establishment refuses to permit the food establishment to be inspected by an inspector;
- (m) respecting how milk or cream must be pasteurized;
- (n) respecting the temperature to which milk or cream must be subjected and in respect of the time during which such temperature must be maintained, the period during which such milk or cream must be cooled and the temperature to and the manner in which such milk or cream must be cooled;
- (o) respecting the provision of safe and potable water supplies, for the control of sources of water and systems of distribution, and respecting the prevention of contamination or pollution of water that is used for human consumption;
- (p) providing for inspection of premises before the issue of permits;
- (q) providing for the keeping of records of permits and for inspection of those records by any person;
- (r) prescribing conditions to which permits may be subject;
- (s) governing appeals;
- (t) prescribing terms and conditions under which food may be inspected at any food establishment and the fees payable for inspection;
- (u) prescribing standards for any class or variety of food;

- (v) providing for the taking of samples at a food establishment at the expense of the owner for the purpose of testing;
- (w) providing for the labelling of food at a food establishment;
- (x) extending the period during which food or things may be retained by an inspector;
- (y) respecting the detention of food or things seized pursuant to this Part and for preserving or safeguarding the food or things;
- (z) prescribing diseases or conditions for the purpose of Section 94;
- (aa) establishing the circumstances under which a person described in Section 94 may return to work;
- (ab) incorporating and adopting by reference, in whole or in part, a written standard, rule, regulation, guideline, code or document as it reads on a prescribed day or as it is amended;
- (ac) respecting any matter the Governor in Council considers necessary or advisable for the administration of a system of administrative penalties;
- (ad) respecting any matter the Governor in Council considers necessary or advisable to carry out effectively the intent and purpose of this Part.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2004, c. 4, s. 105; 2021, c. 6, s. 26.

PART III

GENERAL

Regulations

- 108 (1)** The Governor in Council may make regulations
- (a) prescribing forms for the purpose of this Act and the regulations;
 - (b) defining any word or expression used but not defined in this Act;
 - (c) further defining any word or expression defined in this Act;
 - (d) respecting any matter that the Governor in Council considers necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2004, c. 4, s. 106.

Exception from freedom of information legislation

109 Sections 16, 17, 32, 41, 43 and 51, clause 59(1)(e), clauses 75(1)(p), (s), (t) and (y) and Section 106 apply notwithstanding the *Freedom of Information and Protection of Privacy Act*. 2004, c. 4, s. 107.

Cancer Reporting Act repealed

110 (1) Chapter C-8 of the Revised Statutes, 2023, the *Cancer Reporting Act*, is repealed.

(2) Subsection (1) comes into force on such day as the Governor in Council orders and declares by proclamation. 2004, c. 4, s. 113.

CHAPTER H-8

An Act Respecting Health Services and Insurance

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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 *Health Services and Insurance Act*. R.S., c. 197, s. 1.

Interpretation

2 In this Act,

“Administrator, Insured Professional Services” means the head or person in charge, or the person designated by the Deputy Minister to be in charge, of the Insured Professional Services Division of the Department;

“Commission” means the Health Services and Insurance Commission;

“commissioner” means a member of the Commission;

“Department” means the Department of Health and Wellness;

“Deputy Minister” means the Deputy Minister of Health and Wellness;

“hospital” means a hospital that has been approved under the *Hospitals Act* and any other hospital or facility that has been approved as a hospital by the Minister for the purpose of this Act;

“Hospital Insurance Plan” means the plan for insured hospital services;

“insured hospital services” means the in-patient and out-patient services to which a resident is entitled under the provisions of this Act and the regulations;

“Insured Prescription Drug Plan” means the Insured Prescription Drug Plan under the *Insured Prescription Drug Plan Act*;

“insured professional services” means the services with respect to which a resident is entitled to receive insurance under the provisions of this Act and the regulations;

“Minister” means the Minister of Health and Wellness;

“M.S.I. Plan” means a plan for insured professional services;

“provider” means a person who provides insured professional services pursuant to this Act and the regulations;

“resident” or “resident of the Province” means a resident of the Province as defined in the regulations;

“Society” means Doctors Nova Scotia;

“tariff” means a tariff established by the Minister pursuant to Section 10. R.S., c. 197, s. 2; 1992, c. 20, s. 1; 2011, c. 7, s. 33.

Insured services

3 (1) Subject to this Act and the regulations, all residents of the Province are entitled to receive insured hospital services from hospitals upon uniform terms and conditions.

(2) Subject to this Act and the regulations, all residents of the Province are insured upon uniform terms and conditions in respect of the payment of the cost of insured professional services to the extent of the tariffs. R.S., c. 197, s. 3; 1992, c. 20, s. 2.

Spouse or dependant of member of Canadian Forces

4 (1) Subject to subsection (2), a spouse or dependant of a member of the Canadian Forces moving to the Province from outside Canada is insured for the payment of the cost of insured services commencing on the day the spouse or dependant takes up residence in the Province.

(2) The money required for the purpose of subsection (1) must be paid out of money appropriated for that purpose by the Legislature. 2008, c. 16, s. 1.

Disentitlement

5 Where a person is

(a) insured for the payment of the cost of services from a provider; or

(b) entitled to or eligible for in-patient or out-patient services,

under the *Workers' Compensation Act* or any other Act of the Legislature or of the Parliament of Canada or under any statute or law of any other jurisdiction either within or outside of Canada, that person is not insured for or entitled to the same services under this Act. R.S., c. 197, s. 5; 1992, c. 20, s. 3; 2011, c. 7, s. 34.

Agreement with federal minister

6 The Minister, with the approval of the Governor in Council, may enter into an agreement or agreements with the Federal Minister of Health to provide for the payment by the Government of Canada to the Province of contributions in respect of the cost of insured hospital services and the Insured Prescription Drug Plan incurred by the Province pursuant to this Act, and may vary or amend any such agreement. R.S., c. 197, s. 6.

Health Services and Insurance Commission

7 (1) The Governor in Council shall appoint a Health Services and Insurance Commission consisting of not fewer than nine nor more than 12 persons.

(2) The Governor in Council shall appoint one commissioner to be Chair of the Commission and may appoint one commissioner to be Vice-chair of the Commission.

(3) Each commissioner holds office for such term as is prescribed by each commissioner's appointment and is eligible for reappointment, but shall not hold office for a term or terms exceeding six consecutive years.

(4) Each commissioner shall be paid such salary or other remuneration as the Governor in Council determines.

(5) Three members of the Commission constitute a quorum.

(6) The Commission shall perform the duties and functions assigned to the Commission by the Minister or the Governor in Council. R.S., c. 197, s. 7; 1992, c. 20, s. 4.

Agreements respecting M.S.I. Plan

8 The Minister, with the approval of the Governor in Council, may enter into agreements and vary, amend or terminate the same with such person or persons as the Minister considers necessary to establish, implement and carry out the M.S.I. Plan. 1992, c. 20, s. 5.

Payments to hospitals

9 Subject to the regulations, the Minister shall make payments to hospitals in respect of the cost of insured hospital services rendered by them under this Act to residents of the Province and may make payments with respect to the cost of insured hospital services that have been rendered to residents of the Province by

hospitals that are owned or operated by the Government of Canada or are situated outside the Province. R.S., c. 197, s. 10.

Function and powers of Minister

10 (1) It is the function of the Minister and the Minister has power to

(a) negotiate, in good faith, compensation for insured professional services on behalf of the Province with the professional organizations representing providers;

(b) participate in any process of final offer arbitration as provided for in this Section;

(c) establish the tariff or tariffs of fees or other system of payment for insured professional services determined in accordance with this Section and, with the approval of the Governor in Council, authorize payments in respect thereof;

(d) interpret tariffs and determine their application to the assessment of claims;

(e) conduct surveys and research in relation to services that are insured under this Act;

(f) perform such other functions as may be assigned to the Minister by the Governor in Council;

(g) do all other acts and things that the Minister considers necessary or advisable for the purpose of carrying out effectively the intent and purpose of this Act.

(2) In this Section, “final offer arbitration” means the dispute resolution process whereby a final offer selection panel receives from each of the disputing parties a final offer on all outstanding issues in a negotiation and, following analysis of the submission and fact finding, the panel selects one final offer or the other without modification, which selection is final and binding on the parties.

(3) Issues of compensation for insured professional services not resolved by negotiation must be settled through final offer arbitration by a panel consisting of one appointee of the appropriate professional organization, one appointee of the Minister and an independent chair agreed to by each of the appointees.

(4) Where a chair of the panel is not agreed upon, the chair must be appointed by the Chief Justice of Nova Scotia within 10 days of receipt by the Chief Justice from the professional organization or from the Minister of written notice of the failure to agree.

(5) The decision of a panel referred to in subsection (3) may not be altered except by an Act of the Legislature.

(6) The relative value for individual fee items in a tariff or schedule of tariffs for payment for professional services rendered by a provider may, with the mutual agreement of the Minister and the professional organization representing the provider, be altered at any time in respect of any item or new procedure. R.S., c. 197, s. 13; 1992, c. 20, s. 7.

Agreement with Society

11 The Minister may enter into an agreement with the Society on behalf of all duly qualified medical practitioners in the Province who provide insured medical services concerning compensation for insured medical services and other matters of common concern between the Minister and the Society, and such agreement is binding on the Minister, the Society and all medical practitioners covered by the agreement. 1992, c. 20, s. 8.

Agreement null and void

12 Effective November 1, 2002, any agreement between a provider and a hospital, or predecessors to a hospital, stipulating compensation for the provision of insured professional services, for the provider undertaking to be on-call for the provision of such services or for the provider to relocate or maintain a presence in proximity to a hospital, excepting agreements to which the Minister and the Society are a party, is null and void and no compensation is payable pursuant to the agreement, including compensation otherwise payable for termination of the agreement. 2002, c. 5, s. 22.

Commission responsible to Minister

13 In exercising its function and power under this Act the Commission shall report to and be responsible to the Minister and, at the direction of the Minister, shall report to and be responsible to the Minister through the Deputy Minister. R.S., c. 197, s. 14; 1992, c. 20, s. 9.

Function and powers of Minister

- 14** It is the function of the Minister and the Minister has the power to
- (a) administer the Hospital Insurance Plan;
 - (b) determine the amounts to be paid for insured hospital services rendered to residents of the Province who are entitled to and eligible for such services under the Hospital Insurance Plan;
 - (c) take all proper steps to develop and maintain a coordinated system of hospitals, training schools and related health facilities throughout the Province;
 - (d) approve or disapprove the establishment of new and additional hospitals and any changes in hospitals;
 - (e) on such terms and conditions as the Minister considers proper, approve all Provincial grants to hospitals and other healthcare facilities for construction purposes and for the purpose of purchasing, leasing or otherwise acquiring equipment. R.S., c. 197, s. 15.

Powers of Minister

15 (1) Subject to the approval of the Governor in Council and to the provisions of the *Finance Act*, and notwithstanding any other provisions of this Act, the *Hospitals Act* or the *Health Protection Act*, the Minister on behalf of the Province may, for the purpose of establishing, maintaining, assisting, expanding, constructing or equipping hospitals or healthcare facilities in the Province,

- (a) purchase or otherwise acquire, hold, improve and maintain any real or personal property and lease, sell or convey the

same for such consideration and on such conditions as the Minister considers proper;

(b) construct, improve, renovate, alter, add to, repair, extend, provide services for, move or remove any building, chattel or other thing;

(c) purchase or otherwise acquire control of a hospital or healthcare facility from any person on such terms and in such manner as the Minister considers proper;

(d) make grants or loans to any person, and guarantee loans of any person, on such terms and in such manner as the Minister considers proper;

(e) purchase or otherwise acquire, or guarantee, bonds, debentures, notes or other debt obligations of any person, on such terms and in such manner as the Minister considers proper;

(f) do such other matters or things and exercise such other powers as the Minister considers desirable for the better carrying out of the intent and purpose of this Section.

(2) Notwithstanding subsection (1), the approval of the Governor in Council is not required where anything is done pursuant to subsection (1) and the amount involved does not exceed \$100,000 or such other amount as is prescribed by the Governor in Council by regulation.

(3) Such sums as are authorized by subsection (1) may be chargeable to or paid out of Capital Account, Special Reserve Account or the Revenue of the Province for any year or years.

(4) Subject to the approval of the Governor in Council, the Minister may, for and on behalf of the Crown in right of the Province, execute all necessary agreements or other instruments whatsoever considered necessary or desirable to carry out the intent and purpose of this Section. R.S., c. 197, s. 16; 1992, c. 20, s. 10; 2004, c. 4, s. 115; 2010, c. 2, s. 106.

Regulations

16 (1) The Governor in Council may make regulations respecting the Hospital Insurance Plan

(a) establishing the Hospital Insurance Plan;

(b) prescribing the in-patient and out-patient services to which residents of the Province are entitled;

(c) prescribing the terms and conditions under which residents are entitled to insured hospital services;

(d) prescribing the terms and conditions under which payments will be made to hospitals for services provided by them;

(e) defining residents of the Province for the purpose of this Act;

(f) respecting the amount and manner of payment for insured hospital services rendered by hospitals within or outside of the Province to residents of the Province;

- (g) respecting the approval of hospitals and facilities for the purpose of this Act;
- (h) respecting the services that must be provided by hospitals to qualify them for payment under this Act;
- (i) respecting the records and accounts to be kept by hospitals and the returns and reports to be made by them to the Minister;
- (j) prescribing the manner and form in which accounts are rendered by hospitals to the Minister;
- (k) respecting the admission, treatment, conduct, discipline and discharge of patients;
- (l) respecting the inspection, management, conduct and operation of hospitals;
- (m) respecting reciprocal arrangements with other provinces for the provision of insured hospital services;
- (n) providing for the appointment of such advisory or other committees, boards and other officers or agencies as the Minister considers necessary or advisable for the effective operation of this Act;
- (o) respecting any other matter or thing that the Governor in Council considers necessary or advisable to carry out effectively the intent and purpose of this Act.

M.S.I. Plan

- (2) The Governor in Council may make regulations respecting the
 - (a) establishing a plan or plans for the payment of the cost of insured professional services received by residents;
 - (b) prescribing the insured professional services to which residents are entitled;
 - (c) prescribing prosthetic services that are insured professional services;
 - (d) prescribing the manner of and time for submission of claims for insured professional services rendered either within or outside of the Province to residents;
 - (e) respecting the information required to permit the assessment and payment of claims for insured professional services;
 - (f) prescribing measures designed to prevent unnecessary utilization or provision of insured professional services;
 - (g) prescribing the forms and records to be used for the purpose of this Act or the regulations;
 - (h) respecting the procedures that must be followed by the Commission in dealing with disputes or complaints relating to or arising under this Act;
 - (i) respecting the inspection, management, conduct and operation of the Commission in respect of its duties, functions and responsibilities under the M.S.I. Plan;

- (j) prescribing services that for the purpose of a plan are not deemed to be services that are medically required;
- (k) prohibiting charges by providers in excess of the tariff;
- (l) respecting third party liability claims;
- (m) prescribing the procedures to be followed by the Commission in hearing an appeal by a provider from an order of the Administrator pursuant to subsection 26(3);
- (n) defining for the purpose of this Act any word or phrase used in this Act.

(3) The Governor in Council may make regulations respecting payments, or may authorize individual payments, in such amounts and upon such terms and conditions as the Governor in Council considers proper, for uninsured hospital and medical services rendered outside the Province to residents of the Province.

(4) The exercise by the Governor in Council of the authority contained in subsections (1) to (3) is a regulation within the meaning of the *Regulations Act*. R.S., c. 197, s. 17; 1992, c. 20, s. 11; 2011, c. 7, s. 34.

Contract with private corporation and fee regulations

17 (1) The Minister may enter into a contract with a private corporation for the provision of ambulance services in the Province.

- (2) The Minister may make regulations
 - (a) setting out fees for the use of ambulance services in the Province;
 - (b) authorizing the private corporation to collect the fees referred to in clause (a);
 - (c) setting out a procedure for resolving disputes relating to the imposition and collection of a fee referred to in clause (a). 2002, c. 5, s. 23.

Right of recovery by injured person

18 (1) Where, as a result of the negligence or wrongful act or omission of another, a person suffers personal injuries for which the person received insured hospital services, benefits under the Insured Prescription Drug Plan, ambulance services to which the Province has made payment, home-care services, care for a person in a home for special care or child-care facility to which the Province has made payment, insured professional services under this Act or any other care, services or benefits designated by regulation, including the future costs of any such care, services or benefits, the person

- (a) has the same right to recover the sum paid for the care, services or benefits against the person who was negligent or was responsible for the wrongful act or omission as the person would have had if that person had been required to pay for the care, services or benefits; and

(b) where the person makes any claim for the personal injuries suffered against the person who was negligent or who was responsible for the wrongful act or omission, shall claim and seek to recover the costs of the care, services or benefits.

(2) Where, under subsection (1), a person recovers a sum in respect of insured hospital services, benefits under the Insured Prescription Drug Plan, ambulance services to which the Province has made payment or insured professional services received by the person under this Act, the person shall forthwith pay the sum recovered to the Minister.

(3) The Crown in right of the Province is subrogated to the rights of a person under this Section to recover any sum paid by the Minister for insured hospital services, benefits under the Insured Prescription Drug Plan, ambulance services to which the Province has made payment or insured professional services provided to that person, and an action may be maintained by the Crown, either in the name of the Crown or in the name of that person, for the recovery of such sum.

(4) It is not a defence to an action brought by the Crown in right of the Province under subsection (3) that a claim for damages has been adjudicated upon unless the claim included a claim for the sum paid for insured hospital services, benefits under the Insured Prescription Drug Plan, ambulance services to which the Province has made payment and insured professional services and it is not a defence to an action for damages for personal injuries brought by a person who has received insured hospital services, benefits under the Insured Prescription Drug Plan, ambulance services to which the Province has made payment or insured professional services that an action taken by the Crown under subsection (3) has been adjudicated upon.

(5) No release or settlement of a claim or judgment based upon a cause of action for damages for personal injuries in a case where the injured person has received insured hospital services, benefits under the Insured Prescription Drug Plan, ambulance services to which the Province has made payment or insured professional services under this Act is binding upon the Crown unless the Minister or a person designated by the Minister has approved the release or settlement in writing.

(6) Subject to subsections (8) and (9), where, as a result of a claim pursuant to this Section,

(a) the claim is settled or a judgment is obtained; and

(b) insufficient funds are available to provide complete recovery to the injured person for the injured person's losses and injuries and to pay the costs of the care, services and benefits referred to in subsection (1),

the injured person and the Crown in right of the Province shall share pro rata in proportion to their respective losses in any recovery in accordance with the terms and conditions prescribed by the regulations.

(7) No person acting on the person's own behalf or on behalf of another person shall, without the approval in writing pursuant to subsection (8) of the Minister, make a settlement of a claim based upon a cause of action for damages for personal injuries in a case where the injured person has received care, services or benefits referred to in subsection (1) unless at the same time the person makes a

settlement to recover the same pro rata proportion in respect of the cost of the care, services and benefits referred to in subsection (1) as the injured person is to recover in respect of the person's losses and injuries.

(8) Where a person who makes a claim pursuant to subsection (1) has obtained an offer for a settlement where the same pro rata proportion of the cost of the care, services and benefits referred to in subsection (1) would be recovered as the injured person would recover in respect of the person's losses and injuries but, in the opinion of the Minister or a person designated by the Minister, the offer would not provide sufficient recovery in respect of the care, services and benefits referred to in subsection (1), the Minister or a person designated by the Minister may approve, in writing, a release or settlement whereby the person making a claim pursuant to subsection (1) makes a settlement of a claim in respect of the person's injuries or losses without making a settlement in respect of the cost of the care, services and benefits referred to in subsection (1).

(9) The written approval referred to in subsection (8) is not binding on the Crown in right of the Province in relation to a claim made pursuant to subsection (5) in respect of the cost of the care, services and benefits referred to in subsection (1).

(10) Every liability insurer carrying on business in the Province shall provide the Minister, when requested to do so, information relating to

(a) a claim made against an insured person by a person who received any of the care, services or benefits referred to in subsection (1); or

(b) the terms and conditions of any settlement entered into by an insured person and a person who received any of the care, services or benefits referred to in subsection (1).

(11) Notwithstanding any other provision of this Act, the Minister may, in accordance with the regulations, authorize the payment of a fee to a barrister and solicitor who makes a claim on behalf of an injured person and recovers a sum in respect of the cost of care, services or benefits referred to in subsection (1) that are received by the injured person.

(12) Where a person whose act or omission resulted in personal injuries to another is insured by a liability insurer, the liability insurer shall pay to the Minister any amount referable to a claim for recovery of the cost of insured hospital services, benefits under the Insured Prescription Drug Plan, ambulance services to which the Province has made payment and insured professional services that would otherwise be paid to the insured person and payment of that amount to the Minister discharges the liability of the insurer to pay that amount to the insured person or to any person claiming under or on behalf of the insured person.

(13) For the purpose of this Section, the sum paid for insured hospital services that are received by an injured person must be an amount equal to the charges of the hospital in which the services were provided, at rates approved by the Minister, that the insured person would have been required to pay if the insured person was not entitled to receive the services as insured hospital services under this Act.

(14) In an action under this Section a certificate of a person designated by the Minister as to the sum paid for insured hospital services, benefits under the Insured Prescription Drug Plan, ambulance services to which the Province has made payment or insured professional services received by an injured person is admissible in evidence and is prima facie proof of that sum.

(15) For greater certainty, in subsections (2) to (14) “insured hospital services” includes any care, services or benefits for which costs have been or may in the future be paid by the Minister in relation to negligence or a wrongful act or omission, including ambulance services to which the Province has made payment, home-care services, care for a person in a home for special care or child-care facility to which the Province has made payment and any services prescribed in the regulations as insured hospital services for the purpose of this subsection. R.S., c. 197, s. 18; 1992, c. 20, s. 12; 2002, c. 5, s. 24.

Levy on motor vehicle insurance

19 (1) Section 18 applies except where personal injury has occurred as the result of a motor vehicle accident in which the person whose act or omission resulted in the personal injury is insured by a policy of third-party liability insurance on or after the date this subsection comes into force.

(2) The Minister may impose a levy to be paid by each motor vehicle insurer with respect to each vehicle insured by that insurer for the purpose of recovering insured hospital services, benefits under the Insured Prescription Drug Plan, ambulance services to which the Province has made payment or insured professional services pursuant to this Act incurred by third parties as a result of personal injury in motor vehicle accidents.

(3) By January 15th of each year, the Superintendent of Insurance shall give notice to the insurers of the estimate and the insurers shall remit to the Superintendent the amount estimated in equal quarterly payments commencing on March 31, 1993, such quarterly payments to be payable within 60 days following the end of each quarter.

(4) Upon receipt of the funds payable by insurers pursuant to subsections (1) to (3) and (5) to (9), the Superintendent of Insurance shall credit the amount to the recovery account identified by the Minister.

(5) The Minister shall annually re-evaluate the accuracy of the levy estimate in the following year.

(6) The Minister shall advise the Superintendent of Insurance of the adjustments and the Superintendent shall give notice to the insurers of the adjustments.

(7) Where the adjusted amount is greater than the estimate, the insurers shall remit payment forthwith.

(8) Where the adjusted amount is less than the estimate, the insurers account must be credited with the surplus.

(9) No interest is payable on the surplus or deficit resulting after the calculation of the adjusted amount. 1992, c. 20, s. 12.

Regulations

- 20** (1) The Governor in Council may make regulations
- (a) respecting the pro rata sharing of any recovery made respecting services or benefits referred to in subsection 18(1);
 - (b) respecting the provision of information to the Minister by liability insurers;
 - (c) respecting fees that may be paid to barristers and solicitors pursuant to subsection 18(11) and any conditions or requirements respecting the payment of the fees;
 - (d) prescribing services as insured hospital services for the purpose of the definition in subsection 18(15);
 - (e) defining any word or expression used but not defined in this Act;
 - (f) considered necessary for the better carrying out of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2002, c. 5, s. 25.

Eligibility as member of Assembly unaffected

21 A person who receives a payment in respect of insured hospital services, the Insured Prescription Drug Plan or insured professional services is not made ineligible as a member of the House of Assembly. R.S., c. 197, s. 22; 1992, c. 20, s. 14.

Activities unaffected

- 22** Nothing in this Act
- (a) prevents a person from choosing the person's own provider;
 - (b) prevents a provider from practising as a provider outside the M.S.I. Plan; or
 - (c) imposes an obligation upon a provider to treat a person. R.S., c. 197, s. 23; 1992, c. 20, s. 15.

Claim by provider or election out of M.S.I. Plan

23 (1) Where a provider renders an insured professional service to a resident, the provider shall, unless the provider has made an election pursuant to this Section, submit the provider's claim for the service together with such information as required to substantiate it, upon such forms as are prescribed by the Department for that purpose.

(2) A provider may, at any time in writing, notify the Department of the provider's election to collect fees in respect of insured professional services otherwise than under the M.S.I. Plan.

(3) Where a provider makes an election pursuant to subsection (2) and the Department receives written notice of the election within 30 days from the day on which the provider first became entitled to practise in the Province, the elec-

tion has effect from and on the day when the provider became entitled to practise in the Province.

(4) Subject to subsection (3), an election pursuant to subsection (2) has effect from and on the first day of the first month beginning after the expiration of 60 days after the day on which the Department receives the notice of election.

(5) A provider who has made an election pursuant to subsection (2) may, at any time in writing, notify the Department of the revocation of the election.

(6) A revocation of election pursuant to subsection (5) has effect from and on the first day of the first month beginning after the expiration of 30 days after the day on which the Department receives the notice of revocation. 1992, c. 20, s. 18.

Notice by non-participating provider

24 (1) Where a provider who has made an election that is in force under Section 23 renders an insured professional service to a resident, the provider is not entitled to charge for the service unless, prior to rendering it, the provider gave reasonable notice of the provider's election to the resident or some other person acting on the resident's behalf.

(2) A provider mentioned in subsection (1) who has charged for the provider's service shall, if requested by the resident, or some other person acting on the resident's behalf, forthwith complete the claim form prescribed for that purpose or provide the resident with sufficient information to enable the resident to complete the form in a manner satisfactory to the Department.

(3) A provider who has made an election that is in force under Section 23 is not entitled to a payment under the M.S.I. Plan. R.S., c. 197, s. 28; 1992, c. 20, s. 19.

Maximum entitlement or charge

25 (1) Where a provider renders an insured professional service to a resident, the provider is entitled to receive in respect of that service only the fee or compensation provided in the tariff of fees or other system of payment established pursuant to Section 10.

(2) A provider who makes an election pursuant to Section 23 shall not charge a fee for a professional service that exceeds the fee or compensation for the same or similar insured professional service provided in the tariff of fees or other system of payment established pursuant to Section 10. R.S., c. 197, s. 29; 1992, c. 20, s. 20.

Report to Administrator, order and appeals

26 (1) Where

(a) a provider has been convicted of an offence pursuant to this Act or the regulations and the conviction has become final by affirmation on appeal or by expiry without appeal of the time allowed for appeal; or

(b) the Administrator, Insured Professional Services has grounds to believe that a provider

(i) has fraudulently submitted or assisted in the submission of a claim for payment under the M.S.I. Plan, or

(ii) habitually claims under the M.S.I. Plan for services that are or were not medically required,

the Minister shall, after consultation with the professional association representing the provider, appoint a review committee, the majority of the members of which must be members of the professional association of the provider, and the review committee shall review the circumstances of the provider and make a report to the Administrator.

(2) The Administrator, Insured Professional Services shall take the report referred to in subsection (1) into consideration in reaching a decision regarding the provider and the Administrator shall consult with the appropriate professional or administrative body of which the provider is a member and may order that the provider not practise under the M.S.I. Plan during such period or periods as the Administrator determines.

(3) A provider who is dissatisfied with an order made by the Administrator, Insured Professional Services pursuant to subsection (2) may, within 15 days of the making of the order, appeal the order to the Commission and the Commission shall render a decision and the decision of the Commission is final.

(4) Where an order is in force under subsection (2), a claim under the M.S.I. Plan in respect of insured professional services rendered by the provider is payable to the patient or the person who, on the patient's behalf, is charged for or pays for the services.

(5) The amount payable pursuant to subsection (4) is the same amount that would have been payable to the provider if the order was not in force.

(6) Where a provider with respect to whom an order is in force under subsection (2) renders an insured professional service to a resident, the provider is not entitled to charge for the service unless, prior to rendering it, the provider gave reasonable notice to the resident or some other person acting on the resident's behalf that the provider is not practising under the M.S.I. Plan.

(7) Where a provider with respect to whom an order is in force under subsection (2) has charged for the service, the provider shall, if requested by the resident or other person acting on the resident's behalf, forthwith complete the claim form prescribed for that purpose or provide the resident with sufficient information to enable the resident to complete the form in a manner satisfactory to the Department. R.S., c. 197, s. 30; 1992, c. 20, s. 21.

Arrangements for payment by Minister

27 (1) The Minister may enter into agreements or make arrangements for payment to

(a) an employer of a provider who, with the consent of the employer, has assigned to the employer the provider's right to collect the provider's fees under the M.S.I. Plan;

(b) a partnership, association or group of providers who have assigned to the partnership, association or group their right to collect their fees under the M.S.I. Plan; or

(c) a provider who renders insured professional services on a basis other than a fee for services rendered.

(2) An assignment made pursuant to clause (1)(a) or (b) has no force or effect for the purpose of the M.S.I. Plan unless the Minister approves of the terms and conditions of the assignment and a copy of the assignment is filed with the Department. R.S., c. 197, s. 31; 1992, c. 20, s. 22.

Subsidy in underpopulated area

28 The Minister may make arrangement for payments of subsidies to providers practising in underpopulated areas of the Province. 1992, c. 20, s. 23.

Protection if information furnished

29 No action is maintainable against a person, hospital or other institution in respect of the furnishing of information, communications or reports to the Minister or the Department. R.S., c. 197, s. 33; 1992, c. 20, s. 24.

Secrecy

30 Every person employed in the administration of this Act shall preserve secrecy with respect to all matters that come to the person's knowledge in the course of the person's employment and shall not communicate any such matter to any other person except

(a) for the purpose of the administration of this Act;

(b) pursuant to the *Freedom of Information and Protection of Privacy Act*;

(c) to a provider for any purpose relating to insured professional services that the provider has provided or has properly been requested to provide; or

(d) in such other circumstances as the Minister may prescribe. R.S., c. 197, s. 34; 1992, c. 20, s. 25.

Offence and penalty

31 Any person who violates this Act or the regulations or wilfully makes a false statement in any report or form required to enable a payment to be made under the Hospital Insurance Plan, the Insured Prescription Drug Plan or the M.S.I. Plan is guilty of an offence and liable on summary conviction to a fine of not more than \$10,000 for a first offence and for a subsequent offence to a fine of not more than \$20,000. R.S., c. 197, s. 35; 1992, c. 20, s. 26.

Conflict

32 In the event of a conflict between the provisions of this Act or the regulations and the provisions of any other general or special Act, the provisions of this Act prevail. R.S., c. 197, s. 36.

Substituted reference

33 A reference in any Act of the Legislature or in any rule, order, regulation, bylaw, ordinance or proceeding or in any document whatsoever to the Hospital Insurance Commission, the Medical Care Insurance Commission or the Health Services and Insurance Commission, whether the reference is by official name or otherwise is to be, as regards any subsequent transaction, matter or thing, held and construed to be a reference to the Minister or the Commission, as the case may be. 1992, c. 20, s. 27.

CHAPTER H-9

An Act to Provide for the Identification, Preservation and Protection of Heritage Property

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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 *Heritage Property Act*. R.S., c. 199, s. 1.

Purpose

2 The purpose of this Act is to provide for the identification, designation, preservation, conservation, protection and rehabilitation of buildings, public-building interiors, structures, streetscapes, cultural landscapes, areas and districts of historic, architectural or cultural value, in both urban and rural areas, and to encourage their continued use. R.S., c. 199, s. 2; 1991, c. 10, s. 1; 2010, c. 54, s. 1.

Interpretation

3 In this Act,

“Advisory Council” means the Advisory Council on Heritage Property;

“alter the exterior appearance” includes to move in whole or in part;

“building” includes the land and structures appurtenant thereto;

“certificate” means a certificate of appropriateness issued by a heritage officer certifying that a proposed development conforms with the requirements of a conservation bylaw;

“character-defining elements” means the materials, forms, location, spatial configurations, uses and cultural associations or meanings that contribute to heritage value and that must be sustained in order to preserve heritage value;

“conservation bylaw” means a heritage conservation district bylaw adopted and approved pursuant to this Act;

“conservation plan” means a heritage conservation district plan adopted and approved pursuant to this Act;

“council” means the council of a municipality;

“cultural landscapes” means a distinct geographical area or property uniquely representing the combined work of nature and of people.

“development” includes the demolition or removal of a building or structure;

“heritage advisory committee” means a heritage advisory committee established by a municipality pursuant to this Act;

“heritage conservation district” means an urban or rural area with historic or architectural value that is established as a heritage conservation district pursuant to this Act;

“heritage value” means the aesthetic, historic, scientific, cultural, social or spiritual importance or significance for past, present or future generations and embodied in character-defining materials, forms, locations, spatial configurations, uses and cultural associations or meanings;

“Minister” means the member of the Executive Council charged by the Governor in Council with the administration of this Act;

“municipal heritage property” means a building, public-building interior, streetscape, cultural landscape or area registered in a municipal registry of heritage property;

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

“prescribed” means prescribed by the regulations;

“provincial heritage property” means a building, public-building interior, streetscape, cultural landscape or area registered in the Provincial Registry of Heritage Property;

“public-building interiors” means character-defining elements of publicly accessible interiors of a building owned by the Government of the Province in the case of a provincial heritage property or owned by a municipality in the case of a municipal heritage property;

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

“registered owner” means an owner of land whose interest in the land is defined and whose name is specified in an instrument in the registry of deeds, and includes a person assessed in respect of the occupancy of the land;

“streetscape” means two or more adjacent properties whose collective appearance from the street has heritage value;

“substantial alteration” means any action that affects or alters the character-defining elements of a property. R.S., c. 199, s. 3; 1991, c. 10, s. 2; 2010, c. 54, ss. 1, 2.

Advisory Council on Heritage Property

4 (1) The Governor in Council may appoint not fewer than five and not more than 12 persons to be the Advisory Council on Heritage Property.

(2) The Governor in Council shall consider any criteria set out in the regulations in the selection of persons to be appointed pursuant to subsection (1).

(3) The Governor in Council shall designate one of the members of the Advisory Council to be Chair and one of the members to be Vice-chair.

(4) A member of the Advisory Council holds office for such term as the Governor in Council determines.

(5) The members of the Advisory Council shall be paid such remuneration as is determined by the Governor in Council and actual and reasonable expenses incurred by them in the discharge of their duties. R.S., c. 199, s. 4; 2010, c. 54, s. 3.

Powers of Advisory Council

5 The Advisory Council may advise the Minister respecting

(a) the inclusion of buildings, public-building interiors, streetscapes, cultural landscapes and areas in the Provincial Registry of Heritage Property;

(b) an application for permission to substantially alter or demolish a provincial heritage property;

(c) building or other regulations that affect the attainment of the intent and purpose of this Act;

(d) any other matters conducive to the effective carrying out of the intent and purpose of this Act. R.S., c. 199, s. 5; 2010, c. 54, s. 4.

Provincial Registry of Heritage Property

6 The Minister shall establish and maintain a Provincial Registry of Heritage Property. R.S., c. 199, s. 6.

Recommendation as provincial heritage property

7 (1) The Advisory Council may recommend to the Minister that a building, public-building interior, streetscape, cultural landscape or area be registered as a provincial heritage property in the Provincial Registry of Heritage Property.

(2) Before making a recommendation pursuant to subsection (1), the Advisory Council shall evaluate the provincial heritage value of a property against any baseline criteria established by the regulations.

(3) The Minister shall cause notice of the recommendation to be served upon each registered owner of the building, public-building interior, streetscape, cultural landscape or area that is the subject of the recommendation at least 30 days prior to registration of the building, public-building interior, streetscape, cultural landscape or area in the Provincial Registry of Heritage Property.

(4) The notice must contain

(a) a statement that the building, public-building interior, streetscape, cultural landscape or area described in the notice has been recommended for registration in the Provincial Registry of Heritage Property;

(b) a brief statement of the reasons for the recommendation;

(c) a summary of the consequences of registration;

(d) a statement that no person shall substantially alter the exterior appearance of or demolish the building, public-building interior, streetscape, cultural landscape or area for 120 days after the notice is served unless the Minister sooner refuses to register the property; and

(e) an invitation to the registered owner to comment on the proposed registration.

(5) No person shall substantially alter the exterior appearance of or demolish a building, public-building interior, streetscape, cultural landscape or area for 120 days after a notice respecting the building, public-building interior, streetscape, cultural landscape or area has been served pursuant to subsection (3) except in those cases where, prior to the expiration of 120 days, the Minister refuses to register the property.

(6) A copy of the notice served pursuant to subsection (3) must be deposited in the registry of deeds for the registration district in which the building, public-building interior, streetscape, cultural landscape or area is situate. R.S., c. 199, s. 7; 2010, c. 54, s. 5.

Registration as provincial heritage property

8 (1) At any time not less than 30 days nor more than 120 days after service of the notice pursuant to Section 7 and on the advice of the Advisory Council, the Minister may register the building, public-building interior, streetscape, cultural landscape or area as a provincial heritage property in the Provincial Registry of Heritage Property.

(2) Notice of the registration or the refusal to register must be served upon each registered owner of the building, public-building interior, streetscape, cultural landscape or area and a copy thereof must be deposited in the registry of deeds for the registration district in which the building, public-building interior, streetscape, cultural landscape or area is situate. R.S., c. 199, s. 8; 2010, c. 54, s. 6.

Deregistration of provincial heritage property

9 (1) On the application of an owner of a provincial heritage property or on its own motion, the Advisory Council may recommend to the Minister that the provincial heritage property cease to be registered in the Provincial Registry of Heritage Property.

(2) Such a recommendation may be made where

(a) the property has been destroyed or damaged by any cause; or

(b) the continued registration of the property appears to the Advisory Council to be inappropriate as a result of the loss of the property's heritage value, as identified in the property's heritage file or notice of recommendation, unless the loss of the heritage value was caused by neglect, abandonment or other action or inaction of the owner.

(3) Where the Minister receives a recommendation for deregistration from the Advisory Council or where it appears to the Minister that the continued registration is inappropriate, the Minister may deregister a provincial heritage property not less than 30 days after a notice giving particulars of the proposed deregistration is served on the registered owner of the provincial heritage property and published in a newspaper circulating in the area where

(a) the property has been destroyed or damaged by any cause; or

(b) the continued registration of the property appears to the Minister to be inappropriate as a result of the loss of the property's heritage value, as identified in the property's heritage file or notice of recommendation, unless the loss of the heritage value was caused by neglect, abandonment or other action or inaction of the owner.

(4) Where the Minister deregisters a property, the Minister shall cause notice of the deregistration to be sent to the registered owner of the property and a copy thereof to be deposited in the registry of deeds for the registration district in which the property is situate. R.S., c. 199, s. 9; 2010, s. 54, s. 7.

Sign or plaque

10 The Minister may cause a sign, plaque or other marker to be placed on a provincial heritage property indicating the significance of that property. R.S., c. 199, s. 10.

Approval to alter or demolish

11 (1) Provincial heritage property shall not be substantially altered in exterior or public-building interior appearance or demolished without the approval of the Governor in Council.

(2) An application for permission to substantially alter the exterior or public-building interior appearance of or demolish provincial heritage property must be made in writing to the Minister.

(3) Upon receipt of the application, the Minister shall refer the application to the Advisory Council for its recommendation.

(4) The Advisory Council shall assess the application using any standards and guidelines set out in the regulations.

(5) Within 30 days after the application is referred by the Minister, the Advisory Council shall submit a written report and recommendation to the Minister respecting the provincial heritage property.

(6) The Minister shall present the recommendation of the Advisory Council to the Governor in Council for consideration.

(7) The Governor in Council may grant the application either with or without conditions or may refuse it.

(8) The Minister shall advise the applicant of the determination made by the Governor in Council. R.S., c. 199, s. 11; 2010, c. 54, s. 8.

Municipal registry of heritage property and heritage advisory committee

12 (1) A municipality may by bylaw establish a municipal registry of heritage property.

(2) A bylaw made pursuant to this Section must provide for the establishment of a heritage advisory committee.

(3) The heritage advisory committee consists of at least two members of the council and such persons or such number of persons as the council may determine by bylaw.

(4) The bylaw may provide the term for which members of the heritage advisory committee serve.

(5) The bylaw may provide that the planning advisory committee of the municipality is the heritage advisory committee of the municipality.

(6) A bylaw made pursuant to this Section is subject to the approval of the Minister of Municipal Affairs and Housing, and when so approved has the force of law. R.S., c. 199, s. 12.

Powers of heritage advisory committee

13 The heritage advisory committee may advise the municipality respecting

- (a) the inclusion of buildings, public-building interiors, streetscapes, cultural landscapes and areas in the municipal registry of heritage property;
- (b) an application for permission to substantially alter or demolish a municipal heritage property;
- (c) the preparation, amendment, revision or repeal of a conservation plan and conservation bylaw;
- (d) the administration of heritage conservation districts pursuant to this Act;
- (e) an application for a certificate that is required by this Act or the conservation plan and conservation bylaw to go to a public hearing;
- (f) building or other regulations that affect the attainment of the intent and purpose of this Act;
- (g) any other matters conducive to the effective carrying out of the intent and purpose of this Act. R.S., c. 199, s. 13; 1991, c. 10, s. 3; 2010, c. 54, s. 9.

Recommendation as municipal heritage property

14 (1) A heritage advisory committee may recommend to the municipality that a building, public-building interior, streetscape, cultural landscape or area be registered as a municipal heritage property in the municipal registry of heritage property.

(2) The municipality shall cause notice of the recommendation to be served upon each registered owner of the building, public-building interior, streetscape, cultural landscape or area that is the subject of the recommendation at least 30 days prior to registration of the building, public-building interior, streetscape, cultural landscape or area in the municipal registry of heritage property.

(3) The notice must contain

- (a) a statement that the building, public-building interior, streetscape, cultural landscape or area described in the notice has been recommended for registration in the municipal registry of heritage property;
- (b) a brief statement of the reasons for the recommendation;
- (c) a summary of the consequences of registration;
- (d) a statement that no person shall substantially alter the exterior appearance of or demolish the building, public-building interior, streetscape, cultural landscape or area for 120 days after the notice is served unless the municipality sooner refuses to register the property; and
- (e) notification of the right of the owner to be heard and of the time and place for the hearing.

(4) No person shall substantially alter the exterior appearance of or demolish a building, public-building interior, streetscape, cultural landscape or area for 120 days after a notice respecting the building, public-building interior, streetscape, cultural landscape or area has been served pursuant to subsection (2) except in those cases where, prior to the expiration of 120 days, the municipality refuses to register the property.

(5) A copy of the notice served pursuant to subsection (2) must be deposited in the registry of deeds for the registration district in which the building, public-building interior, streetscape, cultural landscape or area is situate. R.S., c. 199, s. 14; 2010, c. 54, s. 10.

Registration as municipal heritage property

15 (1) At any time not less than 30 days nor more than 120 days after service of the notice pursuant to Section 14 and on the advice of the heritage advisory committee, the municipality may register the building, public-building interior, streetscape, cultural landscape or area as a municipal heritage property in the municipal registry of heritage property.

(2) No registration pursuant to subsection (1) may take place until the council has given the owner of the property an opportunity to be heard and such opportunity must be given not earlier than three weeks after service of the notice pursuant to subsection 14(2).

(3) Notice of the registration must be sent to each registered owner of the building, public-building interior, streetscape, cultural landscape or area and a copy thereof must be deposited in the registry of deeds for the registration district in which the building, streetscape, cultural landscape or area is situate. R.S., c. 199, s. 15; 2010, s. 54, s. 11.

Deregistration of municipal heritage property

16 (1) On the application of an owner of a municipal heritage property or on its own motion, the council may deregister a municipal heritage property where

(a) the property has been destroyed or damaged by any cause; or

(b) the continued registration of the property appears to the council to be inappropriate as a result of the loss of the property's heritage value, as identified in the property's heritage file or notice of recommendation, unless the loss of the heritage value was caused by neglect, abandonment or other action or inaction of the owner,

after holding a public hearing to consider the proposed deregistration.

(2) Such a public hearing must be held not less than 30 days after a notice of the hearing is served on the registered owner of the municipal heritage property and published in a newspaper circulating in the area.

(3) Where a municipal heritage property is deregistered, the council shall cause notice of the deregistration to be sent to the registered owner of the property and a copy thereof to be deposited in the registry of deeds for the registration district in which the property is situate. R.S., c. 199, s. 16; 2010, c. 54, s. 12.

Approval to alter or demolish municipal heritage property

17 (1) Municipal heritage property shall not be substantially altered in exterior or public-building interior appearance or demolished without the approval of the municipality.

(2) An application for permission to substantially alter the exterior or public-building interior appearance of or demolish municipal heritage property must be made in writing to the municipality.

(3) Upon receipt of the application, the municipality shall refer the application to the heritage advisory committee for its recommendation.

(4) Within 30 days after the application is referred by the municipality, the heritage advisory committee shall submit a written report and recommendation to the municipality respecting the municipal heritage property.

(5) The municipality may grant the application either with or without conditions or may refuse it.

(6) The municipality shall advise the applicant of its determination. R.S., c. 199, s. 17; 2010, c. 54, s. 13.

Consideration by municipality of application to alter or demolish

18 (1) The municipality may take up to three years to consider an application under Section 17.

(2) In its consideration of the application, the municipality may require public notice of the application and information meetings respecting the application to be held.

(3) Where the municipality does not approve the application, the property owner may, notwithstanding Section 17, make the alteration or carry out the demolition at any time after three years from the date of the application but not more than four years after the date of the application.

(4) Where the property owner has made the alteration or carried out the demolition in accordance with this Section, the municipality may deregister the property if the municipality determines that the property has lost its heritage value. 2010, c. 54, s. 14.

Sign or plaque

19 The municipality may cause a sign, plaque or other marker to be placed on a municipal heritage property indicating the significance of that property. R.S., c. 199, s. 19.

Establishment of heritage conservation district

20 (1) A municipality may establish a heritage conservation district by concurrently adopting a heritage conservation district plan and a heritage conservation district bylaw for a part of the municipality and there may be different conservation plans and conservation bylaws for different parts of the municipality.

(2) A conservation bylaw made pursuant to this Section must provide for the establishment of a heritage advisory committee and subsections 12(3) to (5) apply with necessary changes unless a heritage advisory committee is established pursuant to Section 12.

(3) A conservation plan and conservation bylaw must be adopted by a majority vote of the whole council after a public hearing and consideration of any submissions received, but only those councillors present at the public hearing may vote upon the adoption of the conservation plan and conservation bylaw.

(4) The Minister shall forward a copy of the conservation plan and conservation bylaw and the prescribed background studies and information to the Minister responsible for the *Municipal Government Act* for that Minister's recommendation.

(5) The Minister shall approve a conservation plan and conservation bylaw unless

- (a) the conservation bylaw does not carry out the intent of the conservation plan;
- (b) the conservation plan is not implemented by the conservation bylaw;
- (c) the prescribed background studies or information do not support the conservation plan or conservation bylaw;
- (d) the conservation plan or conservation bylaw conflicts with an applicable provincial land-use policy or regulation adopted pursuant to the *Municipal Government Act*;
- (e) the conservation plan or conservation bylaw conflicts with the applicable municipal planning strategy or land-use bylaw;
- (f) in the opinion of the Minister, there is a conflict with any other provincial interest,

and they take effect on and not before approval by the Minister.

(6) A conservation plan and conservation bylaw approved by the Minister pursuant to subsection (5) may concurrently be amended, revised or repealed by the council and subsections (3) to (5) apply with necessary changes.

(7) Where a proposed heritage conservation district includes a provincial heritage property, the Minister shall refer the proposed conservation plan and conservation bylaw to the Advisory Council for its recommendation and, upon consideration of the recommendation, shall determine that the conservation plan and conservation bylaw

- (a) apply to the provincial heritage property and that Sections 7 to 11 do not apply to the provincial heritage property;
- (b) apply to the provincial heritage property to the extent determined by the Minister and subject to such conditions as the Minister determines; or
- (c) do not apply to the provincial heritage property.

(8) Where a building, streetscape or area in an established heritage conservation district is to be designated as a provincial heritage property, the Minister may determine that the conservation plan and conservation bylaw apply or do not apply to the provincial heritage property to the extent determined by the Minister and subject to such conditions as the Minister determines. 1991, c. 10, s. 4; 2010, c. 54, s. 15.

Consequences of establishing district

21 (1) Where a heritage conservation district is established,

(a) no further building, streetscape or area in the district may be registered as a municipal heritage property;

(b) Section 18 does not apply to any municipal heritage property within the district;

(c) the conservation plan and conservation bylaw must include

(i) policies respecting demolition or removal of municipal heritage properties within the district, and

(ii) a requirement that a certificate be issued for demolition or removal of any municipal heritage property within the district; and

(d) notwithstanding clause (c) and for greater certainty, Section 17 continues to apply to a municipal heritage property within the district.

(2) Subject to subsection (1), a municipal heritage property located in a heritage conservation district continues to be a municipal heritage property. 1991, c. 10, s. 4.

Design guidelines

22 Design guidelines included in a conservation bylaw must

(a) with respect to a building or structure, address only the exterior of the building or structure;

(b) not address the use to which land, a building or a structure may be put. 1991, c. 10, s. 4.

Prohibited restriction in bylaw

23 A restriction in a conservation bylaw that does not permit a building of any kind on a lot is *ultra vires*. 1991, c. 10, s. 4.

Certificate for development

24 (1) Where a council has adopted a conservation plan and conservation bylaw, a certificate is required to undertake the types of development for which a certificate is required by the conservation bylaw.

(2) A certificate must be issued for a proposed development if the development meets the requirements of the conservation bylaw or is approved by the council following a public hearing where the conservation plan and conservation bylaw require such a hearing.

(3) No certificate that is or may be inconsistent with the proposed amendment or revision of a conservation bylaw may be issued for a period of 120 days from the date of publication of the first notice advertising the intention of the council to amend or revise the conservation plan and conservation bylaw.

(4) Where the proposed amendment or revision of the conservation plan and conservation bylaw has not come into effect after the expiry of the time specified in subsection (3), the certificate must be issued if, in all other respects, it meets the requirements of the conservation bylaw or is approved by the council, as the case may be, following a public hearing, where one is required pursuant to this Act or the conservation plan and conservation bylaw.

(5) No development permit granted pursuant to the *Municipal Government Act* or the *Halifax Regional Municipality Charter* and no permit granted pursuant to the *Building Code Act* and regulations that is or may be inconsistent with a proposed conservation bylaw, or an amendment or revision thereof, may be issued for a period of 120 days from the publication of the first notice advertising the intention of the council to adopt, amend or revise the conservation plan and conservation bylaw.

(6) Where the proposed conservation plan and conservation bylaw, or amendment or revision thereof, has not come into effect after the expiry of the time specified in subsection (5), the permits referred to in subsection (5) must be issued if, in all other respects, they meet the requirements of applicable bylaws of the municipality. 1991, c. 10, s. 4.

Public hearing and conditions for approval of demolition or removal

25 (1) Where the conservation plan and conservation bylaw require that a certificate be issued for demolition or removal of a building or structure in a heritage conservation district, the council shall hold a public hearing.

(2) Where the council considers an application for a certificate for demolition or removal of a building or structure, the council shall not approve the application unless

(a) there is irreversible structural damage or deterioration to the building or structure; or

(b) the applicable policies of the conservation plan respecting demolition or removal of the building or structure are met. 1991, c. 10, s. 4.

Heritage officer

26 (1) A council that has adopted a conservation plan and conservation bylaw shall designate a person employed by the municipality as the heritage officer and the heritage officer is responsible for the administration of the conservation plan and conservation bylaw and the issuance of certificates.

(2) A council may, from time to time, authorize another person to act in the heritage officer's stead.

(3) Within 15 days of receiving an application for a certificate, the heritage officer shall inform the applicant whether or not the application is complete.

(4) Where no public hearing is required pursuant to a conservation plan and conservation bylaw, within 30 days of receiving a completed application, the heritage officer shall grant the certificate if it meets the requirements of the conservation bylaw or inform the applicant, in writing, of the reasons for not granting the certificate.

(5) Where required to do so by a conservation plan and conservation bylaw, the heritage officer shall refer the application for a certificate to the council for a public hearing and shall issue or deny the certificate in accordance with the decision of council, but no certificate may be issued until the time for appeal has elapsed or the appeal has been disposed of, whichever is the longer. 1991, c. 10, s. 4; 1998, c. 18, s. 561.

Appeal re subsections 26(4) and (5)

27 (1) The denial of a certificate or the imposition of conditions on a certificate granted pursuant to subsection 26(4) may be appealed to the Nova Scotia Utility and Review Board by the applicant for the certificate.

(2) The approval, imposition of conditions on or denial of a certificate pursuant to subsection 26(5) may be appealed to the Nova Scotia Utility and Review Board by

- (a) the applicant for the certificate;
- (b) an aggrieved person;
- (c) the council of a municipality adjoining the heritage conservation district to which the certificate relates;
- (d) an official in the public service designated by the Minister.

(3) In subsection (2), “aggrieved person” includes

- (a) an individual who bona fide believes that the proposed certificate will adversely affect
 - (i) the value of or the reasonable enjoyment of that person’s property, or
 - (ii) the reasonable enjoyment of the property occupied by that person;
- (b) an incorporated organization the objects of which include promoting or protecting
 - (i) the quality of life of persons resident in the neighbourhood affected by the council’s decision, or
 - (ii) features, structures or sites of the community affected by the council’s decision of significant historic, architectural or cultural value; and
- (c) an incorporated or unincorporated organization of which the majority of members are persons who are aggrieved persons pursuant to clause (a).

(4) The Board shall

- (a) confirm the decision of the heritage officer or the council, as the case may be;
- (b) make any decision the heritage officer or the council, as the case may be, could have made; or
- (c) refer the matter back to the heritage officer or council, as the case may be, for reconsideration.

(5) The Nova Scotia Utility and Review Board shall not interfere with the decision of the heritage officer or the council, as the case may be, unless the decision cannot reasonably be said to be consistent with the conservation bylaw or clause 25(2)(a). 1991, c. 10, s. 4; 1998, c. 18, s. 561.

Conflict with Building Code Act

28 Where there is a conflict between this Act or the regulations and the *Building Code Act* or regulations, the *Building Code Act* and regulations prevail. 1991, c. 10, s. 4.

Severability of bylaw

29 The provisions of a conservation bylaw are severable and the illegality of any part does not affect the validity of the rest of the conservation bylaw. 1991, c. 10, s. 4.

Agreement between Minister and owner

30 (1) The Minister may enter into an agreement with the owner of a provincial heritage property, and the council may enter into an agreement with the owner of municipal heritage property or property located in a heritage conservation district, whereby the owner grants to the Minister or the council a right or incurs an obligation respecting the use, preservation or protection of the heritage property or property located in a heritage conservation district.

(2) An agreement entered into pursuant to subsection (1) must be deposited in the registry of deeds for the registration district within which the heritage property or property located in a heritage conservation district is situate.

(3) Where an agreement is deposited in the registry of deeds, the right or obligation given by the owner becomes an encumbrance upon and runs with the property, and the Minister, in respect of provincial heritage property, and the municipality, in respect of municipal heritage property or property located in a heritage conservation district, may enforce the right or obligation against the property and against the owner or any subsequent owners of the property.

(4) A right or obligation created by an agreement made pursuant to subsection (1) may be waived or discharged by the Governor in Council in respect of provincial heritage property and by the municipality in respect of municipal heritage property or property located in a heritage conservation district. R.S., c. 199, s. 20; 1991, c. 10, s. 5.

Appeal re agreement

31 (1) In subsection (2), “aggrieved person” includes

(a) an individual who bona fide believes that the proposed agreement or waiver or discharge of a right or condition in the agreement will adversely affect

(i) the value of or the reasonable enjoyment of that person’s property, or

(ii) the reasonable enjoyment of the property occupied by that person;

(b) an incorporated organization the objects of which include promoting or protecting

(i) the quality of life of persons resident in the neighbourhood affected by the council’s decision, or

(ii) features, structures or sites of the community affected by the council’s decision of significant historic, architectural or cultural value; and

(c) an incorporated or unincorporated organization of which the majority of members are persons who are aggrieved persons pursuant to clause (a).

(2) The entering into an agreement or waiving or discharging of a right or condition in an agreement by a council pursuant to Section 30 may be appealed to the Nova Scotia Utility and Review Board by

(a) an aggrieved person;

(b) the council of a municipality adjoining the heritage conservation district to which the agreement relates;

(c) an official in the public service designated by the Minister.

(3) The Nova Scotia Utility and Review Board shall

(a) confirm the decision of the council;

(b) make any decision the council could have made; or

(c) refer the matter back to the council for reconsideration.

(4) The Nova Scotia Utility and Review Board shall not interfere with the decision of the council unless the decision cannot reasonably be said to be consistent with the conservation bylaw. 1991, c. 10, s. 6; 2010, c. 54, s. 16.

Acquisition by municipality

32 (1) The municipality may acquire municipal heritage property or property located in a heritage conservation district or any right therein.

(2) Municipal heritage property or property located in a heritage conservation district or any right therein acquired by a municipality is and is deemed to be property acquired for a municipal purpose within the meaning of the *Municipal Government Act* or the *Halifax Regional Municipality Charter*. R.S., c. 199, s. 21; 1991, c. 10, s. 7.

Financial assistance

33 (1) The Minister, subject to the approval of the Governor in Council, may provide financial assistance in respect of provincial heritage property and the council may provide financial assistance in respect of municipal heritage property or property located in a heritage conservation district to any person to assist in the restoration or renovation of such property upon such terms and conditions as the Minister or the council, as the case may be, considers fit.

(2) The Minister of Municipal Affairs and Housing may provide financial assistance to a municipality to assist it in exercising its authority pursuant to this Act.

(3) Any money required by the Minister of Municipal Affairs and Housing to exercise the Minister's authority pursuant to this Act may be paid out of money voted for that purpose by the Legislature or out of the General Revenue Fund upon the recommendation of the Governor in Council.

(4) Any money required by a municipality in the exercise of its authority pursuant to this Act may be raised, levied or collected as part of the general rates or taxes of the municipality. R.S., c. 199, s. 22; 1991, c. 10, s. 8.

Service of notice

34 (1) Service of any notice required to be made by this Act is sufficient if served upon the person by registered mail at the person's last known address.

(2) Where a person upon whom service should be made cannot be identified or the person's address is not known, service is sufficient if notice is affixed in a conspicuous place on the building, streetscape or area and a copy is delivered to any occupant of the property. R.S., c. 199, s. 23.

Manner of entry of notice in registry

35 A notice deposited in a registry of deeds pursuant to this Act must be indexed as if it were a conveyance by or to, as the case may be, the registered owner of the building, streetscape or area. R.S., c. 199, s. 24.

Contravention of Act

36 (1) A person who contravenes the provisions of this Act is guilty of an offence and is liable on summary conviction to a penalty of not more than \$10,000 and in default of payment thereof to imprisonment for a term not exceeding six months.

(2) Where a corporation is convicted of an offence against this Act, the maximum penalty that may be imposed upon the corporation is \$250,000 and not as provided in subsection (1).

(3) Where there is a contravention or failure to comply with the terms of this Act or any agreement made pursuant to this Act, the Minister, with respect to a provincial heritage property, and a municipality, with respect to a municipal heritage property or property located in a heritage conservation district, may bring an action in the Supreme Court of Nova Scotia and the Court may, in addition to any other remedy or relief,

- (a) make an order restraining the continuance or repetition of any such contravention or failure;
- (b) make an order directing the restoration of the property as nearly as may be to its condition prior to the contravention or failure to comply, and directing that upon failure to comply with the order the Minister or the council, as the case may be, may restore the property or may cause it to be restored at the expense of the owner thereof;
- (c) make such other order as is required to enforce the provisions of this Act and as to costs and as to the recovery of the expense of any such restoration as the Court considers just. R.S., c. 199, s. 25; 1991, c. 10, s. 9; 2010, c. 54, s. 17.

Regulations

37

- (1) The Governor in Council may make regulations
 - (a) determining the form of the Provincial Registry of Heritage Property;
 - (b) respecting heritage conservation districts, conservation plans and conservation bylaws and, without restricting the generality of the foregoing,
 - (i) respecting the adoption and approval of a conservation plan and conservation bylaw, including background studies and information, public participation programs and public hearings,
 - (ii) respecting the purpose of a conservation plan and conservation bylaw,
 - (iii) respecting the content of a conservation plan and conservation bylaw,
 - (iv) respecting certificates required to undertake development in a heritage conservation district, including public hearings, the imposition of conditions to which the certificates are subject and requirements for the issuance of certificates on or before the issuance of permits pursuant to the *Municipal Government Act* or the *Halifax Regional Municipality Charter* and the *Building Code Act*,
 - (v) respecting appeals;
 - (c) determining the criteria to be used to select appointments of persons to the Advisory Council;
 - (d) determining the baseline criteria to be used by the Advisory Council to evaluate the heritage value of a property under consideration for provincial heritage registration;
 - (e) determining the standards and guidelines to be used for the conservation of registered provincial heritage property;
 - (f) respecting cultural landscapes;
 - (g) respecting forms to be used for the purpose of this Act;

(h) defining any expression used in this Act and not defined in this Act;

(i) determining whether or not compensation for anything done pursuant to this Act is payable and, if payable, the circumstances in which, the extent to which, by whom and to whom such compensation is payable and the manner in which and the person by whom the amount of such compensation is to be determined;

(j) respecting any matter or thing, whether of the foregoing kind or not, that is necessary to effectively carry out the purpose of this Act.

(2) The exercise by the Governor in Council of the authority conferred by this Section is a regulation within the meaning of the *Regulations Act*. R.S., c. 199, s. 26; 1991, c. 10, s. 10; 2010, c. 54, s. 18.

Act binds Crown

38 This Act binds the Crown in right of the Province. R.S., c. 199, s. 27.

Deemed municipal heritage property and deemed agreement

39 (1) A building, streetscape or area that is a heritage resource pursuant to subsection 27(5) of Chapter 8 of the Acts of 1980 is and is deemed to be registered in the Halifax Regional Municipality municipal registry of heritage property.

(2) An agreement, easement or covenant entered into by the Halifax Regional Municipality and another person pursuant to subsection 27(10) of said Chapter 8 is and is deemed to be an agreement entered into by the Halifax Regional Municipality and such person pursuant to subsection 30(1) of this Act. R.S., c. 199, s. 28.

CHAPTER H-10

An Act to Provide for the Financing, Construction and Operation of the Western Alignment of Highway 104

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Short title

1 This Act may be cited as the *Highway 104 Western Alignment Act*.
1995, c. 4, s. 1.

Purpose of Act

2 The purpose of this Act is to provide for the financing, design, construction, operation and maintenance of the Western Alignment of Highway 104 (Trans Canada Highway) in the Counties of Colchester and Cumberland by a partnership of the public and private sectors. 1995, c. 4, s. 2.

Interpretation

3 In this Act,
“Board” means the Board of Directors of the Corporation;
“Corporation” means the Highway 104 Western Alignment Corporation;
“Minister” means the Minister of Public Works;

“Western Alignment” means the part of Highway 104 (Trans Canada Highway) constructed or to be constructed in the Counties of Colchester and Cumberland as delineated by the regulations, and includes the toll booths, weigh stations, service facilities and maintenance facilities located on or adjacent to and serving that part. 1995, c. 4, s. 3.

Supervision of Act

4 The Minister has the general supervision and management of this Act. 1995, c. 4, s. 4.

Highway 104 Western Alignment Corporation

5 A body corporate to be known as the Highway 104 Western Alignment Corporation is established. 1995, c. 4, s. 5; 2006, c. 2, s. 13.

Objects of Corporation

6 The sole objects of the Corporation are the financing, design, construction, operation and maintenance of the Western Alignment. 1995, c. 4, s. 6.

Share capital

7 The share capital of the Corporation consists of one share without nominal or par value that is owned by the Crown in right of the Province and is not transferable. 1995, c. 4, s. 7.

Board of Directors

8 The Corporation is managed by a Board of Directors. 1995, c. 4, s. 8.

Composition and powers of Board

9 (1) The Board consists of such number of members as the Governor in Council determines.

(2) The members of the Board are appointed by the Governor in Council.

(3) The Board may determine and appoint the officers of the Board and the Corporation.

(4) The Board may pass bylaws regulating its proceedings, determining the powers and duties of its officers, servants and agents and, generally, respecting the management of the Corporation.

(5) The directors, officers, servants and agents of the Corporation are not, in the performance of their duties, servants or agents of the Crown in right of the Province. 1995, c. 4, s. 9.

Powers of Corporation

10 (1) Subject to this Act, the Corporation has the capacity, rights, powers and privileges of a natural person.

(2) Without limiting the generality of the foregoing, the Corporation may enter into agreements with any person, including the Minister on behalf of the Crown in right of the Province, with respect to the financing, design, construction, operation, maintenance, leasing or acquisition of the whole or part of the Western Alignment and, for that purpose, the imposition, setting, amendment and collection of tolls for the operation of any vehicle or class of vehicle on and the charging of other fees for services relating to the operation of the Western Alignment.

(3) In accordance with an agreement pursuant to this Act between the Corporation and the Minister on behalf of the Crown in right of the Province, the Corporation may set tolls for the operation of any vehicle or class of vehicle on and charge fees for services relating to the operation of the Western Alignment.

(4) The Corporation shall not engage in any business except for the purpose of carrying out its objects.

(5) The Corporation shall not borrow except for the purpose of carrying out its objects. 1995, c. 4, s. 10.

Liability

11 (1) The Corporation is not liable for any damages suffered by any person by reason of any defect or insufficiency in the design, construction, operation or maintenance of the Western Alignment.

(2) For the purpose of determining the liability of the occupier of real property on which the Western Alignment is situate, the Crown in right of the Province, and not the Corporation, is the occupier of the real property. 1995, c. 4, s. 11.

Power to borrow

12 The Corporation may borrow money on its own credit solely for the purpose of carrying out its objects and, without limiting the generality of the foregoing,

(a) issue its bonds, debentures or other securities and sell or pledge those securities; and

(b) secure its borrowings, bonds, debentures, securities or other debts or obligations by charging all or any of its assets and undertaking and, in particular, the revenue arising from the collection of tolls for the operation of vehicles on the Western Alignment. 1995, c. 4, s. 12; 2006, c. 2, s. 14.

Agreements and tolls

13 (1) With the approval of the Governor in Council, the Minister on behalf of the Crown in right of the Province may enter into agreements with the Corporation with respect to the financing, design, construction, operation, maintenance, leasing or acquisition of the whole or any part of the Western Alignment and, for that purpose, the imposition, setting, amendment and collection of tolls for the operation of any vehicle or class of vehicle on and the charging of other fees for services relating to the operation of the Western Alignment.

(2) Tolls must cease to be imposed or collected in respect of the Western Alignment when all costs and liabilities relating thereto, including its

financing, design, construction, operation and maintenance, and any repair, improvement, replacement, alteration or extension, have been paid or otherwise discharged, and all financing with respect to the Western Alignment has been paid or otherwise discharged. 1995, c. 4, s. 13.

Tax exempt status of Corporation

14 Neither the Corporation nor its property is liable to taxation under any enactment. 1995, c. 4, s. 14.

Exemption from Public Utilities Act

15 The Corporation is not a public utility within the meaning of the *Public Utilities Act*, the Western Alignment is not a service within the meaning of that Act and, for greater certainty, that Act does not apply to the Corporation or the Western Alignment. 1995, c. 4, s. 15.

Exemption from other legislation

16 (1) The Corporation is not a public body within the meaning of the *Freedom of Information and Protection of Privacy Act* and, for greater certainty, that Act does not apply to the Corporation.

(2) The Corporation is not a department or a crown corporation within the meaning of the *Finance Act*, the funds of the Corporation are not public money within the meaning of that Act and, for greater certainty and notwithstanding subsection 72(4) of that Act, that Act does not apply to the Corporation. 1995, c. 4, s. 16; 2010, c. 2, s. 107.

Further exemptions

17 The Corporation shall comply with all building code, safety, construction, fire, environmental, health and other standards under any enactment except that

(a) the *Electrical Installation and Inspection Act* and Part VIII of the *Municipal Government Act* do not apply to the Western Alignment; and

(b) no building permit is required for the construction of, addition to, renovation of or repair of the Western Alignment. 1995, c. 4, s. 17.

Certain matters unaffected

18 For greater certainty, nothing in or done pursuant to this Act affects

(a) the status of the Western Alignment as a highway for any purpose, including the application of the *Motor Vehicle Act* and the *Public Highways Act*;

(b) the ownership of the Western Alignment;

(c) the liability of the Crown in right of the Province as the owner and occupier of the Western Alignment; or

(d) the policing of the Western Alignment. 1995, c. 4, s. 18.

Application of Auditor General Act

19 For greater certainty, the Corporation is a government agency within the meaning of the *Auditor General Act* and that Act applies to the Corporation. 1995, c. 4, s. 19; 2010, c. 33, s. 28.

Annual report to Minister

20 The Corporation shall submit an annual report to the Minister, which report must include an audited statement of the affairs of the Corporation certified by an accountant or firm of accountants. 2004, c. 35, s. 1

Regulations

- 20 (1)** The Governor in Council may make regulations
- (a) respecting the Corporation;
 - (b) delineating and further defining the Western Alignment;
 - (c) respecting the financing, design, construction, operation and maintenance of the Western Alignment;
 - (d) subject to any agreement between the Corporation and the Minister on behalf of the Crown in right of the Province, imposing tolls, respecting the collection of tolls and respecting the enforcement of the payment of tolls for the operation of vehicles or classes of vehicles within and the charging of other fees for services relating to the operation of the Western Alignment, including payment to the Corporation for tolls and fees not paid;
 - (e) subject to any agreement between the Corporation and the Minister on behalf of the Crown in right of the Province, exempting any class of persons or vehicles from any provision of this Act or the regulations;
 - (f) defining any word or expression used in this Act and not defined in this Act;
 - (g) respecting any matter or thing the Governor in Council considers necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 1995, c. 4, s. 20; 2006, c. 2, s. 15.

CHAPTER H-11

An Act Respecting Collective Bargaining by Highway Workers

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WHEREAS the Department of Public Works, and its predecessors, and highway workers employed in the Department have governed their relations through collective bargaining since before 1973;

AND WHEREAS the highway workers have been employed under a series of collective agreements between the Minister of Public Works, and the Minister's predecessors, and the Nova Scotia Highway Workers Union, currently represented by CUPE Local 1867, and authorized by Order in Council 73-41;

AND WHEREAS the Department and the Union are in agreement that their existing and continuing relationship should be put on a more secure foundation through collective bargaining legislation that is consistent with legislation applying to other unionized employees of the Crown in right of Nova Scotia:

Short title

1 This Act may be cited as the *Highway Workers Collective Bargaining Act*. 1997 (2nd Sess.), c. 1, s. 1.

Interpretation

2 In this Act,

“adjudication” means a procedure to determine a rights dispute;

“arbitration” means a procedure to determine an interest dispute;

“arbitration board” means a one-person or three-person board established pursuant to this Act for the purpose of determining an interest dispute;

“Board” means the Labour Board established by the *Labour Board Act*;

“collective agreement” means an agreement in writing between the Employer and the Union entered into pursuant to this Act;

“collective bargaining” means negotiating with a view to the conclusion of a collective agreement or the renewal or revision thereof, as the case may be;

“employee” means a person employed by the Employer, paid on an hourly basis and engaged in the construction and maintenance of highways, below the rank of operating supervisor or below the equivalent rank;

“Employer” means the Crown in right of the Province, through the agency of the Department of Public Works;

“interest dispute” means a dispute to which Sections 11 to 30 apply and that is a dispute arising between the Employer and an employee as to the content of a collective agreement;

“lockout” includes the closing of a place of employment, a suspension of work or a refusal by the Employer to continue to employ a number of its employees in order to compel the employees, or to aid another employer to compel its employees, to agree to terms or conditions of employment;

“Minister”, for the purpose of Sections 17, 18, 32, 33 and 36, means the Minister of Labour, Skills and Immigration;

“rights dispute” means a dispute to which Sections 31 to 35 apply and that is a dispute arising during the life of a collective agreement respecting the application, interpretation or alleged violation of the agreement;

“strike” includes a cessation of work, a refusal to work or a refusal to continue to work by employees in combination or in concert or in accordance

with a common understanding for the purpose of compelling the Employer to agree to terms or conditions of employment or to aid other employees in compelling their employer to agree to terms or conditions of employment;

“Union” means the Union as referred to in or determined in accordance with Section 5. 1997 (2nd Sess.), c. 1, s. 2; 2010, c. 37, s. 67.

Application of Act to Crown

3 This Act binds the Crown in right of the Province. 1997 (2nd Sess.), c. 1, s. 3.

Public Service Commission

4 For the purpose of collective bargaining, the Public Service Commission is the agent of the Employer. 2001, c. 4, s. 9.

Designation of Union

5 (1) Subject to subsection (2), the Union is the Nova Scotia Highway Workers Union, CUPE Local 1867.

(2) Upon being satisfied that

(a) either

(i) a significant number of members of the Union allege that the Union is not adequately fulfilling its responsibilities to the employees, or

(ii) the Union no longer represents a majority of the employees; and

(b) another union is proposed,

the Board shall, upon application by an employee, conduct a vote by secret ballot to determine the wishes of the employees and replace the Union with another union where the other union receives more than 50% of the votes, and it becomes the Union for the purpose of this Act.

(3) No application may be made and no vote conducted pursuant to subsection (2)

(a) where a collective agreement is not in force but the Union has been recognized pursuant to this Act, after the expiry of 12 months from the date of recognition, but not before, except with the consent of the Board;

(b) where the collective agreement is for a term of not more than three years, except after the commencement of the last three months of the operation of the collective agreement; or

(c) where a collective agreement is in force and is for a term of more than three years only

(i) after the commencement of the 34th month of its operation and before the commencement of the 37th month of its operation,

(ii) during the three-month period immediately preceding the end of each year that the collective agreement continues to operate after the third year of its operation, or

(iii) after the commencement of the last three months of its operation. 1997 (2nd Sess.), c. 1, s. 4; 2010, c. 37, s. 68.

Labour Board

6 (1) The Board is constituted and shall act as a panel of the Board consisting of the Chair or a vice-chair, as the chair of a panel, and two other members of the Board equally representative of employees and employers.

(2) Notwithstanding subsection (1), the Chair or a vice-chair of the Board may sit alone to hear a matter with respect to

(a) an uncontested application or question; or

(b) a complaint under subsection 85(3) of the *Trade Union*

Act,

and, when doing so, may exercise all the powers of the Board. 2010, c. 37, s. 69.

Powers of Board

7 (1) The Board may, for the purpose of this Act, make or issue such orders, notices, directives, declarations or other decisions as it considers necessary, with or without conditions.

(2) Where any order, directive or decision is made by the Board pursuant to this Act and such order, directive or decision is not complied with, the Board may, on the request of the Union, an employee or the Employer, file a copy of the order, directive or decision with the prothonotary and upon such filing, the order, directive or decision becomes a decision of the Supreme Court of Nova Scotia and enforceable as such. 1997 (2nd Sess.), c. 1, s. 9.

Decisions of Board

8 (1) The Board is empowered to decide for the purpose of this Act whether

(a) a person is an employee;

(b) the parties to a dispute have settled the terms and conditions to be included in a collective agreement;

(c) a collective agreement has been entered into;

(d) a person is bound by a collective agreement;

(e) a collective agreement is in effect;

(f) there has been every reasonable effort to conclude a collective agreement;

(g) there has been a violation of Section 39 or 40,

and the Board's decision is final and binding.

(2) Where a question arises as to whether a person is an employee for the purpose of this Act and the issue cannot be settled by the persons involved,

the question must be referred to the Board and its decision is final and binding. 1997 (2nd Sess.), c. 1, s. 12.

Exclusion from definition of employee

9 (1) Notwithstanding the definition of “employee” in Section 2, no person is an employee for the purpose of this Act who is

- (a) appointed by the Governor in Council;
- (b) appointed to the civil service;
- (c) locally engaged outside the Province; or
- (d) employed in a managerial or confidential capacity.

(2) A person is employed in a managerial or confidential capacity who is a manager or superintendent or any other person who, in the opinion of the Board, is employed in a confidential capacity in matters relating to labour relations or who exercises management functions. 1997 (2nd Sess.), c. 1, s. 13.

Exclusive bargaining agent

10 The Union is the exclusive bargaining agent for employees with the Employer. 1997 (2nd Sess.), c. 1, s. 14.

Negotiations

11 The Employer and the Union may enter into negotiations to effect a collective agreement on behalf of the employees. 1997 (2nd Sess.), c. 1, s. 15.

Binding effect of collective agreement

12 A collective agreement entered into by the Employer and the Union is, subject to and for the purpose of this Act, binding upon

- (a) the Union and every employee represented by the Union; and
- (b) the Employer. 1997 (2nd Sess.), c. 1, s. 16.

Deadline for implementation

13 Subject to subsection 30(2), the provisions of a collective agreement must be implemented by the Employer and the Union

- (a) where a period within which the collective agreement is to be implemented is specified in the collective agreement, within that period; and
- (b) where no period for implementation is specified, within a period of 90 days from the date of its execution. 1997 (2nd Sess.), c. 1, s. 17.

Term of collective agreement

14 (1) A collective agreement has effect in respect of the employees covered by it on and from

- (a) where an effective date is specified, that day; and
- (b) where no effective date is specified, the first day of the first full biweekly pay period next following the date on which the agreement is executed.

(2) The Employer and the Union may not enter into a collective agreement having a specified term of less than one year and may not amend an agreement so as to produce a term of less than one year.

(3) Where a collective agreement contains no provision as to its term, it is deemed to be for a term of one year from the day on and from which it has effect pursuant to subsection (1). 1997 (2nd Sess.), c. 1, s. 18.

Notice to commence bargaining

15 Where the Employer and the Union are parties to a collective agreement, either of them may, within a period of three months next preceding the date of the expiry of the term of or preceding termination of the agreement, by notice in writing, require the other party to the agreement to commence collective bargaining. 1997 (2nd Sess.), c. 1, s. 19.

Effect of giving notice

16 Where a notice to commence collective bargaining has been given, either under this Act or in accordance with a collective agreement that provides for a revision of a provision of the collective agreement, the Employer and the Union shall, without delay, and in any case within 20 clear days after notice has been given or such further time as the parties may agree, meet and commence or cause authorized representatives on their behalf to meet and commence to bargain collectively with one another and shall make every reasonable effort to conclude and sign a collective agreement. 1997 (2nd Sess.), c. 1, s. 20.

Conciliation officer

17 Where a notice to commence collective bargaining has been given and

(a) collective bargaining has not commenced within the time prescribed within this Act;

(b) collective bargaining has commenced and either party thereto requests the Minister in writing to instruct a conciliation officer to confer with the parties to assist them to conclude a collective agreement or a renewal or revision thereof and the request is accompanied by a statement of the difficulties, if any, that have been encountered before the commencement or in the course of the collective bargaining; or

(c) in any other case in which, in the opinion of the Minister, it is advisable to do so,

the Minister may instruct a conciliation officer to confer with the Employer and the Union. 1997 (2nd Sess.), c. 1, s. 21; 2010, c. 37, s. 71.

Report of conciliation officer

18 (1) Where a conciliation officer has been instructed to confer with the Employer and the Union engaged in collective bargaining or in any dispute, the conciliation officer shall, within 14 days after being so instructed or within any longer period that the Minister may from time to time allow, make a report to the Minister setting out

(a) the matters, if any, upon which the Employer and the Union have agreed;

(b) the matters, if any, upon which the Employer and the Union cannot agree; and

(c) any other matter that in the opinion of the officer is material or relevant or should be brought to the attention of the Minister.

(2) When a conciliation officer has made a report under subsection (1), the conciliation officer shall forthwith advise the Employer and the Union to the dispute that the officer has made a report. 1997 (2nd Sess.), c. 1, s. 22; 2010, c. 37, s. 72.

Exemption from requirement to give evidence

19 (1) Notwithstanding any other enactment or law, a conciliation officer may not be compelled or required to give in evidence before any court, body or person having authority to receive evidence any information of any kind obtained by the officer for the purpose of this Act or in the course of the officer's duties under this Act.

(2) Notwithstanding any other enactment or law, an adjudicator, mediator-adjudicator or member of an adjudication board appointed pursuant to this Act or a collective agreement, whether selected with or without the consent of the parties involved, may not be compelled or required to give in evidence before any court, body or person having authority to receive evidence, any information of any kind obtained by the adjudicator, mediator-adjudicator or member for the purpose of this Act or in the course of performing duties under this Act. 1997 (2nd Sess.), c. 1, s. 23; 2009, c. 29, s. 8.

Arbitration

20 (1) Where the Employer and the Union have bargained collectively with a view to concluding a collective agreement but have failed to reach agreement, the Employer or the Union or both shall refer those terms and conditions of employment that are in dispute to the Board and request that an arbitration board, composed of three persons unless the parties agree to submit the collective agreement to an arbitration board of one person, be established to resolve those terms and conditions.

(2) A request by either or both of the parties under subsection (1) must

(a) where it is made by the Employer, be accompanied by a list of the terms it claims are in dispute and that the Employer wishes to be referred to arbitration at that time;

(b) where it is made by the Union, be accompanied by a list of the terms it claims are in dispute and that the Union wishes to be referred to arbitration at that time; or

(c) where it is made jointly, be accompanied by a list of the terms that each party claims are in dispute and that each wishes to be referred to arbitration at that time.

(3) Upon receipt of a request by either party under subsection (1), the Board shall, as soon as possible, send a copy of the request and the list of items that are claimed to be in dispute to the other party.

(4) The party receiving the copy of the request for the appointment of an arbitration board shall, within 10 days of receipt of the copy, send its list of items it wishes to be referred to arbitration to the Board and send a copy of it to the other party to the dispute. 1997 (2nd Sess.), c. 1, s. 24; 2010, c. 37, s. 73; 2011, c. 10, s. 21.

Establishment of arbitration board

21 (1) Where a request for the establishment of an arbitration board is made by the Employer or the Union, the Board may either

(a) where it is satisfied that the parties to the dispute have failed to make reasonable efforts to conclude a collective agreement, direct the parties to continue collective bargaining; or

(b) where it is satisfied that

(i) there are terms and conditions of employment that are in dispute,

(ii) the terms and conditions of employment can satisfactorily be considered together,

(iii) it is an appropriate time to refer the matter to an arbitration board, and

(iv) the dispute is a proper one to refer to an arbitration board,

establish an arbitration board.

(2) Where a request for the establishment of an arbitration board is made by the Employer and the Union jointly, the Board may, if it is satisfied with respect to the matters referred to in clause (1)(b), establish an arbitration board. 1997 (2nd Sess.), c. 1, s. 25; 2010, c. 37, s. 74.

Appointment of members of arbitration board

22 (1) Where the Board agrees to establish an arbitration board, the Board shall notify the parties to the dispute in writing accordingly and require each of them, within 10 days, to

(a) where the arbitration board is to be composed of one person, attempt to agree upon a person satisfactory to both parties to be the arbitration board and, where agreement is reached, give the Board the name of the person; or

(b) where the arbitration board is to be composed of three persons, give the Board and the other party the name of a person to act as its nominee on the arbitration board.

(2) Where agreement is reached pursuant to clause (1)(a), the person agreed upon is appointed as the arbitration board and is the chair of the arbitration board.

(3) The two persons appointed pursuant to clause (1)(b) to act as members of an arbitration board shall appoint a third person to act as a member and chair of the arbitration board within 10 days of the date the second person is appointed. 1997 (2nd Sess.), c. 1, s. 26; 2010, c. 37, s. 75.

Appointments by Board

23 (1) Where the parties are unable to agree upon a person to be the arbitration board, pursuant to clause 22(1)(a), either or both parties may apply to the Board to appoint a person to be the arbitration board and the Board shall appoint such a person and that person is the chair of the arbitration board.

(2) Where the Employer or the Union fails to appoint a person as a member of the arbitration board pursuant to clause 22(1)(b), the Board shall appoint a person to act as a member on its or their behalf.

(3) Where the two persons appointed as members of an arbitration board pursuant to clause 22(1)(b) fail to appoint a person to act as a member and chair, the Board shall appoint a person to act as a member and chair of the arbitration board on their behalf. 1997 (2nd Sess.), c. 1, s. 27; 2010, c. 37, s. 76.

Constitution of arbitration board

24 (1) Where a person or persons have been appointed to act as a member or members of an arbitration board, the Board, by notice in writing to the chair of the arbitration board, shall

- (a)** establish the member or members as an arbitration board; and
- (b)** list the items in dispute to be resolved by the arbitration board.

(2) An arbitration board remains constituted until it is dissolved by the Board by notice in writing to the chair of the arbitration board.

(3) No person may be appointed as a member of an arbitration board who has any direct pecuniary interest in the matters coming before it or who is acting or has, within a period of six months immediately preceding the date of the person's appointment, active as a solicitor, counsel or agent of either of the parties.

(4) Where a member appointed to a three-person arbitration board under Section 22 or 23 ceases to act by reason of resignation, death or otherwise before the arbitration board has completed its work, the party whose point of view the member represented shall, within 10 days of the member so ceasing to act, appoint a replacement and notify in writing the other party and the Board of the name and address of the replacement and, where the party fails to so appoint a replacement or to notify the Board, the Board shall appoint as a replacement such person as the Board considers suitable and the arbitration board continues to function as if the replacement member were a member of the arbitration board from the beginning.

(5) Where the chair of an arbitration board is unable to enter on or to carry on the chair's duties so as to enable the arbitration board to render a decision within a reasonable time after its establishment, the Board shall appoint a person to act as the chair of the arbitration board in the chair's place and the arbitration begins *de novo*. 1997 (2nd Sess.), c. 1, s. 28; 2010, c. 37, s. 77; 2011, c. 10, s. 22.

Award

25 (1) As soon as possible after making an inquiry into the terms in dispute referred to it, the arbitration board shall make its award and in its award deal with each item in dispute.

(2) The award of an arbitration board may be retroactive in whole or in part. 1997 (2nd Sess.), c. 1, s. 29; 2011, c. 10, s. 23.

Filing and notice of award

26 (1) Upon making an award, the arbitration board shall

- (a) file a copy of it with the Board; and
- (b) serve a copy of it on the Employer and the Union in person or by registered mail.

(2) The Board may in any manner publish an award of an arbitration board. 1997 (2nd Sess.), c. 1, s. 30; 2011, c. 10, s. 24.

Effect of award

27 (1) An award of an arbitration board is binding upon

- (a) the Union and every employee;
- (b) the Employer,

and the Employer and the Union shall give effect to it.

(2) Subject to subsections 29(5) and (6), the terms of an award of an arbitration board relating to entering into, renewing or revising a collective agreement must be included in a collective agreement. 1997 (2nd Sess.), c. 1, s. 31; 2011, c. 10, s. 25.

Procedure

28 (1) Arbitration must be conducted by an arbitration board appointed pursuant to this Act, which board shall determine its own procedure but shall give full opportunity to the Employer and the Union to present evidence and make submissions to it.

(2) An arbitration board established pursuant to this Act has, in relation to any proceedings before the arbitration board, the powers conferred on the Board, in relation to any proceedings before the Board, by the *Labour Board Act*, and the parties to the proceedings may

- (a) appear and be heard and be represented by counsel; and
- (b) call witnesses and examine or cross-examine all witnesses. 1997 (2nd Sess.), c. 1, s. 32; 2010, c. 37, s. 78.

Jurisdiction and power

29 (1) An arbitration board has the jurisdiction to determine and render a decision only in respect to those matters referred to it by the Board.

(2) In the conduct of the proceedings before it and in rendering a decision, the arbitration board may consider any factor that to it appears to be relevant to the matter in dispute, including

- (a) the needs of the Province and its agencies for qualified employees;
- (b) where the employment is comparable or similar employment to that found in both the public and private sectors in the Province, the conditions of employment in the public and private sectors in the Province;
- (c) the desirability to maintain appropriate relationships in the conditions of employment as between the various classifications of employees;
- (d) the need to establish terms and conditions of employment that are fair and reasonable to the qualifications required, work performed, responsibility assumed and the nature of the services rendered; and
- (e) the interest of the public.

(3) Where a one-person arbitration board has been appointed pursuant to this Act, the decision of the chair of the arbitration board is the decision of the arbitration board and, where a three-person arbitration board has been appointed pursuant to this Act, the decision of the majority of the members of the arbitration board is the decision of the board but, where there is no majority, the decision of the chair of the arbitration board is the decision of the board.

(4) Every award of the arbitration board must be signed by the chair of the arbitration board.

(5) The Board may, upon application by either party to an award of an arbitration board, within 10 days after the release of the award, give the parties an opportunity to make representation thereon to the Board and amend the award if it is shown to the satisfaction of the Board that the arbitration board has failed to deal with any matter and dispute referred to the arbitration board or that an error is apparent on the face of the award.

(6) Notwithstanding that an arbitration board has rendered an award, such award is of no force and effect if the Employer and the Union enter into a collective agreement concerning the subject-matter of the award within seven days from the time the award was rendered.

(7) The cost of the arbitration board must be apportioned as follows:

- (a) where a three-person arbitration board has been established,
 - (i) the Union shall pay the remuneration and expenses of the member appointed by it pursuant to Section 22,
 - (ii) the Employer shall pay the remuneration and expenses of the member appointed by it pursuant to Section 22, and

- (iii) the Employer and the Union shall share equally the remuneration and expenses of the chair of the arbitration board appointed pursuant to Section 22 or 23, such remuneration and expenses to be determined by the Board; or
- (b) where a one-person arbitration board has been established, the Employer and the Union shall each pay one half of the remuneration and expenses of the arbitration board. 1997 (2nd Sess.), c. 1, s. 33; 2010, c. 37, s. 79; 2011, c. 10, s. 26.

Restriction on collective agreement and award

30 (1) No collective agreement or award of an arbitration board may contain any provision that would require directly or indirectly for its implementation the enactment or amendment of legislation.

(2) The Governor in Council and the Employer are not bound to implement any award of an arbitration board that would result in any department exceeding its appropriation but the Minister of Finance and Treasury Board must include in the estimates for the next ending fiscal year an amount sufficient to implement the award retroactive to the date on which the award was to be effective. 1997 (2nd Sess.), c. 1, s. 34; 2011, c. 10, s. 27.

Final settlement and grievances

31 (1) Every collective agreement must contain a provision for final settlement without stoppage of work, by adjudication or otherwise, of all differences between the parties to or persons bound by the collective agreement, or on whose behalf it was entered into, concerning its meaning or violation.

(2) Where a collective agreement does not contain a provision as required in this Section, it is deemed to contain the following provision:

Where a difference arises between the parties relating to the interpretation or application of this agreement, including any question as to whether or not a matter is adjudicable within the meaning of subsection 31(4) of the *Highway Workers Collective Bargaining Act*, or where an allegation is made that the agreement has been violated, either of the parties may, after exhausting any grievance procedure established by this agreement, notify the other party in writing of its desire to submit the difference or allegation to adjudication.

(3) Every party to and every person bound by the agreement and every person on whose behalf the agreement was entered into, shall comply with the provision for final settlement contained in the agreement.

(4) Where a collective agreement provides for a grievance procedure and the Employer, the Union or an employee entitled under the collective agreement to present a grievance has presented a grievance up to and including the final level in the grievance process with respect to

- (a) the interpretation or application in respect of the Employer, the Union or an employee of a provision of a collective agreement; or
- (b) disciplinary action resulting in discharge, suspension or financial penalty,

and the grievance has not been dealt with to the satisfaction of the Employer, the Union or an employee, then the Employer, a Union or an employee affected may, subject to subsection (5), refer the grievance to adjudication.

(5) Where a grievance within the meaning of subsection (4) is presented, the employee is not entitled to refer the grievance to adjudication unless the Union signifies in the prescribed manner

(a) its approval of the reference of the grievance to adjudication; and

(b) its willingness to represent the employee in the adjudication proceedings. 1997 (2nd Sess.), c. 1, s. 35.

Manner of dealing with grievances

32 (1) Where a grievance is referred to adjudication, it must be dealt with by either a single adjudicator or a board of adjudication.

(2) Where the Employer and Union are agreed that a matter should be referred to a single adjudicator and they are able to agree upon the adjudicator, then such adjudicator must be appointed by the Minister.

(3) Where the Employer and the Union are agreed that a matter should be referred to a single adjudicator but are unable to agree upon the adjudicator within five days after a grievance is referred to adjudication, then the single adjudicator must be appointed by the Minister.

(4) Where the Employer and Union are unable to agree that a matter should be dealt with by a single adjudicator within five days after a grievance is referred to adjudication, then it must be dealt with by a board of adjudication. 1997 (2nd Sess.), c. 1, s. 36; 2010, c. 37, s. 80.

Adjudication board and procedure

33 (1) Where an adjudication board is required, the Minister shall appoint an adjudication board composed of

(a) one member nominated by the Union;

(b) one member nominated by the Employer; and

(c) a chair appointed pursuant to subsection (2) or (3),

all of whom hold office until the matter referred to the adjudication board is decided by it.

(2) The two members appointed pursuant to subsection (1) shall within five days after the day on which they are appointed, nominate a third person who is willing and ready to act to be a member and chair of the adjudication board and the Minister shall forthwith appoint that person to be a member and chair of the adjudication board.

(3) Where the two members appointed under subsection (1) fail or neglect to make a nomination within five days after their appointment, the Minister shall forthwith appoint the third member.

(4) When the adjudication board has been appointed, the Minister shall forthwith notify the parties of the names of the members of the board.

(5) Where there is an adjudication board, the decision of the majority of the adjudication board is the decision of the board but if there is no majority, the decision of the chair of the arbitration board is the decision of the board.

(6) Every decision of an adjudicator must be signed by the adjudicator and, in the case of an adjudication board, signed by the chair of the arbitration board and must be transmitted to the Employer and the Union within 30 days of the last day of the hearing or such longer period as is agreed by the parties.

(7) The costs of an adjudicator must be shared equally by the Employer and the Union and the costs of the adjudication board must be apportioned as follows:

(a) the Union shall pay the remuneration and expenses of the member appointed pursuant to clause (1)(a);

(b) the Employer shall pay the remuneration of expenses of the member appointed pursuant to clause (1)(b);

(c) the Employer and the Union shall share equally the remuneration of expenses of the chair of the arbitration board appointed pursuant to clause (1)(c) or subsection (2), which remuneration and expenses are determined by the Minister. 1997 (2nd Sess.), c. 1, s. 37; 2010, c. 37, s. 81.

Restriction on power to adjudicate

34 (1) No grievance may be referred to adjudication and no adjudicator or adjudication board may hear or render a decision on a grievance until all procedures established for the presenting of the grievance up to and including the final level in the grievance process have been complied with.

(2) No adjudicator or adjudication board may, in respect of any grievance, render any decision thereof the effect of which would be to require the amendment of a collective agreement. 1997 (2nd Sess.), c. 1, s. 38.

Powers and duties of adjudicator and parties

35 (1) Where a grievance is referred to adjudication, the adjudicator or adjudication board shall give both parties to the grievance an opportunity to be heard.

(2) Where a decision on any grievance referred to adjudication requires any action by or on the part of the Employer, the Employer shall take such action.

(3) Where a decision on any grievance requires any action by or on the part of an employee or the Union or both of them, the employee, or the Union or both, as the case may be, shall take such action.

(4) Where an adjudicator or an adjudication board determines that an employee has been discharged or disciplined by the Employer for cause and the

collective agreement does not contain a specific penalty for the infraction that is the subject of the adjudication, the adjudicator or the adjudication board has the power to substitute for the discharge or discipline any other penalty that to the adjudicator or the adjudication board seems just and reasonable in the circumstances. 1997 (2nd Sess.), c. 1, s. 39.

Mediator-adjudicator

36 (1) Notwithstanding any grievance or adjudication provision contained in a collective agreement or deemed to be contained in a collective agreement under subsection 31(2), the parties to a collective agreement may, at any time, agree to refer one or more grievances to a mediator-adjudicator for the purpose of resolving the grievances in an expeditious and informal manner.

(2) Where the parties to a collective agreement wish to make use of a mediator-adjudicator but are unable to agree upon one, the Minister shall appoint a mediator-adjudicator upon the request of the parties.

(3) A mediator-adjudicator appointed under this Section shall attempt to assist the parties to the collective agreement to settle the grievance by mediation.

(4) Where the parties to the collective agreement are not able to settle a grievance by mediation, the mediator-adjudicator shall attempt to assist the parties to agree upon the material facts in the dispute and shall then determine the grievance by adjudication.

(5) When determining a grievance by adjudication, a mediator-adjudicator may limit the nature and extent of evidence and submissions and may impose such conditions as the mediator-adjudicator considers appropriate.

(6) A mediator-adjudicator shall deliver a decision within 30 days after completing an adjudication of a grievance.

(7) Section 35 applies with necessary changes to a mediator-adjudicator and a settlement or decision under this Section. 2009, c. 29, s. 9; 2010, c. 37, s. 82.

Prohibition of strikes and lockouts

37 (1) The Employer shall not cause a lockout and an employee shall not strike.

(2) Nothing in this Act may be interpreted to prohibit the suspension or discontinuance of operations in an Employer's establishment, in whole or in part, not constituting a lockout or a strike. 1997 (2nd Sess.), c. 1, s. 40.

Prohibition of Union action respecting strikes

38 The Union shall not sanction, encourage or support, financially or otherwise, a strike by its members, or any of them, who are governed by this Act. 1997 (2nd Sess.), c. 1, s. 41.

Retaliatory action

- 39** The Employer, or a person acting on behalf of the Employer, shall not
- (a) refuse to employ or terminate the employment of any person or discriminate against any person in regard to employment or any term or condition of employment because the person
 - (i) is a member of the Union or is an applicant for membership in the Union,
 - (ii) has testified or otherwise participated or may testify or otherwise participate in a proceeding under this Act,
 - (iii) has made or is about to make a disclosure that the person may be required to make in a proceeding of this Act, or
 - (iv) has made an application or filed a complaint under this Act;
 - (b) impose any condition in a contract of employment that restrains, or has the effect of restraining, an employee from exercising any right conferred upon the employee by this Act; or
 - (c) seek by intimidation, threat of dismissal or any other kind of threat, by the imposition of a pecuniary or other penalty or by any other means, to compel a person to refrain from becoming or to cease to be a member, officer or representative of the Union. 1997 (2nd Sess.), c. 1, s. 42.

Prohibition of certain actions by Union

- 40** **(1)** The Union or a person acting on behalf of a Union shall not
- (a) except with the consent of the Employer, attempt, at an employee's place of employment during the working hours of the employee, to persuade the employee to become or to refrain from becoming or to cease to be a member of the Union;
 - (b) use coercion or intimidation of any kind with respect to any employee with a view to encouraging or discouraging membership or activity in the Union; or
 - (c) discriminate against a person in regard to employment or membership in the Union or intimidate or coerce a person or impose a pecuniary or other penalty on a person because the person
 - (i) has testified or otherwise participated or may testify or otherwise participate in a proceeding authorized or permitted under a collective agreement or proceeding under this Act,
 - (ii) has made or is about to make a disclosure that the person may be required to make in a proceeding authorized or permitted under a collective agreement or a proceeding under this Act, or
 - (iii) has made an application or filed a complaint under this Act.

(2) For greater certainty, clause (1)(b) does not prohibit the Employer and the Union from inserting in a collective agreement a provision requir-

ing, as a condition of employment, membership in the Union. 1997 (2nd Sess.), c. 1, s. 43.

Offences and penalties

41 (1) An employee who contravenes this Act or fails to do anything required of an employee by this Act is guilty of an offence and liable upon summary conviction to a fine of not more than \$100 for each day during which the contravention or failure occurs or continues.

(2) Every person acting on behalf of the Employer who declares or causes a lockout contrary to this Act is liable upon summary conviction to a penalty not exceeding \$300 for each day that the lockout exists.

(3) Where the Union declares or authorizes a strike contrary to this Act, it is liable upon summary conviction to a penalty not exceeding \$300 for each day that the strike exists.

(4) Every officer or representative of the Union who declares or authorizes a strike contrary to this Act is liable upon summary conviction to a penalty not exceeding \$300 for each day that the strike exists. 1997 (2nd Sess.), c. 1, s. 44.

Questions of law and references to Court of Appeal

42 (1) An arbitration board, adjudicator or an adjudication board may, of its own motion or on application of the Employer or the Union, state a case in writing for the Nova Scotia Court of Appeal upon any question that is a question of law.

(2) A like reference to that contained in subsection (1) may also be made by the Board.

(3) The Court of Appeal shall hear and determine questions of law arising as a result of a stated case taken pursuant to subsection (1) or (2) and remit the matter to the arbitration board, the adjudicator, the adjudication board or the Board, whichever is appropriate under the circumstances, with the opinion of the Court thereon. 1997 (2nd Sess.), c. 1, s. 45; 2010, c. 37, s. 83.

Existing grievances and arbitrations

43 (1) In this Section,

“arbitration” has the same meaning as in a predecessor agreement;

“predecessor agreement” means a collective agreement between the Employer and Union in effect before December 12, 1997.

(2) Grievances and arbitrations arising or in progress under any predecessor agreement must be continued and decided in accordance with that agreement and a decision given in such an arbitration is binding on the Employer, the Union and the employees as if made pursuant to this Act. 1997 (2nd Sess.), c. 1, s. 46.

Effect of existing notices

44 Where a notice has been given before December 12, 1997, by the Employer or the Union to the other to commence collective bargaining, the notice is deemed to have been given in accordance with this Act. 1997 (2nd Sess.), c. 1, s. 48.

CHAPTER H-12

An Act to Recognize Yom haShoah as Holocaust Memorial Day in Nova Scotia

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WHEREAS *haShoah* (the Holocaust) refers to the state-sponsored, systematic persecution and annihilation of European Jewry by the Nazis and their collaborators between 1933 and 1945;

AND WHEREAS six million Jewish men, women and children were murdered by the Nazis and their collaborators;

AND WHEREAS other atrocities were planned, organized and carried out by Nazi civil and military authorities and their collaborators, victimizing Jews and many others because of race, religion, physical disability, mental disability or sexual orientation;

AND WHEREAS, during the Second World War, Canada and its allies took part in a prolonged armed struggle, costly in human life and human suffering, to defeat the Nazis and their collaborators;

AND WHEREAS it is desirable to observe a day to remember the victims of the Holocaust and to honour those who fought to defeat the tyranny and genocide of the Nazis and their collaborators;

AND WHEREAS such a day would provide an opportunity to reflect upon and educate Nova Scotians about the enduring lessons of the Holocaust and to consider other instances of the systematic destruction of peoples, human rights issues and the multicultural reality of modern society;

AND WHEREAS *Yom haShoah* (the Day of the Holocaust) is determined in each year by the Jewish lunar calendar:

Short title

1 This Act may be cited as the *Holocaust Memorial Day Act*. 2000, c. 1, s. 1.

Holocaust Memorial Day, Yom haShoah

2 Throughout the Province, *Yom haShoah* as determined each year by the Jewish lunar calendar shall be kept and observed under the name of Holocaust Memorial Day - Yom haShoah. 2000, c. 1, s. 2.

CHAPTER H-13

An Act Respecting the Provision of Homemakers Services

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Short title

1 This Act may be cited as the *Homemakers Services Act*. R.S., c. 201, s. 1.

Interpretation

2 In this Act,
“agency” means a municipal unit, an agency continued or incorporated under the *Children and Family Services Act* or a non-profit organization providing a homemakers service;
“homemakers service” means a service provided under this Act and the regulations;
“Minister” means the Minister of Health and Wellness;
“municipal unit” means a regional municipality, town or municipality of a county or district. R.S., c. 201, s. 2.

Purpose of Act

3 The purpose of this Act is to encourage the provision of homemakers services to families or individuals to enable them to remain in their homes. R.S., c. 201, s. 3.

Supervision of Act

4 The Minister has the general supervision of this Act. R.S., c. 201, s. 4.

Funding of agency providing homemakers service

5 (1) Subject to the regulations, the Minister may provide funding to an agency that provides a homemakers service for
(a) a person who is elderly, handicapped, ill or convalescent;

(b) households in which there is a child who might otherwise have to be cared for in a place other than the child's home during the absence, illness, convalescence or incapacity of the child's mother or other person in whose charge the child is;

(c) households in which the standard of housekeeping or child-rearing practices requires improvement to assist the family in coping with domestic or financial difficulties that might otherwise result in the family being unable to maintain themselves in their home.

(2) The amount and manner of funding must be determined by the regulations. R.S., c. 201, s. 5.

Personnel

6 (1) Persons required for the administration of this Act must be appointed in accordance with the *Civil Service Act*.

(2) The Minister may appoint a person in the public service to be Director for the purpose of this Act and may prescribe the Director's functions and duties. R.S., c. 201, s. 6.

Regulations

- 7 (1) The Governor in Council may make regulations
- (a) respecting the approval by the Minister of a homemakers service;
 - (b) respecting personnel complements and personnel qualifications of a homemakers service;
 - (c) respecting the conditions under which funds may be provided by the Province for a homemakers service;
 - (d) respecting the collection of fees by a homemakers service;
 - (e) respecting records to be maintained by a homemakers service;
 - (f) respecting standards of service;
 - (g) respecting the establishment of a homemakers service advisory committee;
 - (h) respecting the classes of persons to whom an agency may provide a homemakers service;
 - (i) prescribing forms and providing for their use;
 - (j) defining any word or expression used in this Act and not defined in this Act;
 - (k) respecting such other matters or things as are necessary to carry out the intent and purpose of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*.
R.S., c. 201, s. 7.

CHAPTER H-14

An Act Respecting Homes for Special Care

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Short title

1 This Act may be cited as the *Homes For Special Care Act*. R.S., c. 203, s. 1.

Interpretation

- 2** (1) In this Act,
- “activities of daily living” include personal hygiene, dressing, grooming, meal preparation and the taking of medication;
- “ambulatory” means able to move about without the assistance of mechanical aids or devices and without assistance from another person;
- “applicant” means a person who applies for a licence pursuant to this Act;

“inspector” means a person in the public service who is appointed by the Minister;

“licence” means a licence issued pursuant to this Act, and includes a renewed licence;

“licensee” means a person to whom a licence is issued pursuant to this Act;

“Minister” means the Minister of Community Services;

“nursing care” means the use of methods, procedures and techniques employed in providing nursing care by persons with technical nursing training beyond the care that an untrained person can adequately administer;

“nursing home” means a building or place or part of a building or place in which accommodation is provided or is available to persons requiring or receiving skilled nursing care, including persons convalescing from or being rehabilitated after illness or injury and, subject to Section 3, does not include a place maintained by a person to whom the residents are related by blood or marriage, a public hospital, mental or psychiatric hospital, tuberculosis hospital or sanatorium, a maternity hospital, a home operated pursuant to Sections 20 to 22 or a residential care facility;

“personal care” means the provision of room, board and supervision of, and assistance with, the activities of daily living of a person who is ambulatory or semi-ambulatory;

“resident” means a resident of a residential care facility, nursing home or home for aged or disabled persons;

“residential care facility” means any building or place, or part of a building or place required to be approved by the Minister, where supervisory care or personal care is provided to three or more persons but, subject to Section 3, does not include

(a) a place maintained by a person to whom the residents are related by blood or marriage;

(b) a public hospital, mental or psychiatric hospital, tuberculosis hospital, maternity hospital, sanatorium, home operated pursuant to Sections 20 to 22 or jail, prison or training school;

(c) a nursing home as defined in this Act;

“semi-ambulatory” means able to move about with the assistance of mechanical aides or devices but not involving assistance from another person;

“supervisory care” means the provision of room, board and

(a) guidance or supervision in the activities of daily living; or

(b) observation or surveillance of the physical well-being,

of a person who is ambulatory or semi-ambulatory.

(2) Every boarding home that on May 19, 1976, was operated pursuant to the former *Boarding Homes Act*, or to which that Act then applied, is a residential care facility for the purpose of this Act and is subject to this Act and the regulations.

(3) Every nursing home that on May 19, 1976, was operated pursuant to the former *Nursing Homes Act*, or to which that Act then applied, is a nursing home for the purpose of this Act and is subject to this Act and the regulations. R.S., c. 203, s. 2; 2010, c. 17, s. 1.

Designation of residential care facility or nursing home

3 (1) The Minister may designate any building or place or part of a building or place as a residential care facility provided that the building, place or part designated complies with the definition of a residential care facility.

(2) The Minister may designate any building or place or part of a building or place as a nursing home provided that the building, place or part designated complies with the definition of a nursing home.

(3) Any building or place or part of a building or place designated by the Minister must comply with the terms and conditions and provisions of this Act and the regulations. R.S., c. 203, s. 3.

Requirement for licence

4 No person shall conduct, maintain, operate or manage a residential care facility, a home for the disabled, a home for the aged or a nursing home, or purport to operate a residential care facility or a nursing home, unless that person is issued a licence to do so pursuant to this Act and that licence has not expired, been cancelled or been suspended. R.S., c. 203, s. 4; 2010, c. 17, s. 2.

Issuance of licence

5 (1) Subject to the regulations, the Minister may issue a licence to a person to operate a residential care facility, a home for the disabled, a home for the aged or a nursing home.

(2) The Minister may for any reasonable cause refuse to issue or reissue a licence to a person or in respect of a residential care facility, a home for the disabled, a home for the aged or a nursing home.

(3) The Minister may from time to time attach to any licence such terms and conditions or restrictions as the Minister considers advisable. R.S., c. 203, s. 5; 2010, c. 17, s. 3.

Form of application and licence and expiry

6 (1) An application for a licence must be in the form prescribed by the regulations.

(2) A licence must be in the form prescribed by the regulations and expires one year from the date on which it was issued or on such other date as the Minister may prescribe in the licence. R.S., c. 203, s. 6.

Cancellation or suspension of licence

7 The Minister may cancel or suspend a licence if, in the Minister's opinion

- (a) the licensee is not giving or is not capable of giving adequate care to a resident;
- (b) the residential care facility or nursing home described in a licence has become unsuitable for the purpose authorized by the licence;
- (c) the residential care facility or nursing home does not comply with fire and building regulations as specified by the regulations;
- (d) the number of persons living in the residential care facility or nursing home exceeds the number specified in its licence;
- (e) the residential care facility or nursing home does not comply with the terms, conditions or restrictions of the licence;
- (f) the licensee or employee of the licensee has contravened this Act or the regulations;
- (g) the licensee or employee of the licensee does not comply with enactments that apply to it;
- (h) the licensee or its administrator has failed to demonstrate that its actions, either direct or indirect, are incidental to the attainment of the objects for which it was incorporated or are within the proper exercise of its powers or conform with its own governance requirements; or
- (i) the licensee or its administrator is unable to demonstrate that it has or will exercise sufficient control, either directly or indirectly, over the operations of the licensee, including the care of its residents, its premises, its accommodation, its equipment and its facilities. R.S., c. 203, s. 7; 2010, c. 17, s. 4.

Deemed cancellation of licence

8 A licence is deemed to be cancelled if the person to whom it was issued ceases to operate or own the residential care facility or the nursing home for which the licence was issued. R.S., c. 203, s. 8.

Application of Sections 10 to 13

9 Sections 10 to 13 do not apply to a residential care facility licensed by the Minister of Health and Wellness, a home for the aged or a nursing home. 2010, c. 17, s. 5.

Appointment of manager

10 The Minister may appoint such person or persons who have such powers and duties prescribed in the regulations to manage and administer or to assist to manage and administer, and generally oversee the operations of a licensee whose licence has been suspended, cancelled or not reissued, until the licence is reinstated or reissued, as the Minister considers necessary. 2010, c. 17, s. 5.

No action lies

11 (1) No action or other proceeding for damages or otherwise may be instituted against the Minister's appointee under Section 10 or any agent of the appointee, as a result of any act done in good faith in the performance or intended

performance of any duty under this Act or in the exercise or intended exercise of any power and duty under this Act, or of any neglect or default in the performance or exercise in good faith of such power or duty.

(2) Subsection (1) does not relieve the Crown of any liability under the *Proceedings against the Crown Act*.

(3) Neither the Crown nor the Minister's appointee are liable for any actions of a licensee taken during the period before the appointment under Section 10 or attributable to that period. 2010, c. 17, s. 5.

Sections 38 and 39 of Trade Union Act not affected

12 Neither the appointment by the Minister under Section 10, the operation and management of the residential care facility by the appointee nor the ceasing of that operation and management is a sale, lease or transfer of the licensee's business or operations thereof for the purpose of Section 38 of the *Trade Union Act* nor a merger, amalgamation or transfer of jurisdiction for the purpose of Section 39 of that Act. 2010, c. 17, s. 5.

Agreement binding

13 For greater certainty, any collective agreement binding a licensee continues to apply during an appointment under Section 10. 2010, c. 17, s. 5.

Inspectors

14 For the purpose of Sections 3 to 18, the Minister may appoint such persons in the public service as the Minister considers necessary to be inspectors and may designate one or more of them to be chief inspector. R.S., c. 203, s. 9.

Right of entry and inspection

15 (1) For the purpose of this Section, "qualified medical practitioner" means a qualified medical practitioner as defined in the *Medical Act*.

(2) An inspector appointed by the Minister may at any reasonable time enter and inspect a residential care facility or any place that the inspector has reasonable grounds to believe is a residential care facility and may examine the premises, equipment, facilities, books and records thereof, and may cause any resident to be examined by a qualified medical practitioner or registered nurse appointed by an inspector for the purpose of this Act.

(3) An inspector appointed by the Minister may at any reasonable time enter and inspect a nursing home or any place that the inspector has reasonable grounds to believe is a nursing home and may examine the premises, equipment, facilities, books and records thereof, and may cause any resident to be examined by a qualified medical practitioner or a registered nurse appointed by an inspector for the purpose of this Act.

(4) The owner or person in charge of a residential care facility or a nursing home or a licensee shall permit an inspector at all reasonable times to enter and inspect the residential care facility or nursing home and to examine equipment, furnishings and accommodations and shall produce for examination the accounts, books and records of that facility or nursing home, and shall permit any

resident to be examined by a qualified medical practitioner or a registered nurse appointed by the chief inspector for the purpose of this Act. R.S., c. 203, s. 10.

Records, returns and reports

16 The licensee of every residential care facility or nursing home shall forward to the chief inspector such records, returns and reports as the chief inspector requests and in the form and manner and within the time requested by the chief inspector. R.S., c. 203, s. 11.

Alteration of building

17 A licensee shall not add to or alter a building used for the purpose of a residential care facility or a nursing home without first submitting to the Minister plans of the alteration or addition and receiving approval of the Minister for the alteration or addition. R.S., c. 203, s. 12.

Advertising or holding out

18 Unless a licence is in force in respect of a residential care facility or nursing home, no person shall advertise or hold out the place to be a facility or nursing home or assume, use or display in connection with the place any terms, sign, title or words that imply or lead the public to believe that the place is a residential care facility or a nursing home. R.S., c. 203, s. 13.

Home for aged or disabled operating on May 19, 1976

19 Every home for the aged or disabled persons that on May 19, 1976, was operated pursuant to Part II of Chapter 284 of the Revised Statutes, 1967, the *Social Assistance Act*, or to which that Act then applied, is a home for the purpose of Sections 20 to 22 of this Act and is subject to this Act and the regulations. R.S., c. 203, s. 14.

Municipal home for aged or disabled persons

20 (1) With the approval of the Minister, a municipal unit or two or more municipal units that enter an agreement may directly or through an agent or a corporation established under the *Municipal Housing Corporations Act* erect, acquire, purchase, alter, add to, improve, furnish and equip a building as a home for the accommodation of aged or disabled persons and purchase or acquire land therefor, and may operate and maintain homes for the aged and for disabled persons.

(2) Subject to the regulations, a home for aged or disabled persons provided or operated by one municipal unit is regulated by bylaws made by the council of that municipal unit and approved by the Minister.

(3) Subject to the regulations, a home for aged or disabled persons provided or operated by two or more municipal units or by an agent or a corporation is regulated in the manner agreed upon by the Minister and the municipal units.

(4) Where a home for aged or disabled persons is provided or operated by two or more municipal units or by an agent or a corporation, the expense of providing, operating or maintaining it, including the payment of interest on and the retirement of debentures issued in respect thereof, may by the agreement

be made an object of joint expenditure of the municipal units involved under the *Assessment Act*. R.S., c. 203, s. 15.

Board of management

21 The Governor in Council may

- (a) establish a board of management for a home for aged or disabled persons;
- (b) appoint the members of the board of management; and
- (c) prescribe the remuneration, duties and powers of a board of management. R.S., c. 203, s. 16.

Exercise of powers by corporation or agent

22 For the purpose of Section 20, a municipal unit or two or more municipal units may establish or arrange for the establishment of a corporation under the provisions of the *Municipal Housing Corporations Act* or an agency of the unit or units to exercise any of the power granted by Section 20. R.S., c. 203, s. 17.

Prohibition of new homes

23 Notwithstanding Sections 20 and 22, a municipal unit may not establish a new home. 1994-95, c 7, s. 28.

Offence and penalty

24 Every person who violates or fails to observe or comply with any of the provisions of this Act or the regulations, or with any term, condition or restriction attached to a licence held by that person, is guilty of an offence punishable by summary conviction and is liable to a penalty of not more than \$100 and in default of payment to imprisonment for not more than 30 days, and every day that a person fails to observe or comply with any of the provisions or fails to observe or comply with any term, condition or restriction attached to a licence held by that person, constitutes a separate offence. R.S., c. 203, s. 18.

Mortgage guarantee by Minister

25 Subject to the *Finance Act*, the Minister may guarantee payment of a mortgage made by a person who, with the approval of the Minister, is constructing or refinancing a nursing home, residential care facility, home for the aged or home for the disabled. 2007, c. 9, s. 11; 2010, c. 2, s. 108.

Regulations

26 (1) The Governor in Council may make regulations

- (a) prescribing the form and contents of an application for a licence for a residential care facility or a nursing home;
- (b) prescribing the form of a licence and the fee for a licence;
- (c) prescribing the manner in which a licence must be displayed;

- (d) respecting the terms, conditions and restrictions upon which a licence may be issued;
- (e) respecting all matters relating to the care and well-being of the residents of a residential care facility, a nursing home or a home that was in operation on May 19, 1976;
- (f) respecting the persons or classes of persons to be admitted and maintained in a residential care facility, a nursing home and a home;
- (g) authorizing the Minister to designate a home operated by a municipal unit as either a home for the aged or a home for the disabled;
- (h) respecting the granting of funds to a municipal unit or non-profit organizations for the construction, renovation and alteration of homes;
- (i) respecting the guarantee by the Minister of mortgages for the purpose of Section 25;
- (j) respecting the inspection of a residential care facility, a nursing home and a home;
- (k) respecting the keeping of a register, records and other reports in a residential care facility, a nursing home and a home and prescribing what must be entered therein;
- (l) prescribing staff requirements and qualifications for a residential care facility, a nursing home and a home;
- (m) prescribing qualifications of staff for a residential care facility, a nursing home and a home;
- (n) limiting, fixing or regulating fees to be charged by a licensee for residents of a residential care facility, a nursing home and those residents of a home being maintained by public funds;
- (o) respecting boards of management;
- (p) determining a minimum physical space requirement per resident and otherwise prescribing the maximum number of residents of a residential care facility, a nursing home and a home;
- (q) respecting the admission, maintenance and discharge of residents in a residential care facility, a nursing home and a home;
- (r) respecting the standards of accommodations to be provided and maintained in a residential care facility, a nursing home and a home;
- (s) respecting medical and other services to be provided in a residential care facility, a nursing home and a home;
- (t) respecting the standard of care to be provided and maintained in a residential care facility, a nursing home and a home;
- (u) respecting the sanitation of a residential care facility, a nursing home and a home;
- (v) respecting the precautions to be taken with regard to fire hazards in a residential care facility, a nursing home and a home;

(w) respecting building regulations and the submission of plans for renovations and alterations and the form of the Minister's approval;

(x) respecting the granting, cancellation, renewal or suspension of a licence;

(y) respecting the powers and duties of a person appointed pursuant to Section 10;

(z) respecting matters that a person appointed pursuant to Section 10 must consider in exercising the person's powers and duties;

(aa) respecting the services and scope of the services to be provided by a person appointed pursuant to Section 10 and any conditions that apply to the exercise of the person's discretion in the scope of the services to be provided;

(ab) defining any term contained herein necessary for the carrying out of this Act;

(ac) respecting all matters relating to the care and well-being of the residents of a residential care facility, a nursing home and a home;

(ad) generally for the better carrying out of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*.
R.S., c. 203, s. 19; 2007, c. 9, s. 12; 2010, c. 17, s. 6.

CHAPTER H-15

An Act Relating to Hospitals

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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 *Hospitals Act*. R.S., c. 208, s. 1.

Interpretation

- 2 In this Act,

“administrator” means the officer or the officer’s designee who is responsible to the board for the administration and management of a health authority as defined by the *Health Authorities Act*;

“board” means board of directors, governors, management, trustees, commission or other governing body or authority of a hospital or facility under this Act;

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

“formal patient” means a formal patient within the meaning of this Act;

“hospital” means a building, premise or place approved by the Minister and established and operated for the treatment of persons with sickness, disease or injury and the prevention of sickness or disease, and includes a facility, a maternity hospital, a nurses’ residence and all buildings, land and equipment used for the purposes of the hospital, or means, where the context requires, a body corporate established to own or operate a hospital, or a program approved by the Minister as a hospital pursuant to this Act or any other Act of the Legislature;

“involuntary patient” means an involuntary patient under the *Involuntary Psychiatric Treatment Act*;

“medical director” means the physician responsible for the supervision and direction of the medical services in a facility;

“Minister” means the Minister of Health and Wellness;

“patient” means a person who receives diagnosis, lodging or treatment at or in a hospital;

“prescribed” means prescribed by the regulations;

“psychiatric facility” means a psychiatric facility pursuant to the *Involuntary Psychiatric Treatment Act*;

“psychiatrist” means a physician

(a) who holds a specialist’s certificate in psychiatry issued by the Royal College of Physicians and Surgeons of Canada; or

(b) whose combination of training and experience in psychiatry is satisfactory to the Nova Scotia College of Physicians and Surgeons and who has been approved by the College as a psychiatrist for the purpose of this Act;

“qualified dental practitioner” means a licensed dentist under the *Dental Act*;

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

“qualified midwife” means a midwife under the *Midwifery Act*;

“qualified nurse practitioner” means a nurse practitioner as defined in the *Nursing Act*;

“spouse” means, with respect to any person, a person who is cohabiting with that person in a conjugal relationship as married spouse, registered domestic partner or common-law partner;

“substitute decision-maker” means a person who is given the authority to make admission, care or treatment decisions on behalf of a patient under this Act or a voluntary patient;

“voluntary patient” means a voluntary patient under the *Involuntary Psychiatric Treatment Act*. R.S., c. 208, s. 2; 2000, c. 6, s. 102; 2000, c. 29, s. 15; 2005, c. 42, s. 86; 2008, c. 8, s. 33; 2008, c. 58, s. 1; 2014, c. 32, s. 129; 2022, c. 14, s. 1.

Reference to psychiatrist

3 For the purpose of this Act, any reference to a psychiatrist carrying out a capacity or competency assessment means

- (a) for the purpose of a person in a psychiatric facility, a psychiatrist as defined in Section 2; and
- (b) for the purpose of a person in a hospital, the attending physician or other suitable health professional determined by the hospital. 2005, c. 42, s. 86.

Act does not apply

4 This Act does not apply to or affect

- (a) a tuberculosis hospital or sanatorium;
- (b) a nursing home, a home for the aged, an infirmary or other institution the purpose of which is the provision of custodial care;
- (c) a hospital exempted from the provisions of this Act by or under an order of the Governor in Council. R.S., c. 208, s. 3.

Approval for operation or construction

5 (1) No person shall

- (a) operate a hospital pursuant to this Act unless it has been approved by the Governor in Council;
- (b) construct, improve, renovate, alter or add to a hospital unless the plans and specifications for the construction, improvement, renovation, alteration or addition have been approved by the Minister or a person or body designated by the Minister;
- (c) construct, improve, renovate, alter or add to a hospital in a way that differs from the plans and specifications for the construction, improvement, renovation, alteration or addition that have been approved by the Minister or a person or body designated by the Minister.

(2) Subject to the regulations, any approval given under this Section may be suspended or revoked by the Governor in Council. R.S., c. 208, s. 4.

Admission of patient

6 Subject to such conditions and regulations as the board of the hospital by bylaw prescribes, the administrator of a hospital, when there is accommodation in the hospital, on the application of a qualified medical practitioner, a qualified nurse practitioner, a qualified midwife or a qualified dental practitioner, shall admit as a patient any person who in such application is stated to be in need of hospital services. R.S., c. 208, s. 8; 2008, c. 58, s. 2; 2022, c. 14, s. 2.

Student facilities at teaching hospital

7 The board of every teaching hospital shall provide such facilities for medical and dental students as the regulations require. R.S., c. 208, s. 10.

Charge for uninsured hospital services

8 (1) Where a patient in a hospital is not entitled under the *Health Services and Insurance Act* to all or part of the services received by the patient, the

patient is liable to pay to the board of the hospital its charges at rates approved by the Minister for the services to which the patient is not so entitled.

(2) Where a patient who is liable under subsection (1) for services received by the patient does not pay for the services for which the patient is liable, and the services are not services provided by the Workers' Compensation Board or by some other authority, the hospital charges for which the patient is liable may be paid out of the General Revenue Fund, if the officers of the hospital have made reasonable efforts to collect these charges. R.S., c. 208, s. 11; 1994-95, c. 7, s. 29.

Notice of non-entitlement to insured services

9 Where the administrator of a hospital becomes aware that a patient in the hospital is not entitled, under the *Health Services and Insurance Act*, to receive all or part of the services provided by the hospital, the administrator shall within three days give notice by prepaid mail or by personal service that the patient is not entitled to services under the *Health Services and Insurance Act* and of the rate of the hospital's charges for its services to the patient. R.S., c. 208, s. 12; 1994-95, c. 7, s. 30.

Factors in determining capacity or competence

10 (1) Every adult person in a hospital or a psychiatric facility is presumed to have capacity to make all treatment decisions with respect to the person's healthcare and to be competent to administer the person's estate.

(2) A person in a hospital or a psychiatric facility may be found, after examination by a psychiatrist, not to be capable of consenting to treatment or competent to administer the person's estate.

(3) In determining whether or not a person in a hospital or a psychiatric facility is capable of consenting to treatment, the examining psychiatrist shall consider whether the person understands and appreciates

- (a) the condition for which the specific treatment is proposed;
- (b) the nature and purpose of the specific treatment;
- (c) the risks and benefits involved in undergoing the specific treatment; and
- (d) the risks and benefits involved in not undergoing the specific treatment.

(4) In determining a patient's capacity to make a treatment decision, the psychiatrist shall also consider whether the patient's mental disorder affects the patient's ability to appreciate the consequences of making the treatment decision.

(5) In determining whether or not a person is competent to administer the person's estate, the psychiatrist examining the person shall consider

- (a) the nature and degree of the person's condition;
- (b) the complexity of the estate;

(c) the effect of the condition of the person upon the person's conduct in administering the person's estate; and

(d) any other circumstances the psychiatrist considers relevant to the estate, the person and the person's condition. R.S., c. 208, s. 52; 2005, c. 42, s. 86; 2008, c. 8, s. 34.

Declaration of capacity or competency

11 (1) A psychiatrist, after having examined a person in a hospital or a psychiatric facility to determine the person's capacity to consent to treatment, shall complete a declaration of capacity in respect of that person.

(2) The declaration of capacity must state whether or not in the opinion of the examining psychiatrist the person examined is capable of consenting to treatment or not.

(3) When a psychiatrist has completed the examination of a person in a hospital or in a psychiatric facility to determine that person's competency to administer the person's estate the psychiatrist shall complete a declaration of competency in respect of that person.

(4) A declaration of competency must be signed by the examining psychiatrist and must state whether or not in the psychiatrist's opinion the person examined is competent to administer the person's estate.

(5) A declaration of capacity and a declaration of competency must be in such form and contain such information as may be determined by the Governor in Council by regulation. R.S., c. 208, s. 53; 2005, c. 42, s. 86.

Consent to hospital treatment

12 (1) No person admitted to a hospital or a psychiatric facility shall receive treatment unless the person consents to such treatment.

(2) Where a patient in a hospital or a psychiatric facility is found by declaration of capacity to be incapable of consenting to treatment, consent may be given or refused on behalf of the patient by a substitute decision-maker who has capacity and is willing to make the decision to give or refuse the consent, from the following, in descending order:

(a) a person who has been authorized to give consent under the former *Medical Consent Act* or a delegate authorized under the *Personal Directives Act*;

(b) the patient's guardian appointed by a court of competent jurisdiction;

(c) the spouse of the patient;

(d) an adult child of the patient;

(e) a parent of the patient;

(f) a person who stands in *loco parentis* to the patient;

(g) an adult sibling of the patient;

(h) a grandparent of the patient;

- (i) an adult grandchild of the patient;
- (j) an adult aunt or uncle of the patient;
- (k) an adult niece or nephew of the patient;
- (l) any other adult next of kin of the patient; or
- (m) the Public Trustee.

(3) Where a person in a category in subsection (2) fulfills the criteria for a substitute decision-maker as outlined in subsection (5) but refuses to consent to treatment on the patient's behalf, the consent of a person in a subsequent category is not valid.

(4) Where two or more persons who are not described in the same clause of subsection (2) claim the authority to give or refuse consent under that subsection, the one under the clause occurring first in that subsection prevails.

(5) A person referred to in clauses (2)(c) to (l) shall not exercise the authority given by that subsection unless the person

- (a) excepting a spouse, has been in personal contact with the patient over the preceding 12-month period or has been granted a court order to shorten or waive the 12-month period;
- (b) is willing to assume the responsibility for consenting or refusing consent;
- (c) knows of no person of a higher category who is able and willing to make the decision; and
- (d) makes a statement in writing certifying the person's relationship to the patient and the facts and beliefs set out in clauses (a) to (c).

(6) The attending physician is responsible for obtaining consent from the appropriate person referred to in subsection (2). R.S., c. 208, s. 54; 2000, c. 29, s. 16; 2001, c. 5, s. 4; 2005, c. 42, s. 86; 2008, c. 8, s. 35.

Duty of substitute decision-maker

13 The substitute decision-maker shall make the decision in relation to specified medical treatment

- (a) in accordance with the patient's prior capable informed expressed wishes unless
 - (i) technological changes or medical advances make the prior expressed wishes inappropriate in a way that is contrary to the intentions of the patient, or
 - (ii) circumstances exist that would have caused the patient to set out different instructions had the circumstances been known based on what the substitute decision-maker knows of the values and beliefs of the patient and from any other written or oral instructions;
- (b) in the absence of awareness of a prior capable informed expressed wish, in accordance with what the substitute decision-maker believes the wishes of the patient would be based on what the substitute

decision-maker knows of the values and beliefs of the patient and from any other written or oral instructions; and

(c) if the substitute decision-maker does not know the wishes, values and beliefs of the patient, in accordance with what the substitute decision-maker believes to be in the best interest of the patient. 2005, c. 42, s. 86; 2008, c. 8, s. 36.

Determination of best interest of patient

14 In order to determine the best interest of the patient for the purpose of clause 13(b), regard must be had to whether

(a) the condition of the patient will be or is likely to be improved by the specified medical treatment;

(b) the condition of the patient will improve or is likely to improve without the specified medical treatment;

(c) the anticipated benefit to the patient from the specified medical treatment outweighs the risk of harm to the patient; and

(d) the specified medical treatment is the least restrictive and least intrusive treatment that meets the requirements of clauses (a) to (c). 2005, c. 42, s. 86.

Reliance on statement in writing

15 Whoever seeks a person's consent on a patient's behalf is entitled to rely on that person's statement in writing as to the person's relationship with the patient and as to the facts and beliefs mentioned in clauses 12(5)(a) to (c), unless it is not reasonable to believe the statement. 2005, c. 42, s. 86.

Review by court

16 (1) Where a substitute decision-maker approves or refuses treatment on behalf of a patient pursuant to subsection 12(2), the Supreme Court of Nova Scotia (Family Division) or the Family Court where there is no Supreme Court (Family Division) may review the provision or refusal of consent if requested to do so by the psychiatrist or the patient to determine whether the substitute decision-maker has rendered a capable informed consent.

(2) Where the court finds that a substitute decision-maker has not rendered a capable informed consent, the next suitable decision-maker in the hierarchy in subsection 12(2) becomes the substitute decision-maker. 2005, c. 42, s. 86.

Examination for competency

17 (1) The examination of a person in a hospital or a patient in a psychiatric facility by a psychiatrist to determine whether that person is competent to administer that person's estate may be performed at any time as the need arises.

(2) Subsection (1) applies to an examination of a patient in a hospital or a psychiatric facility for the purpose of determining whether or not that person is capable of consenting to treatment. 2005, c. 42, s. 86.

Presumption of competency and capacity

18 Where an examination is not performed within the periods set out in Section 19, the person is presumed to be competent or capable of consenting until a psychiatrist determines that the person is not competent or capable of consenting. R.S., c. 208, s. 56.

Revocation of declaration

19 (1) Where a person in a hospital or a psychiatric facility is examined by a psychiatrist and found incapable of consenting to medical treatment or incompetent to administer the person's estate and subsequent thereto has been re-examined and found to be capable of consenting to treatment or competent to administer the person's estate, the examining psychiatrist shall execute a revocation of the declaration of capacity or a revocation of the declaration of competency, whichever is appropriate under the circumstances.

(2) The revocation of declaration of capacity must be signed by the psychiatrist examining the person and state that the person described therein is capable of consenting to treatment.

(3) The revocation of declaration of competency must be signed by the psychiatrist examining the person and state that the person described therein is competent to administer the person's estate.

(4) A revocation of declaration of capacity and a revocation of declaration of competency must be in such form and contain such information as may be determined by the Governor in Council by regulation. R.S., c. 208, s. 57; 2005, c. 42, s. 86.

Review of declarations

20 (1) A declaration of competency concerning an involuntary patient may be reviewed by the review board pursuant to the *Involuntary Psychiatric Treatment Act* and any appeals from the review board's decision must be carried out pursuant to Section 79 of that Act.

(2) A declaration of capacity for a patient in a hospital or a psychiatric facility or a declaration of competency for a patient in a hospital or a voluntary patient may be reviewed by the Supreme Court of Nova Scotia (Family Division) or by the Family Court where there is no Supreme Court (Family Division).

(3) A review conducted pursuant to subsection (2) must be made upon application by the person seeking the review, who shall give five days notice to the administrator of the hospital.

(4) An application for review pursuant to this Section must be made by the person described in the declaration or by the person's substitute decision-maker.

(5) The judge of the Supreme Court may either confirm the declaration of capacity or the declaration of competency or determine that the same should be revoked.

(6) Where the judge of the Supreme Court determines that the declaration of capacity or the declaration of competency should be revoked, then the judge shall issue an order revoking the declaration of capacity or the declaration of competency, whichever is appropriate under the circumstances. R.S., c. 208, s. 58; 1992, c. 16, s. 5; 2000, c. 29, s. 16; 2005, c. 42, s. 86.

Public Trustee

21 (1) Where a declaration of competency discloses that a person in a hospital or a psychiatric facility is unable to administer the person's estate and the circumstances are such that the Public Trustee should immediately assume management of the person's estate, the administrator of the hospital or the chief executive officer of the psychiatric facility shall notify the Public Trustee as soon as possible.

(2) Subject to Section 16 of the *Public Trustee Act*, where there is no guardian to act on behalf of the person in a hospital or a psychiatric facility who is unable to administer the person's estate and the Public Trustee is of the opinion that the Public Trustee's intervention is appropriate, the Public Trustee may take possession of the property and effects and safely keep, preserve and protect the property and effects of the person in a hospital or a psychiatric facility and expend from such property and effects such amount as is necessary to safely keep, preserve and protect the property and effects and for this purpose has all authority necessary to do so. R.S., c. 208, s. 59; 2005, c. 42, s. 86; 2014, c. 27, s. 8.

Involuntary Psychiatric Treatment Act

22 Any reference in this Act to a declaration of capacity or consent to treatment does not apply to an involuntary patient where psychiatric treatment is involved and, for that purpose, the *Involuntary Psychiatric Treatment Act* applies. 2005, c. 42, s. 86.

Agreement with other government

23 (1) The Governor in Council may enter into and carry out, or may authorize the Minister or a member of the Executive Council to enter into and carry out, an agreement respecting the observation, examination, investigation, treatment, care and maintenance of persons in hospitals with the Government of Canada or with another government or agency or any combination thereof.

(2) Unless an agreement has been made under this Section, no person for whom the Government of Canada or a government other than the Government of the Province is responsible is entitled to receive observation, examination, investigation, treatment, care or maintenance in a hospital in the Province at the expense of the Province. R.S., c. 208, s. 74.

Consent to prosecution

24 No prosecution for a violation of this Act or the regulations may be commenced without the written consent of the Attorney General. R.S., c. 208, s. 76.

Regulations

25 The Governor in Council may make regulations

(a) establishing a plan for providing hospital services to patients requiring treatment and care in hospitals;

- (b) respecting the granting, suspending or revoking of approval of hospitals and additions or alterations thereto;
- (c) respecting the services that must be provided by hospitals to qualify for payments by the Province under this Act;
- (d) prescribing or relating to standards for buildings, equipment and physical facilities, staff requirements and qualifications, standards of care and treatment of patients, operating and administrative practices and other matters to be observed and performed in the establishment, maintenance and operation of hospitals;
- (e) respecting admission, treatment, care, conduct, management and discharge of patients or any class of patients;
- (f) relating to the inspection and the examination of hospitals;
- (g) prescribing the matters in respect of which bylaws must be made by a hospital;
- (h) respecting the records, books, accounting systems, returns and reports that must be made and kept by hospitals;
- (i) respecting returns and reports to be made by boards;
- (j) providing for the appointment of such advisory or other committees and other officers or agencies as the Minister considers necessary or advisable for the effective performance of its functions;
- (k) prescribing the terms and conditions under which payment is to be made in respect of the provision of services in hospitals;
- (l) prescribing the matters in respect of which payments may be made out of the General Revenue Fund;
- (m) prescribing the manner in which hospital rates and charges must be calculated;
- (n) respecting the payments of any grants for construction or otherwise that may be available, and the terms and conditions under which such grants may be paid;
- (o) prescribing forms and certificates authorized or required by this Act;
- (p) protecting the rights of patients;
- (q) respecting any other matter that the Governor in Council considers necessary or advisable to secure the most effective utilization of money available under this Act;
- (r) with respect to any matters that the Governor in Council considers necessary or desirable to ensure high standards of treatment and care of patients;
- (s) defining any word or expression used but not defined in this Act;
- (t) further defining any word or expression defined in this Act;
- (u) respecting any other matter or thing that is necessary to effectively carry out the intent and purpose of this Act. R.S., c. 208, s. 17; 2005, c. 42, s. 86; 2008, c. 58, s. 3.

Regulations Act

26 The exercise by the Governor in Council of the authority contained in Section 25 is a regulation within the meaning of the *Regulations Act*. R.S., c. 208, s. 18.

CHAPTER H-16

An Act Respecting the Constitution, Powers and Privileges of the House of Assembly

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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 *House of Assembly Act*. R.S. (1992 Supp.), c. 1, s. 1.

INTERPRETATION

Interpretation

- 2** (1) In this Act,
- “committee” means a standing, special or select committee of the House;
- “House” means the House of Assembly;
- “leader of a recognized party” means the leader in the House of a party represented by two or more members, other than the Premier or the Leader of the Opposition, whose party was a registered party in accordance with the *Elections Act*, had candidates standing for election for three quarters of the seats of members in the House and received 10% or more of the votes officially recorded in the latest general election of members of the House;
- “ordinarily resident” means ordinarily resident as provided in subsection (2);
- “outside member” means a member of the House who is ordinarily resident more than 100 kilometres from the place where the House ordinarily sits;
- “Speaker” means the Speaker of the House.

(2) Subject to the regulations made pursuant to the *House of Assembly Management Commission Act*, a member of the House is ordinarily resident at the principal place where the member is settled in and maintains an ordinary mode of living with its accessories, relationships and conveniences and where the member lives as an inhabitant and not as a visitor, and a member may only be ordinarily resident at one place for the purpose of this subsection.

(3) In determining whether a member of the House is an outside member, the distance between the place where the member is ordinarily resident and the place where the House ordinarily sits is measured along the shortest normal

route between the two places open to the travelling public. R.S. (1992 Supp.), c. 1, s. 2; 2011, c. 5, ss. 366, 367; 2014, c. 36, s. 1.

Division of Act

3 It is expressly declared that the division of this Act into Parts is for convenience only. R.S. (1992 Supp.), c. 1, s. 3.

PART I**CONSTITUTION OF THE HOUSE OF ASSEMBLY****Composition of House of Assembly**

4 (1) The House is composed of 55 members, of whom one is elected from each of the 55 electoral districts named as follows:

Annapolis
Antigonish
Argyle
Bedford Basin
Bedford South
Cape Breton Centre–Whitney Pier
Cape Breton East
Chester–St. Margaret's
Clare
Clayton Park West
Colchester–Musquodoboit Valley
Colchester North
Cole Harbour
Cole Harbour–Dartmouth
Cumberland North
Cumberland South
Dartmouth East
Dartmouth North
Dartmouth South
Digby–Annapolis
Eastern Passage
Eastern Shore
Fairview–Clayton Park
Glace Bay–Dominion
Guysborough–Tracadie
Halifax Armdale

Halifax Atlantic
Halifax Chebucto
Halifax Citadel–Sable Island
Halifax Needham
Hammonds Plains–Lucasville
Hants East
Hants West
Inverness
Kings North
Kings South
Kings West
Lunenburg
Lunenburg West
Northside–Westmount
Pictou Centre
Pictou East
Pictou West
Preston
Queens
Richmond
Sackville–Cobequid
Sackville–Uniacke
Shelburne
Sydney–Membertou
Timberlea–Prospect
Truro–Bible Hill–Millbrook–Salmon River
Victoria–The Lakes
Waverley–Fall River–Beaver Bank
Yarmouth

(2) The boundaries of the electoral districts are as recommended in the final report, dated April 2019, of the independent electoral boundaries commission appointed pursuant to Section 5.

(3) The Chief Electoral Officer shall make a digital map, showing the boundaries referred to in subsection (2), publicly accessible on the Elections Nova Scotia website. 2019, c. 32, s. 1.

Independent electoral boundaries commission

5 (1) In this Section, “commission” means the independent electoral boundaries commission appointed pursuant to this Section.

(2) The electoral districts described in Section 4 have effect until new electoral districts are approved pursuant to this Section.

(3) No later than December 31, 2012, and, thereafter, within 10 years after the last change in electoral districts made pursuant to this Section, and at least once in every 10 years from December 31, 2012, an independent electoral boundaries commission must be appointed and issued terms of reference by a select committee of the House constituted to appoint the members of the commission.

(4) The commission shall prepare, for approval by the House, a report recommending the boundaries and names for the electoral districts comprising the House.

(5) The commission must be broadly representative of the population of the Province, including at least one person representing the Acadian community of the Province and at least one person representing the African Nova Scotian community.

(6) The commission may not include a present or former

- (a) member of the House;
- (b) member of the House of Commons;
- (c) member of the Senate; or
- (d) Chief Electoral Officer.

(7) The terms of reference of the commission include the following:

- (a) there is a right to effective representation and elector parity is the prime factor in determining the electoral boundaries;
- (b) deviation from elector parity is justified because of geography;
- (c) deviation from elector parity may be justified because of historical, cultural or linguistic settlement patterns and because of political boundaries;
- (d) subject to clause (e), the estimated number of electors in each electoral district may vary by no more than 25% above or below the estimated average number of electors per electoral district;
- (e) subject to subsection (8), there may be one or more exceptional electoral districts where, in exceptional circumstances, the estimated number of electors in the electoral district is more than 25% above or below the estimated average number of electors per electoral district;
- (f) electoral districts may be non-contiguous;
- (g) subject to subsection (8), the preliminary report must include electoral boundaries for the existing number of electoral dis-

tricts and for at least one different total number of electoral districts;
and

(h) for greater certainty, the final report must include only one recommendation of electoral boundaries.

(8) In determining the terms of reference of the commission in addition to those in subsection (7), the select committee may

(a) define terms in subsection (7) and this subsection;

(b) define the parameters for deviation more than 25% above or below the estimated average number of electors per electoral district in exceptional electoral districts, including the scope for deviation, and determining the circumstances, such as communities and community interests, justifying the exceptional electoral districts;

(c) determine the minimum and maximum number of electoral districts that the commission may consider;

(d) direct or authorize the commission to recommend the number of electoral districts;

(e) determine the number of different total numbers of electoral districts to be included in the preliminary report; and

(f) determine such other matters as the select committee considers necessary or advisable.

(9) The terms of reference are binding on the commission.

(10) The commission shall

(a) prepare a draft of proposed boundary changes prior to its first public hearings;

(b) prepare a preliminary report and hold public hearings prior to preparing the preliminary report; and

(c) following the preparation of the preliminary report, hold further public hearings prior to preparing its final report.

(11) The final report of the commission must be laid before the House, if the House is then sitting, and the Premier, or the Premier's designate, shall table the report in the House on the next sitting day.

(12) Where the House is not sitting when the final report of the commission is completed, the final report of the commission must be filed with the Clerk of the House and the Premier, or the Premier's designate, shall table the final report in the House within 10 days after the House next sits.

(13) Within 10 sitting days after the final report of the commission is tabled in the House pursuant to subsection (11) or (12), the Government shall introduce legislation to implement the recommendations contained in the final report of the commission. R.S. (1992 Supp.), c. 1, s. 5; 2002, c. 34, s. 2; 2012, c. 61, s. 2; 2018, c. 11, s. 1.

Report of Chief Electoral Officer

6 (1) The Chief Electoral Officer may prepare, for approval by the House, a report recommending changes in the boundaries for the electoral districts comprising the House if, in the opinion of the Chief Electoral Officer, the transfer of electors from one of those electoral districts to another contiguous electoral district would improve the administration of the elections in those electoral districts.

(2) The changes recommended by the report must not alter the number of electors in any electoral district by more than 300 as reckoned using the most recent voters' lists.

(3) The report of the Chief Electoral Officer must be laid before the House, if the House is then sitting, and the Premier, or the Premier's designate, shall table the report in the House on the next sitting day.

(4) Where the House is not sitting when the report of the Chief Electoral Officer is completed, the report must be filed with the Clerk of the House and the Premier, or the Premier's designate, shall table the report in the House within 10 days after the House next sits.

(5) Within 10 sitting days after the report of the Chief Electoral Officer is tabled in the House pursuant to subsection (3) or (4), the Government shall introduce legislation to implement the recommendations contained in the report.

(6) Where the changes recommended by the report of the Chief Electoral Officer are approved by the House, they have effect on and after the next dissolution or the next determination by the effluxion of time of the House. 2002, c. 34, s. 3.

Mi'kmaw representative

7 (1) The House hereby declares its intention to include as an additional member a person who represents the Mi'kmaq people, such member to be chosen and to sit in a manner and upon terms agreed to and approved by representatives of the Mi'kmaq people.

(2) Until the additional member referred to in subsection (1) is included, the Premier, the Leader of the Opposition and the leader of a recognized party shall meet at least annually with representatives of the Mi'kmaq people concerning the nature of Mi'kmaw representation in accordance with the wishes of the Mi'kmaq people, and the Premier shall report annually to the House on the status of the consultations. R.S. (1992 Supp.), c. 1, s. 6.

Electoral boundaries

8 (1) Subject to subsection (2), the boundaries of an electoral district determined by this Act may be altered only by amendment to this Act.

(2) Where an electoral boundary as recommended in the final report referred to in Section 4 is uncertain, the Chief Electoral Officer may determine the boundary to the extent necessary to remove the uncertainty for the purpose of conducting an election. R.S. (1992 Supp.), c. 1, s. 7; 2012, c. 61, s. 3; 2019, c. 32, s. 2.

Duration and sittings of House

9 (1) The House shall continue for five years from the expiration of 40 days next after the issuing of writs for any general election unless sooner dissolved, and no longer.

(2) In each calendar year there must be at least one sitting of the House during the six-month period beginning on January 1st and one sitting of the House during the four-month period ending December 31st.

(3) Nothing in subsection (2) prevents the House from sitting at a time other than during the periods set out in subsection (2).

(4) Subsection (2) does not apply during the six months immediately following ordinary polling day of a general election. R.S. (1992 Supp.), c. 1, s. 8; 1993, c. 50, s. 1.

Demise of Crown

10 No House is determined or dissolved by the demise of the Crown. R.S. (1992 Supp.), c. 1, s. 9.

By-election

11 (1) Where a seat in the House becomes vacant, a writ for an election to fill the vacancy must be issued within six months after the vacancy occurs and such election must be held within 46 days of the issuance of the writ.

(2) This Section does not apply if a vacancy occurs within 12 months before the expiry of the time limited for the duration of the House by Section 9.

(3) Where the House is dissolved after the issue of a writ pursuant to this Section, such writ is thereupon deemed to have been superseded and withdrawn. R.S. (1992 Supp.), c. 1, s. 10; 2016, c. 7, s. 10.

PART II**MEMBERS OF THE HOUSE****QUALIFICATIONS****Eligibility to be member**

12 A person eligible as a member of the House must be a British subject by birth or naturalization of not less than 18 years of age. R.S. (1992 Supp.), c. 1, s. 11; 2002, c. 33, s. 1.

Commencement of membership

13 A person is a member of the House when that person has been declared elected and returned as such by the returning officer. R.S. (1992 Supp.), c. 1, s. 12.

RESIGNATIONS

Vacation of seat by member

14 Any member of the House may vacate that member's seat by written notice to the Speaker, if the House is in session, or to the Provincial Secretary, if the House is not in session. R.S. (1992 Supp.), c. 1, s. 13.

Vacation of seat or resignation by Speaker

15 (1) The Speaker may vacate the Speaker's seat by a declaration to that effect in the House, if in session, or by written notice to the Provincial Secretary, if the House is not in session.

(2) The Speaker may resign office as Speaker by a declaration to that effect in the House, if in session, or by written notice to the Provincial Secretary, if the House is not in session.

(3) In case of a vacancy happening in the office of Speaker by death, resignation or otherwise, the House shall, with all practicable speed, proceed to elect another of its members to be Speaker and, until the election of a Speaker as aforesaid, the Deputy Speaker shall perform all the duties and exercise all the authority of Speaker. R.S. (1992 Supp.), c. 1, s. 14.

Duration of occupation of office of Speaker

16 Subject to Section 15, the Speaker is considered to have occupied that position from the date of the Speaker's election as a member of the House or from the date the previous Speaker vacated office, whichever last occurs, until the date of the next following general election or a new Speaker is elected, whichever first occurs. R.S. (1992 Supp.), c. 1, s. 15.

Duration of occupation of office of Deputy Speaker

17 Unless the Deputy Speaker's seat is vacated or the Deputy Speaker resigns or dies, the Deputy Speaker is considered to have occupied that position from the date of the Deputy Speaker's election as a member of the House or from the date the previous Deputy Speaker vacated office, whichever last occurs, until the date of the next following general election or the date on which a new Deputy Speaker is elected, whichever first occurs. R.S. (1992 Supp.), c. 1, s. 16.

PART III

DISQUALIFICATIONS AND INDEPENDENCE

Disqualification as member

- 18 (1)** Except as hereinafter specially provided, no person who
- (a) is a member of the Senate;
 - (b) is a member of the House of Commons of Canada;
 - (c) is selected in a nomination contest or otherwise chosen with the person's consent by a political party registered under the *Canada Elections Act* or the elections legislation of another province of Canada to be a candidate for that party for the representation of

any electoral district in the House of Commons or the legislature of another province of Canada;

(d) is confirmed as a candidate under the *Canada Elections Act* or the elections legislation of another province of Canada for the representation of any electoral district in the House of Commons or the legislature of another province of Canada;

(e) accepts or holds any office in the service of the Government of Canada, or the Government of the Province to which any salary or wage of any kind is attached; or

(f) is officially nominated as a candidate under the *Municipal Elections Act*,

is eligible as a member of the House unless that person has resigned such office before nomination for election as such member, and given notice of such resignation to the Provincial Secretary, or shall sit or vote in the House during the time that person holds such office.

(2) Clause (1)(e) does not include the office of a member of the Executive Council or any office that is held by a member of the Executive Council as such a member. R.S. (1992 Supp.), c. 1, s. 17; 2019, c. 33, s. 1.

Conflict of interest

19 Except as otherwise provided in this Act, no person holding, enjoying, undertaking or executing, directly or indirectly, alone or with another, personally or by the interposition of a trustee or third person, any contract or agreement with the Government of the Province or with any minister or department thereof for which any public money of the Province is to be paid for any service, work, matter or thing, is eligible as a member of the House or may sit or vote therein. R.S. (1992 Supp.), c. 1, s. 18.

Vacation of seat by law

20 (1) Except as otherwise provided in this Act, where a member of the House

(a) becomes a member of the Senate;

(b) is selected in a nomination contest or otherwise chosen with the person's consent by a political party registered under the *Canada Elections Act* or the elections legislation of another province of Canada to be a candidate for that party for the representation of any electoral district in the House of Commons or the legislature of another province of Canada;

(c) is confirmed as a candidate under the *Canada Elections Act* or the elections legislation of another province of Canada for the representation of any electoral district in the House of Commons or the legislature of another province of Canada;

(d) accepts or holds any office in the service of the Government of Canada, or the Government of the Province to which any salary or wage of any kind is attached; or

(e) is officially nominated as a candidate under the *Municipal Elections Act*,

that member's seat in the House thereupon becomes vacant and that member shall immediately advise the Speaker in writing accordingly.

(2) Clause (1)(d) does not include the office of a member of the Executive Council or any office that is held by a member of the Executive Council as such a member. R.S. (1992 Supp.), c. 1, s. 19; 2019, c. 33, s. 2.

Exceptions

21 (1) Unless otherwise disqualified, nothing in Section 18, 19 or 20 renders any person ineligible or disqualifies that person from sitting or voting in the House by reason of that person being

(a) a member of the Canadian Armed Forces while on active service in wartime or an officer in the militia or a member of the militia;

(b) in receipt of a pension or disability allowance for a disability incurred in active service in wartime;

(c) a justice of the peace, notary public or commissioner for administering oaths;

(d) interested as an executor, administrator or trustee only, having otherwise no beneficial interest in any contract or agreement, as aforesaid, or being a person on whom the completion of any contract or agreement, express or implied, devolves by descent or limitation or by marriage or as devisee or legatee, until 12 months have elapsed after the same has so devolved upon that person;

(e) a shareholder of an incorporated company having any such contract or agreement, unless such contract or agreement is for the building of a public work for the Province and such work has not been let by tender to the lowest bidder;

(f) a contractor for the loan of money or for securities for money to the Government, under the authority of the Legislature after public competition, or respecting the purchase or payment of the bonds, public stock or debentures of the Province on terms common to all persons;

(g) the proprietor of or otherwise interested in any newspaper in which official advertisements are inserted or that is subscribed for by the Government or any minister, department or institution thereof;

(h) a surety or contractor or otherwise liable for the payment of money for or on account of any person in any Government institution;

(i) a surety for a public officer or other person required by law to furnish security to the Crown;

(j) a member of any medical board or commission of any hospital;

(k) in receipt of, or agreeing to receive, compensation in respect of any property taken or purchased by the Crown or any department or commission of the Government if the amount of such

compensation has been fixed by an award made pursuant to the *Expropriation Act* or other Act of the Province, or if a judge of the Supreme Court of Nova Scotia has certified in writing that the amount of compensation is fair and reasonable;

(l) a party to any contract or agreement of a casual nature for the supplying of any service, work, matter or thing if such contract or agreement is not made in the course of continued and successive transactions of like character;

(m) in the temporary or part-time employment or service of the Government of Canada or of the Province if such employment requires special qualifications or professional skill;

(n) a member of any commission, committee or other body appointed under the authority of any Act of the Legislature and declared by such Act to be entitled to remuneration or allowance while a member of the Assembly;

(o) a person holding a permanent, interim or temporary certificate or a permit as a teacher pursuant to the *Education Act*, including a principal, vice-principal or department head, and employed in the public service of the Province in a community college.

(2) Sections 31, 32 and 34 to 36 of the *Civil Service Act* do not apply to a person referred to in clause (1)(o). R.S. (1992 Supp.), c. 1, s. 20; 1994-95, c. 20, s. 1.

Effect of House of Commons disqualification

22 No person who is disqualified by the judgment of a court of competent jurisdiction from being elected to or sitting in the House of Commons of Canada, by reason of any violation of any Act of the Parliament of Canada relating to elections or to the trial of controverted elections of members of the House of Commons of Canada, is eligible for election as a member of the House so long as such disqualification continues. R.S. (1992 Supp.), c. 1, s. 21.

Disqualification on account of conviction

23 (1) A person who stands convicted of an indictable offence that is punishable by imprisonment for a maximum of more than five years is not eligible to be

(a) nominated as a candidate for election as a member of the House; or

(b) elected as a member of the House,

for a period of five years from the date of conviction and, where the sentence imposed for the offence or substituted by a competent authority has not been fully served at the end of that period, for the further time remaining to be served in that sentence.

(2) Where a conviction is set aside by a competent authority, any disability imposed by this Section is removed. R.S. (1992 Supp.), c. 1, s. 22.

Vacation of seat on account of conviction of member

24 Where a person who is a member of the House is convicted of an indictable offence that is punishable by imprisonment for a maximum of more than five years, that member forthwith ceases to be a member, and the seat of that member is deemed to be vacant until an election is held in that electoral district according to law. R.S. (1992 Supp.), c. 1, s. 23.

Promotion of bill or other matter

25 (1) No member of the House, and no barrister or solicitor who in the practice of the profession of law is a partner of any member of the House, shall accept or receive, either directly or indirectly, any fee, compensation or reward for or in respect of the promoting of any bill, resolution, matter or thing submitted or intended to be submitted to the consideration of the House, or any committee.

(2) Any person violating this Section is liable to a penalty of \$300, in addition to the amount or value of the fee, compensation or reward accepted or received by that person.

(3) Such penalty and such amount or value may be recovered in the Supreme Court of Nova Scotia by any person who sues for the same.

(4) One half of the amount recovered belongs to the Crown and one half to the person who sues, unless that person was a party to or implicated in the violation of this Act in respect of which the action was brought or was a witness at the trial of the action, in which cases the whole belongs to the Crown. R.S. (1992 Supp.), c. 1, s. 24.

Ineligible person not to sit or vote

26 (1) No person declared by this Act or by any other law ineligible as a member of the House shall sit or vote in the House while under such disability.

(2) Where any such person sits or votes in the House, that person shall forfeit the sum of \$1,000 for every day that that person sits or votes, and such sum may be recovered by an action against that person in the Supreme Court of Nova Scotia at the suit of any person. R.S. (1992 Supp.), c. 1, s. 25.

PART IV**POWERS AND PRIVILEGES****THE HOUSE OF ASSEMBLY****Privileges, immunities and powers**

27 (1) In all matters and cases not specially provided for by an enactment of the Province, the House and the committees and members thereof respectively hold, enjoy and exercise such and the like privileges, immunities and powers as are from time to time held, enjoyed and exercised by the House of Commons of Canada, and by the committees and members thereof respectively.

(2) Such privileges, immunities and powers are part of the general and public law of the Province, and it is not necessary to plead the same, but the

same must in all courts of justice in the Province, and by and before all justices, be taken notice of judicially. R.S. (1992 Supp.), c. 1, s. 26.

Liability of member

28 No member of the House is liable to any civil action or to prosecution, arrest, imprisonment or damages by reason of any matter or thing brought by the member by petition, bill, resolution, motion or otherwise, or said by the member, before the House. R.S. (1992 Supp.), c. 1, s. 27.

Arrest of member

29 Except for any violation of this Act, no member of the House is liable to arrest, detention or molestation for any debt or cause of a civil nature, during any session of the Legislature, or during the 15 days preceding or the 15 days following such session. R.S. (1992 Supp.), c. 1, s. 28.

Exemption from jury duty

30 During the periods mentioned in Section 29, all officers and servants of the House, or any committee, are exempt from serving or attending as jurors before any court of justice. R.S. (1992 Supp.), c. 1, s. 29.

Power of House to compel attendance and production

31 (1) The House may at all times command and compel the attendance before the House, or before any committee, of such persons and the production of such papers and things as the House or committee considers necessary for any of its proceedings or deliberations.

(2) Where the House requires the attendance of any person before the House or before any committee, the Speaker may issue a warrant, directed to the person named in the order of the House, requiring the attendance of such person before the House or committee, and the production of such papers and things as are ordered. R.S. (1992 Supp.), c. 1, s. 30.

No liability for act done on direction of House

32 (1) No person is liable to damages or otherwise for any act done under the authority and within the legal power of the House, or under or by virtue of any warrant issued under such authority.

(2) All persons to whom such warrants are directed may command the aid and assistance of all sheriffs, bailiffs, constables and others, and every refusal or failure to give such aid or assistance when required is a violation of this Act.

(3) No action may be brought against the Speaker or any officer of the House, or any person assisting the Speaker or such officer, for any act or thing done by authority of the House. R.S. (1992 Supp.), c. 1, s. 31.

Rules

33 (1) The House may establish rules for its government and the attendance and conduct of its members, and alter, amend and repeal the same, and may punish members for disorderly conduct or breach of the rules of the House.

(2) The rules and orders of the House existing on April 4, 1876, continue in force until altered, amended or repealed.

(3) All rules of the House not inconsistent with this Act have the force and effect of law until altered, amended or repealed. R.S. (1992 Supp.), c. 1, s. 32.

Workplace harassment policy

34 (1) The House may establish a policy for the prevention of harassment in the workplace of its members, officers and staff and the resolution of complaints regarding harassment in that workplace.

(2) A person or office retained as an investigator under a policy established pursuant to subsection (1) may, in the manner prescribed in the policy, carry out all inquiries necessary to meet the investigative requirements set out in the policy. 2016, c. 10, s. 1.

Court of record and powers and jurisdiction

35 (1) The House is a court of record, and has all the rights and privileges of a court of record for the purpose of summarily inquiring into and punishing the acts, matters and things herein declared to be violations of this Act.

(2) For the purpose of this Act, the House possesses all such powers and jurisdiction as are necessary for inquiring into, judging and pronouncing upon the commission or doing of any such acts, matters or things, and awarding and carrying into execution the punishment therefor provided by this Act.

(3) Every warrant of commitment under this Section must succinctly and clearly state and set forth on its face the nature of the offence in respect of which it is issued.

(4) The House has power to make such rules as are considered necessary or proper for its procedure as such court as aforesaid. R.S. (1992 Supp.), c. 1, s. 33.

COMMITTEES OF THE HOUSE

Power of committee to compel attendance and production

36 (1) A committee may at all times command and compel the attendance before the committee of such persons and the production of such papers and things as the committee considers necessary for any of its proceedings or deliberations.

(2) Where a committee requires the attendance of any person before the committee, the chair of the committee may issue a warrant, directed to the person named in the order of the committee, requiring the attendance of such person before the committee and the production of such papers and things as are ordered. 2004, c. 36, s. 1.

Oral examination of witness by committee

37 Any committee may require that facts, matters and things relating to the subject of inquiry before such committee be verified, or otherwise ascertained

by the oral examination of witnesses, and may examine such witnesses, upon oath, and for that purpose the chair or any member of such committee may administer an oath in the form following or to the like effect, to any such witness:

The evidence you give to the committee, touching (*stating here the matter then before the committee*), must be the truth, the whole truth, and nothing but the truth. So help you God.

R.S. (1992 Supp.), c. 1, s. 34.

Taking of affidavit

38 Where witnesses are not required to be orally examined before such committee, any oath, affirmation, declaration or affidavit in writing that is required to be made or taken by or according to any rule or order of the House, or by direction of any such committee, and in respect of any matter or thing pending or proceeding before such committee, may be made and taken before any clerk of the House, any commissioner for taking affidavits in the Supreme Court of Nova Scotia or any notary public. R.S. (1992 Supp.), c. 1, s. 35.

Continuation of committee after House prorogues

39 (1) The House may declare that a committee is not dissolved by prorogation of the House and may authorize it to continue its inquiries after the House is prorogued.

(2) The committee has and may exercise the same powers after the House is prorogued as it had or could have exercised before the House prorogued.

(3) The House at the next session shall appoint a new committee consisting of the same or other members to inquire into the same matter as the committee that was authorized to continue its inquiries pursuant to subsection (1) and the last mentioned committee is thereupon dissolved and shall deliver to the new committee all material considered, evidence taken by it and its findings thereon, if any.

(4) The new committee may consider all material, evidence and findings delivered to it pursuant to subsection (3) and may continue to inquire into the matter. R.S. (1992 Supp.), c. 1, s. 36.

PART V

OFFENCES AND PENALTIES

Offences

40 The following acts, matters and things are prohibited and are deemed violations of this Act:

- (a)** insults to or assaults or libels upon members of the House during the session of the Legislature;
- (b)** obstructing, threatening or attempting to force or intimidate members of the House;

- (c) the refusal or failure of any member or officer of the House, or other person, to obey any rule, order or resolution of the House;
- (d) the offering to or acceptance by any member of the House of a bribe to influence the member in the member's proceedings as such member, or the offering to or acceptance by any such member of any fee, compensation or reward for or in respect of the promotion of any bill, resolution, matter or thing submitted to or intended to be submitted to the House or any committee;
- (e) assaults upon or interference with officers of the House while in the execution of their duty;
- (f) tampering with any witness in regard to evidence to be given by the witness before the House or any committee;
- (g) giving false witness or prevaricating, or otherwise misbehaving in giving or refusing to give evidence or to produce papers before the House or any committee;
- (h) disobedience to a warrant issued under the authority of this Act requiring the attendance of witnesses before the House or any committee;
- (i) presenting to the House or to any committee any forged or falsified document, with intent to deceive the House or committee;
- (j) forging, falsifying or unlawfully altering any of the records of the House or of any committee, or any document or petition presented or filed, or intended to be presented or filed, before the House or committee, or the setting or subscribing by any person of the name of any other person to any such document or petition with intent to deceive;
- (k) the bringing of any civil action or prosecution against, or the causing or effecting of any arrest or imprisonment of any member of the House in any civil proceeding for or by reason of any matter or thing brought by the member by petition, bill, resolution, motion or otherwise, or said by the member before the House;
- (l) the causing or effecting the arrest, detention or molestation of a member of the House for any debt or cause of a civil nature, during a session of the Legislature, or during the 15 days preceding or the 15 days following such session;
- (m) the bringing of any civil action against the Sergeant-at-Arms, the Chief Messenger, an official or a servant of the House for removing on the direction of the Speaker of the House, chair of a committee of the House or any member of the House, any person from the House lobbies, corridors or halls of the building who is creating a disturbance, using violent or insulting language or otherwise disturbing the peace within the said House, committee rooms, corridors or lobbies thereof. R.S. (1992 Supp.), c. 1, s. 37.

Penalty and determination of House to be final

41 (1) Every person who is guilty of a violation of this Act is liable, in addition to any other penalty or punishment to which that person is by law liable, to imprisonment for such time during the session of the Legislature then being held as is determined by the House.

(2) The determination of the House, upon any proceeding pursuant to this Act, is final and conclusive. R.S. (1992 Supp.), c. 1, s. 38.

PART VI

INDEMNITY OF MEMBERS

Annual indemnity and expenses

42 (1) Each member of the House must be paid out of the General Revenue Fund an annual indemnity in the amount determined pursuant to Section 44.

(2) Notwithstanding subsection (1), no member of the House is entitled to receive a total indemnity exceeding the amount referred to in subsection (1) in any calendar year regardless of the number of sittings or sessions of the House or the number of Houses constituted in that calendar year.

(3) Notwithstanding subsection (1), where during a calendar year a person becomes a member or ceases to be a member, the maximum indemnity to which that member is entitled in the calendar year is the total amount of the indemnity referred to in subsection (1) divided by 12 and multiplied by the number of months in the calendar year that the member is a member.

(4) For the purpose of this Section,

(a) a member is and is deemed to be a member from the ordinary polling day on which the member is elected;

(b) a member is and is deemed to continue to be a member until

(i) the member dies,

(ii) the member resigns, or

(iii) when the House of which the member is a member is dissolved, the day preceding the polling day fixed in the writ issued immediately following the dissolution,

whichever occurs first; and

(c) a person who is a member for any part of a month is and is deemed to be a member for the whole of that month.

(5) Each outside member, except a member of the Executive Council holding the recognized position of Premier, a member of the Executive Council having charge of a department or departments or a member occupying the recognized position of Leader of the Opposition or a member occupying the recognized position of leader of a recognized party, must be paid out of the General Revenue Fund an amount to reimburse the member for reasonable travelling expenses incurred for 52 trips each year between the former City of Halifax and the member's constituency and for reasonable expenses incurred for accommodation and other reasonable expenses incurred as a result of being in the former City of Halifax as a member, as determined by the House of Assembly Management Commission. R.S. (1992 Supp.), c. 1, s. 39; 2017, c. 6, s. 4; 2018, c. 11, s. 2.

Speaker, Deputy Speaker and party leaders

43 (1) In addition to the amounts payable pursuant to Section 42, there must be paid out of the General Revenue Fund an annual salary, in the amount determined pursuant to Section 44, to

- (a) the Speaker; and
- (b) the Deputy Speaker.

(2) The Speaker and the Deputy Speaker must be paid from the General Revenue Fund such sums of money as are necessary to indemnify them for reasonable expenses of travel, accommodation or otherwise incurred while absent from their ordinary place of residence in connection with the business of the House, or as a representative of the House or of the Province, whether the House is in session or not.

(3) In addition to the amounts payable pursuant to Section 42, there must be paid out of the General Revenue Fund to the member occupying the recognized position of Leader of the Opposition an annual salary, in the amount determined pursuant to Section 44, payable in monthly instalments, and the salary commences as of the month in which the member commences to hold the position and is discontinued as of the last day of the month in which the member ceases to hold the position.

(4) In addition to the amounts payable pursuant to Section 42, there must be paid out of the General Revenue Fund to the member occupying the recognized position of leader of a recognized party an annual salary, in the amount determined pursuant to Section 44, payable in monthly instalments, and the salary commences as of the month in which the member commences to hold the position and is discontinued as of the last day of the month in which the member ceases to hold the position.

(5) Every leader of a party, except the Premier, who is an outside member must be paid out of the General Revenue Fund, in addition to the amounts to which the leader is otherwise entitled pursuant to this Act, an amount to reimburse the leader for travelling expenses for 52 trips each year between the former City of Halifax and the leader's constituency and for actual expenses for accommodation and other reasonable expenses incurred as a result of being in the former City of Halifax while the House is in session and such other expenses as are authorized by regulation of the House of Assembly Management Commission for an assistant travelling with the leader. R.S. (1992 Supp.), c. 1, s. 42; 2010, c. 5, s. 31; 2017, c. 6, s. 5.

Inquiry and report respecting indemnities and salaries

44 (1) Within 60 days after ordinary polling day in each general election, the Speaker shall appoint three persons to make an inquiry and a report respecting the annual indemnity to be paid to members of the House pursuant to this Act, the salaries to be paid to the Speaker, the Deputy Speaker, the Leader of the Opposition and the leader of a recognized party pursuant to this Act and the salaries to be paid to members of the Executive Council pursuant to the *Executive Council Act*.

(2) Where no Speaker is elected by the House within 60 days after ordinary polling day, the Chief Clerk shall appoint the three persons to make the inquiry and report.

(3) The persons appointed pursuant to subsection (1) or (2) have all the powers, privileges and immunities of a commissioner pursuant to the *Public Inquiries Act* and shall complete their inquiry and deliver their report containing recommendations to the Speaker or, where no Speaker has been elected, the Chief Clerk within 90 days after ordinary polling day.

(4) The Speaker or Chief Clerk, as the case may be, upon receipt of the report containing the recommendations of the persons appointed pursuant to subsection (1) or (2), shall cause their recommendations respecting the annual indemnity to be paid to members of the House pursuant to this Act, the salaries to be paid to the Speaker, the Deputy Speaker, the Leader of the Opposition and the leader of a recognized party pursuant to this Act and the salaries to be paid to members of the Executive Council pursuant to the *Executive Council Act* to be implemented and those recommendations have the same force and effect as if enacted by the Legislature.

(5) The recommendations are effective the first day of the month immediately following the month in which ordinary polling day occurred.

(6) In each subsequent year on January 1st, the annual indemnity and salaries must be increased by the percentage increase in salary provided to civil servants for the current fiscal year.

(7) Notwithstanding subsections (4) and (5), the recommendations in the report pursuant to subsection (1) following the 2021 general election and dated July 15, 2022, are of no effect. 2006, c. 9, s. 2; 2007, c. 40, s. 1; 2009, c. 5, ss. 9, 10; 2011, c. 9, s. 23; 2013, c. 38, s. 2; 2015, c. 21, s. 2; 2017, c. 6, s. 6.

Offices and staff for party leaders

45 (1) The Leader of the Opposition must be provided with office facilities consisting of a private office for the Leader, a private office for a senior assistant or senior secretary, a private office for a director of research and a research assistant, a reception area for the Leader's secretary and a working area for a secretary for the director of research and the research assistant, and necessary equipment for the office, and the cost of the office facilities and the necessary equipment must be paid out of the General Revenue Fund.

- (2) The salaries, as determined pursuant to subsection (5), of
- (a) two secretaries;
 - (b) a director of research;
 - (c) a research assistant; and
 - (d) a senior assistant or senior secretary,

employed by the Leader of the Opposition must be paid out of the General Revenue Fund.

(3) The leader of a recognized party must be provided with office facilities consisting of a private office for the leader, a senior assistant or senior secretary, a private office for the leader's research assistant and a reception area for the leader's secretary, and necessary equipment for the office, and the cost of the office facilities and the necessary equipment must be paid out of the General Revenue Fund.

- (4) The salaries, as determined pursuant to subsection (5), of
- (a) a secretary;
 - (b) a research assistant; and
 - (c) a senior assistant or senior secretary,

employed by the leader of a recognized party pursuant to subsection (3) must be paid out of the General Revenue Fund.

(5) The Public Service Commission shall fix and determine schedules of compensation for the senior assistant or senior secretary, the director of research, the secretaries and the research assistants in the same manner as it fixes and determines schedules of compensation for civil servants.

(6) The senior assistant or senior secretary, director of research, the secretaries and the research assistants are deemed to be employees of the Province for the purposes of the *Public Service Superannuation Act*, vacation and sick leave pursuant to the *Civil Service Act*, group life insurance and other forms of insurance or benefits to which civil servants are entitled from time to time.

(7) The Leader of the Opposition and the leader of a recognized party must be paid from the General Revenue Fund such sum as is determined by the House of Assembly Management Commission to indemnify them for reasonable expenses incurred for travelling or otherwise in the discharge of their official duties. R.S. (1992 Supp.), c. 1, s. 43; 2010, c. 5, s. 32.

Transition allowance

46 (1) A person who

- (a) is a member of the House immediately before the House is dissolved or is ended by the passage of time and does not become a member of the next following House; or
- (b) is a member of the House and resigns as a member of the House,

must be paid a transition allowance equal to the product of

- (c) $\frac{1}{12}$ of the person's number of months of service as a member of the House; and
- (d) $\frac{1}{12}$ of the annual indemnity for a member at the rate in force immediately before the person ceased to be a member,

but in any case not less than 25% nor greater than 100% of the annual indemnity referred to in clause (d).

(2) Where a person who is a member of the House dies, the transition allowance must be paid to the person's estate.

(3) Notwithstanding subsections (1) and (2), no transition allowance is payable to a person, or the estate of a person, who is or would have been entitled to receive an immediate retiring allowance pursuant to the *Members Retiring Allowances Act* other than a reduced allowance pursuant to Section 18 of that Act or an allowance by reason of being totally and permanently disabled.

(4) The transition allowance referred to in subsection (1) must be paid in 12 equal instalments commencing 30 days after the person ceases to be a member.

(5) Notwithstanding the *Members Retiring Allowances Act*, no retiring allowance may be paid pursuant to that Act to or on behalf of a member until the transition allowance paid or to be paid in accordance with subsection (4) has been exhausted or unless the transition allowance or the balance remaining thereof is waived.

(6) Notwithstanding subsection (4), the transition allowance may be paid to a member in a lump sum payment within 30 days after ceasing to be a member, if the member so chooses.

(7) Subsection (5) does not apply to a member who ceases to be a member and who, prior to ceasing to be a member, is in receipt of a retiring allowance.

(8) Where a member was previously a member of the House and received a severance allowance or a transition allowance upon ceasing to be a member, and subsequently is re-elected as a member of a House, the transition allowance must be calculated by using the total number of months the member served in the House in the transition allowance formula that is in force at the time that member last ceases to be a member and deducting from the dollar amount so determined the dollar amount that the member previously received as a severance allowance or a transition allowance. recommendation of Nova Scotia Commission of Inquiry on Remuneration of Elected Provincial Officials for 1999; recommendation of Nova Scotia Commission of Inquiry on Remuneration of Elected Provincial Officials for 2000; 2001, c. 47, s. 1; 2011, c. 39, s. 20; 2015, c. 21, s. 1; 2018, c. 11, s. 3.

Counselling or retraining services

47 (1) A person who confirms in writing that the person will not seek re-election at the next general election may apply to the Speaker for approval to obtain retirement counselling, career counselling or career retraining services.

(2) Where

(a) the Speaker is satisfied that the person is able to obtain the counselling or retraining services within 12 months of the commencement of the payment of the person's transition allowance;

(b) the counselling or retraining services are provided by a service provider approved by the Speaker;

(c) the services are obtained within 12 months of the commencement of the payment of the person's transition allowance; and

(d) the Speaker is satisfied with the services provided,

the Speaker shall authorize payment for the counselling or retraining services to a maximum of \$7,500.

(3) A member of the House re-elected after having received payment pursuant to subsection (2) shall immediately reimburse any such payment. 2011, c. 39, s. 21; 2014, c. 36, s. 2.

Penalties for non-attendance

48 The House may by resolution adopt regulations fixing penalties for non-attendance of members and any monetary penalty so fixed and assessed is a charge against any money that the member is entitled to under this Act. R.S. (1992 Supp.), c. 1, s. 44.

Salaries of officers

49 Notwithstanding Sections 52, 54 and 58, the House of Assembly Management Commission may determine the salary of the Chief Clerk, the Assistant Clerk and the Sergeant-at-Arms after review by the Commission. R.S. (1992 Supp.), c. 1, s. 44; 2010, c. 5, s. 33.

PART VII

OFFICERS

CLERK OF THE ASSEMBLY

Appointment and duties

50 The Governor in Council may appoint a suitable person to be Chief Clerk of the House, who shall perform all the duties performed by the Chief Clerk of the House prior to April 17, 1937, in addition to the further duties prescribed after that date. R.S. (1992 Supp.), c. 1, s. 46.

Further duties

51 (1) The Chief Clerk has the care and custody of all bills, journals, records, parchments and documents of every kind relating to or connected with the House.

(2) The Chief Clerk shall on the first day of the opening of a new Assembly for the despatch of business attend the House until a Speaker has been elected, and shall, previous to the meeting of the House, attend and swear in the members elect. R.S. (1992 Supp.), c. 1, s. 47.

Salary and term of office

52 The Chief Clerk shall be paid such salary as the Governor in Council determines and holds office during good behaviour. R.S. (1992 Supp.), c. 1, s. 48; 2015, c. 21, s. 3.

ASSISTANT CLERK OF THE HOUSE OF ASSEMBLY

Appointment and duties

53 The Governor in Council may appoint a suitable person to be Assistant Clerk of the House, who shall perform all the duties performed by the Assistant Clerk of the House prior to April 17, 1937, and all such other duties as are from time to time prescribed by the Governor in Council. R.S. (1992 Supp.), c. 1, s. 49.

Salary and term of office

54 The Assistant Clerk shall be paid such salary as the Governor in Council determines and holds office during good behaviour. R.S. (1992 Supp.), c. 1, s. 50; 2015, c. 21, s. 4.

Duties and authority in absence of Chief Clerk

55 The Assistant Clerk shall, in the absence of the Chief Clerk, perform all the duties and exercise all the authority of the Chief Clerk. R.S. (1992 Supp.), c. 1, s. 51.

LEGISLATIVE COUNSEL**Appointment and duties**

56 The Governor in Council may appoint a person to be Legislative Counsel, who shall perform all the duties performed by the Law Clerk prior to April 5, 1941, and in addition the Legislative Counsel shall

- (a) prepare such legislation as may be from time to time entrusted to the Legislative Counsel;
- (b) prepare such consolidation and revision of, and other matters relating to, the statutes or any statute as is from time to time directed by the Attorney General or the Governor in Council;
- (c) perform such other duties as are from time to time prescribed by the Attorney General or the Governor in Council. R.S. (1992 Supp.), c. 1, s. 52.

Salary and term of office

57 The Legislative Counsel shall be paid such salary as the Governor in Council determines and holds office during good behaviour. R.S. (1992 Supp.), c. 1, s. 52.

SERGEANT-AT-ARMS**Appointment and salary**

58 (1) The Speaker may appoint a person to be Sergeant-at-Arms, who shall perform such duties as the House or the Speaker determines.

(2) The Sergeant-at-Arms shall be paid such salary as the Governor in Council determines. 2020, c. 10, s. 1.

Powers

59 (1) In this Section,

“firearm” means a firearm or other weapon, including a prohibited firearm, a restricted firearm, a prohibited weapon or a restricted weapon within the meaning of the *Criminal Code* (Canada), that is currently approved for use in the Province by police officers;

“precincts of the House” means Province House and its environs as defined by the public streets immediately adjacent to it and includes any other premises or areas used for meetings of committees of the House or, where so designated by the Speaker, used for another purpose of the House.

(2) The Sergeant-at-Arms is a peace officer within the precincts of the House or while in fresh pursuit of a person leaving the precincts of the House.

(3) As a peace officer under this Section, the Sergeant-at-Arms

(a) has all the powers, authority, privileges, rights and immunities of a peace officer and constable under the common law, the *Criminal Code* (Canada) and any other federal or Provincial enactment; and

(b) with the approval of the House or the Speaker and subject to subsection (4), may possess and use firearms, subject to such conditions or restrictions as the House or the Speaker may determine and except as otherwise provided by law.

(4) The Sergeant-at-Arms must meet the same requirements, including training and certification, that police officers are required to have in order to be permitted to possess and use a firearm in the Province. 2020, c. 10, s. 1.

EXPENSES

Expenses of officers and staff

60 There shall be paid out of the General Revenue Fund to the officers and staff of the House such sums of money as are authorized by the Speaker or other member of the House of Assembly Management Commission to indemnify them for reasonable expenses of travel, accommodation or otherwise incurred while absent from their ordinary place of residence in connection with the business of the House, or as a representative of the House or of the Province, whether the House is in session or not. R.S. (1992 Supp.), c. 1, s. 54; 2010, c. 5, s. 34.

PART VIII

GENERAL

Copy of journal prima facie evidence

61 Upon any inquiry touching the privileges, immunities or powers of the House, or of any committee or member thereof, any copy of the journals of the House printed or purporting to be printed by the order of the House, must be admitted as prima facie evidence of such journals by all courts, justices and others, without further proof that such copy was so printed. R.S. (1992 Supp.), c. 1, s. 55.

No action on correct publication of proceedings

62 In any civil proceeding against any person for or on account or in respect of the publication of any copy of any report, paper, vote or proceedings of the House, the defendant at any stage of the proceedings may lay before the court or judge such report, paper, vote or proceedings, and such copy, with an affidavit verifying such report, paper, vote or proceedings, and the correctness of such copy, and the court or judge shall immediately stay such civil proceeding, and every originating notice or process issued therein, is finally put an end to, determined and superseded. R.S. (1992 Supp.), c. 1, s. 56.

Bona fide publication is defence

63 It is lawful in any civil proceeding against any person for printing any extract from or abstract of any such report, paper, vote or proceedings, to give in evidence such report, paper, vote or proceedings, and to show that such extract or abstract was published bona fide, and without malice, and, where in the opinion of the court, or where in the opinion of the jury, if there is a jury, such publication was

bona fide and without malice, judgment must be rendered or a verdict must be entered for the defendant. R.S. (1992 Supp.), c. 1, s. 57.

Copy of journal prima facie evidence

64 A copy of the journals of the House, printed or purporting to be printed by order of the House, must be admitted as prima facie evidence of such journals by all courts and justices without further proof that such copies were so printed. R.S. (1992 Supp.), c. 1, s. 58.

CHAPTER H-17

An Act to Establish a Management Commission for the Effective Administration of the House of Assembly

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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 *House of Assembly Management Commission Act*. 2010, c. 5, s. 1.

Interpretation

2 In this Act,

“Assembly offices” means the offices established to support the functioning of the House of Assembly, its committees and its members, but does not include the Office of the Auditor General, caucus offices or constituency offices;

“Assistant Clerk” means the Assistant Clerk of the House of Assembly and, where there is more than one Assistant Clerk, the Assistant Clerk designated by the Chair;

“Audit Committee” means the Audit Committee of the Commission;

“Chair” means the Chair of the Commission;

“Chief Clerk” means the Chief Clerk of the House of Assembly;

“Commission” means the House of Assembly Management Commission established by this Act;

“Deputy Speaker” means the Deputy Speaker of the House of Assembly and, where there is more than one Deputy Speaker, the Deputy Speaker who is a member of the Government Caucus;

“Government” means the Government of the Province;

“Official Opposition” means the party of the Leader of the Opposition in the House of Assembly;

“Public Accounts Committee” means the standing committee of the House of Assembly established for the purpose of reviewing the public accounts of the Province;

“public money” means public money within the meaning of the *Finance Act*;

“recognized party” means a recognized party within the meaning of the *House of Assembly Act*;

“Speaker” means the Speaker of the House of Assembly. 2010, c. 5, s. 2

House of Assembly Management Commission

3 (1) The Legislature Internal Economy Board established under the *Public Service Act* is replaced by the House of Assembly Management Commission.

(2) The Commission consists of

- (a) the Speaker;
- (b) the Deputy Speaker;
- (c) the Government House Leader in the House of Assembly;
- (d) two additional members of the Government Caucus in the House of Assembly, of whom only one may be a member of the Executive Council, selected in accordance with subsection (3);
- (e) the house leader in the House of Assembly of the Official Opposition;
- (f) one additional member of the caucus of the Official Opposition, selected by the caucus;
- (g) one member of the caucus of each other recognized party, selected by the caucus; and
- (h) the Chief Clerk, as a non-voting member.

(3) The Executive Council may select one member of the Executive Council and the Government Caucus may select one member or, where the

Executive Council does not select one of its members, two members of the Caucus to be members of the Commission.

(4) Where there is no recognized party other than the Government party and the Official Opposition, the Commission includes an additional member of the caucus of the Official Opposition selected by the caucus.

(5) Notwithstanding subsection (2), where a member is unable to attend a meeting of the Commission

(a) the Deputy Government House Leader may attend in place of the Government House Leader;

(b) the deputy house leader in the House of Assembly of the Official Opposition may attend in place of the house leader in the House of Assembly of the Official Opposition;

(c) another member of the Executive Council may attend in place of a member of the Executive Council selected pursuant to clause (2)(d); and

(d) another member of the same party caucus may attend in place of a party caucus member.

(6) Notwithstanding the dissolution of the House of Assembly, a member of the Commission is deemed to continue to be a member of the Assembly for the purpose of this Section until the day preceding the polling day fixed in the writ immediately following the dissolution. 2010, c. 5, s. 3; 2012, c. 8, s. 9.

Term of office

4 The members of the Commission remain in office until they are replaced. 2010, c. 5, s. 4.

Chair

5 (1) The Speaker is the Chair of the Commission.

(2) In absence of the Chair, the Deputy Speaker shall act in place of the Chair. 2010, c. 5, s. 5.

Voting in the case of a tie

6 The person presiding at a meeting of the Commission may only vote in the case of a tie. 2010, c. 5, s. 6.

Quorum

7 A quorum of the Commission must include at least

(a) the Speaker or the Deputy Speaker;

(b) one member of the Commission pursuant to clause 3(2)(c) or (d); and

(c) one member of the Commission pursuant to clause 3(2)(e), (f) or (g). 2010, c. 5, s. 7.

Chief Clerk, Assistant Clerk and Chief Legislative Counsel

8 (1) The Chief Clerk is the secretary of the Commission.

(2) In the second week of every session of the House of Assembly and as the need arises, the Chair shall inform the House of Assembly of the appointments made to the Commission.

(3) In the absence of the Chief Clerk, the Assistant Clerk shall act in place of the Chief Clerk.

(4) The Chief Legislative Counsel is counsel to the Commission.
2010, c. 5, s. 8.

Public proceedings and reporting duty

9 (1) All meetings of the Commission are open to the public except proceedings

(a) respecting personnel matters relating to officers and employees of the House of Assembly and the staff of members of the Assembly;

(b) to request, receive or discuss legal advice;

(c) respecting litigation or potential litigation; and

(d) respecting matters protected by privacy and data protection laws.

(2) The substance of all decisions of the Commission, including any decisions made in private, must be recorded and form a part of the public record.

(3) After each meeting of the Commission, the Chief Clerk shall prepare, for consideration and approval by the Commission at its next meeting, minutes containing the substance of all decisions of the Commission.

(4) Following approval by the Commission of the minutes, the Chief Clerk shall file a copy of the minutes with the Legislative Library and place a copy of them on a public website. 2010, c. 5, s. 9.

Duties of members

10 (1) A member of the Commission shall

(a) in discharging the member's duties, exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances;

(b) act honestly and in good faith on the basis of adequate information in arriving at decisions of the Commission;

(c) attend meetings of the Commission unless unable to do so for good reason;

(d) spend sufficient time on the affairs of the Commission to comply with the member's duties and responsibilities; and

(e) consider and advocate policies that promote compliance with this Act and the regulations.

(2) A member of the Commission is not in breach of the duty in clause (1)(a) if the member acts prudently and on a reasonably informed basis. 2010, c. 5, s. 10.

Responsibilities and powers of Commission

11 (1) The Commission is responsible for the financial stewardship of all public money that may be voted by the House of Assembly for the use and operation of the Assembly, and for all matters of financial and administrative policy affecting the Assembly and its members, offices and staff and in connection with them, and, in particular, the Commission shall

- (a) monitor the expenditures of the Assembly;
- (b) review and approve the administrative, financial, human-resource and management policies and procedures of the Assembly offices;
- (c) implement and periodically review and update financial and management policies applicable to the Assembly offices;
- (d) give directions with respect to matters that the Commission considers necessary for the efficient and effective operation of the Assembly offices;
- (e) make and keep current regulations respecting the proper administration of allowances for members of the Assembly and reimbursement and payment of their expenditures;
- (f) annually report, in writing, to the House of Assembly, through the Chair, with respect to its decisions and activities; and
- (g) exercise other powers given to the Commission and perform other duties imposed on the Commission under this or another Act.

(2) The administrative, financial, management and human-resource policies and procedures of the public service of the Province apply to the House of Assembly unless it is reasonably necessary for them to be changed or varied.

(3) In carrying out its duties under subsection (1), the Commission shall

- (a) cause to be placed on a public website, as soon as practical, details of all expenditures of members of the Assembly for which they are reimbursed;
- (b) regularly, and at least quarterly, review the financial performance of the House of Assembly as well as the actual expenditures of members compared with approved allocations;
- (c) ensure that an annual financial audit is completed of the accounts of the Assembly in accordance with Section 22 before November 30th immediately following the fiscal year to which that audit relates;
- (d) ensure that a compliance audit is completed of the accounts of the Assembly in accordance with Section 23 at least once

every General Assembly and reported on before September 1st immediately following the last fiscal year to which the audit relates;

(e) ensure that full and plain disclosure of the accounts and operations of the Assembly is made to the auditor appointed under Section 22 and to the Auditor General for the purpose of Section 23;

(f) consider and address on a timely basis recommendations of the auditor appointed under Section 22 and of the Auditor General pursuant to Section 23; and

(g) report, in writing, annually to the Assembly, or a committee established by it, the results of each audit and the steps taken or to be taken to address matters of concern raised by each audit.

(4) In carrying out its duties, the Commission may

(a) issue directives

(i) interpreting, clarifying or amplifying the regulations,

(ii) establishing policies for the guidance of members of the House of Assembly, the Chief Clerk and staff of the Assembly offices,

(iii) in accordance with this Act and the regulations calling for the issuing of directives, and

(iv) altering, on appeal, rulings of the Chair as to the application of the regulations to particular cases where advance rulings have been sought under Section 19;

(b) make decisions

(i) on individual cases or appeals brought to the Commission for decision, and

(ii) on all other matters that call for action or decision of the Commission in relation to the Assembly.

(5) A change may not be made to the level of amounts of allowances and resources provided to members except in accordance with a regulation and, notwithstanding Section 27, that regulation is not effective unless first laid before the House of Assembly and a resolution adopting it passed.

(6) A directive issued or decision made by the Commission

(a) is effective on the date specified in that directive or decision; and

(b) must not be issued or made if it is inconsistent with this Act or the regulations. 2010, c. 5, s. 11; 2014, c. 17, s. 1.

Commission may delegate

12 (1) The Commission may, by directive, delegate a power or duty to the Chair or the Chief Clerk.

(2) Wherever possible and practicable, the Commission shall arrange with various departments of the public service of the Province to utilize members of the public service within the departments to discharge and perform duties and functions required for the purposes of the House of Assembly and conducting the business of the Commission. 2010, c. 5, s. 12.

Commission reports to House of Assembly

13 The Commission may at any time report to the House of Assembly on matters referred to in this or another Act relating to the Assembly. 2010, c. 5, s. 13.

Chief Clerk to provide orientation and training

14 (1) The Chief Clerk shall develop and offer appropriate orientation and training programs for

- (a) members of the House of Assembly;
- (b) members of the Commission; and
- (c) officers of the Assembly and staff of the Assembly offices,

to assist them in understanding their respective duties and responsibilities and, in particular, in applying and complying with the regulations and directives of the Commission relating to claims for allowances and expenses and policies and procedures respecting financial management.

(2) Within 30 days of a member's election for the first time to the House of Assembly, the Chief Clerk shall ensure that an appropriate orientation program is given to the member respecting

- (a) the types of services offered to members by the Assembly offices and how those services may be accessed;
- (b) the proper procedures to be followed in making claims for reimbursement or payment for proper expenses incurred by the member in carrying out the member's duties;
- (c) recommendations for proper systems to be employed in operating a constituency office and employing a constituency assistant; and
- (d) other matters that the Chief Clerk considers appropriate to assist the member in carrying out the member's duties.

(3) Within 30 days of a member's election for the first time to the House of Assembly, the Chief Clerk shall ensure the delivery to the member of a copy of

- (a) this Act and the regulations;
- (b) the directives of the Commission pertaining to members;
- (c) the written policies of the Assembly offices that may affect the member;
- (d) the code of conduct for members of the Executive Council; and

- (e) the manual required by Section 26. 2010, c. 5, s. 14.

Audit Committee

15 (1) There is established a committee of the Commission to be called the Audit Committee.

(2) The Audit Committee consists of

(a) two members of the Commission selected by the Commission, at least one of whom may not be a member of the Government party; and

(b) two residents of the Province, selected by the Chief Justice of Nova Scotia in consultation with the Public Accountants Board of the Province of Nova Scotia, who are not members of the House of Assembly and who have demonstrated knowledge and experience in financial matters and are suitable to represent the public interest.

(3) A person appointed under clause (2)(a) serves for such term as is determined by the Commission.

(4) A person appointed under clause (2)(b) serves for a term of not more than four years and may be reappointed for one additional term of not more than four years, as determined by the Chief Justice of Nova Scotia.

(5) The Commission shall fix and direct the level of compensation and reimbursement of expenses to be paid to persons appointed under clause (2)(b). 2010, c. 5, s. 15.

Chair of Audit Committee

16 The Commission shall designate one of the members of the Audit Committee as its chair. 2010, c. 5, s. 16.

Secretary of Audit Committee

17 The Chief Clerk is the secretary of the Audit Committee. 2010, c. 5, s. 17.

Duties of Audit Committee

18 (1) The Audit Committee shall

(a) provide assistance to the Commission in fulfilling its oversight responsibility to the House of Assembly and the public with respect to stewardship of public money;

(b) make recommendations to the Commission respecting the choice of and terms of engagement and compensation of the auditor appointed under Section 22;

(c) review the audit plans of the auditor, including the general approach, scope and areas subject to risk of material misstatement;

(d) review the audit report and recommendations of the auditor and give advice about them to the Commission;

(e) review the compliance report issued and recommendations, if any, provided by the Auditor General as a result of a compliance audit conducted under Section 23 and give advice on that report and those recommendations to the Commission;

(f) review internal audit reports and make recommendations to the Commission as required in respect of matters arising from those reports and generally make recommendations with respect to internal audit procedures of the Assembly;

(g) review with the Chief Clerk the effectiveness of internal control and other financial matters, as well as compliance with legal requirements respecting accountability, record-keeping, tendering and conflict of interest in the Assembly offices;

(h) establish procedures for the receipt and treatment of complaints regarding accounting and internal controls, and the confidential submission by staff of the Assembly offices and by members of the public service of concerns regarding questionable accounting or auditing matters;

(i) use reasonable efforts to satisfy themselves as to the integrity of the Assembly's financial information systems and the competence of accounting personnel and senior financial management responsible for accounting and financial reporting;

(j) review disclosure practices of the Commission to ensure full, plain and timely disclosure of its decisions respecting financial matters; and

(k) act on, advise and report on other matters relating to the financial affairs of the Assembly as may be required by the Commission.

(2) The Audit Committee shall

(a) meet at least four times a year or more often as required;

(b) meet separately and periodically with the Chief Clerk, the personnel responsible for the internal audit function and the auditor appointed under Section 22; and

(c) report regularly to the Commission with respect to its activities.

(3) The substance of the reports, advice and recommendations made by the Audit Committee to the Commission must be tabled at meetings of the Commission and recorded in the minutes.

(4) Where there is disagreement among members of the Audit Committee as to the report, advice or recommendations to be made to the Commission on a matter, and the two members of the committee appointed under clause 15(2)(b) are in disagreement with the other members of the Committee or disagree with each other on that matter, that fact must be recorded in the report, advice or recommendations and in the minutes of the Commission. 2010, c. 5, s. 18; 2014, c. 17, s. 2.

Ruling on rejected or uncertain claim

19 (1) Where a member of the House of Assembly incurs an expense and a claim for reimbursement or payment has been rejected by a person charged with responsibility for reviewing the claim, or the member of the Assembly is unsure as to whether an expense, if incurred, qualifies for reimbursement or payment, the member may request a ruling from the Chair.

(2) Upon receipt of a request in writing for a ruling under subsection (1), the Chair shall, as soon as reasonably possible, review the matter and, after giving the member of the House of Assembly an opportunity to make a submission, provide a ruling in writing to the member as to whether the expenditure complies with or would comply with this Act, the regulations and directives of the Commission.

(3) Before making a ruling the Chair may request further information or clarification from the member of the House of Assembly as to the nature and purpose of the expenditure in question.

(4) Where the Chair rules that the expenditure complies with, or the proposed expenditure will comply with, this Act, the regulations and directives of the Commission, the Chair shall

(a) inform the member of the House of Assembly of the ruling; and

(b) provide a copy of the ruling to each member of the Commission. 2010, c. 5, s. 19.

Review of Ruling by Commission

20 (1) Where a member of the Commission takes issue with the Chair's ruling, the member shall notify the Chair within 15 days of receiving the Chair's ruling and the Chair shall call a meeting of the Commission within 30 days of receipt of the Chair's ruling.

(2) Where the Chair rules that the expenditure complies with or would comply with the Act, the regulations and directives of the Commission, and the Commission does not reject or vary the Chair's ruling in accordance with subsection (4), the ruling is binding and the member may claim reimbursement or payment.

(3) Where the Commission takes issue with the Chair's ruling, the member of the House of Assembly shall be notified by the Commission and given the opportunity to make a submission to the Commission outlining why the expenditure complies with the Act and the regulations and directives of the Commission.

(4) The Commission may, within 30 days of receipt of the Chair's ruling, reverse that ruling and substitute another or approve that ruling, and the decision of the Commission is final. 2010, c. 5, s. 20.

Appeal of ruling to Commission

21 (1) Where the ruling of the Chair is that the expenditure does not comply with the regulations and directives of the Commission, the member of the House of Assembly may appeal that ruling to the Commission and, after giving the

member an opportunity to make a submission in writing in support of the appeal, the Commission may decide to reverse, uphold or modify the ruling of the Chair, and the decision of the Commission is final.

(2) Notwithstanding that an expense claim has been denied by an officer, staff member or the Chair, in accordance with the regulations, where there is an appeal to the Commission under this Section and the Commission determines that that claimed expense amount

(a) has been incurred by the member of the House of Assembly;

(b) is a permitted expense under this Act and the regulations; and

(c) does not exceed an expense amount or allowance allocation permitted under the regulations,

and a denial of payment of the expense amount would, in the opinion of the Commission, be unjust, the Commission may approve the expenditure for the claimed expense to the extent that the Commission considers to be just, and the decision of the Commission is final. 2010, c. 5, s. 21.

Audit

22 (1) Notwithstanding any other Act, the accounts of the House of Assembly must be audited annually by an auditor appointed by the Commission under subsection (2).

(2) The Commission shall, before the end of each fiscal year, upon the recommendation of the Audit Committee, appoint an auditor.

(3) The Auditor General may act as the auditor appointed under subsection (1) but in that event the audit to be performed shall be of the House of Assembly as a separate body and not as part of the general audit of the accounts of the Province with appropriate levels of materiality applied to that entity.

(4) Where the Commission does not appoint an auditor as required by subsection (2), the Speaker shall report the fact to the House of Assembly.

(5) The audit provided for in subsection (1) must consist of

(a) the expression of an opinion on whether the expenses incurred by the Assembly are in accordance with the policies of the Commission and, where applicable, the policies of the public service of the Province; and

(b) the expression of an opinion on whether the Chief Clerk's assessment of the effectiveness of internal controls of the House of Assembly is fairly stated and whether the internal controls are operating effectively.

(6) Nothing in this Act precludes the Auditor General, after consultation with the Audit Committee, from conducting at any time and on the Auditor General's own motion a separate financial audit of the accounts of the House of Assembly under the authority conferred on the Auditor General by the *Auditor General Act*.

(7) Where a financial audit conducted under this Section is conducted by an auditor other than the Auditor General, that auditor shall

(a) deliver to the Auditor General after completion of the audit a copy of the auditor's report and the auditor's recommendations; and

(b) provide to the Auditor General as soon as reasonably practicable, when so requested, a full explanation of the work performed, tests and examinations made and the results obtained, and other information relating to the audit within the knowledge of the auditor. 2010, c. 5, s. 22; 2014, c. 17, s. 3.

Compliance audit by Auditor General

23 (1) The Auditor General shall perform and complete a compliance audit of the accounts of the House of Assembly at least once during every General Assembly to determine and express an opinion on whether

(a) collections of public money

(i) have been effected as required under law and directives and decisions of the Commission,

(ii) have been fully accounted for, and

(iii) have been properly reflected in the accounts of the Province;

(b) disbursements of public money

(i) have been made in accordance with the authority of a supply vote, or relevant law,

(ii) have complied with regulations, rules, directives and orders applicable to those disbursements,

(iii) have been properly reflected in the accounts, and

(iv) have been made for the purposes for which the money was appropriated and authorized;

(c) accounts have been faithfully and properly kept;

(d) assets acquired, administered or otherwise held by or for the Assembly are adequately safeguarded and accounted for;

(e) accounting systems and management control systems that relate to revenue, disbursements, safeguarding or use of assets or the determination of liabilities are in existence, are adequate and have been complied with;

(f) accountability information with respect to the operations of the House of Assembly is adequate; and

(g) there are factors or circumstances relating to expenditure of public money that, in the opinion of the Auditor General, should be identified and commented on as part of the audit function.

(2) Subsection (1) is not to be construed as entitling the Auditor General to question the merits of policy objectives of the House of Assembly, the Assembly offices or the Commission.

(3) The Auditor General shall report the results of the audit to the Audit Committee and to the House of Assembly. 2010, c. 5, s. 23.

Access to records

24 The Auditor General and another auditor appointed under Section 22 shall, for the purpose of an audit of the accounts of the House of Assembly under this Act, have access to all books, documents, accounts and other records of the House of Assembly. 2010, c. 5, s. 24.

Reporting of misappropriation

25 (1) Where

- (a) during the course of an audit;
- (b) as a result of a review of an audit report prepared by another auditor employed by the Commission; or
- (c) as a result of an internal audit procedure,

the Auditor General becomes aware of an improper retention or misappropriation of public money by a member of the House of Assembly, the Chief Clerk, an Assistant Clerk or the staff of an Assembly office or another activity that may constitute an offence under the *Criminal Code* (Canada) or another Act of the Province or of the Parliament of Canada, the Auditor General shall immediately report the improper retention, misappropriation of public money or other activity to

- (d) the Speaker;
- (e) the chair of the Audit Committee;
- (f) the President of the Executive Council;
- (g) the leader of the recognized party, if any, with which the person involved may be associated;
- (h) the Minister of Justice; and
- (i) the Minister of Finance and Treasury Board.

(2) In addition to reporting in accordance with subsection (1), the Auditor General shall attach to the Auditor General's report to the House of Assembly a general description of the incidents referred to in subsection (1) and the dates on which those incidents were reported.

(3) Before making a report under subsection (1), the Auditor General shall give to a person involved and who may be ultimately named or identified in the report

- (a) full disclosure of the information of which the Auditor General has become aware; and
- (b) a reasonable opportunity to the person to provide further information and an explanation,

and shall take that information and explanation into account in deciding whether to proceed to make a report.

(4) The Auditor General shall not make the existence or the contents of a report referred to in subsection (1) known to another person except

- (a) as part of the Auditor General's report to the House of Assembly;
- (b) in accordance with a judicial proceeding;
- (c) as part of proceedings before the Public Accounts Committee; or
- (d) as a result of a request from the Commission.

(5) The Auditor General is a compellable witness in any criminal or civil proceeding and in a proceeding before the Public Accounts Committee relating to a matter dealt with in a report made under this Section. 2010, c. 5, s. 25.

Manual of appropriate conduct, policies and procedures

26 (1) The Commission shall, not more than six months after the coming into force of this Act, develop a manual of appropriate conduct and policies and procedures for members of the House of Assembly.

- (2) The manual must be
- (a) tabled in the House of Assembly within 10 days after its completion if the Assembly is then sitting and, where not, within 10 days of the next ensuing sitting; and
 - (b) distributed to the Speaker, the Chief Clerk and each member of the Assembly.

(3) Where, after a distribution of a manual under subsection (2), a member is newly elected to the House of Assembly, the Chief Clerk shall provide a copy of the manual to that member.

(4) The manual must be updated as the Commission considers necessary and each change to the manual must be distributed as required under subsections (2) and (3).

- (5) The manual must contain
- (a) information with respect to allowances available to the members of the House of Assembly;
 - (b) the duties of members with respect to claims for allowances and the management and expenditure of public money;
 - (c) copies of applicable legislation;
 - (d) copies of the regulations;
 - (e) directives of the Commission issued to members of the House of Assembly, the Speaker and the Chief Clerk;
 - (f) information summarizing rulings and determinations made by the Speaker and the Commission under Sections 19 to 21 and by the Conflict of Interest Commissioner under the *Conflict of Interest Act*;

(g) instructions as to the manner in which duties of the members of the House of Assembly are to be carried out with respect to making claims for allowances and the forms to be used and the documentation to be supplied;

(h) the provisions of the *Conflict of Interest Act* respecting the conduct of members of the House of Assembly;

(i) the provisions of the *Conflict of Interest Act* respecting the conduct of members of the Executive Council and ministerial assistants;

(j) information as to how to organize and operate a constituency office; and

(k) any other matter that the Commission believes may be of assistance to members in the performance of their duties. 2010, c. 5, s. 26; 2011, c. 35, s. 37.

Regulations

27 (1) The Commission may make regulations

(a) respecting allowances, reimbursements, allowable expenses and other resources available to members of the House of Assembly;

(b) establishing distinctions between member constituencies with respect to amounts and entitlement;

(c) establishing limits and restrictions on amounts related to living, constituency and other expenses, including distance travelled, daily rates, meal rates and other rates payable by way of reimbursement or with respect to a claim of a member;

(d) prescribing factors to be considered in determining where a member of the House of Assembly is ordinarily resident for the purpose of determining whether a member is an outside member as defined in the *House of Assembly Act*;

(e) establishing an appeal process to resolve disputes respecting where a member of the House of Assembly is ordinarily resident for the purpose of determining whether a member is an outside member as defined in the *House of Assembly Act*;

(f) respecting reimbursement and payment of member expenses and claims;

(g) respecting the preparation and circulation of manuals, agendas, codes, briefing and other materials;

(h) respecting the forms and manner in which reimbursement of claims may be made;

(i) respecting policies and procedures for proper financial management;

(j) respecting purposes, presumptions and principles underlying the regulations;

(k) respecting member responsibility for finances, expenses, claims, liability and reimbursements;

(l) respecting records to be maintained and reports required of members, the Commission, the Chair, the Chief Clerk and the staff of the House of Assembly offices;

(m) respecting forms, receipts and other documentation required for monitoring claims, expenses, reimbursements and other payments;

(n) respecting eligibility for and prohibitions and restrictions related to expenses, claims, reimbursements and other payments;

(o) respecting allocations of resources for office, employee, administrative and other services for members;

(p) respecting the manner of engaging, regulating and paying for constituency assistants;

(q) respecting any other matter that the Commission considers necessary or advisable to give effect to the intent and purpose of this Act.

(2) The exercise by the Commission of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2010, c. 5, s. 27; 2014, c. 36, s. 4.

CHAPTER H-18

An Act Respecting the House of Assembly Tartan

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Schedule	

Short title

1 This Act may be cited as the *House of Assembly Tartan Act*. 2019, c. 5, s. 1.

Interpretation

2 In this Act, “Tartan” means the House of Assembly Tartan described in the Schedule and registered December 5, 2018, with the Scottish Register of Tartans established by the *Scottish Register of Tartans Act 2008* (Scotland). 2019, c. 5, s. 2.

Official Tartan of House of Assembly

3 The Tartan is the official Tartan of the House of Assembly. 2019, c. 5, s. 3.

Colours of Tartan

4 The green in the Tartan represents the legislative chamber where the Assembly meets, the red represents the Red Chamber, the black represents the Speaker’s and Clerks’ robes, the yellow represents the gold Mace, the white represents the laws passed by the Assembly and the tan represents the sandstone exterior of Province House, the building where the Assembly conducts its business. 2019, c. 5, s. 4.

Tartan as emblem of Assembly

5 The Tartan is an emblem of the Assembly. 2019, c. 5, s. 5.

Use of Tartan

6 The use of the Tartan is governed by this Act. 2019, c. 5, s. 6.

Licence

7 (1) The Speaker of the Assembly may grant a licence to any person to manufacture the Tartan or to apply the design of the Tartan to any article, subject to subsections (2) and (3).

(2) A person who under a licence granted under subsection (1) manufactures the Tartan or applies the design of the Tartan to any article shall mark or attach the name “Nova Scotia House of Assembly Tartan” upon or to the Tartan or the article, or such other identifying mark as may be approved by the Speaker.

(3) The Assembly may make regulations establishing terms and conditions that apply to the granting of a licence under subsection (1).

(4) The exercise of the authority contained in subsection (3) is a regulation within the meaning of the *Regulations Act*. 2019, c. 5, s. 7.

Prohibitions

8 (1) No person shall, without a licence granted pursuant to Section 7, manufacture the Tartan or apply the design of the Tartan to any article.

(2) No person shall sell or offer for sale the Tartan or any article to which the design of the Tartan has been applied unless the Tartan or the article to which the design of the Tartan has been applied was manufactured by a person granted a licence under Section 7 and the Tartan or article has marked upon or attached thereto the name “Nova Scotia House of Assembly Tartan” or such other identifying mark as has been approved by the Speaker.

(3) No person other than a person who has been granted a licence pursuant to Section 7 shall mark or attach the name “Nova Scotia House of Assembly Tartan” or any identifying mark that has been approved by the Speaker upon or to any article.

(4) No person shall sell or offer for sale any woven material so closely resembling the Tartan as to be mistaken for the Tartan. 2019, c. 5, s. 8.

Offence and penalty

9 Any person who violates Section 8 is guilty of an offence and is liable, upon summary conviction, to a penalty not exceeding \$5,000. 2019, c. 5, s. 9.

SCHEDULE**NOVA SCOTIA HOUSE OF ASSEMBLY TARTAN**

Threadcount: LT/8 R8 K62 W10 K27 G70 Y/8

SRT Pallet: K=000000BLACK; G=004028GREEN; R=FF0000RED; LT=E8CCB8LIGHT BROWN; W=FFFFFFWHITE; Y=FFD700YELLOW;

Threadcount given over a half sett, with full count at the pivots.

2019, c. 5, Sch.

CHAPTER H-19

An Act Respecting Housing and Rentals

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Short title

1 This Act may be cited as the *Housing and Rentals Act*. R.S., c. 212, s. 1.

Agreement by Minister

2 Subject to the approval of the Governor in Council, the Minister of Municipal Affairs and Housing is authorized and empowered to enter into agreements for the purposes specified in section 79 of the *National Housing Act* (Canada), and with the Crown in right of Canada, the Government of Canada or any agency thereof, including the Canada Mortgage and Housing Corporation, or any combination of such parties and any regional municipality, town or municipality of a county or district. R.S., c. 212, s. 2.

Cost sharing

3 Such agreement must provide that the capital cost of any project and the profits or losses thereon must be shared 75% by the Government of Canada or an agency thereof, including the Canada Mortgage and Housing Corporation, and 25% by the regional municipality, town or municipality of a county or district. R.S., c. 212, s. 3.

Agreement by municipality

4 Any regional municipality, town or other municipality may, pursuant to a resolution of its council, enter into and perform an agreement made in accordance with Sections 2 and 3 of this Act and for the purpose of this Act and any agreement made thereunder is an agency of the Government of the Province for the performance of whose covenants under such agreement the Government of the Province is directly responsible. R.S., c. 212, s. 4.

Source of funds

5 Any sums required for the carrying out of any such agreement or agreements are deemed to be sums required for a municipal purpose within the meaning of the *Municipal Government Act* or the *Halifax Regional Municipality Charter* and any sum required for the payment of losses if any incurred in the operation of any such project are held to be sums required for the ordinary lawful pur-

poses of the regional municipality, town or other municipality and must be raised, levied and collected in the same manner and in all respects as other sums required for the ordinary lawful purposes of the regional municipality, town or other municipality are raised, levied and collected. R.S., c. 212, s. 5.

CHAPTER H-20

An Act to Establish the Executive Panel on Housing in the Halifax Regional Municipality

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

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WHEREAS the Halifax Regional Municipality has experienced unprecedented population growth over the past five years;

AND WHEREAS it is anticipated that the population will continue to grow at a rapid pace and, in doing so, support a prosperous capital region and Province;

AND WHEREAS an adequate supply of housing is of economic and social importance for both the Government and the Halifax Regional Municipality;

AND WHEREAS it is imperative that the Government take immediate steps, with input from the Halifax Regional Municipality, to address the growing crises being brought about by a significant shortage of housing supply and the prospect of future shortages:

Short title

1 This Act may be cited as the *Housing in the Halifax Regional Municipality Act*. 2021, c. 21, s. 1.

Purpose of Act

2 The purpose of this Act is to establish

(a) a body with provincial and municipal representation to recommend ways to accelerate an increase in supply of housing of all types and at all income levels in the Municipality; and

(b) a temporary mechanism to accelerate planning and development to address current and future housing demand within the Municipality. 2021, c. 21, s. 2.

Interpretation

3 In this Act,

“Chair” means the Chair of the Panel;

“Charter” means the *Halifax Regional Municipality Charter*;

“community council” has the same meaning as in the Charter;

“Council” means the Council of the Municipality;

“development officer” means a development officer appointed by the Council pursuant to Section 326 of the Charter;

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

“Municipality” means the Halifax Regional Municipality;

“Panel” means the Executive Panel on Housing in the Halifax Regional Municipality established pursuant to this Act;

“registry” has the same meaning as in the Charter;

“special planning area” means an area of the Municipality designated as a special planning area by an order made under subsection 16(1). 2021, c. 21, s. 3.

Administration of Act

4 The Minister is responsible for the administration of this Act. 2021, c. 21, s. 4.

Exercise of Minister’s power

5 (1) The Minister may exercise any power under this Act or the regulations at the Minister’s sole discretion.

(2) For greater certainty, the Minister is not required to consult with the Panel or the Municipality prior to exercising a power under this Act or the regulations and may exercise any power under this Act or the regulations without a recommendation of the Panel or a request from the Municipality. 2023, c. 18, s. 15.

Panel established

6 The Executive Panel on Housing in the Halifax Regional Municipality is established. 2021, c. 21, s. 5.

Duties of Panel

7 (1) The Panel shall

(a) advise and provide recommendations to the Minister and the Municipality respecting

(i) regulatory, administrative and policy options, actions and improvements at the provincial and municipal level to accelerate housing development in the Municipality, and

(ii) factors affecting housing supply, including the availability of land, the taxation environment, the availability of labour and any other factors that may affect housing development;

(b) review applications and other requests made to the Municipality under Part VIII or IX of the Charter for the purpose of making recommendations to the Minister and the Municipality respecting how a decision on individual applications or other requests could be expedited; and

(c) perform such other duties as set out in this Act and the regulations.

(2) Without limiting the generality of subclause (1)(a)(i), advice and recommendations provided under that subclause may include advice and recommendations respecting land-use planning and development and building inspections and permitting.

(3) The Panel may, in accordance with clause (1)(b), review applications and other requests that are made before or after this Section comes into force in which no decision has been made. 2021, c. 21, s. 6.

Membership of Panel

8 (1) The Panel consists of

(a) one member appointed by the Minister to act as Chair;

(b) two members appointed by the Minister to act as representatives of the Province; and

(c) two members nominated by the Municipality and appointed by the Minister to act as representatives of the Municipality.

(2) Each member of the Panel appointed under clause (1)(b) must be an employee of the Province or a member of a class of persons prescribed by the regulations.

(3) Each member of the Panel appointed under clause (1)(c) must be an employee of the Municipality or a member of a class of persons prescribed by the regulations. 2021, c. 21, s. 7.

Remuneration and reimbursement

9 (1) The members of the Panel must be reimbursed for such reasonable expenses as are incurred by them in carrying out their duties.

(2) Subject to subsection (3), the members of the Panel may be paid such remuneration as is determined by the Minister for their work on the Panel.

(3) Subsection (2) does not apply to members of the Panel who are employees of the Municipality or the Province. 2021, c. 21, s. 8.

Support and advice

10 (1) The Minister may, on the recommendation of the Chair, retain persons to provide technical advice, professional advice or other support to the Panel.

(2) The Minister may direct that administrative support to the Panel be provided by staff in the Department of Municipal Affairs and Housing. 2021, c. 21, s. 9.

Majority vote

11 (1) All Panel decisions, including decisions respecting advice and recommendations of the Panel, must be decided by a majority vote.

(2) The Chair may only vote on questions before the Panel in the event of a tie vote. 2021, c. 21, s. 10.

Quorum

12 Three members of the Panel, one of whom must be the Chair, constitute a quorum. 2021, c. 21, s. 11.

Powers of Minister

13 (1) The Minister may, as the Minister considers necessary, conduct a review of the Panel to assess its effectiveness.

(2) Where the Minister is of the opinion that the Panel is not meeting the purpose of this Act, the Minister may dissolve the Panel. 2021, c. 21, s. 12.

Request for information

14 (1) The Panel may request any information from the Municipality or from the Province the Panel considers relevant to the fulfillment of its duties and may specify a time in which the Municipality or the Province must provide the requested information.

(2) The Municipality and the Province shall provide the Panel with any information requested by the Panel within the time specified pursuant to subsection (1).

(3) The Chair has all the powers, privileges and immunities of a commissioner appointed pursuant to the *Public Inquiries Act*. 2021, c. 21, s. 13.

Submissions from public

15 The Panel may, in its discretion, invite submissions from the public on any issue under the consideration of the Panel. 2021, c. 21, s. 14.

Special planning area

16 (1) On the recommendation of the Panel or the request of the Municipality, the Minister may make an order designating an area of the Municipality as a special planning area, if the Minister is satisfied that the order is required for the purpose of accelerating housing development in the Municipality.

(2) In addition to the authority set out in subsection (1), the Minister may, in the Minister's sole discretion, make an order designating an area or areas of the Municipality, including the entire Municipality, a special planning area, if the Minister is satisfied the order is required for the purpose of accelerating housing development in the Municipality.

(3) Where the Minister makes an order under subsection (2) designating the entire Municipality as a special planning area, the Minister may, as the Minister considers appropriate, exclude certain areas or matters from the order.

(4) An order made under subsection (1) or (2) may specify or limit the developments or types or classes of development in which the Minister or Panel may exercise authority pursuant to Sections 17 to 19.

(5) Upon making an order under subsection (1) or (2), the Minister shall

(a) send a copy of the order to the Clerk of the Municipality; and

(b) give notice that the order is in effect in a newspaper circulating in the area affected. 2021, c. 21, s. 15; 2023, c. 18, s. 16.

Amendment of bylaw or strategy

17 (1) The Minister may, in the Minister's sole discretion, or on the recommendation of the Panel, and in place of the Council or a community council who may otherwise have authority to act, the Minister may

(a) amend or repeal a land-use bylaw within a special planning area if considered necessary to advance the purpose of this Act;

(b) amend a subdivision bylaw within a special planning area if considered necessary to advance the purpose of this Act; and

(c) amend a municipal planning strategy as the Minister considers necessary as a result of an amendment or repeal of a land-use bylaw made under clause (a) or amendment of a subdivision bylaw made under clause (b).

(2) For greater certainty, to the extent that the Minister exercises authority under subsection (1), the Council or a community council may not act on the authority given to them under the Charter respecting those matters.

(3) Where the Minister exercises authority under subsection (1), the Minister shall give notice of the amendment or repeal

- (a) in a newspaper circulating in the Municipality; and
- (b) to the Clerk of the Municipality.

(4) Where the Clerk of the Municipality receives notice under clause (3)(b), the Clerk shall cause the notice to be posted on a publicly available website for the Municipality.

(5) Where the Minister exercises authority under clause (1)(a) with respect to an amendment, the amendment is deemed to be a bylaw passed by the Council and continues to have force and effect notwithstanding the revocation of the order pursuant to Section 20. 2021, c. 21, s. 16; 2023, c. 18, s. 17.

Development agreements

18 (1) The Minister may, in the Minister's sole discretion, or on the recommendation of the Panel, and in place of the Council or a community council who may otherwise have authority to act, approve a development agreement or an amendment to a development agreement within a special planning area.

(2) For greater certainty, to the extent that the Minister exercises authority under subsection (1), the Council or a community council may not act on the authority given to them under the Charter respecting those matters.

(3) Where the Minister exercises authority under subsection (1), the Minister shall give notice of the approval

- (a) in a newspaper circulating in the Municipality; and
- (b) to the Clerk of the Municipality.

(4) Where the Clerk of the Municipality receives notice under clause (3)(b),

- (a) the Clerk shall cause the notice to be posted on a publicly available website for the Municipality;
- (b) the Municipality shall enter into the development agreement or make the amendment to a development agreement within 14 days; and
- (c) the Clerk shall file the agreement or the amendment in the registry.

(5) Where the Municipality fails to enter into the development agreement or make the amendment to a development agreement within 14 days in accordance with clause (4)(b),

- (a) the Minister may enter into the agreement or make the amendment on the Municipality's behalf;

(b) the Municipality is deemed to have entered into the agreement or made the amendment and is bound by its terms; and

(c) the Minister shall file the agreement or the amendment in the registry.

(6) The development agreement or the amendment to a development agreement comes into effect when it is filed in the registry, either by the Clerk of the Municipality or the Minister, as the case may be.

(7) Once the development agreement or the amendment to a development agreement is filed in the registry, it is deemed to be a development agreement or an amendment to a development agreement made pursuant to the Charter. 2021, c. 21, s. 17; 2023, c. 18, s. 18.

Development permits and subdivision approvals

19 (1) Within a special planning area and in place of a development officer who may otherwise have authority to act, the Panel or the Minister may grant

(a) a development permit; and

(b) a subdivision approval.

(2) For greater certainty, to the extent that the Panel or the Minister exercises authority under subsection (1), a development officer may not act on the authority given to the development officer under the Charter respecting those matters.

(3) Where the Panel or the Minister has granted a subdivision approval pursuant to clause (1)(b), the approval is deemed to be an approval by a development officer and may be filed in the registry in accordance with Section 369 of the Charter.

(4) Where the Panel or the Minister has granted a development permit or subdivision approval pursuant to clause (1)(a) or (b), the development permit or subdivision approval continues to have effect notwithstanding the revocation of the order pursuant to Section 21. 2021, c. 21, s. 18; 2023, c. 18, s. 19.

Procedural requirements do not apply

20 Any procedural, public participation or public hearing requirements that apply to the Council, a community council or a development officer under Parts VIII and IX of the Charter do not apply to the Minister or the Panel when exercising authority under Sections 16 to 19. 2021, c. 21, s. 19.

Revocation of special planning area

21 Where the Minister is satisfied that a special planning area is no longer required in order to accelerate housing development in the Municipality, the Minister shall revoke the order establishing the special planning area. 2021, c. 21, s. 20.

Effect of decisions and actions

22 (1) The decisions and actions of the Minister and the Panel under Sections 15 to 20

(a) are binding on the Municipality and may not be reconsidered by the Municipality without the approval of the Minister or the Panel;

(b) are not subject to appeal, notwithstanding any provision in the Charter with respect to the ability to appeal such decisions made or actions taken by another person or entity; and

(c) do not exempt any development from the requirement to comply with applicable bylaws of the Municipality or from obtaining any licence, permission, permit, authority or approval required under any bylaw of the Municipality or enactment of the Province or of Canada.

(2) Notwithstanding clause (1)(c), where a bylaw or an enactment provides that a development officer cannot issue a development permit or subdivision approval until a specific licence, permission, permit, authority or approval is issued, the Panel may issue a development permit or subdivision approval even if the specified licence, permission, permit, authority or approval has not yet been issued. 2021, c. 21, s. 21.

No injurious affection

23 Property is deemed not to be injuriously affected by any action taken under this Act or the regulations. 2023, c. 18, s. 20.

Report

24 The Panel shall report to the Minister in accordance with the regulations. 2021, c. 21, s. 22.

Regulations

25 (1) The Governor in Council may make regulations

(a) respecting the review of applications or requests by the Panel pursuant to clause 7(1)(b);

(b) prescribing classes of persons for the purpose of subsections 8(2) and (3);

(c) respecting the qualifications of Panel members, including the Chair;

(d) respecting the powers of the Minister and the Panel under an order made pursuant to subsection 16(1);

(e) respecting the powers of the Minister under Sections 17 and 18;

(f) respecting the powers of the Panel under Section 19;

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

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

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2021, c. 21, s. 23.

Ministerial regulations

- 26 (1) The Minister may make regulations
- (a) respecting the meetings and operation of the Panel;
 - (b) respecting the role of the Chair;
 - (c) respecting the manner in which the Panel provides recommendations to the Minister and the Municipality;
 - (d) respecting reporting by the Panel;
 - (e) respecting the public availability of the reports and recommendations provided by the Panel to the Minister and the Municipality;
 - (f) prescribing timelines within which planning and development permits, agreements and related documents must be issued or approved;
 - (g) setting penalties for missing a timeline prescribed under clause (f);
 - (h) respecting the waiver by the Minister of any penalty referred to in clause (g).

(2) The exercise by the Minister of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2021, c. 21, s. 24; 2023, c. 18, s. 21.

Dissolution of Panel

27 (1) The Panel is dissolved three years from the date this Act comes into force.

(2) Notwithstanding the dissolution of the Panel, where a special planning area is in place and the Panel or the Minister is seized with a matter at the time that the Panel is dissolved, the Panel or the Minister may conclude the matter.

(3) The Minister may not designate a new special planning area after the date the Panel is dissolved. 2021, c. 21, s. 25.

Act prevails

28 (1) Where there is a conflict or inconsistency between this Act or the regulations and any other enactment, this Act and the regulations prevail.

(2) For greater certainty, this Act and the regulations prevail over Section 340 of the Charter. 2021, c. 21, s. 26.

No requirement to consult

29 Notwithstanding Section 473 of the Charter, nothing in this Act or the regulations or done pursuant to this Act or the regulations triggers any requirement to consult with the Municipality. 2023, c. 18, s. 22.

CHAPTER H-21

An Act to Incorporate Housing Nova Scotia

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Short title

1 This Act may be cited as the *Housing Nova Scotia Act*. R.S., c. 213, s. 1; 2013, c. 10, s. 6.

Interpretation

2 In this Act,
“Corporation” means Housing Nova Scotia as established pursuant to this Act;
“Department” means the Department of Municipal Affairs and Housing;
“housing” means any buildings or structures suitable for human habitation and that are primarily used for that purpose;
“low income” means an income that, in the opinion of the Corporation, is insufficient to allow an individual or family with that income to obtain adequate housing;
“low income housing” means housing for individuals or families of low income;
“Minister” means the Minister of Municipal Affairs and Housing.
R.S., c. 213, s. 2; 2013, c. 10, s. 7.

Supervision of Act

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

- (2) Under the direction of the Minister, the Deputy Minister shall
- (a) supervise the administration and management of the Corporation; and
 - (b) perform such duties as the Minister or the Governor in Council assigns to the Deputy Minister. R.S., c. 213, s. 3.

Personnel

- 4 (1) The persons necessary for the administration of this Act and the regulations must be appointed in accordance with the *Civil Service Act*.
- (2) Notwithstanding subsection (1), the Minister may with the approval of the Governor in Council engage upon such terms and conditions as the Minister considers fit the services of such persons as the Minister considers necessary for the efficient carrying out of this Act and the regulations. R.S., c. 213, s. 4.

Delegation of administration

- 5 The Minister may, subject to the approval of the Governor in Council, delegate the administration of any function of the Corporation upon such terms and conditions as the Governor in Council may determine. R.S., c. 213, s. 5.

Housing Nova Scotia

- 6 (1) The Minister is constituted a corporation sole under the name Housing Nova Scotia.
- (2) For the purpose of this Act and in the exercise of the Corporation's power and the carrying out of the objects of the Corporation, the Minister is an agent of the Crown in right of the Province.
- (3) Actions, suits or other legal proceedings in respect of any right or obligation acquired or incurred by the Corporation may be brought or taken by or against the Corporation in the name of the Corporation in the manner provided by the *Proceedings against the Crown Act* for an action against the Crown in right of the Province.
- (4) All property acquired for any of the purposes of this Act vests in the Corporation as such corporation sole, but the provisions of this Section do not in any way restrict, impair or affect the powers conferred upon the Minister generally by this Act nor subject the Minister to the provisions of any Provincial enactment.
- (5) The Corporation, its property and assets are not subject to taxation. R.S., c. 213, s. 6; 2013, c. 10, s. 8.

Objects

- 7 The objects of the Corporation are to
- (a) establish housing projects and construct housing accommodation of all types for sale or rent;

- (b) plan, design, build, own, maintain, manage and operate housing projects;
- (c) construct, acquire, renovate and maintain housing of all types and sell, lease or otherwise dispose of such housing upon such terms and conditions as may be determined;
- (d) promote and carry out the construction and provision of more adequate and improved housing for
 - (i) low income families and individuals,
 - (ii) students,
 - (iii) such elderly persons or class or classes of elderly persons as may be designated by the Corporation,
 - (iv) families and individuals receiving social allowances or social assistance, and
 - (v) generally, persons or groups that in the opinion of the Corporation require assistance;
- (e) improve the quality of housing;
- (f) improve the quality of amenities related to housing; and
- (g) promote and provide financial assistance to persons the Corporation determines to be persons in housing need. R.S., c. 213, s. 7; 2020, c. 11, s. 1.

Powers subject to approval

8 The Corporation, subject to either specific or general approval of the Governor in Council, may for the purpose of this Act

- (a) assemble lands for housing;
- (b) enter into and carry out agreements with the Province, the Government of Canada, a province or Canada Mortgage and Housing Corporation;
- (c) do such other acts and things as are incidental to the attainment of its objects or the exercise of its powers. R.S., c. 213, s. 8.

Powers

9 (1) The Corporation may for the purpose of this Act

- (a) acquire or dispose of any estate or interest in real property and, without restricting the generality of the foregoing, may purchase, take on lease or exchange, hire or otherwise acquire any real or personal property of any and every description and sell, lease, mortgage, hypothecate, dispose of, deal with or invest the same and hold such lands or tenements or interest therein as the Corporation considers necessary or convenient for its purposes;
- (b) enter into and carry out agreements with a municipality, a municipal housing corporation under the *Municipal Housing Corporations Act*, a private non-profit housing corporation, a corporation or a person;

(c) borrow on the security of the Corporation's real and personal property or either of them, or any part thereof, or on any other security or without security, such money as the Corporation considers necessary and mortgage, pledge or otherwise charge its real and personal property or either of them or any part thereof for the purposes of securing any money borrowed;

(d) guarantee payment of any mortgage, pledge or charge made by any person or of any loan made to any person;

(e) invest and deal with funds of the Corporation not immediately required in such securities and in such manner as the Corporation from time to time determines;

(f) make such payments as are required for its good management and operation;

(g) lend money in accordance with the regulations and, without limiting the generality of the foregoing, for the purpose of this Act or for a purpose for which the Minister may authorize or give financial assistance pursuant to the *Housing Act*;

(h) provide financial assistance to persons requiring such assistance in order to obtain or maintain housing.

(2) An acquisition or disposal pursuant to subsection (1) of any estate or interest in real property requires the approval of the Governor in Council where the property acquired or disposed of in a single transaction exceeds 25 acres.

(3) Every municipality may enter into agreements with the Corporation pursuant to this Act or the regulations. R.S., c. 213, s. 9; 1990, c. 30, s. 1; 2020, c. 11, s. 2.

Housing Development Fund

10 The Corporation shall, on or before March 31, 2000, purchase at book value all of the assets of the Housing Development Fund continued pursuant to the *Housing Act* and assume all of the liabilities of the Fund at book value. 2000, c. 13, s. 1.

Not charge against Crown

11 Notwithstanding any other provision of this Act or any special or general Act, no mortgage, pledge or charge against the real and personal property of the Corporation is or is deemed to be a mortgage, pledge or charge against any real and personal property of the Crown in right of the Province. R.S., c. 213, s. 10.

Guarantee

12 Subject to the approval of the Governor in Council, the Province may guarantee payment by the Corporation of any mortgage, pledge or charge issued by the Corporation or of any loan made to the Corporation. R.S., c. 213, s. 11.

Fiscal year and financial statements

13 (1) The fiscal year of the Corporation is based on the fiscal year of the Province and the Minister shall ensure that financial statements for the Corporation are prepared not later than December 31st in each fiscal year respecting the

assets, liabilities and other financial matters related to the Corporation for the previous fiscal year, and that the financial statements are tabled at the next ensuing session of the Legislature.

(2) The accounts respecting the Corporation must be audited and reported on by

(a) the Auditor General; or

(b) a public accountant licensed under the *Chartered Professional Accountants Act* upon appointment by the Corporation,

at least once every year and at such other times as the Governor in Council may direct. R.S., c. 213, s. 12; 2005, c. 52, s. 1.

Regulations

14 (1) The Governor in Council may make regulations

(a) respecting the management and supervision of the Corporation, including its seal and the execution of documents;

(b) respecting the lending of money by the Corporation pursuant to Section 9;

(c) respecting the application, conditions, management and supervision and any other matter necessary for the provision of financial assistance by the Corporation pursuant to Section 9;

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

(e) respecting any matter necessary or advisable to carry out effectively the intent or purpose of this Act and the regulations.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. R.S., c. 213, s. 13; 1990, c. 30, s. 2.

CHAPTER H-22

An Act Respecting Housing Supply and Services

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Short title

1 This Act may be cited as the *Housing Supply and Services Act*. 2022, c. 36, s. 1.

Purpose of Act

2 The purpose of this Act is to improve and increase the housing stock of the Province and, without limiting the generality of the foregoing, includes

- (a) increasing and preserving the supply of housing;
- (b) promoting more adequate and affordable housing for vulnerable persons and groups;
- (c) promoting more adequate and affordable care facilities for vulnerable persons and groups;
- (d) developing, delivering and supporting programs related to housing;
- (e) advancing Government housing priorities;
- (f) developing, engaging and supporting strategic housing policy, priorities and partnerships; and
- (g) providing strategic direction and oversight of the Agency.

2022, c. 36, s. 2.

Interpretation

- 3** In this Act,
- “Advisory Board” means the Advisory Board of the Agency;
 - “Agency” means the Nova Scotia Provincial Housing Agency;
 - “Department” means the Department of Municipal Affairs and Housing;
 - “Deputy Minister” means the Deputy Minister of Municipal Affairs and Housing;
 - “Fund” means the Housing Development Fund;
 - “government entity” includes a federal, provincial or municipal government body or department;

“housing” means any building or structure suitable for human habitation that is primarily used for that purpose;

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

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

“regional housing authorities” means

(a) the Metropolitan Regional Housing Authority created by Order in Council 1995-24 dated January 3, 1995;

(b) the Cape Breton Island Housing Authority created by Order in Council 1997-153 dated March 4, 1997;

(c) the Cobequid Housing Authority created by Order in Council 1997-154 dated March 4, 1997;

(d) the Eastern Mainland Housing Authority created by Order in Council 1997-183 dated March 11, 1997; and

(e) the Western Regional Housing Authority created by Order in Council 2010-276 dated July 6, 2010. 2022, c. 36, s. 3.

Supervision and management of Act

4 The Minister has the general supervision and management of this Act. 2022, c. 36, s. 4.

PART I

DEPARTMENT OF MUNICIPAL AFFAIRS AND HOUSING

Rights, privileges and obligations of Minister continued

5 All rights and privileges vested in the Minister under Section 10 of the former *Housing Act*, continue to be vested in the Minister and all obligations of the Nova Scotia Housing Commission that became obligations of the Minister under that Section continue to be obligations of the Minister. 2022, c. 36, s. 5.

Assumption of obligations, rights and duties of Housing Nova Scotia

6 The Minister shall assume all obligations, rights and duties under any agreement with Housing Nova Scotia, on behalf of Housing Nova Scotia, as if the agreement were originally entered into with the Minister under this Part. 2022, c. 36, s. 6.

Powers of Minister

- 7** **(1)** The Minister may, to carry out the purpose of this Act,
- (a) enter into agreements with any person or body, including a government entity;
 - (b) construct, establish, hold, maintain and manage housing projects or other housing accommodation or units of any type, including commercial, recreational or care facilities, for sale or for rent;

(c) subject to subsection (2), acquire or dispose of any estate or interest in real property and, without restricting the generality of the foregoing, purchase, take on lease or exchange, hire or otherwise acquire any real or personal property of any and every description and sell, lease, mortgage, hypothecate, dispose of, deal with or invest the same and hold such lands or tenements or interest therein as the Minister considers necessary or convenient for the purpose of this Part and for such consideration as the Minister considers appropriate;

(d) borrow on the security of the real and personal property of the Minister administered under this Part, or any part thereof, or on any other security or without security, such money as the Minister considers necessary and mortgage, pledge or otherwise charge such real and personal property or either of them or any part thereof for the purpose of securing money borrowed, subject to the *Finance Act*;

(e) guarantee payment of any mortgage, pledge or charge made by any person or of any loan made to any person;

(f) invest and deal with the funds received by the Minister under this Part not immediately required in such securities and in such manner as the Minister may determine, subject to the *Finance Act*;

(g) make such payments as are required for good management and operation;

(h) lend money and take security on any loans given;

(i) make such grants and contributions as the Minister considers necessary;

(j) provide financial assistance to persons requiring such assistance in order to obtain or maintain housing; and

(k) levy fees for the purpose of this Part.

(2) An acquisition or disposal of any estate or interest in real property that exceeds 25 acres in a single transaction must be approved by the Governor in Council.

(3) The Minister may, by letter,

(a) accept the transfer of the administration and control of land administered by another Provincial government department; and

(b) transfer the administration and control of land administered by the Department to another Provincial government department.

(4) Any estate or interest in real and personal property acquired by or vested in the Minister under this Part is under the Minister's administration.
2022, c. 36, s. 7.

Expropriation

8 The Minister may expropriate any land or any estate or interest in land that the Governor in Council considers necessary for the purpose of this Part. 2022, c. 36, s. 8.

Execution of documents

9 Documents required to be executed with respect to

- (a) the acquisition, vesting, sale, lease or disposition of estates or interests in real or personal property;
- (b) loans, grants, contributions or financial assistance; or
- (c) services and other matters authorized,

under this Part may be executed by the Minister, the Deputy Minister or such other person as designated by either the Minister or the Deputy Minister in writing. 2022, c. 36, s. 9.

Establishment of committee or council

10 (1) The Minister may establish any committee or council the Minister considers necessary or advisable to act in an advisory capacity with respect to any of the policies, programs, services or other matters under the administration of the Minister.

(2) The Minister may, with respect to any committee or council established under this Section,

- (a) appoint or provide for the manner of appointment of its members;
- (b) prescribe the term of office of any member;
- (c) designate a chair, vice-chair and secretary; and
- (d) authorize, fix and provide for payment of remuneration and expenses to its members.

(3) The Minister may make rules of procedure governing the calling of meetings and the conduct of business at meetings of a committee or council established under this Section.

(4) A committee or council established under this Section may exercise the powers and shall perform the duties and functions that the Minister approves for or confers or imposes on it. 2022, c. 36, s. 10.

Agreements respecting municipal contributions to public housing losses

11 (1) Subject to subsection (2), an agreement entered into by a member of the Executive Council or by the Province with respect to municipal contributions to public housing losses as set out in public housing project agreements continues to have legal force and effect.

(2) The Minister may terminate an agreement referred to in subsection (1) by providing notice to the municipalities. 2022, c. 36, s. 11.

Agreements between municipalities and Minister

12 A municipality may enter into an agreement with the Minister under this Part or the regulations. 2022, c. 36, s. 12.

Powers of municipalities respecting taxation

13 (1) Subject to the regulations, a municipality may

(a) limit the municipal taxes levied with respect to the property owned by a company or corporation established for the purpose of this Part for such period as the municipality may determine; and

(b) exempt from municipal taxation or limit the municipal taxes levied with respect to the property owned by a charitable corporation eligible for loans under Section 88 of the *National Housing Act* (Canada).

(2) For greater certainty, a decision to limit or exempt municipal taxes under Section 19 of the former *Housing Act*, continues to have legal force and effect, subject to the regulations. 2022, c. 36, s. 13.

Housing Development Fund

14 (1) For the purpose of this Part, the special account known as the Housing Development Fund, continued by the former *Housing Act*, is continued in the Department and all assets and liabilities of the Fund are vested in the Minister.

(2) The Governor in Council may authorize the Minister of Finance and Treasury Board to make available such sums of money from the General Revenue Fund as the Governor in Council considers necessary for the purpose of the Fund.

(3) All disbursements with respect to capital costs of acquiring and developing property structured as repayable loans under this Part must be made out of the Fund.

(4) All repayments and recoveries with respect to a loan or other transaction out of the Fund must be paid or credited to the Fund.

(5) Subject to this Part, all money credited to the Fund may be re-employed for the purpose of this Part.

(6) Accounting with respect to the Fund is based on the fiscal year of the Province, and the Minister shall ensure that a financial report is prepared no later than June 30th each year for the previous fiscal year respecting the assets, liabilities and continuity of the Fund. 2022, c. 36, s. 14.

Ministerial regulations

15 (1) The Minister may make regulations

(a) governing the application, conditions, management, supervision and any other matter necessary for the provision of a grant or contribution by the Minister under this Part;

(b) governing the application, conditions, management, supervision and any other matter necessary for the provision of financial assistance by the Minister under this Part;

(c) prescribing fees levied for the purpose of this Part;

(d) respecting the establishment of a mortgage insurance fund to permit the Minister to insure loans for the purpose of this Part;

(e) respecting the authority for a municipality to enter into an agreement for the purpose of this Part, including respecting the limiting of or exempting from municipal taxes on real property;

(f) respecting a program established for the purpose of this Part;

(g) respecting the supervision, direction and management of the Agency;

(h) prescribing forms for the purpose of this Part.

(2) The exercise by the Minister of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2022, c. 36, s. 15.

Governor in Council regulations

16 (1) The Governor in Council may make regulations

(a) prescribing the thresholds and parameters for loans by the Minister under this Part;

(b) governing the application, conditions, management, supervision and any other matter necessary for the provision of a loan by the Minister under this Part;

(c) respecting program-specific conditions for a loan by the Minister under this Part;

(d) defining any word or expression used but not defined in this Part;

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

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2022, c. 36, s. 16.

PART II

NOVA SCOTIA PROVINCIAL HOUSING AGENCY

Regional housing authorities amalgamated as Agency

17 Effective December 1, 2022,

(a) the regional housing authorities are amalgamated as a body corporate to be known as the Nova Scotia Provincial Housing Agency;

- (b) the terms of each board member of the regional housing authorities end;
- (c) all committees that existed under the regional housing authorities are dissolved;
- (d) all assets of the regional housing authorities, including all right, title and interest of the regional housing authorities, are vested in the Agency;
- (e) subject to clause (f), all obligations and liabilities of the regional housing authorities are the obligations and liabilities of the Agency;
- (f) the agreements between each of the regional housing authorities and the Crown in right of the Province, known as the management agreements, are terminated;
- (g) the vesting of any asset of the regional housing authorities in the Agency does not void any policy of insurance with respect to the asset, including any public liability insurance, and the Agency is deemed to be the insured party for the purpose of any such policy; and
- (h) a reference to any of the regional housing authorities in any enactment other than this Act or in any agreement or other document is to be read and construed as a reference to the Agency, unless a contrary intention appears. 2022, c. 36, s. 17.

Capital stock of Agency

18 The capital stock of the Agency is one share with a par value of one dollar, to be issued and registered in the name of the Minister on behalf of the Crown in right of the Province. 2022, c. 36, s. 18.

Crown corporation

19 The Agency is a crown corporation within the meaning of the *Finance Act*. 2022, c. 36, s. 19.

Agent of the Crown

20 The Agency is an agent of the Crown in right of the Province. 2022, c. 36, s. 20.

Objects of Agency

- 21** The objects of the Agency are to
- (a) maintain, manage and operate safe and suitable subsidized housing accommodations for low-income households in the Province;
 - (b) attain acceptable levels of tenant service;
 - (c) manage applications and tenancies for subsidized housing; and
 - (d) deliver in whole or in part, on behalf of the Minister, such programs undertaken by the Minister as the Minister may direct. 2022, c. 36, s. 21.

Powers of Agency

22 (1) Subject to this Act and the regulations, the Agency may do such things necessary for or incidental to the effective attainment of its objects and exercise of its powers, including

(a) entering into agreements with any person or body, including government entities;

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

(c) subject to subsection (2), acquiring or disposing of any estate or interest in real property and, without restricting the generality of the foregoing, purchasing, taking on lease or exchanging, hiring or otherwise acquiring any real or personal property of any and every description and selling, leasing, mortgaging, hypothecating, disposing of, dealing with or investing the same and holding such lands or tenements or interest therein as the Minister considers necessary or convenient for the purpose of this Part and for such consideration as the Minister considers appropriate;

(d) investing and dealing with the funds of the Agency not immediately required in such securities and in such manner as the Minister may determine, subject to the *Finance Act*;

(e) lending money and taking security on any loans given;

(f) making such payments as are required for its good management and operation;

(g) delivering public housing programs consistent with the housing priorities and policies of the Province;

(h) delivering such programs undertaken by the Minister as the Minister may direct;

(i) levying fees for the purpose of this Act;

(j) assessing eligibility, managing applications, determining rent levels, collecting rent and managing tenant matters;

(k) setting and executing strategic plans to advance Ministerial direction; and

(l) setting and executing multi-year infrastructure renewal plans.

(2) An acquisition or disposal of any estate or interest in real property that exceeds 25 acres in a single transaction must be approved by the Governor in Council.

(3) Except as otherwise provided in this Act or by order of the Governor in Council, the Agency has all the powers of a company incorporated under the *Companies Act*. 2022, c. 36, s. 22.

Management and control of Agency

23 (1) The management and control of the affairs of the Agency are vested in the Minister.

(2) The Minister may exercise the powers of the Agency subject to this Act and the regulations. 2022, c. 36, s. 23.

Chief Executive Officer

24 (1) The Governor in Council shall appoint a Chief Executive Officer of the Agency.

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

(3) The Chief Executive Officer shall perform such duties as the Minister may determine. 2022, c. 36, s. 24.

Interim board

25 (1) The Agency has an interim board consisting of the Deputy Minister and such other deputy ministers as may be required to fulfill the objects of the Agency.

(2) The interim board performs the function of the Advisory Board and remains in place until, and ceases to exist upon, the appointment of the Advisory Board by the Governor in Council. 2022, c. 36, s. 25.

Advisory Board

26 The Agency has an Advisory Board that provides advice and recommendations to further the Agency's objects. 2022, c. 36, s. 26.

Composition and term of Advisory Board

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

(2) Advisory Board members hold office for such period of time as is determined by the Governor in Council and may be reappointed. 2022, c. 36, s. 27.

Chair and Vice-chair of Advisory Board

28 The Governor in Council shall appoint a Chair and a Vice-chair of the Advisory Board, who hold office for such period of time as is determined by the Governor in Council. 2022, c. 36, s. 28.

Vacancy on Advisory Board

29 A vacancy on the Advisory Board does not impair the right of the remaining members to act. 2022, c. 36, s. 29.

Remuneration and expenses of Advisory Board members

30 Each Advisory Board member is entitled to such remuneration and reimbursement of expenses as is determined by the Governor in Council. 2022, c. 36, s. 30.

Powers of Advisory Board respecting Agency employees

31 Subject to the approval of the Deputy Minister, the Advisory Board may

- (a) avail itself of the services of the employees of the Agency; and
- (b) appoint an employee of the Agency to act as the Secretary of the Advisory Board. 2022, c. 36, s. 31.

Quorum

32 A majority of the Advisory Board members constitutes a quorum. 2022, c. 36, s. 32.

Deputy Minister and Chief Executive Officer may attend meetings

33 The Deputy Minister and the Chief Executive Officer of the Agency may attend meetings of the Advisory Board, but the Deputy Minister and the Chief Executive Officer

- (a) are not members of the Advisory Board; and
- (b) may not vote at meetings of the Advisory Board. 2022, c. 36, s. 33.

Duty of good faith and care

34 A member of the Advisory Board shall, when exercising the powers or performing the duties of the member's position,

- (a) act honestly and in good faith with a view to the best interests of the Agency;
- (b) exercise the care, diligence and skill that a reasonably prudent individual would exercise in comparable circumstances; and
- (c) act in accordance with this Act and the regulations. 2022, c. 36, s. 34.

Duties of Advisory Board

35 The Advisory Board shall

- (a) report to the Minister through the Chief Executive Officer;
- (b) advise the Minister on matters related to major operational initiatives, programs, policies and services of the Agency; and
- (c) bring to the attention of the Minister matters that are of interest and concern to the public or other stakeholders respecting subsidized housing or that are related to the objects of the Agency. 2022, c. 36, s. 35.

Advisory Board resolutions

36 The Advisory Board may pass resolutions to document its recommendations to the Minister but, for greater certainty, the Minister is not bound by any recommendations or resolution of the Board. 2022, c. 36, s. 36.

Bylaws

37 The Minister may make bylaws, not inconsistent with this Act, respecting the internal organization and procedures of the Advisory Board, subject to the approval of the Governor in Council. 2022, c. 36, s. 37.

Policy directions

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

(2) The Advisory Board shall comply with a direction issued under subsection (1). 2022, c. 36, s. 38.

Fiscal year of Agency

39 The fiscal year of the Agency is the same as the fiscal year of the Province. 2022, c. 36, s. 39.

Accounting system

40 The Agency's system of accounting is subject to the approval of the Minister of Finance and Treasury Board. 2022, c. 36, s. 40.

Annual business plan

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

(2) The business plan must contain such information as required by the Minister. 2022, c. 36, s. 41.

Multi-year strategic plan

42 When required by the Minister, the Agency shall submit to the Minister for approval a multi-year strategic plan for the operation of the Agency. 2022, c. 36, s. 42.

Conflict of Interest Act

43 The Advisory Board is a department for the purpose of the definition of "department" in the *Conflict of Interest Act* and, for greater certainty, Section 22 of that Act applies to Advisory Board members. 2022, c. 36, s. 43.

Freedom of Information and Protection of Privacy Act

44 The Agency is a public body as defined in the *Freedom of Information and Protection of Privacy Act* and, for greater certainty, that Act applies to the Agency. 2022, c. 36, s. 44.

Civil Service Act

45 Section 41 of the *Civil Service Act* applies with necessary changes to the Agency and the Advisory Board members. 2022, c. 36, s. 45.

Proceedings against the Crown Act

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

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

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

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

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

(4) Where a document or notice is to be served upon or given to the Agency under this Section or the *Proceedings against the Crown Act*, it may be served by delivering a copy to the office of the Attorney General or the Deputy Attorney General or any lawyer employed in the Legal Services Division of the Department of Justice or by delivering a copy to a lawyer designated for that purpose by the Attorney General and such service is deemed to be service on the Agency. 2022, c. 36, s. 46.

Regulations

47 (1) The Governor in Council may make regulations

(a) respecting the supervision, direction and management of the Agency;

(b) respecting the lending of money by the Agency, including the criteria, eligibility, terms and conditions upon which the loans may be provided or amended;

(c) respecting the taking of security by the Agency on loans;

(d) prescribing the powers of the Agency to acquire, sell or otherwise dispose of assets, including real and personal property;

(e) defining any word or expression used but not defined in this Part;

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

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2022, c. 36, s. 47.

Interpretation of Sections 48 to 52

48 In this Section and Sections 49 to 52,

“civil servant” means an employee of the Province who was appointed in accordance with the *Civil Service Act*;

“Civil Service” has the same meaning as in the *Civil Service Act*;

“designated Agency employee” means a civil servant or an employee of a regional housing authority who is determined by the Minister to become an employee of the Agency;

“designated civil servant” means an employee of a regional housing authority who is determined by the Minister to become an employee of the Department;

“designated person” means either a designated civil servant or a designated Agency employee. 2022, c. 36, s. 48.

Designated person

49 (1) The Minister may determine who becomes a designated person by communicating that decision to the person in writing.

(2) On designation, a designated person ceases to be an employee of the person’s former employer and becomes an employee of the employer determined by the Minister.

(3) A designated person is deemed to have been employed with the person’s new employer for the same period of employment that the person was credited with as an employee of the former employer.

(4) The continuity of employment of a designated person is not broken by the effect of this Section.

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

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

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

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

(d) give rise to a breach, termination, repudiation or frustration of any licence, permit or other right, or to any right to terminate or repudiate a contract, licence, permit or other right, or to any estoppel. 2022, c. 36, s. 49.

Designated Agency employee

50 (1) For the purpose of this Section, where a civil servant becomes a designated Agency employee, the words “the same or equal terms and conditions of employment as those under which the employee was employed by the former employer” include, with necessary changes, any terms and conditions that applied by virtue of the regulations made under the *Civil Service Act*.

(2) A designated Agency employee is employed by the Agency on the same or equal terms and conditions of employment as those under which the employee was employed by the former employer, until changed by collective agreement or contract of employment.

(3) The creation of the Agency is a transfer of business and the Agency is a transferee for the purpose of Section 38 of the *Trade Union Act*.

(4) A designated Agency employee is entitled as an employee of the Agency to all vacation leave accumulated, less any vacation arrears that accrued, while the designated person was an employee of the former employer. 2022, c. 36, s. 50.

Civil servant becoming designated Agency employee

51 (1) A civil servant, on designation as a designated Agency employee, ceases to be a person appointed in accordance with the *Civil Service Act*.

(2) The *Civil Service Act* and the regulations made under that Act and the *Civil Service Collective Bargaining Act* no longer apply to a civil servant who becomes a designated Agency employee.

(3) The Agency is bound by a collective agreement concluded under the *Civil Service Collective Bargaining Act* in relation to a civil servant who becomes a designated Agency employee as if it were a party to the collective agreement as the employer and as if the collective agreement were concluded under the *Trade Union Act*.

(4) Each civil servant who becomes a designated Agency employee who, before being designated, was an employee within the meaning of the *Public Service Superannuation Act* or was included in a bargaining unit whose collective agreement provided for participation in the Public Service Superannuation Plan is deemed to continue to be an employee for the purpose of that Act, and service in the employment of the Agency is deemed to be employment for the purpose of that Act.

(5) Subject to any applicable collective agreement or contract of employment, each civil servant who becomes a designated Agency employee who, before being designated, was covered by the Nova Scotia Public Service Long Term Disability Plan or was included in a bargaining unit whose collective agreement provided for long-term disability benefits under the Plan is deemed to continue to be a person to whom the Plan applies.

(6) Where, at retirement from the Agency, a civil servant who becomes a designated Agency employee would have been eligible for a public service award under the *General Civil Service Regulations* made under the *Civil Service Act* if the person had remained as an employee of the Province, the Crown in right of the Province shall pay to the person, upon retirement, an amount equivalent to the amount of the public service award that it would have paid to the person for the person's years of employment as an employee of the Province.

(7) The obligations and liabilities of the Crown in right of the Province in respect of a civil servant who becomes a designated Agency employee are the obligations and liabilities of the Agency, including all employee benefits and entitlements. 2022, c. 36, s. 51.

Designated civil servant

52 (1) On designation, a designated civil servant is deemed to be an employee of the Province in accordance with the *Civil Service Act*, and any enact-

ment applicable to employees of the Civil Service applies to a designated civil servant.

(2) Subsection (1) operates notwithstanding the *Civil Service Act* with respect to appointments to or promotions and vacancies within the Civil Service. 2022, c. 36, s. 52.

Housing Nova Scotia

53 (1) Effective April 1, 2023,

(a) all right, title and interest of Housing Nova Scotia in any real and personal property is vested in the Minister; and

(b) a reference to Housing Nova Scotia in any enactment other than this Act or in any agreement, deed or other document is to be read and construed as a reference to the Minister.

(2) On the coming into force of subsection 54(1), all remaining assets and liabilities of Housing Nova Scotia are vested in the Minister. 2022, c. 36, s. 55.

Housing Nova Scotia Act repealed

54 (1) Chapter H-21 of the Revised Statutes, 2023, the *Housing Nova Scotia Act*, is repealed.

(2) Subsection (1) comes into force on such day as the Governor in Council orders and declares by proclamation. 2022, c. 36, s. 54.

CHAPTER H-23

An Act Respecting Human Organ and Tissue Donation

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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 *Human Organ and Tissue Donation Act*.
2019, c. 6, s. 1.

Interpretation

2 In this Act,

“best interests” includes consideration of the physical, psychological, emotional and social well-being of the living potential donor;

“capacity” means the ability to understand the information that is relevant to a decision to be made and the ability to appreciate the reasonably foreseeable consequences of a decision or lack of a decision;

“Chief Medical Examiner” means the Chief Medical Examiner appointed pursuant to the *Fatality Investigations Act*;

“continuing-care home” means any facility licensed under the *Homes for Special Care Act*, any facility for which a resident may be approved for admission by the Department of Health and Wellness or the Department of Community Services and any facility prescribed by the regulations;

“court” means the Supreme Court of Nova Scotia;

“critical functions” means

- (a) respiration;
- (b) circulation; and
- (c) consciousness;

“death” means the irreversible cessation of the functioning of the organism as a whole as determined by the irreversible loss of the brain’s ability to control and coordinate the organism’s critical functions;

“donation after death” means a donation of any human organ, tissue or body after death in accordance with this Act;

“donor” means an individual who has consented, is deemed to have consented or in respect of whom a consent has been given to donate the individual’s organs, tissue or body for transplantation, scientific research or education;

“guardian” means a person appointed as the guardian of the person of a child under the *Guardianship Act* or a person who is a guardian under the *Children and Family Services Act*;

“health authority” means the provincial health authority or the IWK Health Centre;

“health-card number” means a unique identification number assigned by the Department of Health and Wellness to individuals insured under the *Health Services and Insurance Act* and reflected on the Nova Scotia health card;

“irreversible” means not physically possible to reverse without violating consent law;

“living donation” means a donation of organs or tissues in accordance with this Act while the donor is living;

“Minister” means the Minister of Health and Wellness;

“organ” means an organ, whether whole or in sections, lobes or parts;

“organ-donation program” means an organ donation program operated by the provincial health authority or another prescribed entity;

“physician” means a duly qualified medical practitioner;

“pre-death transplantation optimizing interventions” means interventions that are performed on a person before the person’s death for the purpose of optimizing the chances of a successful transplantation;

“Registry” means the Registry established or designated under Section 7;

“spouse” of an individual means

(a) another individual who is cohabiting with that individual in a conjugal relationship as a married spouse;

(b) a registered domestic partner of the individual; or

(c) an individual who is cohabiting with the individual in a conjugal relationship for a period of at least one year as common-law partners;

“substitute decision-maker” means a substitute decision-maker as determined under Section 6;

“tissue” means a functional group of human cells, excluding organs;

“tissue bank” means a regional tissue bank operated by the provincial health authority or another prescribed entity;

“transplantation” means the operation of transferring organs or tissues from a donor, whether living or dead, to a living human recipient;

“transplantation activities” means

(a) the storage or transportation of the body of a deceased person for use in transplantation;

(b) the removal from the body of a deceased person, for use for the purpose of transplantation, of organs and tissues of which the body consists or that it contains;

(c) the storage or transportation for the purpose of transplantation of organs and tissues that have come from a human body; or

(d) the use for the purpose of transplantation of organs and tissues that have come from a human body. 2019, c. 6, s. 2.

Application of Act

3 (1) This Act does not apply to

(a) blood or blood constituents; or

(b) zygotes, oocytes, embryos, sperm, semen or ova.

(2) This Act applies only to a donation made on or after the date this Act comes into force. 2019, c. 6, s. 3.

Donation only in accordance with Act

4 A donation after death or a living donation may be done only in accordance with this Act. 2019, c. 6, s. 4.

Consent

5 Only individuals with the capacity to do so may consent or refuse consent. 2019, c. 6, s. 5.

Substitute decision-maker

6 (1) A substitute decision-maker is, with respect to an individual, a person determined in the following order of priority:

(a) a person authorized to give consent under the *Medical Consent Act* or the *Personal Directives Act*, unless the authorization excludes decisions about organ or tissue donation and, where there is more than one delegate authorized pursuant to the *Personal Directives Act*, the delegate authorized to make healthcare decisions;

(b) a guardian or representative under the *Adult Capacity and Decision-making Act* with the appropriate authority to deal with organ donation decisions;

(c) a spouse;

(d) a child who has reached the age of majority;

(e) a parent;

(f) a person standing in *loco parentis*;

(g) a sibling;

(h) a grandparent;

(i) a grandchild;

(j) an aunt or uncle;

(k) a niece or nephew;

(l) another relative; or

(m) the person lawfully in possession of the individual's body.

(2) For the purpose of subsection (1), "person lawfully in possession of the body" does not include

(a) the Chief Medical Examiner or medical examiner in possession of the body for the purpose of the *Fatality Investigations Act*;

(b) where the person died in hospital, the administrative head of the hospital;

(c) where the person died in a continuing-care home, the administrative head of the continuing-care home;

(d) the Public Trustee in possession of the body for the purpose of its burial under the *Public Trustee Act*;

(e) an embalmer or funeral director in possession of the body for the purpose of its burial, cremation or other disposition; or

(f) the superintendent of a crematorium in possession of the body for the purpose of its cremation.

(3) For greater certainty, where two or more persons who are not described in the same clause of subsection (1) claim the authority to give or refuse consent under that subsection, the one under the clause occurring first in that subsection prevails.

(4) A person referred to in subsection (1) may not act as a substitute decision-maker unless the person

(a) excepting a spouse, has been in personal contact with the person over the preceding 12-month period or has been granted a court order to shorten or waive the 12-month period;

(b) is willing to assume the responsibility for making the decision;

(c) knows of no person of a higher order of priority who is able and willing to make the decision; and

(d) makes a statement in writing certifying the relationship to the person and the facts and beliefs set out in clauses (a) to (c).
2019, c. 6, s. 6.

DONATION AFTER DEATH

Registry

7 The Minister shall establish or designate a Registry to record consents and refusals respecting donation after death for transplantation made under this Act. 2019, c. 6, s. 7.

Consent to donate

8 (1) An individual may consent to or refuse donation after death for transplantation by providing information respecting the consent or refusal to the Registry in the manner specified by the Minister.

(2) A consent to donation after death under subsection (1) may be restricted to the donation of specified organs and tissues. 2019, c. 6, s. 8.

Effect of consent or refusal

9 (1) Subject to Section 15, a consent under Section 8 is full authority for transplantation activities to the extent of the consent.

(2) Subject to Section 15, where an individual has refused donation after death for transplantation under Section 8, the individual's organs and tissues may not be used for transplantation activities. 2019, c. 6, s. 9.

Physician to check registry

10 A physician or the Chief Medical Examiner shall, before undertaking transplantation activities, check the Registry to determine whether a decision made under Section 8 is on record in the Registry. 2019, c. 6, s. 10.

Deemed consent

11 (1) Subject to Sections 12 to 15, where an individual has not made a consent or refusal under Section 8, the individual is deemed to consent to the individual's organs and tissues being used for transplantation activities.

(2) A deemed consent under subsection (1) is full authority for transplantation activities. 2019, c. 6, s. 11.

No deemed consent where lack of capacity

12 (1) An individual is not deemed to consent under Section 11 if the individual has died and for a significant period before dying lacked the capacity to make a decision respecting donation after death.

(2) For the purpose of subsection (1), a significant period means a sufficiently long period as would lead a reasonable person to conclude that it would be inappropriate for consent to be deemed to have been given.

(3) Nothing in this Section affects the ability of a substitute decision-maker to give consent on behalf of the individual. 2019, c. 6, s. 12.

No deemed consent where not ordinarily resident

13 (1) An individual is not deemed to consent under Section 11 if the individual has died and the individual was not ordinarily resident in the Province for a period of at least 12 months immediately before dying.

(2) Nothing in this Section affects the ability of a substitute decision-maker to give consent on behalf of the individual. 2019, c. 6, s. 13.

No deemed consent where under age of majority

14 (1) An individual is not deemed to consent under Section 11 if the individual was under the age of majority at the time of death.

(2) Nothing in this Section affects the ability of a substitute decision-maker to give consent on behalf of the individual. 2019, c. 6, s. 14.

Substitute decision-maker may consent or refuse

15 (1) Where a substitute decision-maker provides information that would lead a reasonable person to conclude that an individual would have made a different decision respecting donation after death than the decision recorded in the Registry or deemed under Section 11, the substitute decision-maker may consent or refuse on behalf of the individual in accordance with that information.

(2) A consent under subsection (1) is full authority for transplantation activities to the extent of the consent. 2019, c. 6, s. 15.

Medical tests for death

16 (1) The medical tests to demonstrate that death has occurred are those established by the medical profession from time to time. 2019, c. 6, s. 16.

Determination at death

17 (1) For the purpose of organ donation after death for transplantation, death must be determined by at least two physicians who have skill and knowledge in conducting the specific medical tests established by the medical profession for determining death.

(2) A physician who has had an association with a proposed organ recipient that might influence the physician's judgement may not take part in the determination of the death of an organ donor.

(3) No physician who took any part in the determination of death of the organ donor may participate in the organ transplant procedures. 2019, c. 6, s. 17.

Pre-death removal of organs or tissue

18 Where

(a) in the opinion of a physician the death of an individual is imminent by reason of injury or disease;

(b) the physician has reason to believe that Sections 11 to 14 of the *Fatality Investigations Act* may apply when death does occur; and

(c) a consent under this Act has been obtained for donation after death,

the Chief Medical Examiner may allow the removal of organs or tissue after the death of the person notwithstanding that death has not yet occurred. 2019, c. 6, s. 18.

Information to organ-donation program and tissue bank

19 (1) Where an individual dies, or in the opinion of a physician death is imminent, in a hospital or in circumstances set out in Sections 11 to 14 of the *Fatality Investigations Act*, the hospital or the Chief Medical Examiner shall, as soon as possible, provide to the organ-donation program and the tissue bank

(a) the age of the individual;

(b) the cause, or expected cause, of the death of the individual;

(c) the time of death of the individual, if death has occurred; and

(d) any available past and current personal information, including medical and social history, that is relevant to organ or tissue transplantation.

(2) The organ-donation program and the tissue bank, shall make a determination as to whether the organs and tissue of the individual may be medically suitable for use in another person by assessing the information provided under subsection (1).

(3) Where the organ-donation program or the tissue bank determines that the organs or tissue of the individual may be medically suitable for use in another person, the hospital or the Chief Medical Examiner shall, as soon as possible, provide the individual's name and health-card number to the organ-donation program and the tissue bank for the purpose of determining whether the individual has provided a consent or refusal in the Registry and whether deemed consent applies.

(4) Notwithstanding subsection (1), the hospital or the Chief Medical Examiner shall not provide the information referred to in subsection (1) to the tissue bank and the organ-donation program if the individual clearly meets criteria established by the tissue bank and the organ-donation program that set out circumstances in which an individual's organs or tissues would not be medically suitable for use in another person.

(5) Where the hospital or Chief Medical Examiner does not provide the information referred to in subsection (1), the reasons for the decision must be placed in the record of the person.

(6) Where the organ-donation program or the tissue bank determines that a medical or other condition exists that may make the organs or tissue of the individual medically unsuitable for use in another person, the reason for the determination must be placed in the record of the individual. 2019, c. 6, s. 19.

Annual reports

20 (1) The chief executive officers of a health authority and the Chief Medical Examiner shall submit a report annually to the Minister.

(2) The report referred to in subsection (1) must include

(a) the number of deceased persons who were medically suitable to be a donor, based upon criteria established by the tissue bank and the organ-donation program, but were not referred to the tissue bank and the organ-donation program;

(b) any actions undertaken or proposed to address issues related to missed referrals and their effectiveness; and

(c) any information prescribed by the regulations. 2019, c. 6, s. 20.

Consent to donation for scientific research or education purposes

21 (1) A person may consent to donation after death for scientific research or education purposes by express personal consent or by consent given by a substitute decision-maker.

(2) For greater certainty, a deemed consent under Section 11 does not include consent to donation after death for scientific research or educational purposes. 2019, c. 6, s. 21.

Pre-death transplantation optimizing interventions

22 (1) Consent to donate organs does not imply consent to pre-death transplantation optimizing interventions.

(2) An individual with the capacity to give voluntary and informed consent may consent to the use of pre-death transplantation optimizing interventions on the individual's body

- (a) in writing signed by the individual; or
- (b) orally in the presence of at least two witnesses with documentation of the consent signed by the witnesses at the time the consent or refusal was made.

(3) Where an individual has not provided consent, the individual lacks capacity to consent and in the opinion of a physician the individual's death is imminent, a substitute decision-maker shall

- (a) follow any instructions in a personal directive made pursuant to the *Personal Directives Act*, unless
 - (i) there are expressions of a contrary wish made subsequently by the individual while the individual had the capacity to do so,
 - (ii) technological changes or medical advances make the instruction inappropriate in a way that is contrary to the intentions of the individual, or
 - (iii) circumstances exist that would have caused the individual to set out different instructions had the circumstances been known based on what is known of the values and beliefs of the individual and from any other written or oral instructions; or
- (b) in the absence of instructions, act according to what the substitute decision-maker believes the wishes of the individual would be based on what the substitute decision-maker knows of the values and beliefs of the individual and from any other written or oral instructions.

(4) The consent of a substitute decision-maker must be given

- (a) in writing, signed by the substitute decision-maker;
- (b) orally, in person or otherwise, by the substitute decision-maker in the presence of at least two witnesses with documentation of the consent signed by the witnesses at the time the consent or refusal was made; or
- (c) by telegraphic, recorded telephonic or other recorded message of the substitute decision-maker.

(5) Consent to pre-death transplantation optimizing interventions given under this Act is full authority for a physician or hospital to perform such interventions

- (a) when it is made; or
 - (b) where it is contained in a personal directive made pursuant to the *Personal Directives Act* or other lawful advance directive, when the personal directive or advance directive is activated.
- 2019, c. 6, s. 22.

LIVING DONATION

Consent to living donation

23 (1) Any individual with the capacity to do so may, in writing signed by the individual, consent to donate specific organs or tissues from the individual's living body.

- (2)** The consent must be
- (a) voluntary and informed; and
 - (b) given by a person with the legal authority to give, refuse or withdraw consent. 2019, c. 6, s. 23.

Where individual lacks capacity

24 (1) Where an individual lacks the capacity to give a valid consent and the individual has a valid personal directive setting out clear instructions or expressions of wishes that the individual would want to consent to a living donation, a person authorized to give consent pursuant to clause 6(1)(b) of this Act or Section 14 of the *Personal Directives Act* who gives voluntary and informed consent may, in writing signed by that person, consent to the living donation of organs for transplantation on behalf of the individual.

(2) When a person authorized pursuant to subsection (1) is making a decision about a living donation by an individual, the person shall follow any instructions of the individual in a personal directive made pursuant to the *Personal Directives Act* unless

- (a) there are expressions of a contrary wish made subsequently by the individual while the individual had the capacity;
- (b) technological changes or medical advances make the instruction inappropriate in a way that is contrary to the intentions of the individual; or
- (c) circumstances exist that would have caused the individual to set out different instructions had the circumstances been known based on what is known of the values and beliefs of the individual and from any other written or oral instructions. 2019, c. 6, s. 24.

Court authorization

25 (1) Where an individual lacks the capacity to give a valid consent, and the criteria set out in Section 24 are not met, the individual's organs may not be donated from the individual's living body for transplantation without court authorization.

(2) When the court is deciding whether to authorize a donation for transplantation pursuant to subsection (1), the court shall consider

- (a) whether the proposed recipient has a close personal relationship with the individual;
- (b) a written report by a physician stating that the donation by the individual who lacks capacity is the best option for a successful transplant for the recipient;

(c) a written report by the ethics program associated with the hospital where the transplant will be performed that has reviewed the case;

(d) a written psychosocial report about the donor by an independent psychologist or psychiatrist who has experience working with

(i) adults without capacity if the donor is an adult,
or

(ii) minors without capacity if the donor is a minor;

(e) a written statement by the substitute decision-maker who has the authority to make healthcare decisions in respect of the individual consenting to the donation;

(f) whether the donation

(i) where the individual is an adult, is consistent with the known prior wishes of the individual while the individual had the capacity or, where such wishes are not known, is in the best interests of the individual, or

(ii) where the individual is a minor, is in the best interests of the individual; and

(g) the current wishes of the individual.

(3) When a substitute decision-maker referred to in clause (2)(e) is making a decision about a living donation by an individual, the substitute decision-maker shall

(a) where the individual is an adult,

(i) act according to what the substitute decision-maker believes the wishes of the individual would be based on what the substitute decision-maker knows of the values and beliefs of the individual and from any other written or oral instructions, or

(ii) where the substitute decision-maker does not know the wishes, values and beliefs of the individual, make a decision that the substitute decision-maker believes would be in the best interests of the individual; or

(b) where the individual is a minor, make a decision that the substitute decision-maker believes would be in the best interests of the individual.

(4) Where there is more than one substitute decision-maker who has equal authorization to make healthcare decisions, the court may authorize the donation if there is consent from one of those persons.

(5) Upon application of a party or on its own motion, the court may order that a guardian *ad litem* be appointed for an individual who lacks capacity. 2019, c. 6, s. 25.

Consent or court authorization full authority

26 (1) A consent given pursuant to Sections 23 and 24 or a court authorization pursuant to Section 25 is full authority for any physician to

- (a) make any examination of the donor that is necessary to assure medical suitability of the organ specified therein; and
- (b) remove the specified organ from the body of the donor.

(2) Where for any reason the organ specified in the consent is not removed in the circumstances to which the consent relates, the consent is void. 2019, c. 6, s. 26.

GENERAL**Dealing in tissue or body parts for valuable consideration**

27 (1) Subject to subsection (3), no person shall buy, sell or otherwise deal in, directly or indirectly, for valuable consideration, any human organ, tissue or body for use in transplantation, education or scientific research.

(2) For the purpose of subsection (1), valuable consideration does not include

- (a) reimbursement for reasonable expenses associated with the removal, transplantation, implantation, processing, preservation and quality control, and storage of organs or tissue;
- (b) remuneration received for participating in or performing a service necessarily incidental to the process whereby a transplant of human tissue is effected or a human body or part of the body is prepared for use for therapeutic purposes or for the purpose of education or scientific research; or
- (c) the buying and selling of tissues by the tissue bank as approved by a health authority or the Minister.

(3) Parties who conduct, fund or participate in research involving human organs or tissues donated under this Act may receive payments for products or processes developed for therapeutic purposes as a result of such research. 2019, c. 6, s. 27.

Confidential information

28 (1) Subject to subsections (2) and (3), no person shall disclose or give to any other person, other than the healthcare professionals involved in the person's care and in the transplantation process, any information or document that identifies any person, living or dead, including a substitute decision-maker,

- (a) who has given or refused to give a consent to donation;
- (b) with respect to whom a consent to donation has been given or refused; or
- (c) into whose body organs or tissue has been, is being or may be transplanted.

(2) Subsection (1) does not apply if the disclosure

- (a) is permitted or required by an enactment or by an order of the court; or
- (b) has been agreed to in writing by the person whose identity would be disclosed.
- (3) Subsection (1) does not apply as between the donor and the recipient if
- (a) an organ, a heart valve or a tissue of a type prescribed by the regulations was donated;
- (b) both the recipient of an organ, heart valve or tissue of a type prescribed by the regulations or the recipient's substitute decision-maker and the donor or the donor's substitute decision-maker voluntarily agree in writing to the exchange of identifying information or to a meeting; and
- (c) those agreeing under clause (b) have been informed of the reasonably foreseeable risks of such a meeting or identifying information exchange before they give their consent. 2019, c. 6, s. 28.

No action lies

29 No action or other proceeding for damages lies against any person in respect of anything done or omitted to be done in good faith and without negligence in the exercise or intended exercise of any authority under this Act. 2019, c. 6, s. 29.

False information

30 No person shall give false information under this Act. 2019, c. 6, s. 30.

Consent withdrawn or objection

31 No person shall act on a consent given or deemed to be given under this Act if the person has knowledge

- (a) that the donor subsequently withdrew the consent; or
- (b) of an objection by the donor. 2019, c. 6, s. 31.

Different decision

32 No person shall give a consent or refusal under this Act if the person has personal knowledge that the individual for whom the consent or refusal is given would have made a different decision. 2019, c. 6, s. 32.

Offence

33 Every person who knowingly contravenes this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$10,000 or to imprisonment for a term of not more than six months, or to both a fine and imprisonment. 2019, c. 6, s. 33.

Fatality Investigations Act

34 Except as provided in Sections 18 and 19, nothing in this Act affects the operation of the *Fatality Investigations Act*. 2019, c. 6, s. 34.

Human Tissue Gift Act

35 Nothing in this Act invalidates an authorization made under the *Human Tissue Gift Act* before the coming into force of this Act. 2019, c. 6, s. 35.

Regulations

- 36** (1) The Governor in Council may make regulations
- (a) prescribing a facility as a continuing-care home for the purpose of the definition of “continuing-care home” in Section 2;
 - (b) prescribing an entity or entities that are organ-donation programs within the meaning of the definition of “organ-donation program” in Section 2;
 - (c) prescribing an entity or entities that are tissue banks within the meaning of the definition of “tissue bank” in Section 2;
 - (d) respecting the Registry, including
 - (i) the process for recording information in the Registry, and
 - (ii) who may access or edit information recorded in the Registry;
 - (e) respecting the manner by which individuals may provide information respecting consents or refusals to donation after death to the Registry;
 - (f) prescribing information that must be provided in a report from a hospital or the Chief Medical Examiner;
 - (g) prescribing additional reports that hospitals, the Chief Medical Examiner, the organ-donation program or the tissue bank must provide;
 - (h) excluding or including certain practices from the meaning of valuable consideration;
 - (i) setting rates of reimbursement that are not considered valuable consideration;
 - (j) respecting the products or processes for which parties who conduct, fund or participate in research are permitted to receive payments;
 - (k) prescribing types of tissues for the purpose of clause 28(3)(a);
 - (l) defining any word or expression used but not defined in this Act;
 - (m) further defining any word or expression defined in this Act; or
 - (n) respecting any matter or thing the Governor in Council considers necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2019, c. 6, s. 36.

CHAPTER H-24

An Act to Amend the Statute Law Respecting Human Rights

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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 *Human Rights Act*. R.S., c. 214, s. 1.

Purpose of Act

2 The purpose of this Act is to

- (a) recognize the inherent dignity and the equal and inalienable rights of all members of the human family;
- (b) proclaim a common standard for achievement of basic human rights by all Nova Scotians;
- (c) recognize that human rights must be protected by the rule of law;
- (d) affirm the principle that every person is free and equal in dignity and rights;
- (e) recognize that the government, all public agencies and all persons in the Province have the responsibility to ensure that every individual in the Province is afforded an equal opportunity to enjoy a full and productive life and that failure to provide equality of opportunity threatens the status of all persons; and
- (f) extend the statute law relating to human rights and provide for its effective administration. 1991, c. 12, s. 1; 2008, c. 59, s. 1.

Interpretation

3 In this Act,

- “business or trade association” includes an organization of persons that by an enactment, agreement or custom has power to admit, suspend, expel or direct persons in relation to any business or trade;
- “Commission” means the Nova Scotia Human Rights Commission;
- “Director” means the Director of Human Rights appointed pursuant to this Act;
- “employees’ organization” includes an organization of employees formed for purposes that include the regulation of relations between employees and employers;
- “employer” includes a person who contracts with a person for services to be performed by that person or wholly or partly by another person;
- “employers’ organization” includes an organization of employers formed for purposes that include the regulation of relations between employers and employees;
- “employment agency” includes a person who undertakes, with or without payment, to procure employees for employers and a person who undertakes, with or without payment, to procure employment for persons;

“family status” means the status of being in a parent-child relationship;

“harass” means to engage in a course of vexatious conduct or comment that is known or ought reasonably to be known to be unwelcome;

“marital status” means the status of being single, engaged to be married, married, separated, divorced, widowed or two people living in the same household as if they were married;

“Minister” means the member of the Executive Council who is charged with the administration of this Act by the Governor in Council;

“person” includes employer, employers’ organization, employees’ organization, professional association and business or trade association, whether acting directly or indirectly, alone or with another, or by the interposition of another;

“physical disability or mental disability” means an actual or perceived

(a) loss or abnormality of psychological, physiological or anatomical structure or function;

(b) restriction or lack of ability to perform an activity;

(c) physical disability, infirmity, malformation or disfigurement, including epilepsy and any degree of paralysis, amputation, lack of physical coordination, deafness, hardness of hearing or hearing impediment, blindness or visual impediment, speech impairment or impediment or reliance on a service dog as defined in the *Service Dog Act*, a guide dog, a wheelchair or a remedial appliance or device;

(d) learning disability or a dysfunction in one or more of the processes involved in understanding or using symbols or spoken language;

(e) condition of being mentally impaired;

(f) mental disorder; or

(g) dependency on drugs or alcohol;

“professional association” includes an organization of persons that by an enactment, agreement or custom has power to admit, suspend, expel or direct persons in the practice of an occupation or calling;

“sex” includes pregnancy, possibility of pregnancy and pregnancy-related illness;

“sexual harassment” means

(a) vexatious sexual conduct or a course of comment that is known or ought reasonably to be known as unwelcome;

(b) a sexual solicitation or advance made to an individual by another individual if the other individual is in a position to confer a benefit on, or deny a benefit to, the individual to whom the solicitation or advance is made, if the individual who makes the solicitation or advance knows or ought reasonably to know that it is unwelcome; or

(c) a reprisal or threat of reprisal against an individual for rejecting a sexual solicitation or advance. 1991, c. 12, s. 1; 2007, c. 41, s. 1; 2016, c. 4, s. 21.

PART I

DISCRIMINATION PROHIBITED

Meaning of discrimination

4 For the purpose of this Act, a person discriminates if the person makes a distinction, whether intentional or not, based on a characteristic, or perceived characteristic, referred to in clauses 5(1)(h) to (x) that has the effect of imposing burdens, obligations or disadvantages on an individual or a class of individuals not imposed upon others or that withholds or limits access to opportunities, benefits and advantages available to other individuals or classes of individuals in society. 1991, c. 12, s. 1.

Prohibition of discrimination

5 (1) No person shall in respect of

- (a) the provision of or access to services or facilities;
- (b) accommodation;
- (c) the purchase or sale of property;
- (d) employment;
- (e) volunteer public service;
- (f) a publication, broadcast or advertisement;
- (g) membership in a professional association, business or trade association, employers' organization or employees' organization,

discriminate against an individual or class of individuals on account of

- (h) age;
- (i) race;
- (j) colour;
- (k) religion;
- (l) creed;
- (m) sex;
- (n) sexual orientation;
- (o) gender identity;
- (p) gender expression;
- (q) physical disability or mental disability;
- (r) an irrational fear of contracting an illness or disease;
- (s) ethnic, national or aboriginal origin;
- (t) family status;
- (u) marital status;
- (v) source of income;
- (w) political belief, affiliation or activity;

(x) that individual's association with another individual or class of individuals having characteristics referred to in clauses (h) to (w).

(2) No person shall sexually harass an individual.

(3) No person shall harass an individual or group with respect to a prohibited ground of discrimination. 1991, c. 12, s. 1; 2007, c. 41, s. 2; 2012, c. 51, s. 2.

Exceptions

6 Subsection 5(1) does not apply

(a) in respect of the provision of or access to services or facilities, to the conferring of a benefit on or the providing of a protection to youth or senior citizens;

(b) in respect of accommodation, if the only premises rented consist of one room in a dwelling house the rest of which is occupied by the landlord or the landlord's family and the landlord does not advertise the room for rental by sign, through any news media or by listing with any housing, rental or tenants' agency;

(c) in respect of employment, to

(i) a domestic employed and living in a single family home,

(ii) an exclusively religious or ethnic organization or an agency of such an organization that is not operated for private profit and that is operated primarily to foster the welfare of a religious or ethnic group with respect to persons of the same religion or ethnic origin, as the case may be, with respect to a characteristic referred to in clauses 5(1)(h) to (x) if that characteristic is a reasonable occupational qualification, or

(iii) employees engaged by an exclusively religious organization to perform religious duties;

(d) in respect of volunteer public service, to an exclusively religious or ethnic organization that is not operated for private profit and that is operated primarily to foster the welfare of a religious or ethnic group with respect to persons of the same religion or ethnic origin, as the case may be;

(e) if the nature and extent of the physical disability or mental disability reasonably precludes performance of a particular employment or activity;

(f) if a denial, refusal or other form of alleged discrimination is

(i) based upon a bona fide qualification,

(ii) based upon a bona fide occupational requirement, or

(iii) a reasonable limit prescribed by law as can be demonstrably justified in a free and democratic society;

(g) to prevent, on account of age, the operation of a bona fide pension plan or the terms or conditions of a bona fide group or employee insurance plan; or

(h) to preclude a law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or classes of individuals including those who are disadvantaged because of a characteristic referred to in clauses 5(1)(h) to (x). 1991, c. 12, s. 1; 2007, c. 11, s. 1.

Further exception

7 Nothing in Section 5 prohibits a term of office based upon age if required by an enactment. 2007, c. 11, s. 2.

Publication

8 (1) Subject to Section 6, no person shall publish, display or broadcast, or permit to be published, displayed or broadcast, on lands or premises, in a newspaper, by radio or television or by means of any medium, a notice, sign, symbol, implement or other representation indicating discrimination or an intention to discriminate against an individual or class of individuals because of a characteristic referred to in clauses 5(1)(h) to (x).

(2) Nothing in this Section is deemed to interfere with the free expression of opinion upon any subject in speech or in writing. 1991, c. 12, s. 1.

Employment

9 (1) No employment agency shall accept an inquiry in connection with employment from an employer or a prospective employee that, directly or indirectly, expresses a limitation, specification or preference or invites information as to a characteristic referred to in clauses 5(1)(h) to (x), and no employment agency shall discriminate against an individual on account of such a characteristic.

(2) No person shall use or circulate a form of application for employment or publish an advertisement in connection with employment or prospective employment or make an inquiry in connection with employment that, directly or indirectly, expresses a limitation, specification or preference or invites information as to a characteristic referred to in clauses 5(1)(h) to (x).

(3) The exceptions referred to in Section 6 apply with necessary changes to subsections (1) and (2). 1991, c. 12, s. 1.

Exemption by Commission

10 Notwithstanding anything in this Act, the Commission may exempt a program or activity from subsection 5(1), or a part thereof, if, in the opinion of the Commission, there is a bona fide reason to do so. 1991, c. 12, s. 1.

Void regulation

11 (1) Where, in a regulation made pursuant to an enactment, there is a reference to a characteristic referred to in clauses 5(1)(h) to (x) that appears to restrict the rights or privileges of an individual or a class of individuals to whom the reference applies, the reference and all parts of the regulation dependent on the reference are void and of no legal effect.

(2) This Section does not apply in respect of an exclusively religious or ethnic organization that is not operated for private profit and that is oper-

ated primarily to foster the welfare of a religious or ethnic group with respect to persons of the same religion or ethnic origin, as the case may be. 1991, c. 12, s. 1.

Prohibition of retaliation

12 No person shall evict, discharge, suspend, expel or otherwise retaliate against any person on account of a complaint or an expressed intention to complain or on account of evidence or assistance given in any way in respect of the initiation, inquiry or prosecution of a complaint or other proceeding under this Act. 1991, c. 12, s. 1.

Act binds Crown

13 This Act binds the Crown in right of the Province and every servant and agent of the Crown. R.S., c. 214, s. 21.

PART II

HUMAN RIGHTS COMMISSION

Nova Scotia Human Rights Commission

14 (1) The Nova Scotia Human Rights Commission is continued.

(2) The Commission consists of not fewer than three nor more than 12 members appointed by the Governor in Council, and the Governor in Council shall designate one of the members as Chair of the Commission.

(3) Each commissioner holds office for the term prescribed in the commissioner's appointment and is eligible for reappointment.

(4) Each commissioner, not a member of the public service, shall be paid remuneration as the Governor in Council determines in addition to the commissioner's actual and reasonable travelling and living expenses when absent from the commissioner's place of residence in connection with the work of the Commission.

(5) Whenever a commissioner ceases to hold office, the Governor in Council may appoint a person to fill the vacancy. R.S., c. 214, s. 22; 1991, c. 12, s. 2; 2007, c. 41, s. 3.

Duties of Commission

15 (1) The Commission shall

- (a)** administer and enforce this Act;
- (b)** develop a program of public information and education in the field of human rights to forward the principle that every person is free and equal in dignity and rights without regard to race, religion, creed, colour or ethnic or national origin;
- (c)** conduct research and encourage research by universities and other bodies in the general field of human rights;
- (d)** advise and assist government departments and coordinate their activities as far as these activities concern human rights;

(e) advise the Government on suggestions, recommendations and requests made by private organizations and individuals;

(f) co-operate with and assist any person, organization or body concerned with human rights, within or outside the Province;

(g) report as required by the Minister on the business and activities of the Commission; and

(h) consider, investigate or administer any matter or activity referred to the Commission by the Governor in Council or the Minister.

(2) The Commission shall report in each year to the Minister on the activities of the Commission during the preceding fiscal year ending in that year.

(3) The Minister shall lay the annual report before the Assembly if it is sitting or, where it is not sitting, with 15 sitting days after it next sits. R.S., c. 214, s. 24; 1991, c. 12, s. 4.

Approval of program

16 The Commission may approve programs of Government, private organizations or persons designed to promote the welfare of any class of individuals, and any approved program is deemed not to be a violation of this Act. R.S., c. 214, s. 25.

Director of Human Rights

17 (1) The Governor in Council shall appoint a Director of Human Rights who is the chief executive officer and a non-voting member of the Commission and who has the status of a deputy head, subject to the provisions of the *Civil Service Act* relating to a deputy or a deputy head.

(2) The Director shall perform duties and functions prescribed by this Act, by the Commission or by the regulations.

(3) The Chair of the Commission, in consultation with the members of the Commission, shall carry out an annual performance appraisal, in the prescribed form, of the Director and submit the appraisal to the Minister. R.S., c. 214, s. 26; 2007, c. 41, s. 4.

Race Relations, Equity and Inclusion

18 (1) A division to be known as Race Relations, Equity and Inclusion is established within the Commission, under the direction of the Manager of Race Relations, Equity and Inclusion.

(2) Race Relations, Equity and Inclusion

(a) shall develop and recommend programs and policies to promote racial harmony and to eliminate barriers to the full participation of members of racial minorities in society;

(b) shall assist Government, departments and agencies of Government, non-Government organizations and the private sector to develop policies on race relations;

(c) shall monitor implementation of policies on race relations adopted by Government or a department of Government, including the implementation of affirmative action and settlement agreements; and

(d) may, on application by any person, give such advice and assistance with respect to the adoption or carrying out of a program, plan or arrangement as will foster good relations between races and cultures.

(3) The Manager of Race Relations, Equity and Inclusion shall

(a) perform such functions and duties as are assigned to the Manager of Race Relations, Equity and Inclusion by the Commission; and

(b) report to the Commission on the activities of Race Relations, Equity and Inclusion. 1991, c. 12, s. 5; 2007, c. 41, s. 5; 2008, c. 59, s. 2.

Personnel

19 Subject to Section 17, the officers and employees required for the proper conduct of business of the Commission may be appointed under the *Civil Service Act*. R.S., c. 214, s. 27.

Expenditures

20 (1) The Commission shall present a yearly budget to the Minister estimating the expenditures of the Commission on the various programs and activities.

(2) All costs, charges and expenses incurred by the Commission in administering this Act must be paid out of money appropriated by the Legislature therefor. R.S., c. 214, s. 28.

PART III

ADMINISTRATION

Procedure on complaint

21 (1) The Commission shall inquire into and endeavour to effect a settlement of any complaint of an alleged violation of this Act if

(a) the person aggrieved makes a complaint in writing on a form prescribed by the Director; or

(b) the Commission has reasonable grounds for believing that a complaint exists.

(2) Any complaint must be made within 12 months of the date of the action or conduct complained of, or within 12 months of the last instance of the action or conduct if the action or conduct is ongoing.

(3) Notwithstanding subsection (2), the Director may, in exceptional circumstances, grant a complainant an additional period of not more than 12

months to make a complaint if doing so would be in the public interest and, having regard to any prejudice to the complainant or the respondent, would be equitable.

(4) The Commission or the Director may dismiss a complaint at any time if

- (a) the best interests of the individual or class of individuals on whose behalf the complaint was made will not be served by continuing with the complaint;
- (b) the complaint is without merit;
- (c) the complaint raises no significant issues of discrimination;
- (d) the substance of the complaint has been appropriately dealt with pursuant to another Act or proceeding;
- (e) the complaint is made in bad faith or for improper motives or is frivolous or vexatious;
- (f) there is no reasonable likelihood that an investigation will reveal evidence of a contravention of this Act; or
- (g) the complaint arises out of circumstances for which an exemption order has been made pursuant to Section 10. R.S., c. 214, s. 29; 2007, c. 41, s. 6.

Power of investigator of complaint

22 The Director or officer acting under the authority of the Commission in the investigation of a complaint or other process under this Act may

- (a) require any person to furnish any information or records that may be necessary to further the investigation or process; and
- (b) enter at all reasonable times the premises to which a complaint or other process refers. R.S., c. 214, s. 30.

Court order upon refusal

23 (1) Where any person refuses to furnish information or records or to permit entry to premises at reasonable times as authorized by Section 22, the Commission may apply on notice to a judge of the Supreme Court of Nova Scotia for an order directing that information or records be furnished or entry permitted.

(2) The judge may make such order as the judge thinks just and the order may be enforced as any other order or judgment of the Supreme Court. R.S., c. 214, s. 31; 2007, c. 41, s. 7.

Referral of settlement to Commission for approval

24 (1) When, at any stage after the filing of a complaint and before the commencement of a hearing before a board of inquiry, a settlement is agreed on by the parties, the terms of the settlement must be referred to the Commission for approval or rejection.

(2) Where the Commission approves or rejects the terms of a settlement referred to in subsection (1), it shall so certify and notify the parties. 1991, c. 12, s. 6.

Board of inquiry

25 (1) The Commission may, at any stage after the filing of a complaint, appoint a board of inquiry to inquire into the complaint.

(2) A board of inquiry may not be composed of more than three members.

(3) No member, officer or employee of the Commission, and no individual who has acted as an investigator in respect of the complaint in relation to which the board of inquiry is appointed, is eligible to be appointed to the board.

(4) A member of a board of inquiry is entitled to be paid such remuneration and expenses for the performance of duties as a member of the board as may be determined by the Governor in Council.

(5) Where a board of inquiry is composed of more than one member, the Commission shall designate one of the members to chair the board. 1991, c. 12, s. 6; 2007, c. 41, s. 9.

Parties to proceeding

26 The parties to a proceeding before a board of inquiry with respect to any complaint are

- (a)** the Commission;
- (b)** the person named in the complaint as the complainant;
- (c)** any person named in the complaint and alleged to have been dealt with contrary to this Act;
- (d)** any person named in the complaint and alleged to have contravened this Act; and
- (e)** any other person specified by the board upon such notice as the board may determine and after the person has been given an opportunity to be heard against joinder as a party. R.S., c. 214, s. 33.

Public hearing

27 (1) A board of inquiry shall conduct a public hearing and has all the powers and privileges of a commissioner under the *Public Inquiries Act*.

(2) A member of a board of inquiry shall not communicate directly or indirectly in relation to the complaint, except regarding arrangements for a hearing, with any person or with any party or the party's representative unless all parties are given notice and an opportunity to participate, but the board may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

(3) A board of inquiry shall give full opportunity to all parties to present evidence and make representations.

(4) Oral evidence taken before a board of inquiry at a hearing must be recorded and copies or a transcript thereof must be furnished upon the same terms as in the Supreme Court of Nova Scotia.

(5) Where the complaint referred to a board of inquiry is settled by agreement among all parties, the board shall report the terms of settlement in its decision with any comment the board considers appropriate.

(6) Where the complaint referred to a board of inquiry is not settled by agreement among all parties the board shall continue its inquiry.

(7) A board of inquiry has jurisdiction and authority to determine any question of fact or law or both required to be decided in reaching a decision as to whether or not any person has contravened this Act or for the making of any order pursuant to such decision.

(8) A board of inquiry may order any party who has contravened this Act to do any act or thing that constitutes full compliance with this Act and to rectify any injury caused to any person or class of persons or to make compensation therefor and, where authorized by and to the extent permitted by the regulations, may make any order against that party, unless that party is the complainant, as to costs as it considers appropriate in the circumstances.

(9) A board of inquiry shall file with the Commission the record of the proceedings, including the decision and any order of the board and the Commission may publish the decision and any order in any manner it considers appropriate. R.S., c. 214, s. 34; 2007, c. 41, s. 8.

Final written decision

28 (1) A board of inquiry shall render a final written decision respecting a complaint within six months of the conclusion of the hearing.

(2) Where the board of inquiry has not rendered a final written decision within six months of the conclusion of the hearing respecting the complaint, the board shall immediately advise the Chief Judge of the Provincial Court of Nova Scotia of the reasons for the delay and indicate when a final decision will be rendered.

(3) Where the board of inquiry has not rendered a final written decision within the time indicated in subsection (2), the Chief Judge may fix a time within which the board must render the final written decision or may revoke the appointment of the board and appoint a new board. 2007, c. 41, s. 10.

Privileged information

29 No member of the Commission, nor the Director or any officer or employee provided for in Section 19, may be required by any board of inquiry or any court to give evidence, or to provide access to Commission records, relating to the information obtained in investigation of a complaint under this Act. R.S., c. 214, s. 35.

Appeal

30 (1) Any party to a hearing before a board of inquiry may appeal from the decision or order of the board to the Nova Scotia Court of Appeal on a question of law in accordance with the rules of court.

(2) Where notice of an appeal is served pursuant to this Section, the Commission shall forthwith file with the Court of Appeal the record of the proceedings in which the decision or order appealed from was made and that record constitutes the record on the appeal.

(3) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal pursuant to this Section.

(4) The Court of Appeal shall hear and determine an appeal based upon the record on the appeal. R.S., c. 214, s. 36; 2007, c. 41, s. 11.

Compliance with order required

31 Every person in respect of whom an order is made under this Act shall comply with the order. R.S., c. 214, s. 37.

Offence and penalty

32 Every person who does anything prohibited by this Act or who refuses or neglects to comply with any order made under this Act is guilty of an offence and is liable on summary conviction to

- (a) where an individual, a fine not exceeding \$500; and
- (b) where a person other than an individual, a fine not exceeding \$1,000. R.S., c. 214, s. 38.

Prosecution

33 (1) No prosecution for an offence under this Act may be instituted without the consent in writing of the Minister.

(2) No proceeding under this Act is deemed invalid by reason of any defect in form or any technical irregularity.

(3) In any prosecution under this Act, it is sufficient for conviction if a reasonable preponderance of evidence supports a charge that the accused has done anything prohibited by this Act or has refused or neglected to comply with an order made under this Act. R.S., c. 214, s. 39.

Prosecution of organization or association

34 A prosecution for an offence under this Act may be brought against an employers' organization, employees' organization, professional association or business or trade association in the name of the organization or association, and for the purpose of any prosecution these are deemed to be corporations and any act or thing done or omitted by an officer or agent within the scope of the officer or agent's authority to act on behalf of the organization or association is deemed to be an act or thing done or omitted by the organization or association. R.S., c. 214, s. 40.

Injunction

35 (1) Where a person has been convicted of an offence under this Act, the Minister may apply by way of petition to a judge of the Supreme Court of Nova Scotia for an order enjoining the person from continuing the offence.

(2) The judge, in the judge's discretion, may make such order and the order may be enforced in the same manner as any other order or judgment of the Supreme Court. R.S., c. 214, s. 41; 2007, c. 41, s. 12.

Powers of Governor in Council, including regulations

36 (1) The Governor in Council may undertake or cause to be undertaken such inquiries and other measures as appear advisable or desirable to promote the purpose of this Act.

(2) The Governor in Council may make regulations respecting any matter the Governor in Council considers necessary or advisable for the attainment of the objects and purpose of this Act and, in particular, may make regulations

(a) providing for affirmative action programs or other special programs;

(b) authorizing a board of inquiry to award costs and determining the amount or extent of those costs;

(c) defining any word or expression used in this Act and not defined in this Act.

(3) The exercise by the Governor in Council of the authority contained in subsection (2) is a regulation within the meaning of the *Regulations Act*. R.S., c. 214, s. 42; 1991, c. 12, s. 7; 2007, c. 41, s. 13.

Undersea coal mines

37 (1) Notwithstanding anything contained in this Act, the Governor in Council may, on the recommendation of the Minister, designate under this Section a coal mine wholly or partly located below the low-water mark in an area of the Province covered by seawater and matters or entities in respect of that coal mine and, for the purpose of matters or entities so designated,

(a) the *Canadian Human Rights Act* as amended from time to time applies; and

(b) except for this Section, this Act does not apply,
in respect of those matters or entities.

(2) Notwithstanding any enactment, a body or public officer provided for under the *Canadian Human Rights Act* and a court, public body or officer empowered by an Act of the Parliament of Canada with respect to the oversight or enforcement of federal regulatory enactments has jurisdiction and authority for the purpose of this Section. 2007, c. 14, s. 6.