

REVISED STATUTES
OF
NOVA SCOTIA
2023

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

VOLUME L



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

VOLUME L

Revised Statutes of Nova Scotia

2023

Chapter		Page
L-1	Labour Board Act.....	4354
L-2	Labour Standards Code.....	4361
L-3	Land Actions Venue Act.....	4438
L-4	Land Registration Act	4439
L-5	Land Surveyors Act.....	4485
L-6	Land Titles Clarification Act.....	4513
L-7	Language Schools Act.....	4523
L-8	Legal Aid Act	4536
L-9	Legal Profession Act	4551
L-10	Liberty of the Subject Act.....	4604
L-11	Libraries Act.....	4609
L-12	Library Associations and Institutes Act	4615
L-13	Lieutenant Governor and Great Seal Act	4619
L-14	Life Partners in Long-term Care Act	4621
L-15	Limitation of Actions Act.....	4622
L-16	Limited Partnerships Act.....	4631
L-17	Liquor Control Act.....	4643
L-18	Livestock Health Services Act.....	4696
L-19	Lobbyists Registration Act.....	4701

CHAPTER L-1

An Act to Establish a Unified Labour Board

Table of Contents

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

	Section
Short title.....	1
Interpretation.....	2
Labour Board.....	3
No interest inconsistent with duties.....	4
Appointments.....	5
Remuneration.....	6
Public Service Superannuation Act.....	7
Oath of office.....	8
Administration and authority.....	9
Panel of the Board.....	10
Powers, privileges and immunities of Board.....	11
Rules and regulations.....	12
Powers and duties of Chair.....	13
Duties of vice-chair.....	14
Employees.....	15
Money required to come from General Revenue Fund.....	16
Fiscal year.....	17
Official seal.....	18
Decisions of former board, panel or tribunal remain valid.....	19
Reference to former board, panel or tribunal means Board.....	20

Short title

- 1** This Act may be cited as the *Labour Board Act*. 2010, c. 37, s. 1.

Interpretation

- 2** In this Act,
- “Board” means the Labour Board established by this Act;
 - “Chair” means the Chair of the Board;
 - “member”, unless the context otherwise requires, means a member of the Board, and includes the Chair and any vice-chair of the Board;
 - “Minister” means the Minister of Labour, Skills and Immigration;
 - “vice-chair” means a vice-chair of the Board. 2010, c. 37, s. 2.

Labour Board

- 3 (1)** A Labour Board is established, consisting of
- (a) a full-time Chair who is not representative of either employers or employees;
 - (b) one or more vice-chairs who are not representative of either employers or employees; and

(c) such other members, who are representative of either employers or employees, as the Governor in Council considers necessary to enable the Board to function effectively.

(2) The Governor in Council shall appoint the members of the Board.

(3) The Governor in Council shall designate a vice-chair as the alternative Chair to act in the absence of the Chair or in the case of a vacancy. 2010, c. 37, s. 3.

No interest inconsistent with duties

4 (1) The Chair shall not accept or hold any office, membership, employment or interest, or engage in any business activity, that is inconsistent with the proper performance of the duties and functions of the Chair.

(2) Where an interest that is prohibited under subsection (1) vests, by whatever means, in the Chair, the Chair shall disclose the interest to the Minister without delay and, within a reasonable time, either divest of the personal interest or resign as Chair.

(3) Where a vice-chair or other member who is assigned to hear or is hearing any matter before the Board, either alone or as a member of a panel, holds any pecuniary or other interest that could be inconsistent with the proper performance of their duties and functions in relation to the matter, the vice-chair or other member shall disclose the interest to the Chair without delay and is ineligible to hear, or to continue to hear, the matter.

(4) Where the Chair, a vice-chair or other member fails to divest a personal interest or resign, as required by this Section, the Governor in Council may declare the office of the Chair, the vice-chair or other member vacant.

(5) The Chair shall devote the whole of the Chair's time to the performance of the Chair's duties and functions under this Act. 2010, c. 37, s. 4.

Appointments

5 (1) The Chair must be appointed for a term not exceeding five years and may be reappointed.

(2) Each vice-chair and the other members must be appointed for a term not exceeding three years and may be reappointed.

(3) The appointment of the Chair, a vice-chair or any other member may be revoked by the Governor in Council for cause. 2010, c. 37, s. 5.

Remuneration

6 The Chair, the vice-chairs and the other members of the Board shall be paid remuneration as may be fixed by the Governor in Council, and actual and reasonable expenses as may be incurred by them in the discharge of their duties. 2010, c. 37, s. 6.

Public Service Superannuation Act

7 (1) For the purpose of the *Public Service Superannuation Act*, the Chair is deemed to be a person employed in the public service of the Province and full-time service in employment of the Board is deemed to be public service.

(2) The Board shall deduct from the salary of the Chair such amount as is directed by the Governor in Council to be deducted from the salary of employees in the public service of the Province, and shall pay the same to the Minister of Finance and Treasury Board, and such amounts when so received must be paid into and form part of the Superannuation Fund pursuant to the *Public Service Superannuation Act*.

(3) Where, by the *Public Service Superannuation Act*, a payment is directed to be made into the Superannuation Fund by the Government of the Province or by the Minister of Finance and Treasury Board, or where by such Act a superannuation allowance or other sum is directed to be paid out of the General Revenue Fund, then, in respect of the Chair, the payment, superannuation allowance or other sum must be defrayed by the Board and forms part of the annual expenses of the Board. 2010, c. 37, s. 7.

Oath of office

8 The Chair, each vice-chair and each of the other members shall, before entering office, be sworn to the faithful performance of their duties and shall file with the Minister an oath or affirmation of office to that effect in the following form:

I _____ do solemnly swear (affirm) that I will faithfully, truly and impartially, to the best of my judgement, skill and ability, execute and perform the duties that devolve upon me under the *Labour Board Act* (or any other Act of the Legislature) by reason of my duties as _____ and will not, except in the discharge of my duties, disclose to any person any of the evidence or other matter brought before the said Board. (In the case where an oath is taken add "So help me God".)

2010, c. 37, s. 8.

Administration and authority

9 (1) The Minister is responsible for the administration of this Act.

(2) The Board shall perform the duties and functions required or authorized to be performed by the Board, and may exercise such powers as may be conferred on the Board, under this or any other Act of the Legislature or under any regulations duly enacted, including without limiting the generality of the foregoing,

- (a) the *Civil Service Collective Bargaining Act*;
- (b) the *Municipal Corrections Act*;
- (c) the *Highway Workers Collective Bargaining Act*;
- (d) the *Labour Standards Code*;
- (e) the *Occupational Health and Safety Act*;
- (f) the *Pooled Registered Pension Plans Act*;
- (g) the *Teachers Collective Bargaining Act*; and

(h) the *Trade Union Act*.

(3) The Board shall perform such other duties and functions as may be required or authorized to be performed by the Board, and may exercise such other powers as may be conferred on the Board by the Governor in Council. 2010, c. 37, s. 9; 2014, c. 37, s. 21.

Panel of the Board

10 (1) The Board is constituted and shall act as directed by the Chair or as otherwise prescribed by this, or any other Act of the Legislature, as a panel of the Board consisting of

(a) the Chair or a vice-chair alone, as the chair of the panel; or

(b) the Chair or a vice-chair, as the chair of a panel, and two other members equally representative of employees and employers.

(2) Two or more panels of the Board may be constituted and may act simultaneously.

(3) A panel of the Board constitutes a quorum of the Board.

(4) Where a panel of the Board consists of more than one person, a decision of the majority of the members of a panel is the decision of the panel but if a panel consists of the Chair or a vice-chair alone, the decision of the chair of the panel is the decision of the panel.

(5) A vacancy in the Board does not impair the right of the remaining members to act.

(6) Any decision, determination, direction, declaration, order, interim order or ruling of, or any act or thing done by a panel of the Board is a decision, determination, direction, declaration, order, interim order or ruling of, or an act or thing done by, the Board.

(7) Every decision, determination, direction, declaration, order, interim order or ruling of the Board and every appointment made by the Board must be signed by the Chair, a vice-chair or a duly appointed officer of the Board and, where purporting to be so signed is presumed to have been signed by the person purporting to have signed it, without proof of the signature, authority or appointment of the person purporting to have signed it, and when adduced as evidence in any proceeding, it must be received and is, in the absence of evidence to the contrary, proof of its making and of its content. 2010, c. 37, s. 10.

Powers, privileges and immunities of Board

11 (1) The Board and each member has the powers, privileges and immunities of a commissioner under the *Public Inquiries Act*, including, but not so as to limit those powers, the power to summon and enforce the attendance of witnesses and compel them to give oral or written evidence on oath and to produce any documents and things that the Board considers necessary to the full investigation of any matter within its jurisdiction.

(2) The Board may receive and accept any evidence and information on oath, affidavit or otherwise as, in its discretion, it considers fit and proper, whether admissible as evidence in a court of law or not.

(3) The Board shall determine its own procedure, but shall, unless contrary authority appears in this Act or in another Act of the Legislature, in every case give an opportunity to all interested parties to present evidence and make representation. 2010, c. 37, s. 11.

Rules and regulations

12 (1) The Board may

(a) make rules governing its practice and procedure in relation to matters coming before it; and

(b) with the approval of the Governor in Council, make regulations necessary to enable it to discharge the duties imposed upon it by this Act.

(2) The Governor in Council may make regulations

(a) respecting the remuneration and expenses of the Chair, the vice-chairs and the other members;

(b) respecting the jurisdiction of the Board, and conferring additional powers, functions, duties and responsibilities upon it;

(c) respecting the keeping of a record of matters or proceedings before the Board;

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

(e) respecting any matter or thing the Governor in Council considers necessary to effectively carry out the intent and purpose of 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*. 2010, c. 37, s. 12.

Powers and duties of Chair

13 The Chair

(a) except where otherwise prescribed by this or any other Act of the Legislature, shall, in the Chair's discretion, direct that a particular matter required or authorized to be heard, determined or otherwise dealt with by the Board, or any other act or thing required or authorized to be done by the Board, be heard, determined or otherwise dealt with or be done by a panel of the Board consisting of

(i) the Chair or a vice-chair alone, or

(ii) 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;

(b) shall assign the vice-chairs and members to panels of the Board, as required, and may change an assignment;

(c) has general supervision and direction over the conduct of the affairs of the Board, and has responsibility for the administration of the Board;

(d) shall hear, determine, or otherwise deal with such matters and do such other acts or things as the Chair determines should be heard, determined or otherwise dealt with by the Chair alone or by a panel of which the Chair is the chair, and may delegate to a duly authorized officer of the Board such functions as the Chair considers necessary for the proper functioning of the Board; and

(e) shall perform such other duties and functions as may be required or authorized to be performed by the Chair, and may exercise such other powers as may be conferred on the Chair under this or any other Act of the Legislature or by the Governor in Council. 2010, c. 37, s. 13.

Duties of vice-chair

14 A vice-chair

(a) shall hear, determine, or otherwise deal with such matters and do such other acts or things as the Chair directs in accordance with clause 13(a) should be heard, determined or otherwise dealt with by the vice-chair alone or by a panel of which the vice-chair is the chair; and

(b) shall perform such other duties and functions as may be required or authorized to be performed by the vice-chair, and may exercise such other powers as may be conferred on the vice-chair under this or any other Act of the Legislature or by the Governor in Council. 2010, c. 37, s. 14.

Employees

15 There may be employed any officers, clerks and employees who are necessary for the administration of this Act, including a Chief Executive Officer of the Board. 2010, c. 37, s. 15.

Money required to come from General Revenue Fund

16 Any money required for the administration of this Act, or for the carrying out of any of the provisions of this Act, must, in the absence of any vote of the House of Assembly available therefor, be paid out of the General Revenue Fund. 2010, c. 37, s. 16.

Fiscal year

17 The fiscal year of the Board is the same as the fiscal year of the Province. 2010, c. 37, s. 17.

Official seal

18 (1) The Board shall have an official seal.

(2) The failure to affix a seal to a decision, determination, direction, declaration, order, interim order, or ruling of the Board does not affect the

validity of the decision, determination, direction, declaration, order, interim order, or ruling or any proceedings in relation to it. 2010, c. 37, s. 18.

Decisions of former board, panel or tribunal remain valid

19 Any decision, determination, direction, declaration, order, interim order or ruling of the former Civil Service Employee Relations Board, Construction Industry Panel, Correctional Facilities Employee Relations Board, Highway Workers Employee Relations Board, Labour Relations Board (Nova Scotia), Labour Standards Tribunal and Occupational Health and Safety Appeal Panel that was valid and of full force and effect immediately before February 8, 2011, continues to be valid and of full force and effect notwithstanding the abolition of the boards, panels or tribunal, and is deemed to be the decision, determination, direction, declaration, order, interim order or ruling of the Board. 2010, c. 37, s. 21.

Reference to former board, panel or tribunal means Board

20 Where in any enactment, other than this Act, or in any agreement, instrument or document, reference is made the former Civil Service Employee Relations Board, Construction Industry Panel, Correctional Facilities Employee Relations Board, Highway Workers Employee Relations Board, Labour Relations Board (Nova Scotia), Labour Standards Tribunal or Occupational Health and Safety Appeal Board, it is to be read, unless the context otherwise requires, as a reference to the Board. 2010, c. 37, s. 25.

CHAPTER L-2

An Act to Provide for a Labour Standards Code

Table of Contents

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

	Section
Short title.....	1
Interpretation	
Interpretation.....	2
Powers and Duties of the Minister	
Powers and duties of Minister.....	3
Application	
Application of Act.....	4
Application of former Act.....	5
Effect of Act.....	6
General	
Regulations.....	7
Regulations respecting administrative penalties.....	8
Service of document.....	9
Certificate as prima facie evidence.....	10
Irregularity.....	11
Related business.....	12
Transfer of business.....	13
Personnel.....	14
Limited release of personal information.....	15
Records	
Preparation and retention of records.....	16
Inspection of records.....	17
Labour Board	
Constitution of Board.....	18
Determination by Board and appeal to court.....	19
Administration	
Complaint to or inquiry by Director.....	20
Parties to proceeding under Section 20.....	21
Complaint to Board.....	22
Hearing.....	23
Hearings public.....	24
Duty of Board.....	25
Record of hearing.....	26
Employee Protection	
Protection of identity of complainant.....	27
Employer not to discriminate if garnishment.....	28

No discrimination against complainant, witness, etc.....	29
Duty of Director upon contravention of clause 29(1)(e) or (b)	30
Complaint to Director or Board	31
Vacation Pay	
Vacation	32
Waiver of entitlement under subsection 32(1)	33
Vacation pay on termination	34
Calculation of vacation pay	35
Vacation pay in trust and deemed secure debt due	36
Holidays with Pay	
Employer to grant general holiday	37
Alternative holiday	38
Substituted holiday	39
Wages not to be reduced or not paid	40
Holiday pay at one and one-half times regular rate	41
Entitlement to holiday pay	42
Complaint respecting general holiday	43
Industrial Standards	
Construction industry conference schedule of wages and hours	44
Posting of schedule	45
Schedule binds employer and employee	46
Complaint respecting hours	47
Minimum Wages	
Minimum wage order	48
Minimum Wage Review Committee	49
Publication of minimum wage order	50
Temporary suspension or variation of order	51
Posting of order	52
Deemed agreement to pay minimum wage	53
Complaint respecting minimum wage	54
Equal Pay	
Substantially the same work	55
Prohibition respecting wage history	56
Wage information	57
Complaint to Director or Board	58
Protected Leave General Provisions	
Option to maintain benefit plan	59
Position and seniority upon return to work	60
Entitlement to benefits	61
Entitlement to certain leaves in addition to other leaves	62
Complaints	63
Confidential information	64
Pregnancy Leave and Parental Leave	
Pregnancy leave	65
Requirement by employer to take leave	66
Parental leave	67
Interruption of leave by hospitalization of child	68
Notice	69
Proof of entitlement	70
End of pregnancy	71
Unpaid leave of absence	72
Notice	73

Bereavement Leave and Court Leave	
Bereavement leave	74
Court leave	75
Notice	76
Compassionate-care Leave	
Entitlement to unpaid compassionate-care leave	77
Return to work	78
Sick Leave	
Entitlement to unpaid sick leave	79
Reservist Leave	
Unpaid service leave	80
Notice	81
Emergency Leave	
Unpaid leave of absence	82
Leave for Citizenship Ceremony	
Unpaid leave of absence	83
Critically Ill Child Care Leave	
Interpretation of Sections 84 to 90	84
Unpaid leave of absence	85
Beginning and end of leave	86
End of leave if more than one child critically ill	87
Additional leave	88
Ending leave early and changing when leave taken	89
Return to work and calculation of weeks taken	90
Critically Ill Adult Care Leave	
Interpretation of Sections 92 to 97	91
Unpaid leave of absence	92
Beginning and end of leave	93
End of leave if more than one family member critically ill	94
Additional leave	95
Ending leave early and changing when leave taken	96
Return to work and calculation of weeks taken	97
Crime-related Child Death or Disappearance Leave	
Interpretation of Sections 98 to 102	98
Unpaid leave of absence, crime-related child death	99
Unpaid leave of absence, crime-related child disappearance	100
When leave may be taken	101
Change of circumstances	102
Leave for Victims of Domestic Violence	
Interpretation of Sections 103 to 106	103
Entitlement to leave	104
Starting and ending leave	105
Provision of information regarding leave	106
Hours of Labour	
Powers respecting hours of labour	107
Variation of hours in certain cases	108

Excess hours in special cases.....	109
Exception	110
Where hours of labour restricted	111
Period of rest.....	112
Working in retail business on uniform closing day	113
Rest or eating break	114
Complaint to Director or Board.....	115
Employment of Children	
Children under 16 years.....	116
Effect of Section 116	117
Complaint to Director or Board.....	118
Termination of Employment	
Dismissal or suspension without just cause.....	119
Termination of employment by employer	120
Termination of employment by employee	121
Duty of employer if notice given.....	122
Notice of termination by employer.....	123
Conditional notice of termination and where lay-off and no notice	124
If employment continues	125
Complaint to Director or Board.....	126
Protection of Pay	
Frequency of pay	127
Deductions for loss	128
Form of wages	129
Complaint to Director	130
Complaint to Director by individual recruited for employment.....	131
When Director not to entertain complaint	132
Complaint to Board.....	133
Builders' Lien Act.....	134
Security if appeal by employer	135
Statutory garnishee	136
Payment where employee cannot be found	137
Payment by Board or Director	138
Lien	139
Unlawful assignment of wages.....	140
Reciprocal enforcement of orders.....	141
Protection of Individuals Recruited for Employment	
No fee permitted	142
No engagement of unlicensed recruiter	143
Contract void	144
No cost recovery from employee.....	145
No wage reduction.....	146
Property foreign worker entitled to possess.....	147
Licensing of Recruiters and Registration of Employers of Foreign Workers	
No recruiting unless licensed.....	148
Application for licence	149
Fee and security	150
Inquiries by Director.....	151
Terms and conditions	152
Term of licence	153
Licence not transferable.....	154
Notification of change	155
Refusal of licence	156
No refusal without hearing	157
Cancellation or suspension	158
"employer" defined.....	159

No recruiting by employer unless registered..... 160
 Application for registration 161
 Registration 162
 Refusal of registration 163
 No refusal without hearing 164
 Cancellation or suspension 165
 Appeals..... 166

Enforcement and Penalties

Standing of Director to bring action and effect of order 167
 Agreement between Director and employer’s creditors 168
 Employer vicariously liable..... 169
 Consent to prosecution 170
 Offences..... 171
 Penalty..... 172

Short title

1 This Act may be cited as the *Labour Standards Code*. R.S., c. 246, s. 1.

INTERPRETATION

Interpretation

2 In this Act,

“Board” means the Labour Board established under the *Labour Board Act*;

“construction industry” means the on-site constructing, erecting, altering, decorating, repairing or demolishing of buildings, structures, roads, sewers, water mains, pipelines, tunnels, shafts, bridges, wharves, piers, canals or other works;

“critically ill adult” means a critically ill adult as defined in the regulations, as amended from time to time, made pursuant to the *Employment Insurance Act* (Canada);

“critically ill child” means a critically ill child as defined in the regulations, as amended from time to time, made pursuant to the *Employment Insurance Act* (Canada);

“Director” means the Director of Labour Standards or other officer of the Department of Labour, Skills and Immigration designated by the Minister to administer this Act, and any person acting under the control and direction of the person designated by the Minister to administer this Act and includes, for the purpose of any activities prescribed by the regulations in relation to licensing and registration under this Act and the regulations, any government department or agency of the Province prescribed by the regulations and any person acting under the control and direction of the department or agency so prescribed;

“discharge” means a termination of employment by an employer other than a lay-off or suspension;

“employee” means a person employed to do work and includes a deceased employee but does not include a teacher employed by the Crown,

the Minister of Education and Early Childhood Development, an education entity as defined in the *Education Act*, or other employer, to teach, supervise or administer in a public school, a school established or maintained under the *Education Act* or in a school system;

“employer” means a person, firm, corporation, agent, manager, representative, contractor or subcontractor having control or direction of or being responsible, directly or indirectly, for the employment of any employee;

“establishment” means a place or places at or in which all or any part of a business or undertaking of an employer is or has been carried on;

“foreign worker” means an individual who is not

(a) a Canadian citizen; or

(b) a permanent resident within the meaning of the *Immigration and Refugee Protection Act* (Canada),

and who is recruited to become employed in the Province, regardless of whether the individual becomes so employed;

“forest industry” means all operations in or incidental to the production or manufacture of articles produced from wood;

“general holiday” means New Year’s Day, the third Monday in February, Good Friday, Canada Day, Labour Day, Christmas Day and a day specified as a general holiday in a regulation, and includes any day substituted for one of those days pursuant to Section 39;

“industrial undertakings” includes mines, quarries and other works for the extraction of minerals from the earth, undertakings in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed, including ship building and the generation, transformation, transmission and distribution of electricity or motive power of any kind, and undertakings in the construction industry;

“layoff” means temporary or indefinite termination of employment because of lack of work and includes a temporary, indefinite or permanent termination of employment because of the elimination of a position;

“licensee” means a person who holds a licence under this Act;

“minimum wage” means the amount of wages fixed by order of the Governor in Council pursuant to Section 48;

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

“officer” means a person appointed for the purpose of this Act and who is under the control and direction of the Minister;

“pay” means wages due or paid to an employee and compensation paid or due to an employee under Sections 32, 33 and 34, but does not include deductions from wages that may lawfully be made by an employer;

“period of employment” means the period of time from the last hiring of an employee by an employer to the employee’s discharge by that employer and includes any period on layoff or suspension of less than 12 consecutive months and “employed” has a corresponding meaning;

“recruitment” means, for the purpose of this Act, the following activities, whether or not they are provided for a fee:

- (a) finding or attempting to find an individual for employment;
- (b) finding or attempting to find employment for an individual;
- (c) assisting another person in attempting to do the things described in clause (a) or (b); or
- (d) referring an individual to another person to do any of the things described in clause (a) or (b);

“regulations” means regulations made by the Governor in Council;

“retail business” means the selling or offering for sale of goods or services by retail;

“sector” has the same meaning as in the *Trade Union Act*;

“spouse” includes two persons who are cohabiting in a conjugal relationship with each other, and have done so continuously for a period of at least one year;

“suspension” means a temporary interruption of employment, other than a layoff at the direction of the employer;

“uniform closing day” means a uniform closing day as defined in the *Retail Business Uniform Closing Day Act*;

“unpaid pay” means any vacation pay or pay in lieu of vacation that has not been paid in accordance with Sections 32, 33 and 34 and wages that have not been paid in accordance with Sections 127 and 129; and

“wages” includes salaries, commissions and compensation in any form for work or services measured by time, piece or otherwise, and includes compensation under Sections 37, 40, 41, 46, 48, 55, 58, 120 and 122, but does not include vacation pay and pay in lieu of vacation under Section 32, 33 or 34 or gratuities. R.S., c. 246, s. 2; 1991, c. 14, s. 1; 2003 (2nd Sess.), c. 7, s. 4; 2006, c. 10, s. 1; 2010, c. 37, s. 84; 2011, c. 19, s. 1; 2016, c. 11, s. 1; 2018, c. 1, Sch. A, s. 121; 2018, c. 36, s. 1.

POWERS AND DUTIES OF THE MINISTER

Powers and duties of Minister

3 The Minister of Labour, Skills and Immigration is charged with the administration of this Act and shall exercise the powers and perform the duties imposed on the Minister by this Act. R.S., c. 246, s. 3; 2010, c. 37, s. 85; 2011, c. 19, s. 2.

APPLICATION

Application of Act

4 (1) Subject to exceptions expressly provided for by other provisions of this Act, this Act applies to all matters within the legislative jurisdiction of the Province, including the Crown in right of the Province and the employees of the Crown.

(2) The Governor in Council may by regulation expressly exempt the following persons from application of this Act or any Section or Sections of this Act:

- (a) members of named professions;
- (b) those who are engaged in classes of work designated in the regulations. R.S., c. 246, s. 4.

Application of former Act

5 Under no circumstances has Chapter 322 of the Revised Statutes, 1967, at any time applied or may it be deemed to have applied in respect of any teacher employed by an employer as defined in clause 1(c) of said Chapter 322 to teach, supervise or administer in a public school, a school established or maintained under the *Education Act* or in a school system. R.S., c. 246, s. 5.

Effect of Act

6 This Act applies notwithstanding any other law or any custom, contract or arrangement, whether made before, on or after February 1, 1973, but nothing in this Act affects the rights or benefits of an employee under any law, custom, contract or arrangement that are more favourable to the employee than the employee's rights or benefits under this Act. R.S., c. 246, s. 6.

GENERAL

Regulations

7 The Governor in Council may make regulations concerning any matter or thing that appears to the Governor in Council necessary or advisable for the effective working of this Act and, without limiting the generality of the foregoing, may

- (a) designate professions or classes of work as professions or classes of work to which this Act, or any Section of this Act, does not apply;
- (b) prescribe a characteristic of an employee for the purpose of the requirement to provide equal pay, in accordance with clause 55(2)(b);
- (c) prescribe the manner of the service of documents;
- (d) exempt specified employers or classes of employers from the obligation to grant pregnancy leave pursuant to Section 65;
- (e) prescribe a period of employment of less than one year for the purpose of establishing entitlement to a pregnancy leave pursuant to Section 65;
- (f) prescribe a period of employment of less than one year for the purpose of establishing entitlement to a pregnancy leave as required by an employer pursuant to Section 66;
- (g) exempt specified employers or classes of employers from the obligation to grant parental leave pursuant to Section 67;
- (h) prescribe a period of employment of less than one year for the purpose of establishing entitlement to a parental leave pursuant to Section 67;

- (i) specify the nature, content and timing of information an employee must provide to an employer for the purpose of subsection 73(3);
- (j) exempt specified employers or classes of employers from the obligation to grant bereavement leave pursuant to Section 74;
- (k) exempt specified employers or classes of employers from the obligation to grant court leave pursuant to Section 75;
- (l) defining “family member” for the purpose of Sections 77 and 85 to 97;
- (m) prescribe a period of less than three months of employment during which a class of employees who are members of the Reserves, as defined in Section 80, may be employed with the employer for the purpose of establishing entitlement to a leave under Section 80;
- (n) prescribe a circumstance for the purpose of clause (e) of the definition of “emergency” in subsection 82(1);
- (o) prescribe fees and charges to recover the cost of services pursuant to this Act;
- (p) prescribe classes of persons for the purpose of clause (d) of the definition of “family member” in subsection 82(1);
- (q) prescribe classes of persons for the purpose of clause (e) of the definition of “parent” in Section 98;
- (r) prescribe a purpose for which a victim of domestic violence may take a leave of absence under clause 104(1)(f);
- (s) specify the nature, form, content and timing of information an employee must provide to an employer for the purpose of clause 106(1)(b);
- (t) prescribe the circumstances under Section 104 under which an employee’s employer may require the employee to provide the employer with the information referred to in subsection 106(1);
- (u) make regulations respecting paid leave in place of all or part of any unpaid leave under this Act;
- (v) exempt classes of retail business from the application of Section 113;
- (w) prohibit the employment of any child under 16 years of age in any work or class of work pursuant to subsections 116(1) and (2);
- (x) prescribe the government department or agency of the Province that may act as the Director for the purpose of activities in relation to licensing and registration under this Act and prescribe the activities in relation to licensing and registration that may be performed by the prescribed government department or agency;
- (y) specify the information that must be kept and maintained in the records of an employer of a foreign worker;
- (z) specify the additional documents and records that must be prepared by a licensee and the period of time in relation to which such documents must be maintained by the licensee;
- (aa) establish the procedure to be followed by the Director in declaring a letter of credit, cash or other security provided by a licensee

under this Act, forfeited, and in applying the proceeds to reduce or satisfy the amount recoverable by order of the Director;

(ab) exempt persons or classes of persons from the requirement for licensing of persons engaged in foreign worker recruitment;

(ac) specify the fees, and the terms, conditions and amount in relation to security requirements, for a licence application and a licence renewal application;

(ad) establish requirements for a licence application and a licence renewal application and qualifications and requirements for the issuance of a licence;

(ae) specify prohibited activities for the holder of a licence to recruit foreign workers;

(af) specify terms and conditions to which a licence may be subject;

(ag) establish the procedure to be followed in exercise of the right to be heard in relation to the issuance or renewal of a licence, the application of conditions to a licence or the proposed cancellation of a licence;

(ah) exempt persons or classes of persons from the requirement for registration in relation to employers of foreign workers;

(ai) establish requirements for a registration application and a registration renewal application;

(aj) specify prohibited activities for an employer registered to employ foreign workers;

(ak) establish the procedure to be followed in exercise of the right to be heard in relation to a registration or renewal of a registration, or the proposed cancellation of a registration;

(al) establish the procedure to be followed on appeal from a refusal to issue or renew a licence or registration, a cancellation of a licence or registration or the application of conditions to a licence;

(am) establish, in accordance with subsection 120(3), the circumstances in which a layoff is excepted from subsections 120(1) and (2);

(an) exempt any employer or class of employers from the notice requirements of subsection 120(1);

(ao) exempt any employer or class of employers from the notice requirements of subsection 120(2);

(ap) establish the amount, terms and conditions, and administration and management of any payment or bond required by the Board under Section 135;

(aq) exempt classes of individuals from the prohibition against charging or collecting a fee from an individual for

(i) finding or attempting to find employment in the Province for the individual, or

(ii) providing an individual with information about any employer who is seeking employees in the Province,

pursuant to subsection 142(1);

(ar) specify the period of validity of a registration pursuant to subsection 162(2);

(as) require the use in industrial undertakings by employers of mechanical or other devices for ascertaining or assisting in ascertaining or for recording the time worked by employees and other employment information as is in the Governor in Council's opinion convenient for the administration of this Act;

(at) determine the procedure to be followed and the forms to be used in any proceeding under this Act, except where this Act provides that a complaint may be made in any form.

(au) define any word or expression used but not defined in this Act. R.S., c. 246, s. 7; 1991, c. 14, s. 2; 2003 (2nd Sess.), c. 4, s. 1; 2006, c. 10, s. 2; 2006, c. 13, s. 8; 2009, c. 18, s. 1; 2010, c. 37, s. 86; 2011, c. 19, s. 3; 2013, c. 11, s. 2; 2016, c. 11, s. 2; 2018, c. 13, s. 1; 2018, c. 36, s. 2; 2020, c. 13, s. 1; 2020, c. 14, s. 1; 2022, c. 41, s. 2.

Regulations respecting administrative penalties

8 The Governor in Council may make regulations respecting the establishment and administration of a system of administrative penalties and, without restricting the generality of this power, may

(a) establish penalty amounts and ranges, including maximum amounts and different penalties, ranges or maximum amounts for different types of contravention of this Act or the regulations or different types of orders issued by the Director;

(b) establish different methods of determining the penalties or ranges of penalties referred to in clause (a), including methods based on the nature or frequency of the contravention of this Act or the regulations or the type of order issued by the Director;

(c) specify that different penalties, ranges or methods of determining a penalty or range apply to individuals and corporations;

(d) prescribe the conditions for the issuance of an administrative penalty and the criteria the Director is required or permitted to consider when imposing a penalty;

(e) specify a provision of this Act or the regulations, a breach of which may result in the issuance of an administrative penalty;

(f) specify the notice required of an administrative penalty and the content of the notice;

(g) specify upon whom an administrative penalty may be served and the means by which it may be served;

(h) specify the manner in which an administrative penalty may be paid and to whom;

(i) specify the dates by which an administrative penalty must be paid;

(j) specify the circumstances under which an administrative penalty becomes a debt due to the Crown in right of the Province;

- (k) establish that further proceedings are not permitted if an administrative penalty is paid as and when due as required by the regulations;
- (l) allow for the publication of details of a notice of administrative penalty, and establish criteria for, and restrictions on, publication;
- (m) allow for the collection of unpaid administrative penalties by garnishment, including specifying
 - (i) the conditions under which a garnishment order may be made by the Director,
 - (ii) who may be served with an order to make a payment,
 - (iii) to whom payment must be made,
 - (iv) the period for compliance with a garnishment order,
 - (v) the effect on third parties of a garnishment order,
 - (vi) how a garnishment order may be collected and enforced, and
 - (vii) the issuance of a receipt for payment by the Director and the effect of a receipt issued by the Director;
- (n) allow for liens and charges to be placed on real and personal property for the amount of an unpaid administrative penalty, including specifying
 - (i) the effect at law of a lien or charge so placed, including its priority relative to other liens, charges or mortgages, and
 - (ii) how a lien or charge so placed may be registered, enforced and removed;
- (o) allow for entering an order for payment of an administrative penalty with the prothonotary as if it were an order of the Supreme Court of Nova Scotia and enforceable as such;
- (p) establish a system for the review of administrative penalties by the Board, including
 - (i) the circumstances under which a review may be requested,
 - (ii) the time in which a review may be requested,
 - (iii) the manner in which a review may be requested,
 - (iv) the parties to a review,
 - (v) respecting the circumstances in which an administrative penalty or the underlying contravention of the order is, or may be, stayed pending the results of the review, and
 - (vi) the powers and procedures of the Board with respect to a review, including
 - (A) the remedies available to the Board,
 - (B) the provision of notice of a decision or order of the Board made in the course of a review, and

(C) the effect at law of a final decision of the Board.
2020, c. 14, s. 2.

Service of document

9 (1) For the purpose of this Act and any proceedings taken thereunder, any notice or other communication sent through Canada Post is presumed, unless the contrary is proved, to have been received by the addressee in the ordinary course of mail.

(2) A document may be served or delivered for the purpose of this Act or any proceedings thereunder by personal service or by sending by registered mail to the last known address of the addressee, or in any other manner prescribed by the regulations. R.S., c. 246, s. 8.

Certificate as prima facie evidence

10 A certificate purporting to be signed by the Minister or the Minister's Deputy or by an official in the Minister's Department stating that a report, request or notice was or was not received or given by the Minister or by an official in the Minister's Department pursuant to this Act, and where so received or given, the date upon which it was so received or given, is prima facie evidence of the facts stated therein without proof of the signature or of the official character of the person appearing to have signed the certificate. R.S., c. 246, s. 9.

Irregularity

11 No proceedings under this Act are invalid by reason of any defect in form or any technical irregularity. R.S., c. 246, s. 10.

Related business

12 Where, in the opinion of the Director or the Board, associated or related activities or businesses are carried on, concurrently or consecutively, by or through more than one corporation, individual, firm, syndicate or association, or any combination thereof, under common control or direction, the Director or the Board may treat the corporations, individuals, firms, syndicates or associations or any combination thereof as constituting one employer for the purpose of this Act. R.S., c. 246, s. 11; 1991, c. 14, s. 3; 2010, c. 37, s. 87.

Transfer of business

13 Where an activity, business, trade or undertaking is disposed of, transferred or sold in any manner or amalgamated, whether by agreement, will, instrument, transfer, including transfer of shares, or by operation of law, the period of employment of an employee of the activity, business, trade or undertaking at the time of such disposition, transfer, sale or amalgamation, is deemed to have been employment with the disposee, transferee, purchaser or amalgamation and the continuity of employment is not broken. R.S., c. 246, s. 12.

Personnel

14 There may be employed any officers, clerks and employees who are necessary for the administration of this Act. R.S., c. 246, s. 14.

Limited release of personal information

15 For the purpose of administering and enforcing this Act and the regulations, the Director may provide information collected or obtained under this Act and the regulations, including personal information as defined in the *Freedom of Information and Protection of Privacy Act*, to a department of the Government or a department or agency of the Government of Canada or of another province of Canada. 2011, c. 19, s. 4.

RECORDS

Preparation and retention of records

16 (1) Every employer shall keep and maintain, at the employer's principal place of business for at least 36 months after work has been performed, records from which it may be ascertained whether or not the employer is complying with this Act, including

- (a) each employee's name and address;
- (b) each employee's date of birth;
- (c) each employee's social insurance number;
- (d) the date that each employee's employment began;
- (e) the date that each employee's employment ended, if applicable;
- (f) the number of hours worked by each employee each day and each week;
- (g) each employee's wage rate and gross earnings for each pay period;
- (h) the amount of each deduction from the gross earnings of each employee for each pay period and the purpose for which each deduction is made;
- (i) the net amount of money paid to each employee for each pay period;
- (j) any period during which an employee was on vacation;
- (k) any vacation pay due or paid to an employee;
- (l) any general holiday pay due or paid to an employee;
- (m) any period during which an employee was on a leave of absence and the reason for the leave of absence;
- (n) any documents or certificates relating to a leave of absence of an employee;
- (o) the dates of all discharges or layoffs of an employee and the dates of all notices thereof; and
- (p) in the case of a person who is recruiting an individual for employment with the person, or who has done so,
 - (i) the name and address of any person to whom the person recruiting the individual made a payment for engaging in the recruitment,

- (ii) the date and amount of the payment, and
- (iii) such other information as may be prescribed,

and shall produce the same or a certified true copy thereof to the Director upon request of the Director.

(2) An employer may provide a pay statement to an employee electronically if the employer provides to the employee, through the employee's place of employment,

- (a) confidential access to the electronic pay statement; and
- (b) a means of making a paper copy of the electronic pay statement.

(3) A licensee or a person whose licence has been suspended or cancelled shall

- (a) prepare complete and accurate financial records of its operations in the Province and maintain them for at least 36 months after the records are made; and
- (b) prepare other records and documents described in the regulations and maintain them for the period specified in the regulations. R.S., c. 246, s. 15; 1991, c. 14, s. 4; 2011, c. 19, s. 5; 2016, c. 11, s. 3; 2020, c. 14, s. 3.

Inspection of records

17 The Director or an officer may

- (a) inspect and examine all registers, books, payrolls and other records of any employer or recruiter that in any way relate to
 - (i) the employment of employees, or
 - (ii) the recruitment of individuals, including foreign workers;
- (b) require an employer or recruiter to verify by statutory declaration any entry in any such register, book, payroll or other record;
- (c) take extracts from or make copies of any such register, book, payroll or other record;
- (d) at all reasonable times enter any establishment, inspect any place where the Director or officer has reason to believe any person is or was employed, or any individual was or is being recruited, and question any employee, or individual who is or was being recruited, during or outside working hours apart from or together with the employer or recruiter for the purpose of ascertaining whether this Act or any regulation or order made under it is being observed. R.S., c. 246, s. 16; 2011, c. 19, s. 6.

LABOUR BOARD

Constitution of Board

18 (1) The Board is constituted under this Act 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), where the parties to the proceeding consent, the Chair or a vice-chair shall act as a panel consisting of the Chair or the vice-chair, sitting alone, as chair of the panel.

(3) Notwithstanding subsection (1), a panel under subsection (2) is a quorum.

(4) Where a panel of the Board consists of more than one person, a decision of the majority of the members of the Board is the decision of the Board but, where a panel consists of the Chair or a vice-chair alone, the decision of the chair of the panel is the decision of the panel. R.S., c. 246, s. 17; 2010, c. 37, s. 89; 2011, c. 19, s. 7; 2016, c. 11, s. 4.

Determination by Board and appeal to court

19 (1) Where in any proceeding before the Board a question arises under this Act as to whether

- (a) a person is an employer or employee; or
- (b) an employer or other person is doing or has done anything prohibited by this Act,

the Board shall decide the question and the decision or order of the Board is final and conclusive and not open to question or review except as provided by subsection (2).

(2) Any party to an order or decision of the Board may, within 30 days of the mailing of the order or decision, appeal to the Nova Scotia Court of Appeal on a question of law or jurisdiction.

(3) The practice and procedure in relation to an appeal under subsection (2) are the same as upon an appeal from the Supreme Court of Nova Scotia.

(4) The Board may of its own motion state a case in writing for the opinion of the Nova Scotia Court of Appeal upon any question that, in the opinion of the Board, is a question of law.

(5) The Nova Scotia Court of Appeal shall hear and determine the question or questions of law arising thereon and remit the matter to the Board, with the opinion of the Court thereon.

(6) Costs may not be awarded in a case stated under subsection (4). R.S., c. 246, s. 20; 2010, c. 37, s. 91.

ADMINISTRATION

Complaint to or inquiry by Director

20 (1) Where the Director receives a complaint in any form alleging that there has been a failure to comply with this Act, the Director or a person designated by the Director shall inquire into the complaint and may endeavour to effect a settlement.

(2) Where the Director has reasonable grounds to believe that there has been a failure to comply with this Act, the Director or a person designated by the Director may inquire into the matter and endeavour to effect a settlement.

(3) Notwithstanding Section 120, where, after inquiry pursuant to subsection (1) or (2), the Director concludes that any person has contravened this Act and the Director has been unable to effect a settlement, or any person has contravened the terms of a settlement under this Section, the Director may, in writing, order the contravening person, or the person responsible under this Act, to

(a) do any act or thing that in the opinion of the Director constitutes full compliance with this Act;

(b) pay an administrative penalty in accordance with the regulations;

(c) rectify an injury caused to the person injured or make compensation therefor; and

(d) for greater certainty and without limiting the generality of clauses (a) and (c), reinstate an employee who is the object of the contravention,

but, where the Director concludes that a complaint under Section 130 is made out, the Director shall order the employer to pay over to the Board by a specified date the amount of pay found to be unpaid.

(4) Where the Director makes an order under subsection (3) in respect of a licensee, the Director may, in accordance with the regulations,

(a) declare a letter of credit, cash or other security provided by the licensee under this Act forfeited; and

(b) use the proceeds realized to reduce or satisfy the amount recoverable under the order.

(5) Where the Director is unable to determine the amount recoverable because the person against whom the order is to be made has failed to

(a) keep or maintain complete and accurate records; or

(b) make the records available for inspection,

the Director may determine the amount to be recovered, in a reasonable and appropriate manner, by order in writing under this Section.

(6) Subsection (5) applies with necessary changes to the Board when acting pursuant to this Act.

(7) The Director shall not make an order pursuant to this Section unless the failure to comply with this Act occurred within the six months preceding

(a) the receipt of the complaint by the Director; or

(b) the initiation of an inquiry by the Director.

(8) The Director shall, in any order made under this Section, specify the provision or provisions of this Act or the terms of any settlement that have, in the Director's opinion, been contravened and advise the person against whom the order is made of the person's right to appeal to the Board.

(9) Any person against whom the Director has made an order under this Section may, within 10 days after the order is served on the person, file an appeal to the Board in accordance with the regulations and, where no such appeal is filed, the Director's order is deemed to be an order of the Board for the purpose of Section 139.

(10) Notwithstanding subsection (9), the Board may, either before or after the 10 days referred to in that subsection, extend the time for filing an appeal.

(11) Where, in the opinion of the Director, there has been no failure to comply with this Act or the terms of any settlement under this Section, the Director shall so inform the complainant and advise the complainant of the complainant's right to make a complaint to the Board and that the complainant may wish the advice of legal counsel.

(12) The Director is not required to serve notice upon or hear any person before making an order under this Section or advising a complainant that there has been no failure to comply with this Act.

(13) Any person against whom the Director has made an order under this Section shall comply with the order unless the person has filed an appeal with the Board.

(14) Subject to the rights under subsection 167(4) of persons other than persons against whom an order of the Director has been made, an order of the Director under this Section is final and conclusive and not open to review by any court by *certiorari* or otherwise or to appeal except to the Board as provided by this Section. R.S., c. 246, s. 21; 1991, c. 14, s. 5; 2003 (2nd Sess.), c. 7, s. 5; 2010, c. 37, s. 92; 2011, c. 19, s. 8; 2020, c. 14, s. 4.

Parties to proceeding under Section 20

21 In any proceeding before the Board with respect to any matter arising under Section 20, including any matter arising under Section 130 or 131, the parties are

- (a) the Director;
- (b) the person alleged by the Director to have failed to comply with this Act;
- (c) the complainant, if any; and
- (d) any other person specified by the Board upon such notice as the Board may determine, provided that at the hearing the person is given an opportunity to be heard against the person's joinder as a party. R.S., c. 246, s. 22; 2010, c. 37, s. 93; 2011, c. 19, s. 9.

Complaint to Board

22 (1) A complaint under subsection 31(2), 43(3), 54(3), 63(3), 115(2), 118(2) or 126(3), Section 131 or subsection 133(1) or any other complaint to the Board by a complainant who has made a complaint to the Director and is not satisfied with the result must be in writing.

(2) The Board shall not proceed with any matter arising out of a complaint referred to in subsection (1) until the complainant has made a complaint in writing to the Director and either

(a) the Director has informed the complainant in writing that the Director will not entertain the complaint or that the Director is not proceeding with the matter; or

(b) one month has elapsed and the complainant has not received notice of an order by the Director under subsection 20(3).

(3) In any proceeding before the Board with respect to any matter arising out of a complaint referred to in subsection (1), the parties are

(a) the complainant, who has carriage of the complaint;

(b) the person alleged by the complainant to have failed to comply with this Act; and

(c) any other person specified by the Board upon such notice as the Board may determine, provided that at the hearing the person is given an opportunity to be heard against the person's joinder as a party.

(4) The Board shall not proceed with any matter arising out of a complaint referred to in subsection (1) unless the matter to which the complaint to the Director refers occurred within the six months preceding

(a) the receipt of that complaint by the Director; or

(b) the initiation of an inquiry by the Director. R.S., c. 246, s. 23; 2004, c. 6, s. 15; 2010, c. 37, s. 94; 2011, c. 19, s. 10; 2018, c. 13, s. 2.

Hearing

23 (1) In any proceeding leading to an order or decision, the Board may, in its discretion, conduct an oral hearing or a hearing through written submissions and evidence, without receiving oral testimony.

(2) Where a person who has been duly notified of a hearing does not attend, the Board may proceed in the person's absence. 2010, c. 37, s. 95; 2011, c. 19, s. 11.

Hearings public

24 All hearings pursuant to this Act are open to the public except if the Board finds that intimate financial or personal matters or other matters may be disclosed at the hearing of a nature that, having regard to the circumstances, the desirability of avoiding their disclosure in the interests of any person affected, or in the public interest, outweighs the desirability of adhering to the principle that hearings be open to the public, in which case the Board may hold the hearing concerning the matters in camera. R.S., c. 246, s. 25; 2010, c. 37, s. 96.

Duty of Board

25 (1) The Board, in determining any matter under this Act, shall

(a) decide whether or not a party has contravened this Act;

and

(b) make an order in writing.

(2) Notwithstanding Section 120, where the Board decides that a party has contravened a provision of this Act the Board may order the contravening party to

(a) do any act or thing that, in the opinion of the Board, constitutes full compliance with the provision;

(b) rectify an injury caused to the person injured or to make compensation therefor; and

(c) for greater certainty and without limiting the generality of clauses (a) and (b), reinstate the employee,

but, where the Board decides that a complaint under Section 130 is made out, the Board shall order the employer to pay over to the Board by a specified date the amount of pay found to be unpaid. R.S., c. 246, s. 26; 2003 (2nd Sess.), c. 7, s. 6; 2010, c. 37, s. 97.

Record of hearing

26 The record of a hearing before the Board under this Act must include

(a) the notice of hearing;

(b) the complaint;

(c) any rulings or orders made in the course of the proceedings of the Board;

(d) all documentary evidence filed with the Board;

(e) any written submissions received by the Board; and

(f) the decision and the reasons therefor. R.S., c. 246, s. 27; 2010, c. 37, s. 98.

EMPLOYEE PROTECTION

Protection of identity of complainant

27 Where a person who makes a complaint to the Director or the Board requests that the person's name and identity be withheld, the Director or the Board may not disclose the person's name or identity to any person except if disclosure is considered by the Board to be in the public interest. R.S., c. 246, s. 28; 1991, c. 14, s. 6; 2011, c. 19, s. 12.

Employer not to discriminate if garnishment

28 An employer shall not discharge, lay off or discriminate in any other manner against any employee because garnishment proceedings have been or may be taken against that employee. R.S., c. 246, s. 29.

No discrimination against complainant, witness, etc.

29 (1) An employer shall not discharge, lay off, suspend, intimidate, penalize, discipline or discriminate in any other manner against any person because that person

(a) has made or has assisted another person in making a complaint pursuant to this Act;

(b) has initiated an inquiry, investigation or proceeding or has assisted with the initiation of an inquiry, investigation or proceeding pursuant to this Act;

(c) has testified or is about to testify, or the employer believes that person may testify, in any proceeding pursuant to an enactment;

(d) has participated or is about to participate, or the employer believes that person may participate, in any proceeding pursuant to an enactment;

(e) has made or is about to make an inquiry about that person's rights or the rights of another person pursuant to this Act;

(f) has made or is about to make any disclosure that that person is required or permitted to make by this Act;

(g) has made or is about to make a statement or provide information to the Director or an officer that that person is required or permitted to make or provide by this Act;

(h) has asked or required the employer to comply with this Act and the regulations;

(i) has discussed or disclosed information within the workplace about that person's wages or the wages of another employee as permitted by this Act;

(j) has taken or has evidenced an intention to take, or the employer believes that that person may take, a leave of absence to which that person was or will be entitled pursuant to this Act at the time of any such leave of absence; or

(k) has refused or attempted to refuse to work on a uniform closing day in a retail business or refuses to sign a contract of employment or agreement that requires that person to work in a retail business on a uniform closing day if the employee is not required to work on a uniform closing day by or pursuant to Section 113.

(2) Without limiting the meaning of "discriminate" in subsection (1), an employer discriminates against an employee contrary to clause (1)(j) if the employer discharges, lays off or suspends the employee within three months of that person taking or evidencing an intention to take, or the employer believing that the employee may take, a leave of absence to which the employee is or was entitled to pursuant to this Act unless

(a) the employee is guilty of wilful misconduct, disobedience or neglect of duty that has not been condoned by the employer;

(b) the employer has just cause to discharge or suspend the employee;

(c) the reason for the discharge or layoff is beyond the control of the employer and the employer has exercised due diligence to foresee and avoid the cause of the discharge or layoff; or

(d) the employer, in good faith and for legitimate business reasons, ceases operation or eliminates the position in which the employee is employed and is unable to provide reasonable alternative employment to the employee.

(3) In any proceeding under this Act, the burden of proof that an employer did not contravene a provision set out in this Section lies with the employer. 1991, c. 14, s. 7; 2003 (2nd Sess.), c. 7, s. 7; 2004, c. 6, s. 16; 2006, c. 10, s. 3; 2015, c. 42, s. 1; 2018, c. 13, s. 3; 2020, c. 14, s. 5.

Duty of Director upon contravention of clause 29(1)(e) or (b)

30 (1) Where the Director determines that an employer has contravened clause 29(1)(e) or, with respect to the *Retail Business Uniform Closing Day Act*, clause 29(1)(b), the Director shall require, by a specified date,

(a) that the employer reinstate the employee pursuant to the same terms and conditions under which the employee was employed immediately before the termination;

(b) that the employer pay any wages, salary, pay or other benefits that the employee would have earned but for the contravention;

(c) that any reprimand or other references to the matter in the employer's records on the employee be removed;

(d) that the employer do the things that, in the opinion of the Director, are necessary to secure compliance with this Act and the regulations.

(2) Where an order or requirement of the Director pursuant to subsection (1) is not appealed pursuant to this Act, the order or requirement is final and binding. 2003, (2nd Sess.), c. 7, s. 8; 2006, c. 10, s. 4.

Complaint to Director or Board

31 (1) A person who has reasonable grounds to believe that the person has been discharged or otherwise discriminated against contrary to Section 28 or 29 may make a complaint to the Director in accordance with Section 20.

(2) A person who has made a complaint under subsection (1) and who is not satisfied with the result may make a complaint to the Board in accordance with Section 22. R.S., c. 246, s. 31; 2010, c. 37, s. 99.

VACATION PAY

Vacation

32 (1) Where an employee works for an employer at any time during a continuous 12-month period, the employer

(a) not later than 10 months after the 12-month period ends, shall give the employee an unbroken vacation of at least two weeks or, where the employee has been in the employ of the employer for more than eight years, an unbroken vacation of at least three weeks;

(b) at least one week in advance, shall notify the employee of the date the employee's vacation begins; and

(c) at least one day before the employee's vacation begins, shall pay the employee an amount at least equal to four per cent or, where the employee has been in the employ of the employer for more than eight years, an amount at least equal to six per cent, of the employee's wages for the 12-month period during which the employee established the employee's right to a vacation.

(2) Notwithstanding clause (1)(a), the employer and the employee may by agreement provide for two or more vacation periods if

(a) the periods are in total equal to at least the length of vacation to which the employee is entitled under that clause; and

(b) include an unbroken period of at least one week prior to which the employer gives notice as required by clause (1)(b) and pays the employee the full amount as required by clause (1)(c). R.S., c. 246, s. 32; 1991, c. 14, s. 8; 2003 (2nd Sess.), c. 7, s. 9; 2004, c. 6, s. 17.

Waiver of entitlement under subsection 32(1)

33 (1) An employee who works for an employer for less than 90% of the regular working hours during a continuous 12-month period may waive the entitlement set out in subsection 32(1) to a period of vacation leave.

(2) Where the employee notifies the employer in writing that the employee is exercising the option specified in subsection (1), Section 32 does not apply and the employer shall pay to the employee, not later than one month after the 12-month period ends, an amount at least equal to four per cent or, where the employee has been in the employ of the employer for more than eight years, an amount at least equal to six per cent, of the wages of the employee for the 12-month period. 1991, c. 14, s. 9; 2004, c. 6, s. 18.

Vacation pay on termination

34 Where an employee works for an employer and is not entitled to a vacation with pay or pay in lieu of a vacation as provided for in Sections 32 and 33, and the employee's employment with that employer terminates, the employer shall pay to the employee within 10 days after the employee's employment terminates an amount at least equal to four per cent or, where the employee has been in the employ of the employer for more than eight years, an amount at least equal to six per cent, of the wages of the employee during the time the employee was employed. R.S., c. 246, s. 34; 2004, c. 6, s. 19.

Calculation of vacation pay

35 (1) For the purpose of calculating vacation pay or pay in lieu of vacation as provided for in Sections 32 to 34, the wages of an employee include the cash value of board or lodging provided by the employer, which is the greater of

(a) the amount agreed upon between the employer and the employee as being its cash value; and

(b) the amount specified in any order issued under the authority of this Act.

(2) Subsection (1) does not apply to the construction industry.

(3) For the purpose of calculating vacation pay or pay in lieu of vacation pay as provided for in Sections 32 to 34, the 12-month period or any other period of employment commences on the first day the employee is employed. R.S., c. 246, s. 35.

Vacation pay in trust and deemed secure debt due

36 (1) Every employer is deemed to hold vacation pay accruing due to an employee in trust for the employee and for payment of the vacation pay over in the manner and at the time provided under this Act and the regulations, and the amount is a charge upon the assets of the employer or the employer's estate in the employer's hands or the hands of a trustee and has priority over all other claims.

(2) Notwithstanding any other Act, the amount of vacation pay accruing due to an employee is a debt due or accruing due by the employer to the employee and the employee is deemed to hold a mortgage on the assets of the employer to the amount of the vacation pay accruing due and may enforce the mortgage by foreclosure proceedings.

(3) The mortgage referred to in subsection (2) is payable in priority over all liens, charges or mortgages of every person in respect of the real and personal property of the employer, including those of the Crown in right of the Province, but excepting liens for wages due to workers by that employer. R.S., c. 246, s. 36.

HOLIDAYS WITH PAY

Employer to grant general holiday

37 Except as provided by Sections 39 and 41, every employer shall grant each employee a holiday with pay on each general holiday falling within any period of the employee's employment. R.S., c. 246, s. 37; 2013, c. 35, s. 4; 2016, c. 11, s. 5.

Alternative holiday

38 Except as otherwise provided in this Act, when a general holiday falls on a day that is a non-working day for an employee, the employer shall grant the employee a holiday with pay on either

- (a) the working day immediately following the general holiday;
- or
- (b) the day immediately following the vacation of the employee,

or grant the employee another day agreed upon by the employee and the employer. R.S., c. 246, s. 38.

Substituted holiday

39 An employer may substitute any other holiday for a general holiday in any of the following circumstances:

- (a) where a class of employees of an employer is represented by a trade union and the parties to a collective agreement entered into with respect to the terms or conditions of employment of the employees notify the Director in writing that a specified day has been designated in the collective

agreement as a holiday with pay in lieu of a general holiday under this Act, the designated day is, for those employees mentioned in the collective agreement, a general holiday for the purpose of this Act; or

(b) where no employees of an employer are represented by a trade union or where a class of employees is not provided for under a collective agreement with regard to general holidays, and the employer applies to the Director to substitute another designated holiday for any general holiday under this Act, the Director may, where the Director is satisfied that a majority of the employees or, as the case may be, that a majority of the class of employees who are not provided for under a collective agreement in regard to general holidays, concur with the application, approve the substitution of the designated holiday for the specified general holiday, and the designated day is, for those employees, a general holiday for the purpose of this Act. R.S., c. 246, s. 39.

Wages not to be reduced or not paid

40 (1) An employer of an employee whose wages are calculated on a weekly or monthly basis shall not reduce the employee's weekly or monthly wages for a week or month in which a general holiday occurs by reason only that the employee does not work on the general holiday.

(2) An employer of an employee whose wages are calculated on a daily or hourly basis shall pay the employee for a general holiday on which the employee does not work at least the equivalent of the wages the employer would have paid at the employee's regular rate of wages for the employee's normal hours of work.

(3) An employer of an employee whose wages are calculated on any basis other than a basis mentioned in subsection (1) or (2) shall pay the employee for a general holiday on which the employee does not work at least the equivalent of the wages the employer would have paid at the employee's regular rate of wages for the employee's normal working day.

(4) Notwithstanding anything contained in this Act, where an employee is required to work more than 48 hours in a week, that employee must be paid one and one half times the employee's regular hourly wage for each additional hour worked in that week in excess of 48 hours. R.S., c. 246, s. 40; 2003 (2nd Sess.), c. 7, s. 10.

Holiday pay at one and one-half times regular rate

41 (1) In this Section and Section 42, "employed in a continuous operation" refers to employment in

(a) any industrial establishment in which in each seven-day period, operations once begun normally continue without cessation until the completion of the regularly scheduled operations for that period;

(b) any operations or services concerned with the running of trucks and other vehicles, whether in scheduled or non-scheduled operations;

(c) any telephone or other communication operations or services; or

(d) any operation or service normally carried on without regard to Sundays or public holidays.

(2) Except in the case of an employee employed in a continuous operation, an employer of an employee who is required to work on a day on which the employee is entitled under this Act to a holiday with pay shall pay that employee an amount equal to the amount the employee would otherwise have received for that holiday and at a rate at least equal to one and one half times the employee's regular rate of wages for the time worked by the employee on that day.

(3) An employer of an employee employed in a continuous operation who is required to work on a day on which the employee is entitled under this Act to a holiday with pay shall

(a) pay the employee an amount equal to the amount the employee would otherwise have received for that holiday and at a rate at least equal to one and one half times the employee's regular rate of wages for the time worked by the employee on that day; or

(b) grant the employee a holiday and pay in accordance with Section 40 on the working day immediately following the annual vacation of the employee or another day agreed upon by the employee and the employer. R.S., c. 246, s. 41.

Entitlement to holiday pay

42 (1) An employee is entitled to be paid for a general holiday if

(a) the employee has received or is entitled to receive pay for at least 15 days during the 30 calendar days immediately preceding the general holiday; and

(b) the employee has worked on the employee's scheduled working day immediately preceding and immediately following the holiday.

(2) Clause (1)(b) does not apply if the employer has directed the employee not to report for work on the employee's scheduled working day either immediately prior to or following the holiday.

(3) An employee in a continuous operation is not entitled to be paid for a general holiday on which the employee did not report for work after having been called upon to work on that day.

(4) Where the employment of an employee ceases before the day agreed upon by the employee and the employer as a holiday for the employee under clause 38(b) or 41(3)(b), the employer shall pay the employee, in addition to any other payment to which the employee is entitled, at least the equivalent of the wages the employee would have paid the employee for that day at the employee's regular rate of wages for the employee's normal working day. R.S., c. 246, s. 42; 1991, c. 14, s. 10.

Complaint respecting general holiday

43 (1) An employee who is not granted a general holiday to which the employee is entitled by this Act may make a complaint to the Director in accordance with Section 20.

(2) The Director shall treat a complaint under subsection (1) that alleges that an employee has not been paid all pay as a complaint under Section 130.

(3) An employee who has made a complaint under subsection (1) and who is not satisfied with the result may make a complaint to the Board in accordance with Section 22. R.S., c. 246, s. 43; 2010, c. 37, s. 100.

INDUSTRIAL STANDARDS

Construction industry conference schedule of wages and hours

44 (1) This Section and Sections 45 to 47 apply to the regional municipalities, towns, municipalities of a county or district, municipal districts, polling divisions of a municipal district or other areas of a municipality that the Governor in Council determines by proclamation.

(2) The Minister may, upon the petition of representatives of employees or employers in the construction industry, convene a conference or series of conferences of employees and employers engaged in the industry, for the purpose of investigating or considering the condition of labour and the practices prevailing in the industry and for negotiating standard or uniform rates of wages and hours and days of labour.

(3) Where, in the opinion of the Minister, a schedule of wages and of hours of labour for all or any class of employees in any sector or sectors of the construction industry in any geographic area or areas is agreed upon in writing by a proper and sufficient representation of employees and employers, the Minister may approve the schedule.

(4) The Minister shall not approve a schedule that prescribes wages that are less for a female employee than for a male employee.

(5) Upon the recommendation of the Minister, the Governor in Council may declare a schedule agreed upon and approved in accordance with subsection (3) to be in force for the period agreed upon and thereafter until the Governor in Council rescinds the declaration or declares another schedule to be in force.

(6) A schedule declared to be in force by the Governor in Council becomes effective 10 days after publication of the order in council in the Royal Gazette. R.S., c. 246, s. 44.

Posting of schedule

45 Every employer bound by a schedule shall cause a copy of the schedule to be posted and maintained for as long as it remains in force in a conspicuous place where employees engaged in their duties may readily see and read it. R.S., c. 246, s. 45.

Schedule binds employer and employee

46 (1) An employer of an employee to whom an effective schedule applies shall not pay the employee less than prescribed by the schedule, nor shall the employer require the employee to work a greater number of hours in each day, or a greater number of days in each week, than is prescribed by the schedule.

(2) An employee to whom an effective schedule applies shall not agree or consent to be employed for wages less than the employee is entitled to by the schedule and an employee to whom an effective schedule applies shall not work a greater number of hours in each day, or a greater number of days in each week, than is prescribed by the schedule. R.S., c. 246, s. 46.

Complaint respecting hours

47 (1) An employee who is required to work a greater number of hours in a day or a greater number of days in a week than is prescribed by a schedule that applies to the employee may make a complaint to the Director in accordance with Section 20.

(2) The Director shall treat a complaint under subsection (1) that alleges that an employee has not been paid all pay as a complaint under Section 130.

(3) An employee who has made a complaint under subsection (1) and who is not satisfied with the result may make a complaint to the Board in accordance with Section 22. R.S., c. 246, s. 47; 2011, c. 19, s. 13.

MINIMUM WAGES

Minimum wage order

48 The Governor in Council may

(a) fix a minimum wage for employees in different employments or in different classes or descriptions of an employment at the rate and in the manner that the Governor in Council considers advisable;

(b) direct that no employer, who employs employees for whom minimum wages are so fixed, shall employ an employee at a rate of wages less than the minimum wages so fixed;

(c) apply the minimum wage so fixed to all employees or to a group or class of employees in any industry, business, trade or occupation, or to any group or class of employees in all or in any two or more industries, businesses, trades or occupations;

(d) fix a different minimum wage to be paid to employees in the same industry, business, trade or occupation in different parts of the Province;

(e) fix a minimum wage applicable only in the part or parts of the Province designated in the order;

(f) fix the minimum wage upon an hourly, daily, weekly or monthly basis;

(g) fix the maximum number of hours of labour for which the minimum wage may be paid;

(h) fix the minimum wage payable for time worked in excess of the maximum number of hours of work established under clause (e);

(i) fix a special rate of wages for apprentices or inexperienced employees, and limit the number of such employees to whom the special rate may be payable by any employer;

(j) specify when and under what conditions deductions may be made from the minimum wage;

(k) fix the maximum amount, if any, that may be deducted from the minimum wage in cases where the employer furnishes to the employee board, lodging, uniforms, laundry or other services;

(l) prescribe the periods in respect of which wages must be paid, whether daily, weekly, monthly or for any other period, and fix the day upon which the wages payable for any period whether so prescribed or not must be paid, either generally or with respect to any designated employer, and prescribe the manner in which wages must be paid;

(m) establish the regular working period and the maximum number of hours of labour that may be worked regularly in any industry, business, trade or occupation, or the part or parts thereof to which the order is applicable;

(n) exempt from the operation of this Act or any order made hereunder any group, class or description of employees or employers in any industry, business, trade or occupation. R.S., c. 246, s. 50; 1991, c. 14, s. 12.

Minimum Wage Review Committee

49 (1) A committee to be known as the Minimum Wage Review Committee is established.

(2) The Committee must be composed of an equal number of employee and employer representatives appointed by the Minister.

(3) The function of the Committee is to conduct an annual review of the minimum wage and submit to the Minister a report containing the recommendations of the Committee.

(4) The Minister shall

(a) make the report referred to in subsection (3) public within 30 days of receipt of the report; and

(b) make public the response of the Government to the report within 60 days of receipt of the report. 2003 (2nd Sess.), c. 7, s. 11.

Publication of minimum wage order

50 Every order of the Governor in Council fixing a minimum wage must be published in the Royal Gazette and takes effect 10 days after it is so published, or on a later day fixed by the Governor in Council and stated in the order. R.S., c. 246, s. 52; 1991, c. 14, s. 14.

Temporary suspension or variation of order

51 The Governor in Council, without making a new order, may temporarily suspend or vary any order made pursuant to Section 48 so as to conform to special conditions in an industry, business, trade or occupation. R.S., c. 246, s. 53; 1991, c. 14, s. 15.

Posting of order

52 Every employer of employees affected by an order of the Governor in Council fixing a minimum wage shall post and keep posted in a conspicuous place in the employer's establishment or plant a copy of the order so that all employees affected thereby may have ready access to and see the same. R.S., c. 246, s. 54; 1991, c. 14, s. 16.

Deemed agreement to pay minimum wage

53 An employer who permits an employee to perform any work with respect to which a minimum wage is established is deemed to have agreed to pay the employee at least the minimum wage established. R.S., c. 246, s. 55.

Complaint respecting minimum wage

54 (1) Where an employer contravenes an order made under Section 48, an employee may make a complaint to the Director in accordance with Section 20.

(2) The Director shall treat a complaint under subsection (1) that alleges that an employee has not been paid all pay as a complaint under Section 130.

(3) An employee who has made a complaint under subsection (1) and who is not satisfied with the result may make a complaint to the Board in accordance with Section 22. R.S., c. 246, s. 56; 2010, c. 37, s. 101.

EQUAL PAY

Substantially the same work

55 (1) In this Section and Section 58,

“substantially the same work” means substantially the same work performed in the same establishment, the performance of which requires substantially equal skill, effort and responsibility, and that is performed under similar working conditions;

“gender”, with respect to an employee, includes

- (a) a female employee;
- (b) a male employee; and
- (c) an employee who does not identify exclusively, or at all, with the gender binary of female and male.

(2) Subject to subsection (3), with respect to employees who perform substantially the same work, an employer and any person acting on the employer's behalf shall not

- (a) pay an employee of any gender a different rate of wages from an employee of the employer of any other gender; or
- (b) pay an employee who possesses a characteristic prescribed in the regulations a different rate of wages from any other employee of the employer who does not possess the characteristic.

(3) Where an employer or person acting on the employer's behalf establishes that a different rate of wages is justified based on payment in accordance with

- (a) a seniority system;
- (b) a merit system;
- (c) a system that measures wages by quantity or quality of production; or
- (d) another differential based on a factor other than gender or a characteristic prescribed by the regulations,

a difference in the rate of wages between any two employees who are performing substantially the same work based on any of the factors referred to in clauses (a) to (d) does not constitute a failure to comply with this Section.

(4) No employer shall reduce the rate of wages of an employee in order to comply with this Section.

(5) Every employer shall post and keep posted, in a conspicuous place in the employer's establishment, a copy of this Section so that all employees may have ready access to and see the same.

(6) Notwithstanding any other provision of this Section, an employer may not compel an employee to identify the gender or a characteristic prescribed in the regulations of the employee or another employee.

(7) An employer may rely on information acquired from its employees for the purpose of meeting its duties under this Section.

(8) For greater certainty, nothing in this Section limits any protection provided to an employee under the *Human Rights Act*. R.S., c. 246, s. 57; 1991, c. 14, s. 18; 2020, c. 14, s. 6.

Prohibition respecting wage history

56 (1) A prospective employer shall not

- (a) request that a prospective employee provide the prospective employee's wage history;
- (b) request that a prospective employee's current or former employer provide the prospective employee's wage history; or
- (c) require that a prospective employee's wage history meet any criteria, including maximum or minimum levels, set by the prospective employer.

(2) Notwithstanding subsection (1), a prospective employer may confirm a prospective employee's wage history if the prospective employee

- (a) voluntarily discloses the prospective employee's wage history to the prospective employer;
- (b) provides written authorization to the prospective employer to obtain the confirmation; and

(c) acknowledges in the written authorization that the prospective employee has determined that it is beneficial to the prospective employee to disclose the prospective employee's wage history to the prospective employer.

(3) Subsections (1) and (2) apply or continue to apply, as the case may be, to an employer and an employee of the employer. 2020, c. 14, s. 7.

Wage information

57 (1) Subject to subsection (2), no employer shall prohibit, as a condition of employment, an employee from discussing or disclosing information within the workplace about the employee's wages or the wages of another employee.

(2) An employer or an employee whose job functions relate directly to the employer's finances or human resources may not disclose information relating to the wages of any employee of the employer unless

(a) the employee provides written authorization for the release of that employee's wage information;

(b) the wage information is a matter of public record;

(c) the disclosure is within the course of the job functions of the employer or a finance or human resources employee of the employer; or

(d) the wage information is required to be disclosed by law. 2020, c. 14, s. 7.

Complaint to Director or Board

58 (1) An employee

(a) who is denied equal pay to which the employee is entitled pursuant to Section 55; or

(b) who is compelled by the employee's employer to identify the gender or a characteristic prescribed in the regulations of the employee or another employee contrary to subsection 55(6),

may make a complaint to the Director in accordance with Section 20.

(2) A prospective employee whose wage history is

(a) requested by a prospective employer in contravention of clause 56(1)(a) or (b); or

(b) required to meet any criteria, including maximum or minimum levels set by the prospective employer, in contravention of clause 56(1)(c),

may make a complaint to the Director in accordance with Section 20.

(3) An employee

(a) whose wage history is requested by an employer in contravention of subsection 56(3);

(b) who is prevented by an employer from discussing or disclosing information about wages as permitted by subsection 57(1); or

(c) whose wages have been disclosed contrary to subsection 57(2),

may make a complaint to the Director in accordance with Section 20.

(4) A person who has made a complaint to the Director pursuant to this Section and who is not satisfied with the result may make a complaint to the Board in accordance with Section 22. 2020, c. 14, s. 8.

PROTECTED LEAVE GENERAL PROVISIONS

Option to maintain benefit plan

59 (1) For the periods of time specified in Sections 65 to 68, 71, 72, 74, 75, 77, 79 to 83, 85, 88, 92, 95, 99, 100, 102 and 104, an employer shall grant to the employee the option of maintaining a benefit plan in which the employee participated prior to the commencement of that period and shall notify the employee in writing of the option and the date beyond which the option may no longer be exercised at least 10 days prior to the last day on which the option could be exercised to avoid an interruption in benefits.

(2) Where the employee opts in writing to maintain a benefit plan referred to in subsection (1), the employee shall enter into an arrangement with the employer to pay the cost required to maintain the benefit plan, including the employer's share thereof, and the employer shall process the documentation and payments as arranged.

(3) Nothing in subsection (2) prevents an employer from contributing to the cost of a benefit plan referred to in subsection (1). 2018, c. 13, s. 4; 2018, c. 36, s. 3; 2022, c. 41, s. 3.

Position and seniority upon return to work

60 (1) When an employee returns to work upon the expiry of a leave of absence taken pursuant to Section 65, 66, 67, 71, 72, 74, 75, 77, 79, 80, 81, 82, 83, 85, 88, 92, 95, 99, 100, 102 or 104 or returns to work pursuant to Section 68, the employer shall permit the employee to resume work

(a) in the position held by the employee immediately before the leave began or, where that position is not available, in a comparable position with not less than the same wages and benefits; and

(b) with no loss of seniority or benefits accrued to the commencement of the leave.

(2) Where the employer's operations are or will be suspended or discontinued when the employee returns to work upon the expiry of a leave of absence taken pursuant to Section 65, 66, 67, 71, 72, 74, 75, 77, 79, 80, 81, 82, 83, 85, 88, 92, 95, 99, 100, 102 or 104 or returns to work pursuant to Section 68, subsection (1) does not apply, and the employer shall comply with Section 120 and, when the operation resumes, subsection (1) applies subject to the employer's seniority system, if any.

(3) For greater certainty, nothing in this Section limits any protection provided to an employee by a collective agreement or other contract of employment or by the *Human Rights Act*. 2018, c. 13, s. 4; 2018, c. 36, s. 4; 2022, c. 41, s. 4.

Entitlement to benefits

61 For greater certainty, nothing in Sections 59 and 60 limits any benefits to which an employee would otherwise be entitled. 2018, c. 13, s. 4.

Entitlement to certain leaves in addition to other leaves

62 An employee's entitlement to a leave of absence under Section 65, 66, 67, 71, 72, 74, 75, 77, 79, 80, 81, 82, 83, 85, 88, 92, 95, 99, 100, 102 or 104 or to interrupt a leave of absence under Section 68 is in addition to any entitlement the employee may have to another type of leave under this Act, except as otherwise provided in this Act. 2018, c. 13, s. 4; 2018, c. 36, s. 5; 2022, c. 41, s. 5.

Complaints

63 (1) An employee, who is denied a leave of absence, the opportunity to resume work, seniority or benefits to which the employee is entitled by Section 59, 60, 65, 66, 67, 68, 71, 72, 74, 75, 77, 79, 80, 81, 82, 83, 85, 88, 92, 95, 99, 100, 102 or 104, may make a complaint to the Director in accordance with Section 20.

(2) The Director shall treat a complaint under subsection (1) that alleges that an employee has not been paid all pay as a complaint under Section 130.

(3) An employee who has made a complaint under subsection (1) and who is not satisfied with the result may make a complaint to the Board in accordance with Section 22. 2018, c. 13, s. 4; 2018, c. 36, s. 6; 2022, c. 41, s. 6.

Confidential information

64 (1) An employer shall

(a) maintain confidentiality with respect to all matters that come to the employer's knowledge in relation to an employee's leave of absence taken under Section 65, 66, 67, 71, 72, 74, 75, 77, 79, 80, 81, 82, 83, 85, 88, 92, 95, 99, 100, 102 or 104, or the interruption of a leave of absence under Section 68; and

(b) not disclose information relating to an employee's leave of absence or the interruption of a leave of absence referred to in clause (a) except

- (i) with the employee's written consent,
- (ii) to employees or agents who require the information to carry out their duties, or
- (iii) as required by law.

(2) A person who has received information under subsection (1) may not disclose it to any other person unless it is to be used for the purpose for which it was originally disclosed or for a purpose authorized by subclause (1)(b)(ii) or (iii). 2018, c. 13, s. 4; 2018, c. 36, s. 7; 2022, c. 41, s. 7.

PREGNANCY LEAVE AND PARENTAL LEAVE

Pregnancy leave

65 (1) A pregnant employee, who has been employed by the employee's employer for at least one year, or such shorter period as may be prescribed by the regulations, is entitled to an unpaid leave of absence of up to 16 weeks upon

(a) giving the employer notice of the date that the employee will begin the leave and the date the employee will return to work, as required by Section 69; and

(b) providing to the employer, where the employer so requests, a certificate of a legally qualified medical practitioner stating that the employee is pregnant and specifying the expected date of delivery.

(2) Pregnancy leave pursuant to this Section begins on such date, not sooner than 16 weeks preceding the expected date of delivery, as the employee determines, and not later than the date of delivery.

(3) Pregnancy leave pursuant to this Section ends on such date,

(a) not sooner than the date of delivery; and

(b) not later than 16 weeks after the pregnancy leave began pursuant to this Section,

as determined by the employee. 1991, c. 14, s. 19; 2018, c. 36, s. 8; 2020, c. 13, s. 2.

Requirement by employer to take leave

66 (1) Notwithstanding Section 65, an employer may require a pregnant employee, who has been employed by the employer for at least one year, or such shorter period as may be prescribed by the regulations, to take an unpaid leave of absence while the duties of the employee's position cannot reasonably be performed by a pregnant person or the performance of the employee's work is materially affected.

(2) For greater certainty, nothing in subsection (1) affects any protection provided to a pregnant employee, regardless of the length of employment, by the *Human Rights Act*. 1991, c. 14, s. 19; 2018, c. 36, s. 9.

Parental leave

67 (1) An employee, who has been employed by an employer for at least one year, or such shorter period as may be prescribed by the regulations, and who becomes a parent of one or more children through

(a) the birth of the child or children; or

(b) the placement of the child or children in the care of the employee for the purpose of adoption of the child or children pursuant to the law of the Province,

is entitled to an unpaid leave of absence of, subject to subsection (4), up to 77 weeks upon giving the employer notice of the date that the employee will begin the leave and the date that the employee will return to work, as required by Section 69.

(2) Where an employee takes pregnancy leave pursuant to Section 65 and the employee's newborn child or children arrive in the employee's home during the pregnancy leave, parental leave pursuant to this Section

(a) begins immediately upon completion of the pregnancy leave and without the employee returning to work; and

(b) ends not later than 61 weeks after the parental leave began pursuant to this Section, as determined by the employee.

(3) Where subsection (2) does not apply, parental leave pursuant to this Section

(a) begins on such date, coinciding with or after the birth of the child or children or the child or children first arriving in the employee's home; and

(b) ends not later than 18 months after the child or children first arrive in the employee's home,

as determined by the employee.

(4) The maximum combined pregnancy leave and parental leave to which an employee is entitled is 77 weeks. 1991, c. 14, s. 19; 2000, c. 35, s. 1; 2018, c. 36, s. 10.

Interruption of leave by hospitalization of child

68 (1) Notwithstanding Section 67, where an employee has begun parental leave pursuant to that Section and the child to whom the parental leave relates is hospitalized for a period exceeding or likely to exceed one week, the employee is entitled to return to and resume work in accordance with Section 60 and defer the unused portion of the parental leave until the child is discharged from the hospital, upon giving the employer notice in accordance with Section 69.

(2) An employee is entitled pursuant to subsection (1) to only one interruption and deferral of each parental leave. 1991, c. 14, s. 19.

Notice

69 (1) Subject to subsection (2), an employee shall give the employer four weeks notice of

(a) the date the employee will begin pregnancy leave pursuant to Section 65 or parental leave pursuant to subsection 67(3); and

(b) the date the employee will return to work upon completion of the leave unless the employee will take the maximum leave to which the employee is entitled.

(2) Where an employee will have been employed for fewer than four weeks as of the date the employee's pregnancy leave pursuant to subsection 65(2) or the employee's parental leave pursuant to subsection 67(3) is to begin, the employee shall give the employer as much notice of the date the employee will begin the leave as is reasonably practicable in the circumstances.

(3) Notice given pursuant to subsection (1) or (2) may be amended from time to time by the employee

(a) by changing any date in the notice to an earlier date if the notice is amended at least four weeks before that earlier date;

(b) by changing any date in the notice to a later date if the notice is amended at least four weeks before the original date; and

(c) by adding the date that the employee will return to work if the notice is amended at least four weeks before the employee would have been required to return to work.

(4) An employee shall give the employer as much notice as reasonably practicable of

(a) the date the employee will begin pregnancy leave pursuant to Section 65 if the employee is advised by a legally qualified medical practitioner to begin pregnancy leave sooner than planned because of medical circumstances resulting from the employee's pregnancy;

(b) the delivery where the actual delivery occurs sooner than expected;

(c) the first arrival of the child or children in the employee's home where that arrival is not anticipated or occurs sooner than reasonably expected;

(d) the return to work of the employee pursuant to Section 68; and

(e) the resumption of parental leave by the employee in accordance with Section 68,

and subsection (1) does not apply.

(5) Notice given pursuant to this Section must be put in writing if the employer so requests. 1991, c. 14, s. 19; 2020, c. 13, s. 3.

Proof of entitlement

70 (1) Upon the request of the employer, where an employee takes parental leave pursuant to Section 67, interrupts and defers leave pursuant to Section 68 or gives notice pursuant to subsection 69(4), the employee shall provide such proof as is reasonably necessary to establish the entitlement of the employee pursuant to those provisions.

(2) The certificate of a legally qualified medical practitioner or, in the case of adoption, of an official in the Department of Community Services with knowledge of the proposed adoption is sufficient proof for the purpose of subsection (1) of the matters attested to in the certificate. 1991, c. 14, s. 19.

End of pregnancy

71 (1) In this Section and Section 72, "end of pregnancy" means a pregnancy that ends other than as a result of a live birth.

(2) An employee is entitled to an unpaid leave of absence of up to, at the employee's option, five consecutive working days, if

- (a) the employee experiences an end of pregnancy;
- (b) the employee's spouse experiences an end of pregnancy;
- (c) the employee's former spouse experiences an end of pregnancy and the employee would have been the biological parent of a child born as a result of the pregnancy;
- (d) another person experiences an end of pregnancy and the employee would have become the parent of a child born as a result of the pregnancy under a surrogacy agreement; or
- (e) another person experiences an end of pregnancy and the employee would have become the parent of a child born as a result of the pregnancy under an intended adoption pursuant to the laws of the Province. 2022, c. 41, s. 8.

Unpaid leave of absence

72 (1) Subject to subsection (2), an employee is entitled to an unpaid leave of absence of up to, at the employee's option, 16 weeks upon the employee experiencing an end of pregnancy after the 19th week of the employee's pregnancy.

(2) An employee who experiences an end of pregnancy while on pregnancy leave under subsection 65(1) is entitled to

- (a) the remainder of the leave under subsection 65(1); or
- (b) where the employee has taken more than 10 weeks of pregnancy leave under subsection 65(1), up to an additional six weeks of unpaid leave of absence, starting on the day the end of pregnancy occurs,

at the employee's option.

(3) An employee who takes a leave of absence under this Section is not entitled to subsequently take a leave of absence under subsection 71(2) as a result of the same end of pregnancy.

(4) Where an employee takes a leave of absence under subsection 71(2) and is entitled to a leave under this Section as a result of the same end of pregnancy, the employee may take a leave under this Section if

- (a) the leaves are taken consecutively; and
- (b) any amount of leave taken under subsection 71(2) is deducted from the maximum amount of leave to which the employee is entitled under this Section. 2022, c. 41, s. 8.

Notice

73 (1) An employee shall give the employer as much notice as is reasonably practicable of the employee's intention to take a leave of absence under Section 71 or 72.

(2) Where an employee begins a leave of absence under Section 71 or 72 before advising the employer under subsection (1), the employee shall advise the employer as soon as is reasonably practicable of the date the leave began and the anticipated end date of the leave.

(3) An employer may require an employee who takes a leave of absence under Section 71 or 72 to provide such information, in a form approved by the Director, in support of the employee's entitlement to the leave as may be prescribed by the regulations or, in the absence of applicable regulations, as is reasonable in the circumstances.

(4) Nothing in Section 71 or 72 or subsection (3) entitles an employee who is seeking a leave of absence under clause 71(2)(b), (c), (d) or (e) the right to

(a) collect, use or disclose personal information about the person on whose pregnancy the leave is based without that person's consent; or

(b) compel the disclosure of personal information about the person on whose pregnancy the leave is based from any person.
2022, c. 41, s. 8.

BEREAVEMENT LEAVE AND COURT LEAVE

Bereavement leave

74 An employee is entitled to an unpaid leave of absence of up to, at the employee's option, five consecutive working days upon the death of the employee's spouse, parent, guardian, child, ward, grandparent, grandchild, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, sister-in-law or brother-in-law. 2015, c. 41, s. 1.

Court leave

75 An employee is entitled to an unpaid leave of absence for such time as the employee is required to perform jury duty or is required by subpoena or summons to attend as a witness at a place other than the place of employment of the employee. 1991, c. 14, s. 21.

Notice

76 Before taking bereavement leave pursuant to Section 74 or court leave pursuant to Section 75, an employee shall give the employer as much notice as reasonably practicable of the employee's intention to take the leave. 1991, c. 14, s. 21.

COMPASSIONATE-CARE LEAVE

Entitlement to unpaid compassionate-care leave

77 (1) In this Section,

“family member” in relation to an employee, means a family member as defined in the regulations;

“week” means the period between midnight on Saturday and midnight on the following Saturday.

(2) An employee who has been employed by an employer for a period of at least three months is entitled to an unpaid leave of absence of up to 28 weeks to provide care or support to a family member of the employee if a legally qualified medical practitioner issues a certificate stating that the family member has a serious medical condition with a significant risk of death within 26 weeks from

- (a) the day the certificate is issued; or
- (b) where the leave was begun before the certificate was issued, the day the leave was begun.

(3) The leave of absence referred to in subsection (2) may be taken only during the period

- (a) that begins with
 - (i) the first day of the week in which the certificate is issued, or
 - (ii) where the leave was begun before the certificate was issued, the first day of the week in which the leave was begun if the certificate is valid from any day in that week; and
- (b) that ends with the last day of the week in which either of the following occurs:
 - (i) the family member dies, or
 - (ii) the period of 52 weeks following the first day of the week referred to in clause (a) ends.

(4) For greater certainty, but subject to subsection (3), for leave under this Section to be taken after the end of the period of 26 weeks set out in subsection (2), it is not necessary for a legally qualified medical practitioner to issue an additional certificate under that subsection.

(5) A leave of absence under this Section may be taken only in periods of not less than one week's duration.

(6) Where requested in writing by the employer, the employee must provide the employer with a copy of the certificate referred to in subsection (2).

(7) An employee shall advise an employer as soon as possible of any intention to take a leave of absence under this Section. 2003 (2nd Sess.), c. 4, s. 2; 2015, c. 41, s. 2; 2018, c. 13, s. 5; 2018, c. 36, s. 11.

Return to work

78 (1) Where an employee who takes a leave to provide care and support to a person pursuant to Section 77 ceases to provide care or support during a week of leave,

- (a) the employee's entitlement to leave continues until the end of the week; and
- (b) the employee may return to work during the week only if the employer agrees, whether in writing or not.

(2) Where an employee returns to work under clause (1)(b), the week counts as an entire week for the purpose of any provision in Section 77 that limits the entitlement to leave to a certain number of weeks. 2018, c. 36, s. 12.

SICK LEAVE

Entitlement to unpaid sick leave

79 An employee is entitled to a maximum of three days of unpaid leave per year where the leave is required

- (a) due to the sickness of a child, parent or family member; or
- (b) for medical, dental or other similar appointments during working hours. 2003 (2nd Sess.), c. 7, s. 12; 2004, c. 6, s. 20; 2018, c. 13, s. 5.

RESERVIST LEAVE

Unpaid service leave

80 (1) In this Section and Section 81,

“Reserves” means that component of the Canadian Armed Forces referred to in the *National Defence Act* (Canada) as the reserve force;

“service” means a period of

(a) deployment to a Canadian Armed Forces operation, inside or outside of Canada, or engagement inside or outside of Canada in a pre-deployment or post-deployment activity required by the Canadian Armed Forces in connection with a deployment;

(b) training required by the Canadian Armed Forces, including Canadian Armed Forces military skills training; or

(c) time in relation to an operation, activity or training referred to in clause (a) or (b), for

(i) travel from or to the employee’s residence in connection with the operation, activity or training, or

(ii) treatment, recovery or rehabilitation with respect to a physical or mental health problem that results from engagement in the operation, activity or training.

(2) An employee who

(a) is a member of the Reserves;

(b) has been employed by an employer for a period of at least three months or such shorter period as may be prescribed; and

(c) is required by the Canadian Armed Forces to be absent from the employer’s civilian employment for the purpose of service,

is entitled to an unpaid leave of absence for the purpose of service in accordance with this Section and Section 81.

(3) Subject to subsection (4), the entitlement under subsection (2) may total no more than 24 months in any 60-month period.

(4) Subsection (3) does not apply to a leave of absence taken as a result of a national emergency within the meaning of the *Emergencies Act* (Canada), 2020, c. 13, s. 5.

Notice

81 (1) Subject to subsection (2), an employee who meets the criteria in subsection 80(2) is entitled to a leave of absence upon giving the employer notice in writing, at least four weeks in advance of the date the employee intends to begin the leave, of

- (a) the employee's intention to take the leave;
- (b) the anticipated commencement and end date of the leave; and
- (c) the anticipated date of return to work.

(2) Where the employee receives notice of the requirement to participate in a period of service and the notice is received less than four weeks before the service is anticipated to commence, the employee shall notify the employer of the information required by clauses (1)(a) to (c)

- (a) as soon as is reasonably practicable; and
- (b) in writing, unless it is not reasonably practicable to do so.

(3) Where the employer so requests, the employee shall, as soon as is reasonably practicable, provide the employer with a certificate from an official with the Reserves,

- (a) stating that the employee is a member of the Reserves and is required for service; and
- (b) where possible, specifying the expected dates for the period of service.

(4) Subject to subsection (5), every employee taking a leave of absence pursuant to subsection 80(2) shall

- (a) where any of the information in clause (1)(b) or (c) changes, provide the employer with at least four weeks notice in writing of the new commencement or end date of the leave or the new anticipated date of return to work; and
- (b) return to work no later than
 - (i) four weeks after the employee's period of service ends, or
 - (ii) in the case of a period of service that consists of training other than deployment, the next regularly scheduled working day following the period of service.

(5) Where the employee receives less than four weeks notice that the commencement or end date of a period of service will change and the employee is taking or will take a leave of absence in respect of that period of service, the employee shall notify the employer of the new commencement or end date of the leave and of any anticipated change in the date of return to work that results from that change

- (a) as soon as is reasonably practicable; and
- (b) in writing, unless it is not reasonably practicable to do so. 2020, c. 13, s. 5.

EMERGENCY LEAVE

Unpaid leave of absence

82 (1) In this Section,

“emergency” means

(a) an emergency declared under the *Emergency Management Act* that prevents the employee from performing the employee’s work duties;

(b) a direction or order of a medical officer under the *Health Protection Act* that prevents the employee from performing the employee’s work duties;

(c) a public health emergency declared by the Minister under Section 54 of the *Health Protection Act* that prevents the employee from performing the employee’s work duties;

(d) an emergency declared under Part 1, Part 2 or Part 3 of the *Emergencies Act* (Canada) that prevents the employee from performing the employee’s work duties; or

(e) such other circumstances as are prescribed in the regulations;

“family member”, in relation to an employee, means

(a) a spouse of the employee;

(b) a child of the employee or of the employee’s spouse;

(c) a parent of the employee or a spouse of the parent; and

(d) any other person who is a member of a class of persons prescribed in the regulations.

(2) Notwithstanding the definition of “emergency” in subsection (1), an emergency includes a circumstance under clause (a), (b), (c), (d) or (e) of the definition of “emergency” in subsection (1) that applies to a family member of an employee if

- (a) the declaration, direction, order or other prescribed circumstance directly applies to a family member of the employee;

(b) the declaration, direction, order or other prescribed circumstance results in a situation where the family member of the employee requires care or assistance;

(c) the employee is the only person reasonably able under the circumstances to provide the family member with the required care or assistance; and

(d) providing the required care or assistance to the family member has the effect of preventing the employee from performing the employee's work duties.

(3) An employee is entitled to an unpaid leave of absence for such time as the employee cannot perform the duties of the employee's position because of the emergency.

(4) An employee shall give the employer as much notice as reasonably practicable of the employee's intention to take an emergency leave or, where required to leave before notice can be provided, the employee shall advise the employer of the emergency leave as soon as possible after the leave begins.

(5) An employee who takes a leave under this Section shall provide to the employer, where the employer so requests, evidence that is reasonable in the circumstances that the employee is entitled to the leave and such evidence must be provided within a time that is reasonable in the circumstances.

(6) A leave under this Section continues for as long as the emergency continues and the emergency prevents the employee from performing the employee's work duties but the entitlement ends on the day the emergency is terminated or the emergency no longer prevents the employee from performing the employee's work duties.

(7) Where an emergency as defined in subsection (1) is made retroactive under subsection 29(3) of the *Emergency Management Act* or under subsection (2), an employee who does not perform the duties of the employee's position because of the declared emergency is deemed to have been on leave beginning on the first day that the employee did not perform the duties of the position on or after the date to which the declared emergency was made retroactive. 2009, c. 18; 2018, c. 13, s. 5; 2018, c. 36, s. 13.

LEAVE FOR CITIZENSHIP CEREMONY

Unpaid leave of absence

83 (1) An employee is entitled to an unpaid leave of absence of up to, at the employee's option, a maximum of one day on the day of and to attend a citizenship ceremony to receive the employee's certificate of citizenship under the *Citizenship Act* (Canada).

(2) The employee shall give the employer 14 days notice or as much notice as is reasonably practicable of the date of the citizenship ceremony and the time the employee will be away from work to attend the citizenship ceremony.

(3) Upon request by the employer, the employee shall provide evidence of the date of the citizenship ceremony. 2011, c. 64, s. 1; 2018, c. 13, s. 5.

CRITICALLY ILL CHILD CARE LEAVE

Interpretation of Sections 84 to 90

84 (1) In Sections 85 to 90, “week” means a week as defined in Section 77.

(2) For the purpose of this Section and Sections 85 to 90, where the definition of critically ill child in regulations made under the *Employment Insurance Act* (Canada)

(a) does not include a step-child or foster child, it is to be read as if it did; and

(b) does not apply with respect to an injury, it is to be read as if it did, subject to any condition or restriction in the definition that applies to an illness and that can apply with respect to an injury. 2013, c. 11, s. 3; 2018, c. 36, s. 14.

Unpaid leave of absence

85 (1) This Section and Sections 86 to 90 apply to an employee who is a family member, as defined in the regulations, of a critically ill child.

(2) An employee who has been employed by an employer for a period of at least three months is entitled to an unpaid leave of absence of up to 37 weeks to provide care or support to the critically ill child if a legally qualified medical practitioner issues a certificate

(a) stating that the child is a critically ill child and requires the care or support of the employee; and

(b) setting out the period during which the child requires the care or support.

(3) An employee shall advise the employee’s employer in writing as soon as possible of any intention to take a leave of absence under this Section and shall provide the employer with a written plan that indicates the weeks in which the employee will take the leave.

(4) Where an employee must begin a leave under this Section before advising the employer pursuant to subsection (3), the employee shall so advise the employer as soon as possible.

(5) Where requested in writing by the employer, the employee shall provide the employer with a copy of the certificate referred to in subsection (2).

(6) A leave of absence under this Section may be taken only in periods of not less than one week’s duration, not exceeding in total the number of weeks to which the employee is entitled. 2013, c. 11, s. 3; 2018, c. 36, s. 15.

Beginning and end of leave

86 (1) The leave of absence referred to in Section 85 may be taken only during the 52-week period that begins on the first day of the week in which the child with respect to whom the certificate was issued became critically ill.

(2) The leave of absence referred to in Section 85 ends with the last day of the week in which any of the following occurs:

- (a) subject to subsection 87(2), the child dies;
- (b) the number of weeks in the period specified in the certificate has been taken, if the certificate sets out a period of less than 37 weeks;
- (c) a 37-week leave has been taken. 2013, c. 11, s. 3.

End of leave if more than one child critically ill

87 (1) Where more than one child of the employee is critically ill as a result of the same event and the period specified in any certificate described in subsection 85(2) that was issued with respect to any of the children is 52 weeks or longer, the leave ends no later than the last day of the last week of the 52-week period that begins on the first day of the week in which the first of the children with respect to whom a certificate was issued became critically ill.

(2) Clause 86(2)(a) does not apply if more than one child of the employee is critically ill as a result of the same event, unless all of the children die while the employee is on leave, in which case the employee's entitlement to be on leave ends at the end of the last week in which the last child dies. 2013, c. 11, s. 3.

Additional leave

88 (1) Where more than one child of the employee is critically ill as a result of the same event, the employee is not entitled to take a leave for a longer period than would otherwise apply under subsection 85(2) or clause 86(2)(b).

(2) Where one or more children with respect to whom an employee has taken a leave under Section 85 remain critically ill while the employee is on leave or after the employee returns to work, the employee is entitled to take an extension of the leave or a new leave if

- (a) a legally qualified medical health practitioner issues an additional certificate described in subsection 85(2) for the child or children that sets out a different period during which the child or children require care or support;
- (b) the total amount of leave taken in the leave or combined leaves, as the case may be, does not exceed 37 weeks; and
- (c) the leave or combined leaves end no later than the last day of the period described in subsection 86(1) or 87(1), as the case may be.

(3) Where one or more children with respect to whom an employee has taken a leave under Section 85 remain critically ill after the 52-week period described in subsection 86(1) or 87(1), as the case may be, expires, the employee is entitled to take another unpaid leave beginning the first day of the week in which the additional certificate is issued, and Sections 85 to 87, 89 and 90 apply with necessary changes to the new leave. 2013, c. 11, s. 3.

Ending leave early and changing when leave taken

89 (1) Unless the employee and employer agree otherwise, an employee may end a leave earlier than the expiry of 37 weeks by giving the employer written notice of at least 14 days before the employee wishes to end the leave.

(2) An employee may take a leave at a time other than that indicated in the plan provided under subsection 85(3) if the change to the time of the leave meets the requirements of Sections 85 to 90 and the employee

(a) requests permission to do so from the employer in writing and the employer grants permission in writing; or

(b) provides the employer with such written notice as is reasonable in the circumstances. 2013, c. 11, s. 3.

Return to work and calculation of weeks taken

90 (1) Where an employee who takes a leave to provide care and support to a person pursuant to Section 85 or 88 ceases to provide care or support during a week of leave,

(a) the employee's entitlement to leave continues until the end of the week; and

(b) the employee may return to work during the week only if the employer agrees, whether in writing or not.

(2) Where an employee returns to work under clause (1)(b), the week counts as an entire week for the purpose of any provision in Section 85 or 88 that limits the entitlement to leave to a certain number of weeks. 2013, c. 11, s. 3; 2018, c. 36, s. 16.

CRITICALLY ILL ADULT CARE LEAVE**Interpretation of Sections 92 to 97**

91 In Sections 92 to 97,

“family member” in relation to an employee, means a family member as defined in the regulations;

“week” means a week as defined in Section 77. 2018, c. 36, s. 17.

Unpaid leave of absence

92 (1) This Section and Sections 93 to 97 apply to an employee who is a family member of a critically ill adult.

(2) An employee who has been employed by an employer for a period of at least three months is entitled to an unpaid leave of absence of up to 16 weeks to provide care or support to the critically ill adult if a legally qualified medical practitioner issues a certificate

(a) stating that the adult is a critically ill adult and requires the care or support of the employee; and

(b) setting out the period during which the adult requires the care or support.

(3) An employee shall advise the employee's employer in writing as soon as possible of any intention to take a leave of absence under this Section and shall provide the employer with a written plan that indicates the weeks in which the employee will take the leave.

(4) Where an employee must begin a leave under this Section before advising the employer pursuant to subsection (3), the employee shall so advise the employer as soon as possible.

(5) Where requested in writing by the employer, the employee shall provide the employer with a copy of the certificate referred to in subsection (2).

(6) A leave of absence under this Section may be taken only in periods of not less than one week's duration, not exceeding in total the number of weeks to which the employee is entitled. 2018, c. 36, s. 17.

Beginning and end of leave

93 (1) The leave of absence referred to in Section 92 may be taken only during the 52-week period that begins on the first day of the week in which the adult with respect to whom the certificate was issued became critically ill.

(2) The leave of absence referred to in Section 92 ends with the last day of the week in which any of the following occurs:

- (a) subject to subsection 94(2), the adult dies;
- (b) the number of weeks in the period specified in the certificate has been taken, if the certificate sets out a period of less than 16 weeks;
- (c) a 16-week leave has been taken. 2018, c. 36, s. 17.

End of leave if more than one family member critically ill

94 (1) Where more than one of the employee's adult family members is critically ill as a result of the same event and the period specified in any certificate described in subsection 92(2) that was issued with respect to any of the critically ill adults is 52 weeks or longer, the leave ends no later than the last day of the last week of the 52-week period that begins on the first day of the week in which the first of the adults with respect to whom a certificate was issued became critically ill.

(2) Clause 93(2)(a) does not apply if more than one of the employee's adult family members is critically ill as a result of the same event, unless all of the adults die while the employee is on leave, in which case the employee's entitlement to be on leave ends at the end of the last week in which the last adult dies. 2018, c. 36, s. 17.

Additional leave

95 (1) Where more than one of the employee's adult family members is critically ill as a result of the same event, the employee is not entitled to take a leave for a longer period than would otherwise apply under subsection 92(2) or clause 93(2)(b).

(2) Where one or more adults with respect to whom an employee has taken a leave under Section 92 remain critically ill while the employee is on leave or after the employee returns to work, the employee is entitled to take an extension of the leave or a new leave if

(a) a legally qualified medical health practitioner issues an additional certificate described in subsection 92(2) for the adult or adults that sets out a different period during which the adult or adults require care or support;

(b) the total amount of leave taken in the leave or combined leaves, as the case may be, does not exceed 16 weeks; and

(c) the leave or combined leaves end no later than the last day of the period described in subsection 93(1) or 94(1), as the case may be.

(3) Where one or more of the employee's adult family members with respect to whom an employee has taken a leave under Section 92 remain critically ill after the 52-week period described in subsection 93(1) or 94(1), as the case may be, expires, the employee is entitled to take another unpaid leave beginning the first day of the week in which the additional certificate is issued, and Sections 92 to 94, 96 and 97 apply with necessary changes to the new leave. 2018, c. 36, s. 17.

Ending leave early and changing when leave taken

96 (1) Unless the employee and employer agree otherwise, an employee may end a leave earlier than the expiry of 16 weeks by giving the employer written notice of at least 14 days before the employee wishes to end the leave.

(2) An employee may take a leave at a time other than that indicated in the plan provided under subsection 92(3) if the change to the time of the leave meets the requirements of Sections 92 to 97 and the employee

(a) requests permission to do so from the employer in writing and the employer grants permission in writing; or

(b) provides the employer with such written notice as is reasonable in the circumstances. 2018, c. 36, s. 17.

Return to work and calculation of weeks taken

97 (1) Where an employee who takes a leave to provide care and support to a person pursuant to Section 92 or 95 ceases to provide care or support during a week of leave,

(a) the employee's entitlement to leave continues until the end of the week; and

(b) the employee may return to work during the week only if the employer agrees, whether in writing or not.

(2) Where an employee returns to work under clause (1)(b), the week counts as an entire week for the purpose of any provision in Section 92 or 95 that limits the entitlement to leave to a certain number of weeks. 2018, c. 36, s. 17.

CRIME-RELATED CHILD DEATH
OR DISAPPEARANCE LEAVE

Interpretation of Sections 98 to 102

98 In this Section and Sections 99 to 102,

“child” means a child, step-child or foster child who is under 18 years of age;

“crime” means an offence under the *Criminal Code* (Canada), other than an offence that is prescribed by the regulations made under paragraph 209.4(f) of the *Canada Labour Code*;

“parent” includes

- (a) the spouse of a parent of a child;
- (b) a person with whom a child has been placed for the purpose of adoption;
- (c) a guardian or foster parent of a child;
- (d) a person who has the care and custody of a child pursuant to the *Children and Family Services Act*; and
- (e) a member of a class of persons prescribed in the regulations;

“week” means a week as defined in Section 77. 2013, c. 11, s. 3; 2018, c. 36, s. 18.

Unpaid leave of absence if crime-related child death

99 (1) An employee who has been employed by an employer for a period of at least three months is entitled to an unpaid leave of absence of up to 104 weeks if the employee is the parent of a child who dies and it is probable, considering the circumstances, that the child died as a result of a crime.

(2) The leave of absence referred to in subsection (1) may be taken only during the 105-week period that begins the week the child is found dead. 2013, c. 11, s. 3.

Unpaid leave of absence if crime-related child disappearance

100 (1) An employee who has been employed by an employer for a period of at least three months is entitled to an unpaid leave of absence of up to 52 weeks if the employee is the parent of a child who disappears and it is probable, considering the circumstances, that the child disappeared as a result of a crime.

(2) Except as otherwise provided in subsection 102(1), the leave of absence referred to in subsection (1) may be taken only during the 53-week period that begins the week the child disappears. 2013, c. 11, s. 3.

When leave may be taken

101 (1) An employee is not entitled to a leave of absence under Section 99 or 100 if the employee is charged with the crime with respect to which the leave was granted.

(2) A leave of absence under Section 99 or 100 may be taken only in a single period.

(3) An employee shall advise the employee's employer in writing as soon as possible of any intention to take a leave of absence under Section 99 or 100 and shall provide the employer with a written plan that indicates the weeks in which the employee will take the leave.

(4) Where an employee must begin a leave under Section 99 or 100 before advising the employer pursuant to subsection (3), the employee shall so advise the employer as soon as possible.

(5) An employer may require an employee who takes a leave under Section 99 or 100 to provide evidence, reasonable in the circumstances, of the employee's entitlement to the leave. 2013, c. 11, s. 3.

Change of circumstances

102 (1) Subject to subsection (2), where an employee takes a leave of absence under subsection 100(1) and the child is found within the 52-week period that begins the week the child disappears, the employee is entitled to

(a) continue taking leave for 14 days after the day on which the child is found, if the child is found alive; or

(b) take 104 weeks unpaid leave from the day the child is found dead,

and, for greater certainty, in the latter case, any remaining leave under subsection 100(1) ends.

(2) Where the child is found dead more than 52 weeks after the week in which the child disappeared, the employee is entitled to take an unpaid leave of up to 104 weeks from the day the child is found dead.

(3) Where the circumstances change and it no longer seems probable that the death or disappearance was the result of a crime,

(a) a leave under Section 99 or 100 or this Section ends no later than 14 days following the day on which it no longer seems probable unless the employee and employer agree in writing to an earlier return to work; and

(b) the employee shall provide written notice to the employer as soon as possible that the leave is ending.

(4) Unless the employee and employer agree otherwise, an employee may end a leave earlier than the expiry of the leave period by giving the employer written notice of at least 14 days before the employee wishes to end the leave.

(5) An employee may take a leave at a time other than that indicated in the plan provided under subsection 101(3) if the change to the time of the leave meets the requirements of Section 99 or 100 or this Section, as the case may be, and Section 101 and the employee

(a) requests permission to do so from the employer in writing and the employer grants permission in writing; or

(b) provides the employer with four weeks written notice before the change is to take place.

(6) Subsection 99(2) and Section 101 apply with necessary changes to a leave under this Section. 2013, c. 11, s. 3.

LEAVE FOR VICTIMS OF DOMESTIC VIOLENCE

Interpretation of Sections 103 to 106

103 In this Section and Sections 104 to 106,

“child” means, in relation to an employee, an individual who

(a) is under 18 years of age; and

(b) is a child, step-child, foster child or child under the legal guardianship of the employee;

“domestic violence” means

(a) an act of abuse between

(i) an employee and

(A) the employee’s current or former intimate partner,

(B) a child of the employee or an individual under 18 years of age who resides with the employee, or

(C) an adult who resides with the employee and is related to the employee by blood, marriage, foster care or adoption, or

(ii) a child of the employee and

(A) the child’s current or former intimate partner, or

(B) an individual who resides with the child of the employee,

whether the abuse is physical, sexual, emotional or psychological and may include an act of coercion, stalking, harassment or financial control; or

(b) a threat or attempt to do an act described in clause (a);

“intimate partner” means a spouse, dating partner, sexual partner or other individual in a similar relationship;

“transition house” means a member organization of the Transition House Association of Nova Scotia. 2018, c. 13, s. 6.

Entitlement to leave

104 (1) An employee who has been employed by an employer for a period of at least three months is entitled to an unpaid leave of absence if the

employee or a child of the employee experiences domestic violence and the leave of absence is taken

- (a) to seek medical attention for the employee or the child of the employee for a physical or psychological injury or disability caused by the domestic violence;
- (b) to obtain services for the employee or the child of the employee from a victim services organization, an employee of a transition house or a person employed by the Department of Justice, a municipal police department or the Royal Canadian Mounted Police who provides victim services;
- (c) to obtain psychological or other counselling from a qualified person for the employee or the child of the employee;
- (d) to relocate temporarily or permanently;
- (e) to seek legal or law enforcement assistance, including preparing for or participating in any civil or criminal legal proceeding related to or resulting from the domestic violence; or
- (f) for a purpose prescribed by the regulations.

(2) An employee is entitled to take, in each calendar year, the leave of absence described in subsection (1) for

- (a) up to 10 days, which the employee may take intermittently or in one continuous period; and
- (b) up to 16 weeks in one continuous period.

(3) Nothing in this Section precludes an employee from taking a leave of absence to which the employee is otherwise entitled under this Section, at any time, irrespective of when the domestic violence occurred. 2018, c. 13, s. 6.

Starting and ending leave

105 (1) Where an employee takes any part of a day as leave under Section 104, the employer

- (a) may count that day as one day of leave for the purpose of that Section; and
- (b) shall pay the employee for the part of the day worked.

(2) An employee shall advise the employer in writing as soon as possible of any intention to take a leave of absence under Section 104, the anticipated start date of the leave and the anticipated end date of the leave.

(3) Where an employee must begin a leave under Section 104 before advising the employer pursuant to subsection (2), the employee shall advise the employer as soon as possible of the date the leave began and the anticipated end date of the leave.

(4) An employee shall make reasonable and practicable efforts to schedule an appointment for a purpose set out in subsection 104(1) to take place during non-working hours.

(5) An employee may end a leave of absence taken under clause 104(2)(a) early by giving the employer as much notice as is reasonably practicable of the intention to end the leave.

(6) Unless the employee and employer agree otherwise, an employee may end a leave of absence taken under clause 104(2)(b) earlier than the expiry of the leave period by

(a) giving the employer written notice of at least 14 days before the employee wishes to end the leave; or

(b) where there are fewer than 14 days remaining in the leave period, giving the employer as much written notice as is reasonably practicable before the employee wishes to end the leave. 2018, c. 13, s. 6.

Provision of information regarding leave

106 (1) Where permitted by the regulations, an employer may require an employee who takes a leave of absence for a purpose set out in subsection 104(1) to

(a) identify the purpose of the leave, with reference to the specific purposes set out in subsection 104(1); and

(b) provide such information in support of the employee's entitlement to the leave as may be prescribed by the regulations or, in the absence of applicable regulations, as is reasonable in the circumstances.

(2) In the event of a conflict, the information provided under clause (1)(b) concerning the length of the leave prevails over the information provided by the employee under subsection 105(2) as to the anticipated length of the leave. 2018, c. 13, s. 6.

HOURS OF LABOUR

Powers respecting hours of labour

107 (1) The Governor in Council may determine all or any of the following:

(a) the number of hours per day or per week during which a person employed in industrial undertakings may work;

(b) the kinds of industrial undertakings to which this Section applies;

(c) the categories of employees employed in an industrial undertaking to whom this Section applies;

(d) the districts of the Province to which this Section applies;

(e) the length of time during which this Section applies.

(2) This Section does not apply to persons holding positions of supervision or management, nor to persons employed in a confidential capacity.

(3) Notwithstanding subsection (1), the limit of hours of work determined by the Governor in Council may be exceeded in those processes that are required, by reason of the nature of the processes, to be carried on continuously by a succession of shifts. R.S., c. 246, s. 61; 1991, c. 14, s. 22.

Variation of hours in certain cases

108 Where by law, custom or agreement between employers' and workers' organizations, or, where no such organizations exist, between employers' and workers' representatives, the hours of work on one or more days of the week are fewer than the period determined by the Governor in Council, the period so determined may be exceeded on the remaining days of the week by agreement between such organizations or representatives. R.S., c. 246, s. 62; 1991, c. 14, s. 23.

Excess hours in special cases

109 The limit of hours of work determined by the Governor in Council may be exceeded in case of accident, actual or threatened, or in case of urgent work to be done to machinery or plant, or in case of *vis major*, but only so far as may be necessary to avoid serious interference with the ordinary working of the undertaking. R.S., c. 246, s. 63; 1991, c. 14, s. 24.

Exception

110 The limit of hours of work determined by the Governor in Council may be exceeded in those processes that are required, by reason of the nature of the process, to be carried on continuously by a succession of shifts. R.S., c. 246, s. 64; 1991, c. 14, s. 25.

Where hours of labour restricted

111 An employer engaged in an industry to which Section 107 applies shall

(a) notify by means of notices posted conspicuously in the establishment, or any other convenient place, or in any other manner determined by or under the authority of the Governor in Council, the hours at which work begins and ends, and, where work is carried on by shifts, the hours at which each shift begins and ends, and no change may be made in these hours except upon such notice and in such manner as may be approved by or under the authority of the Governor in Council; and

(b) notify in the same way the rest intervals accorded during the period of work that are not reckoned as part of the working hours. R.S., c. 246, s. 65; 1991, c. 14, s. 26.

Period of rest

112 (1) An employer in any industrial undertaking, except as otherwise provided herein, shall

(a) grant each of the employer's employees a period of rest comprising at least 24 consecutive hours in every period of seven days; and

(b) whenever possible grant the period of rest simultaneously to all employees in any establishment and grant the day of rest on Sunday.

(2) An employer, other than in an industrial undertaking, except as otherwise provided herein, shall grant each of the employees a period of rest comprising at least 24 consecutive hours in every period of seven days.

(3) Notwithstanding subsection (1) or (2), an employer may require more than six consecutive days of work

- (a) in case of an accident;
- (b) in the case of work required to be done to the machinery or establishment of the employer whose employees are affected;
- (c) in the case of an occurrence beyond human control,

but only to the extent necessary to avoid serious interference with the ordinary working of the employer's undertaking.

(4) Notwithstanding subsection (1) or (2), an employer may require more than six consecutive days of work in accordance with an order of the Director, where, upon application of the employer, the Director by such order approves, with or without conditions, the substitution of an alternative arrangement for a period of rest. R.S., c. 246, s. 66; 1991, c. 14, s. 27.

Working in retail business on uniform closing day

113 (1) Notwithstanding any contract of employment or agreement, no employee is required, and no employer shall require an employee, to work or to sign a contract of employment or agreement that requires the employee to work in a retail business on a uniform closing day unless the retail business is of a class of retail business exempted from the application of this Section.

(2) Where an employee to whom subsection (1) applies has agreed to work on uniform closing days, the employee may refuse to work on uniform closing days or on a particular uniform closing day if the employee gives the employer at least seven days notice to that effect before the employee is scheduled to begin such work or, where the employee receives less than seven days notice of being scheduled for such work, the employee gives the employer notice to that effect within two days of receiving the notice from the employer. 2003 (2nd Sess.), c. 7, s. 13; 2006, c. 10, s. 5.

Rest or eating break

114 (1) An employee is entitled to a rest or eating break of at least one half hour at intervals such that as a result no employee is required to work longer than five consecutive hours without a rest or eating break.

(2) Notwithstanding subsection (1), where an employee works more than 10 consecutive hours, the employee is entitled to at least one rest or eating break of at least one half hour and other rest or eating breaks totalling at least one half hour for each five consecutive hours of work.

- (3) Subsections (1) and (2) do not apply
- (a) if an accident occurs, urgent work is necessary or unforeseeable or unpreventable circumstances occur;
 - (b) if it is unreasonable for an employee to take a meal break;

- (c) to an employee whose terms of employment are determined by a collective agreement; or
- (d) in any other case prescribed by the regulations.

(4) Where it is necessary for medical reasons, an employee is entitled to a rest or eating break at a time or times other than when provided by subsection (1) or (2).

(5) Where an employee has worked five hours and has not been provided a rest or eating break, the employee is entitled to eat while working.

(6) The Governor in Council may make regulations prescribing cases where subsection (1) or (2) do not apply.

(7) The exercise by the Governor in Council of the authority contained in subsection (6) is a regulation within the meaning of the *Regulations Act*, 2006, c. 32, s. 1.

Complaint to Director or Board

115 (1) An employee to whom Section 107 applies who is required to work more hours than provided by order in accordance with Section 107 or whose employer does not grant the employee a day of rest in accordance with Section 112 or a rest or eating break in accordance with Section 114 may make a complaint to the Director in accordance with subsection 20(2).

(2) An employee who has made a complaint under subsection (1) and who is not satisfied with the result may make a complaint to the Board in accordance with Section 22. R.S., c. 246, s. 67; 2006, c. 32, s. 2; 2010, c. 37, s. 104.

EMPLOYMENT OF CHILDREN

Children under 16 years

116 (1) No person shall pay wages to a child under 14 years of age to do work that is or is likely to be

- (a) unwholesome or harmful to the child's health or normal development; or
- (b) such as to prejudice the child's attendance at school or capacity to benefit from instruction there given.

(2) No person shall employ a child under 16 years of age in work of any kind in

- (a) an industrial undertaking;
- (b) the forest industry;
- (c) garages and automobile service stations;
- (d) hotels;
- (e) restaurants, except if an employee is not operating cooking equipment and if safety training on all equipment and adequate supervision is provided and the person is at least 14 years of age;

- (f) the operating of elevators;
- (g) theatres, dance halls, shooting galleries, bowling alleys and billiard and pool rooms;
- (h) work or a class of work in which the employment of a child under 16 years of age is prohibited by the regulations.

(3) No person shall employ a child under 14 years of age to work

- (a) for more than eight hours in any day;
- (b) for more than three hours on any school day unless an employment certificate authorizing the employment of the child has been issued under the *Education Act*;
- (c) on any day for a period that, when added to the time required for attendance at school on that day, totals more than eight hours;
- (d) between the hour of 10:00 p.m. of any day and the hour of 6:00 a.m. of the following day;
- (e) in any work or class of work in which the employment of a child under 14 years of age is prohibited by the regulations.

(4) Subject to any other Act or regulation, subsection (2) does not apply to an employer who employs members of the employer's family.

(5) The parent or guardian of a child employed in contravention of this Act is liable to a fine in accordance with Section 171, unless the parent or guardian establishes that the child was so employed without the parent's or guardian's consent or connivance. R.S., c. 246, s. 68; 2006, c. 32, s. 3.

Effect of Section 116

117 The provisions of Section 116 are in addition to and not in derogation of the provisions of any other Act respecting the employment of children. R.S., c. 246, s. 69.

Complaint to Director or Board

118 (1) A person who has reasonable grounds to believe that any employer is employing a child contrary to Section 116 may make a complaint to the Director in accordance with Section 20.

(2) A person who has made a complaint under subsection (1) and who is not satisfied with the result may make a complaint to the Board in accordance with Section 22. R.S., c. 246, s. 70; 2010, c. 37, s. 105.

TERMINATION OF EMPLOYMENT

Dismissal or suspension without just cause

119 (1) Where the period of employment of an employee with an employer is 10 years or more, the employer shall not discharge or suspend that employee without just cause unless that employee is a person within the meaning of person as used in clause 120(3)(d), (e), (f), (g), (h) or (i).

(2) An employee who is discharged or suspended without just cause may make a complaint to the Director in accordance with Section 20.

(3) An employee who has made a complaint under subsection (2) and who is not satisfied with the result may make a complaint to the Board in accordance with Section 22 and such complaint is deemed to be a complaint within the meaning of subsection 22(1). R.S., c. 246, s. 71; 2010, c. 37, s. 106.

Termination of employment by employer

120 (1) Subject to subsection (3) and Section 119, an employer shall not discharge, suspend or lay off an employee, unless the employee has been guilty of wilful misconduct or disobedience or neglect of duty that has not been condoned by the employer, without having given at least

(a) one week notice in writing to the person if the person's period of employment is less than two years;

(b) two weeks notice in writing to the person if the person's period of employment is two years or more but less than five years;

(c) four weeks notice in writing to the person if the person's period of employment is five years or more but less than 10 years; and

(d) eight weeks notice in writing to the person if the person's period of employment is 10 years or more.

(2) Subject to subsection (3), and notwithstanding subsection (1), where an employer discharges or lays off 10 or more persons in an establishment within any period of four weeks or less, the employer shall give notice of not less than

(a) eight weeks if the employment of 10 or more persons and fewer than 100 persons is to be terminated;

(b) 12 weeks if the employment of 100 or more persons and fewer than 300 is to be terminated;

(c) 16 weeks if the employment of 300 or more persons is to be terminated.

(3) Subsections (1) and (2) do not apply to

(a) a person whose period of employment is less than three months;

(b) a person employed for a definite term or task for a period not exceeding 12 months;

(c) a person who is laid off or suspended for a period not exceeding six consecutive days;

(d) a person who is discharged or laid off for any reason beyond the control of the employer, including complete or partial destruction of plant, destruction or breakdown of machinery or equipment, unavailability of supplies and materials, cancellation, suspension or inability to obtain orders for the products of the employer,

fire, explosion, accident, labour disputes, weather conditions and actions of any governmental authority, if the employer has exercised due diligence to foresee and avoid the cause of discharge or lay-off;

(e) a person who has been offered reasonable other employment by the person's employer;

(f) a person who, having reached the age of retirement established by the employer on the basis of a bona fide occupational requirement for the position in which that person is employed, has the person's employment terminated;

(g) a person who is laid off in circumstances established by the regulations as an exception to subsection (1) or (2);

(h) a person employed in the construction industry;

(i) a person employed in an activity, business, work, trade, occupational profession, or any part thereof, that is exempted by the regulations.

(4) Notwithstanding subsections (1), (2) and (3), but subject to Section 119, the employment of a person may be terminated forthwith if the employer gives to the person notice in writing to that effect and pays the person an amount equal to all pay to which the person would have been entitled for work that would have been performed by the person at the regular rate in a normal, non-overtime work week for the period of notice prescribed under subsection (1) or (2), as the case may be. R.S., c. 246, s. 72; 2007, c. 11, s. 3.

Termination of employment by employee

121 (1) Where an employee has been employed by an employer continuously for three months or more, the employee shall not terminate the employment unless the employer has been guilty of a breach of the terms and conditions of employment, without first having given

(a) one week notice in writing to the employer if the period of employment is less than two years; and

(b) two weeks notice in writing to the employer if the period of employment is two years or more.

(2) Subsection (1) does not apply to a person employed in the construction industry. R.S., c. 246, s. 73.

Duty of employer if notice given

122 Where the notice referred to in Section 120 or 121 has been given,

(a) the employer shall not alter the rates of wages or any other term or condition of employment of a person to whom or by whom notice has been given; and

(b) at the expiry of the notice, the employer shall pay to the person all pay to which the person is entitled. R.S., c. 246, s. 74.

Notice of termination by employer

123 (1) Every employer required by Section 120 to give notice of termination shall give notice in writing addressed to each person whose employment is to be terminated and shall serve the notice personally or by registered mail.

(2) Where an employer is required by subsection 120(2) to give notice, the employer shall at the same time inform the Minister in writing of any such notices. R.S., c. 246, s. 75.

Conditional notice of termination and where layoff and no notice

124 (1) Notice of termination of employment may be made conditional upon the happening of the future event if the length of notice complies with this Act.

(2) Where a person, who has been laid off and who by virtue of the duration of the person's layoff was not entitled to the notice under Section 120, has the person's employment terminated by continued layoff or otherwise, the employer shall pay to that person an amount calculated in accordance with Section 120 as though the person's employment had been terminated without notice on the day the person was laid off. R.S., c. 246, s. 76.

If employment continues

125 (1) Where a person continues to be employed after the expiry of notice of termination of employment for a period exceeding the length of the notice, the person's employer shall not terminate the person's employment except in accordance with Section 120.

(2) Where a person employed for a definite term or task continues to be employed for a period of three months or more after completion of the term or task for which the person was employed, the person's employment is deemed not to be for a definite term or task and is deemed to have commenced at the beginning of the term or task.

(3) Successive periods of employment of a person by an employer constitute one period of employment, except for successive periods of employment more than 13 weeks apart in which case the last employment constitutes the period of employment for the purpose of Sections 119 to 121. R.S., c. 246, s. 77.

Complaint to Director or Board

126 (1) A person entitled to notice in accordance with Section 120 or 121 who has not received notice or pay in lieu of notice in accordance with subsection 120(4) may make a complaint to the Director in accordance with Section 20.

(2) The Director shall treat a complaint under subsection (1) that alleges that an employee has not been paid all pay as a complaint under Section 130.

(3) A person who has made a complaint under subsection (1) and who is not satisfied with the result may make a complaint to the Board in accordance with Section 22. R.S., c. 246, s. 78; 2010, c. 37, s. 107.

PROTECTION OF PAY

Frequency of pay

- 127 (1)** Subject to subsections (2) and (3), an employer shall
- (a) at least as often as semi-monthly pay to each of the employer's employees all wages earned by the employee; and
 - (b) make that payment within five working days after the expiration of each pay period.

(2) An employee who is absent at the time fixed for payment or who, for any other reason, is not paid at that time, is entitled to the pay at any time thereafter during regular hours of work on demand.

- (3)** This Section does not prohibit an employer
- (a) from paying any of the employer's employees at intervals less frequent than those set out in clause (1)(a); or
 - (b) from paying any of the employer's employees within a period that is longer than that mentioned in clause (1)(b),

if the payments are made in accordance with the terms of an existing practice or under the terms of an existing collective agreement, or in accordance with the provisions of an order of the Director with respect thereto granted on application. R.S., c. 246, s. 79.

Deductions for loss

128 (1) An employer shall not, directly or indirectly, withhold, deduct or require payment of all or part of the employee's wages for the purpose of paying for a loss that occurs while the employee is working unless allowed by statute, court order or written authorization.

(2) An employee's written authorization is not lawful if the deduction is for a loss that is the result of a customer leaving the employer's business without paying for the purchase of goods or services unless the employer can verify that the loss is the fault of the employee.

(3) An employee's written authorization is not lawful if the deduction is for a loss that brings the employee's wages below the minimum wage.

(4) The Governor in Council may make regulations concerning deductions from pay.

(5) The exercise by the Governor in Council of the authority contained in subsection (4) is a regulation within the meaning of the *Regulations Act*. 2005, c. 38, s. 3.

Form of wages

- 129** Every employer shall pay all wages
- (a) in lawful currency of Canada;

(b) by cheque or bill of exchange or demand for payment drawn upon a chartered bank, credit union, trust company or other company insured under the *Canada Deposit Insurance Corporation Act*; or

(c) by deposit in an account of the employee in a chartered bank, credit union, trust company or other company insured under the *Canada Deposit Insurance Corporation Act*. R.S., c. 246, s. 80.

Complaint to Director

130 Where, within the preceding six months,

(a) an employer has failed or refused to pay an employee any pay earned by or becoming due and payable to an employee in accordance with Sections 20, 32 to 34, 58, 119 and 127 to 129, or in accordance with existing practice or the provisions of a contract or collective agreement by which the employer is bound; or

(b) an employer has failed or refused to pay any benefit to which an employee is entitled but which is not required to be made directly to the employee,

the employee may make a complaint to the Director in accordance with Section 20. R.S., c. 246, s. 81; 1991, c. 14, s. 28; 2005, c. 38, s. 4.

Complaint to Director by individual recruited for employment

131 Where, within the preceding six months, any person has acted contrary to Section 142, 145, 146 or 147,

(a) the individual referred to in Section 142;

(b) the employee referred to in Section 145; or

(c) the foreign worker referred to in Sections 146 and 147,

may make a complaint to the Director in accordance with Section 20. 2011, c. 19, s. 15.

When Director not to entertain complaint

132 Subject to Section 134, where the Director has received a complaint from an employee and the Director is satisfied that

(a) the employee is proceeding with or has commenced or was successful in an action for the recovery of the unpaid pay; or

(b) the employee is bound by a collective agreement, as defined in the *Trade Union Act*, and that the employee could file a grievance under that agreement for the recovery of unpaid pay,

the Director shall not entertain the application. R.S., c. 246, s. 82; 1991, c. 14, s. 29.

Complaint to Board

133 (1) An employee who has made a complaint under Section 130 or 131 and who is not satisfied with the result may apply to the Board for a determination of the matter in accordance with Section 22.

(2) In a case where the Director finds that there is no pay unpaid or other amount owing, nor any other failure to comply with this Act or the regulations or where, in accordance with Section 132, the Director does not entertain an

application, the Director shall so advise the employee or other individual and advise the employee or individual of the employee's or individual's right to apply to the Board as provided by subsection (1) and that the employee or individual may wish to seek the advice of legal counsel.

- (3) Subject to Section 134, where the Board is satisfied that
- (a) the employee is proceeding with or has commenced or was successful in an action for the recovery of the unpaid pay; or
 - (b) the employee is bound by a collective agreement, as defined in the *Trade Union Act*, and the employee could file a grievance under that agreement for the recovery of unpaid pay,

the Board shall not entertain the application pursuant to this Act. R.S., c. 246, s. 83; 1991, c. 14, s. 30; 2010, c. 37, s. 108; 2011, c. 19, s. 16.

Builders' Lien Act

134 Notwithstanding clauses 132(a) and 133(3)(a), the Director may entertain an application pursuant to those clauses if the employee has commenced an action pursuant to the *Builders Lien Act*. 1991, c. 14, s. 31; 2018, c. 13, s. 7.

Security if appeal by employer

135 (1) Before proceeding to deal with an appeal by an employer or a person referred to in Section 131 under subsection 20(9), the employer or the person referred to in Section 131, as the case may be, shall

- (a) pay to the Board the lesser of the amount owing under the Director's order or the amount that is prescribed by the regulations; or
- (b) furnish, to the Board, security in the form of a bond with one or more sureties acceptable to the Board in such amount and subject to such conditions as may be prescribed by the regulations.

(2) Where an employer or any person referred to in Section 131 has paid to the Board the amount owing under clause (1)(a), or has furnished a bond under clause (1)(b) and the Board, after completion of its consideration of and the investigation into the complaint of the employee or other individual, finds that the employer or any person referred to in Section 131 is indebted to the employee or other individual for the amount found owing by the Board, it may apply the amount paid to the Board or the proceeds of the bond towards the amount found owing by the Board in accordance with Section 138.

(3) Where, under subsection (2), the Board has applied the proceeds of a bond towards the payment of unpaid pay or the amount found owing by the employer or a person referred to in Section 131, it shall in writing, as soon as is reasonably possible, notify the employer or other person referred to in Section 131 to that effect and, where after the application of the amount paid to the Board or the proceeds there remains a surplus of funds, the surplus must be turned over by the Board to the employer, to person referred to in Section 131 or to the surety or sureties, as the case may be. R.S., c. 246, s. 84; 2010, c. 37, s. 109; 2011, c. 19, s. 17.

Statutory garnishee

136 (1) Where a complaint is received by the Director under Section 130 or 131 and the Director has knowledge or has reason to believe that

(a) in the case of a complaint pursuant to Section 130, a person is or is about to become indebted to the employer for any sum of money, or that the person is about to pay to the employer a sum of money; or

(b) in the case of a complaint pursuant to Section 131, a person is or is about to become indebted to any person referred to in Section 131, for any sum of money, or that person is about to pay to any person referred to in Section 131 a sum of money,

the Director may, notwithstanding that the Director has not determined whether the employer is indebted to the employee for unpaid pay or that any person has acted contrary to Section 142, 145, 146 or 147 as alleged, by order served on that person, require that person to pay to the Director part or all of the money owing, likely to be owed or about to be paid by that person to the employer or to any person referred to in Section 131, as the case may be.

(2) For the purpose of this Section, money on deposit in a general bank account or in a credit union account in the name of an employer or any person referred to in Section 131 is money for which the bank or credit union is indebted to the employer or any person referred to in Section 131.

(3) A person to whom an order of the Director under subsection (1) is directed shall upon service of the order forthwith comply with the order.

(4) Where a person

(a) is ordered pursuant to this Section to pay money to the Director; and

(b) is or becomes indebted to the employer or any person referred to in Section 131 or, by reason of an assignment by the employer or any person referred to in Section 131, is or becomes indebted to another person for a sum of money,

then

(c) that sum of money is subject to a lien and charge in favour of and is a debt due or accruing due to the Board and is payable in accordance with subsection 139(2);

(d) notwithstanding that that sum of money has, subsequent to service of the order pursuant to subsection (1), been paid to the employer, any person referred to in Section 131 or another person, the person referred to in clause (a) is liable to pay that sum to the Director; and

(e) the Director has standing in any court of competent jurisdiction to bring an action to recover that sum of money.

(5) Immediately upon receipt of any money in accordance with this Section, the Director shall in writing notify the employer or any person referred to in Section 131 concerned and issue a receipt therefor to the person from whom the money was received, and the receipt of the Director is a good and sufficient dis-

charge of the liability of the person to whom the order was made to the employer or any person referred to in Section 131 to the extent of the amount shown on the receipt.

(6) Any money received by the Director under this Section must be held by the Director in trust for the employer or any person referred to in Section 131 concerned and where

(a) the Director finds that the employer or any person referred to in Section 131 is indebted to the employee for unpaid pay or to any individual for an amount under this Act other than unpaid pay; and

(b) either

(i) the time for the employer or any person referred to in Section 131 to apply to the Board has expired, or

(ii) the Board has determined the matter,

the Director shall pay over the amount of unpaid pay as determined by the Director, in accordance with Section 138, or shall pay over any other amount found owing, and, where after making such payment there remains a surplus, the surplus must be paid over to the employer or any person referred to in Section 131, as the case may be. R.S., c. 246, s. 85; 1991, c. 14, s. 32; 2010, c. 37, s. 110; 2011, c. 19, s. 18; 2016, c. 11, s. 6; 2018, c. 13, s. 8; 2020, c. 14, s. 9.

Payment where employee cannot be found

137 (1) An employer who is unable to locate an employee in order to pay the employee shall pay all pay due and owing the employee to the Director.

(2) Payment by an employer under subsection (1) constitutes, to the extent of the payment, a discharge of the employer in respect of pay owing. R.S., c. 246, s. 86.

Payment by Board or Director

138 (1) All money received by the Board or the Director on account of pay owing to an employee or, in relation to an amount owing to an employee or other individual under this Act other than pay, must be paid

(a) to the employee or other individual to whom the pay or other amount is owing;

(b) where the employee or other individual is deceased, to the employee's or other individual's estate;

(c) where the employee or other individual is deceased and the employee or other individual has no other estate, to such other person as the Board considers entitled thereto; or

(d) where no other person is entitled thereto, to the Minister of Finance and Treasury Board to and for the public uses of the Province.

(2) Where the Board or the Director is unable, within one month, to locate an employee or other individual for the purpose of payment under subsec-

tion (1), the Board or the Director shall pay the money to the Minister of Finance and Treasury Board to be held in trust for the employee or other individual.

(3) Notwithstanding any other provision of this Act, the Board may not pay over any money received by it in any proceeding until the time for an appeal from the order of the Board has expired or, where an appeal is taken, the appeal is either withdrawn, abandoned or determined. R.S., c. 246, s. 87; 2010, c. 37, s. 111; 2011, c. 19, s. 19.

Lien

139 (1) Notwithstanding any other Act, an order of the Board under Section 25 constitutes a lien and charge in favour of the Board for the amount set forth in the order, the amount set forth in the order is a debt due or accruing due to the Board by the employer or any person referred to in Section 131 and the Board is deemed to hold a mortgage on the assets of the employer or any person referred to in Section 131 to the amount set forth in the order and may enforce the mortgage by foreclosure proceedings.

(2) The lien and charge and mortgage referred to in subsection (1) is payable in priority over all liens, charges or mortgages of every person in respect of the real and personal property of the employer or any person referred to in Section 131, including those of the Crown in right of the Province, but excepting liens for wages due to workers by that employer or person referred to in Section 131.

(3) The lien and charge and mortgage referred to in subsection (1) has no effect with respect to property registered pursuant to the *Land Registration Act* until the order of the Board under Section 25 is recorded in the judgment roll. R.S., c. 246, s. 88; 2001, c. 6, s. 110; 2010, c. 37, s. 112; 2011, c. 19, s. 20.

Unlawful assignment of wages

140 An assignment of wages or any portion thereof to secure payment of a debt is unlawful. R.S., c. 246, s. 89.

Reciprocal enforcement of orders

141 (1) Where the Governor in Council is satisfied that reciprocal provisions will be made by another province for the enforcement of orders made pursuant to this Act, the Governor in Council may declare that province to be a reciprocating province and may designate an authority of that province for the purpose of this Section.

(2) Where an order, judgment or certificate for the payment of wages has been obtained by an authority designated pursuant to subsection (1), the authority may apply to the Director to enforce the order, judgment or certificate for the payment of wages.

(3) On receiving a copy of the order, judgment or certificate for the payment of wages

(a) certified by the court in which the order, judgment or certificate is registered; or

(b) where there is no provision in the reciprocating province for registration in a court of the order, a copy of the order, judg-

ment or certificate, certified to be a true copy by the designated authority,

and on being satisfied that the wages are still owing, the Director shall issue an order for payment of the amount owing and enter the order with the Prothonotary, and on being so entered, the order is enforceable as of the date it was issued by the Director and as if it were an order of the Supreme Court of Nova Scotia, and the order of the Director is deemed to be an order of the Board pursuant to Section 25. 1991, c. 14, s. 33; 2010, c. 37, s. 113.

PROTECTION OF INDIVIDUALS RECRUITED FOR EMPLOYMENT

No fee permitted

142 (1) No person shall, directly or indirectly, charge or collect a fee from an individual for

(a) finding or attempting to find employment in the Province for the individual; or

(b) providing the individual with information about any employer who is seeking employees for employment in the Province.

(2) No person shall assist another person to do any of the things described in subsection (1).

(3) Where the Director is satisfied that any person, except a licensee, has contravened subsection (1) or (2), the Director may, by order in writing, recover the fee from that person or from the employer of the individual on behalf of the individual.

(4) Where the Director is satisfied that a licensee has contravened subsection (1) or (2), the Director may, by order in writing, recover the amount from the licensee on behalf of the individual.

(5) Notwithstanding subsection (1), the Governor in Council may by regulation prescribe a class or classes of individuals exempt from the operation of this Section. 2011, c. 19, s. 21.

No engagement of unlicensed recruiter

143 No person shall engage the services of a recruiter of foreign workers unless the recruiter holds a valid and subsisting licence issued pursuant to this Act or is otherwise exempt by this Act or the regulations from the obligation to be licensed. 2011, c. 19, s. 21.

Contract void

144 A provision in a contract that provides for the payment of a fee contrary to Section 142 is void. 2011, c. 19, s. 21.

No cost recovery from employee

145 No employer shall, directly or indirectly, recover from an employee any cost incurred by the employer in recruiting the employee. 2011, c. 19, s. 21.

No wage reduction

146 (1) No employer shall reduce the wages of a foreign worker employed by the employer, or reduce or eliminate any other benefit, term or condition of the foreign worker's employment that the employer undertook to provide as a result of participating in the recruitment of a foreign worker.

(2) Any agreement by a foreign worker to a reduction or elimination of wages contrary to subsection (1) is void. 2011, c. 19, s. 21.

Property foreign worker entitled to possess

147 (1) In this Section, "property that the foreign worker is entitled to possess" includes the foreign worker's passport and work permit.

(2) No employer or recruiter, and no person on the employer's behalf, shall take possession of, or retain, property that the foreign worker is entitled to possess.

(3) No person shall assist another person to do any of the things described in subsection (2).

(4) Where the Director is satisfied that an employer or recruiter, or any person on behalf of an employer or recruiter, has taken possession of, or retained, property that a foreign worker is entitled to possess, the Director may, in writing, order the contravening person to

(a) do any act or thing that in the opinion of the Director constitutes full compliance with this Act; or

(b) rectify an injury caused to the person injured or make compensation therefor. 2011, c. 19, s. 21.

**LICENSING OF RECRUITERS AND REGISTRATION
OF EMPLOYERS OF FOREIGN WORKERS****No recruiting unless licensed**

148 (1) No person shall engage in foreign worker recruitment unless the person is an individual who holds a licence under this Act that authorizes the person to do so.

(2) Notwithstanding subsection (1), the following persons are not required to hold a licence under this Act:

(a) a person who is engaged in recruiting a foreign worker for employment with that person;

(b) an individual who, on behalf of the individual's employer, engages in foreign worker recruitment for the employer;

(c) a person who, without receiving a fee directly or indirectly, engages in activities to find employment for a foreign worker who is the person's family member;

(d) a department or agency of the government or a municipality; and

(e) a person or class of persons exempt under the regulations. 2011, c. 19, s. 21.

Application for licence

149 (1) An individual may apply, in a form approved by the Director, for a licence or renewal of a licence authorizing the individual to engage in foreign worker recruitment.

(2) When applying for a licence or renewal of a licence, the applicant shall provide

(a) the information required by the regulations and the application form; and

(b) any additional information requested by the Director. 2011, c. 19, s. 21.

Fee and security

150 Before the Director issues or renews a licence, the applicant shall

(a) pay any licence or renewal fee that is specified in the regulations; and

(b) provide the Director with security on terms and conditions, and in the amount, specified in the regulations. 2011, c. 19, s. 21.

Inquiries by Director

151 (1) The Director may make inquiries into and investigate the character, financial history and competence of

(a) an applicant for a licence or a licence renewal; or

(b) any person, including a corporation, partnership or other entity, associated with the business of the applicant,

as necessary, to determine whether the applicant meets the requirements of this Act and the regulations.

(2) Where a person who is the subject of an inquiry or investigation by the Director in subsection (1) is a corporation, partnership or other entity, the Director may inquire into or investigate the conduct of the officers, directors or partners of the corporation, partnership or other entity.

(3) The Director may

(a) require information or material from any person who is the subject of the inquiry or investigation; and

(b) request information or material from any person who the Director has reason to believe can provide information or material relevant to the inquiry or investigation.

(4) The Director may require that any information provided under subsection (3) be verified by statutory declaration. 2011, c. 19, s. 21.

Terms and conditions

152 (1) The Director may, where the Director considers it in the public interest to do so, impose terms or conditions on a licence at the time of issuing or renewing it, or at any other time by written notice to the licensee.

(2) Notwithstanding subsection (1), a licence is also subject to any terms or conditions imposed by the regulations. 2011, c. 19, s. 21.

Term of licence

153 A licence is valid for three years from the day it is issued or renewed. 2011, c. 19, s. 21.

Licence not transferable

154 A licence is not transferable or assignable. 2011, c. 19, s. 21.

Notification of change

155 Where there is a change in the officers, directors or partners of any corporation, partnership or other entity associated with the business of the licensee, the licensee shall notify the Director, and the licensee may not continue to engage in activities under the licence unless the Director consents to the continuation in writing. 2011, c. 19, s. 21.

Refusal of licence

156 The Director may refuse to issue a licence or renew a licence to an applicant if

(a) the applicant provides incomplete, false, misleading or inaccurate information in support of the application;

(b) the applicant fails to meet any qualification or satisfy any requirement of this Act or the regulations;

(c) having regard to the past conduct of the applicant, or of any person associated with the business of the applicant, there are reasonable grounds to believe that the applicant will not act in accordance with law, or with integrity, honesty or in the public interest, while carrying out the activities for which the licence is required;

(d) the applicant for a licence, or any person associated with the business of the applicant, is carrying on activities that are in contravention of this Act or the regulations, or will be in contravention if the licence is granted;

(e) the applicant for a licence renewal, or any person associated with the business of the applicant, is carrying on activities that are in contravention of this Act, the regulations or the terms of the licence, or will be in contravention if the licence is renewed. 2011, c. 19, s. 21.

No refusal without hearing

157 The Director may not refuse to issue or renew a licence, and may not apply conditions to a licence, without first giving the applicant an opportunity to be heard before the Director in the manner set out in the regulations. 2011, c. 19, s. 21.

Cancellation or suspension

158 (1) Subject to subsection (2), the Director may cancel or suspend the licence of a licensee

(a) for any reason for which the Director may refuse to issue or renew a licence to an applicant under Section 156; or

(b) if the licensee fails to provide information requested by the Director or required by the regulations.

(2) Where the Director proposes to cancel a licence, the Director

(a) shall serve written notice on the licensee and shall provide the licensee an opportunity to be heard in relation to the proposal; and

(b) may, by order, suspend the licence if the Director considers it in the public interest to do so, and any such order takes effect immediately.

(3) A suspension under subsection (2) continues in effect until

(a) the licensee is provided an opportunity to be heard, in the manner set out in the regulations, and a final determination has been made in respect of the proposed cancellation and there is no further right of appeal;

(b) the Director receives new information that leads the Director to believe that the licence should not be cancelled; or

(c) the licensee does not request an opportunity to be heard within 21 days after notice is served on the licensee in accordance with clause (2)(a).

(4) Where a licensee does not request an opportunity to be heard within the time permitted under clause (3)(c), the Director may take the proposed action. 2011, c. 19, s. 21.

“employer” defined

159 In Sections 160 to 166, “employer” includes a person who proposes to employ a foreign worker. 2011, c. 19, s. 21.

No recruiting by employer unless registered

160 (1) No employer shall recruit or engage the services of another person to recruit a foreign worker for employment with the employer unless the employer is registered with the Director.

(2) Notwithstanding subsection (1), a person or class of persons exempt under the regulations is not required to register with the Director in order to recruit or engage the services of another person to recruit a foreign worker. 2011, c. 19, s. 21.

Application for registration

161 (1) An employer may apply to the Director, in a form approved by the Director, to be registered to recruit or to engage the services of another person to recruit a foreign worker for employment with the employer.

- (2)** When applying to be registered, the employer shall provide
- (a) the information required by the regulations and the application form; and
 - (b) any additional information requested by the Director.
- 2011, c. 19, s. 21.

Registration

162 (1) Unless an application is refused under Section 163, the Director shall

- (a) register the employer; and
- (b) provide the employer written notice of the registration and the date on which the registration expires.

(2) Subject to the regulations, a registration is valid for the period stated in the registration. 2011, c. 19, s. 21.

Refusal of registration

163 The Director may refuse to register an employer if

- (a) the employer provides incomplete, false, misleading or inaccurate information in support of the application;
- (b) the employer is carrying on activities that are in contravention of this Act or the regulations or will be in contravention if the registration is granted;
- (c) the employer has previously contravened this Act or the regulations;
- (d) the employer has been found to be in breach of the *Occupational Health and Safety Act*, by final order or decision made pursuant to that Act, or has been convicted of an offence under this Act; or
- (e) an individual who will be engaged in foreign worker recruitment on behalf of the employer does not hold a required licence under subsection 148(1). 2011, c. 19, s. 21.

No refusal without hearing

164 The Director shall not refuse to register an employer without first giving the employer an opportunity to be heard before the Director, in the manner set out in the regulations, or an opportunity to correct or complete the application. 2011, c. 19, s. 21.

Cancellation or suspension

165 (1) Subject to subsection (2), the Director may cancel or suspend the registration of an employer

- (a) for any reason for which the Director may refuse to register an employer under Section 163; or
- (b) if the employer fails to provide information requested by the Director or required by the regulations.
- (2)** Where the Director proposes to cancel a registration, the Director
- (a) shall serve written notice on the employer and shall provide the employer an opportunity to be heard in relation to the proposal in the manner set out in the regulations; and
- (b) may, by order, suspend the registration if the Director considers it in the public interest to do so, and any such order takes effect immediately.
- (3)** A suspension under subsection (2) continues in effect until
- (a) the employer is provided an opportunity to be heard, in the manner set out in the regulations, and a final determination has been made in respect of the proposed cancellation, and there is no further right of appeal;
- (b) the Director receives new information that leads the Director to believe that the registration should not be cancelled; or
- (c) the employer does not request an opportunity to be heard within 21 days after notice is served on the employer in accordance with clause (2)(a).
- (4)** Where an employer does not request an opportunity to be heard within the time permitted under clause (3)(c), the Director may take the proposed action. 2011, c. 19, s. 21.

Appeals

- 166 (1)** Where the Director
- (a) refuses to issue or renew a licence to a recruiter or cancels a recruiter's licence; and
- (b) refuses to register an employer or cancels an employer's registration,

the Director shall give a person referred to in clause (a) or (b) written reasons for the refusal or cancellation along with a notice that the refusal or cancellation may be appealed in accordance with this Section.

(2) Where the Director applies conditions to a licence, the Director shall give the recruiter notice that the application of conditions may be appealed in accordance with this Section.

- (3)** A person in relation to whom the Director has
- (a) refused to issue or renew a licence, cancelled a licence or applied conditions to a licence; or
- (b) refused or cancelled a registration,

may appeal to the Board within 10 days after the notice of the decision or, in respect of a licence, the imposition of terms and conditions on the licence is served upon the person in the manner set out in the regulations.

(4) Notwithstanding subsection (3), the Board may, either before or after the 10 days referred to in that subsection, extend the time for filing an appeal.

(5) In hearing and deciding an appeal under this Section, the Board shall conduct the appeal as specified in Sections 23, 24 and 26.

(6) The Board may dismiss the appeal, allow the appeal or make any decision that the Director is authorized to make under this Act. 2011, c. 19, s. 21.

ENFORCEMENT AND PENALTIES

Standing of Director to bring action and effect of order

167 (1) The Director has standing to bring action in any court of competent jurisdiction or otherwise to pursue any claim to recover unpaid pay or any other amount found owing pursuant to this Act on behalf of the Board, any employee, group of employees or other individual.

(2) The Director or any complainant on whose behalf the order has been made may enter with the prothonotary

(a) an order of the Director by which an employer is ordered to pay unpaid pay or any person is ordered to pay an amount found owing pursuant to this Act other than unpaid pay, in respect of which the time for appeal to the Board under subsection 20(9) has elapsed and no appeal has been filed; or

(b) an order of the Board by which an employer is ordered to pay unpaid pay or any person is ordered to pay an amount found owing pursuant to this Act other than unpaid pay,

as if it were an order of the Supreme Court of Nova Scotia and every such order is thereafter enforceable as an order of the Supreme Court by the Director or the complainant for whose benefit it was made.

(3) Subject to subsection (4), where any sheriff has in the sheriff's possession or under the sheriff's control any property of a person against whom an order has been entered under subsection (2) or the proceeds thereof the sheriff shall disperse the proceeds in accordance with the priorities established by Section 139.

(4) Where an order of the Director or the Board has been entered as an order of the Supreme Court of Nova Scotia in accordance with subsection (2), any person, other than the employer or person against whom the order has been entered, may challenge the order in interpleader proceedings or an application to set aside any execution order or execution thereunder as provided for by the *Civil Procedure Rules* or any other court proceedings in which priority among creditors is determined, but the order of the Director or the Board is prima facie proof that the amount of money ordered to be paid was due and owing when the order was made.

- (5) Where, in the opinion of the Director,
- (a) an employee has good cause for a complaint under Section 130; or
 - (b) an individual, employee or foreign worker referred to in Section 131 has good cause for a complaint under that Section,

the Director shall notify the sheriff and may apply for an attachment order against the employer or person against whom the complaint was made, as provided for in the *Civil Procedure Rules*.

(6) Notwithstanding the requirement of the *Civil Procedure Rules*, the Director is not required to have sureties or give any security. R.S., c. 246, s. 90; 2010, c. 37, s. 114; 2011, c. 19, s. 22.

Agreement between Director and employer's creditors

168 Where an asset of an insolvent employer or any person referred to in Section 131 would, by lawful means, otherwise be subject to a process that would make it unavailable to satisfy an order of the Board, the Director may negotiate and enter into an agreement with the creditors of the employer or any person referred to in Section 131 with respect to the asset of the employer or any person referred to in Section 131 for the purpose of enabling the recovery of funds payable to the Board. 1991, c. 14, s. 34; 2010, c. 37, c. 115; 2011, c. 19, s. 23.

Employer vicariously liable

169 In a prosecution under this Act against an employer or any person referred to in Section 131, the act or omission of any manager or superintendent or of any other person who exercises management functions for the employer or person referred to in Section 131 is deemed to be the act or omission of the employer or person referred to in Section 131, unless and until it is proved that the act or omission was without the knowledge or consent of the employer or person referred to in Section 131. R.S., c. 246, s. 91; 2011, c. 19, s. 24.

Consent to prosecution

170 (1) No prosecution for an offence under this Act may be instituted without the consent in writing of the Minister.

(2) A writing by the Minister indicating that the Minister has consented to the prosecution of a person named therein for an offence under this Act alleged to have been committed or, in the case of a continuing offence, alleged to have commenced, on a date therein set out, is a sufficient consent for the purpose of this Section to the prosecution of the person for any offence under this Act committed by or commencing on that date.

(3) This Section does not apply to a prosecution instituted by the Minister or the Attorney General. R.S., c. 246, s. 92.

Offences

- 171 (1)** Every person who
- (a) does anything prohibited by this Act or who refuses or neglects to do anything required by this Act to be done by that person;

(b) does any act or thing prohibited by an order made under this Act, fails to perform an act required by an order made under this Act or otherwise contravenes an order made under this Act;

(c) wilfully makes or causes to be made false or misleading entries in any record that the person is required to keep by this Act, by the regulations or by an order of the Governor in Council;

(d) wilfully supplies or causes to be supplied false or misleading information to the Director, an officer or the Board;

(e) refuses or neglects to permit an inspection or examination authorized by this Act; or

(f) wilfully fails to furnish a bond or an amount owing under clause 135(1)(a),

is guilty of an offence.

(2) Where an employee by collusion with the employee's employer or otherwise wilfully works for less than the minimum wage to which the employee is entitled under this Act, or directly or indirectly returns to the employer any part of the employee's wages thereby in effect reducing the wages actually received and retained by the employee to an amount less than the minimum wage to which the employee is entitled, the employee and the employer are both guilty of an offence. 2003 (2nd Sess.), c. 7, s. 14; 2010, c. 37, s. 116; 2011, c. 19, s. 25.

Penalty

172 (1) A person that is guilty of an offence under this Act is liable on summary conviction to a fine of

(a) in the case of a corporation, not more than \$25,000;

(b) in the case of a person, other than an employee, that is not a corporation or in the case of a director of a corporation, not more than \$5,000; or

(c) in the case of an employee, not more than \$2,500.

(2) A person guilty of a second or subsequent offence under this Act is liable, in addition to the fine under subsection (1), to

(a) an additional fine of not more than the maximum fine set out in subsection (1) for that person; or

(b) imprisonment for a term of three months,

or to both.

(3) Where a contravention or failure to comply continues for more than one day, the person is guilty of a separate offence for each day that the offence continues. 2003 (2nd Sess.), c. 7, s. 14; 2011, c. 19, s. 26.

CHAPTER L-3

**An Act Respecting the Trial of Actions
Involving the Title to Land**

Table of Contents

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

	Section
Short title.....	1
“justice centre area” defined.....	2
Venue of action relating to land.....	3

Short title

1 This Act may be cited as the *Land Actions Venue Act*. R.S., c. 247, s. 1.

“justice centre area” defined

2 In this Act, “justice centre area” means a justice centre area established by the Minister of Justice pursuant to the *Judicature Act*. 1996, c. 23, s. 14.

Venue of action relating to land

3 All actions for trespass to lands or in which possession or recovery of lands is sought, and all actions in which the title to lands is in issue, must, unless the court or a judge otherwise orders, be tried in the justice centre area in which the lands lie, and if the lands lie in more than one justice centre area, then in any of the justice centre areas in which any part of the lands lie. R.S., c. 247, s. 2; 1996, c. 23, s. 15.

CHAPTER L-4

**An Act to Provide for the
Registration of Title to Land
and to Amend Certain Statutes
Respecting Real Property**

Table of Contents

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

	Section
Short title.....	1
Purpose of Act.....	2
Interpretation.....	3
Interpretation—fraud.....	4
Application of Act.....	5
Land registration districts.....	6
Registrar General.....	7
Deputy Registrar General.....	8
Registrar and deputy registrars.....	9
Registrars.....	10
Parcel registers.....	11
Utility rolls.....	12
Contents of parcel register.....	13
Maintenance of parcel registers.....	14
Immunity from liability.....	15
Registrable interests.....	16
Registration requirements.....	17
Legal description of parcel.....	18
Registered interests.....	19
Location and boundaries.....	20
Change of name.....	21
Subdivisions and consolidations.....	22
Wills.....	23
Intestacies.....	24
Prerequisites for acceptance of deed.....	25
Death of joint tenant.....	26
Trusts.....	27
Expropriations.....	28
Bankruptcies.....	29
Tax sales.....	30
Right to file certain documents.....	31
Corrections and amendments to parcel register.....	32
Request for correction.....	33
Proceeding to correct registration.....	34
Priority rules.....	35
Application for registration.....	36
Requirements for application.....	37
Liability of qualified lawyer.....	38
Registration.....	39
Reference to non-resident owners.....	40
Interests not to be included in parcel register.....	41
Land acquired by certificate of title.....	42
Registration on initiative of Registrar General.....	43
Notice filed in registry of deeds.....	44
Effect of registration.....	45
Unregistered instruments ineffective.....	46
Restriction on Registry of Deeds Act and Condominium Act.....	47
Agreement with Minister respecting registration under Registry of Deeds Act.....	48
Recording of interest.....	49

Duties of registrar	50
Priority of recorded interests	51
Effect of cancellation	52
Effect of security interest on title.....	53
Rights of holder of security interest.....	54
Debentures and floating charges.....	55
Restriction on effect of court order.....	56
Leases	57
Duty to refuse	58
Cancellation of recording	59
Certificate of lis pendens	60
Personal Property Registry	61
Discharge of security interests.....	62
Effect of condition and covenants	63
Dominant tenement may be unnecessary.....	64
Assignments.....	65
Cancellation	66
Liability.....	67
Judgment roll	68
Effect of judgment	69
Material difference in names	70
Contents of recording of judgment.....	71
Right to require confirmation	72
Recording of certain documents	73
Builders liens	74
Attachment order	75
Powers of attorney	76
Priority of certain interests.....	77
Adverse possession and prescription	78
Limit on land acquired.....	79
Lasting improvements	80
Service of notices	81
Effect of lack of seal or consideration	82
Proof of execution.....	83
Ineligibility as witness	84
Prohibition of registration or recording	85
Effect of failure to comply.....	86
Execution by corporation.....	87
Court authorized registration or recording	88
Compensation	89
Restriction on right to compensation.....	90
Claims for compensation	91
Action for compensation.....	92
Liability to Crown for compensation paid.....	93
Appeal to Registrar General	94
Application for direction.....	95
Court orders	96
Notice to and intervention by Registrar General	97
Regulations by Governor in Council	98
Regulations by Minister.....	99
Powers of Registrar General	100
Designation.....	101

Short title

1 This Act may be cited as the *Land Registration Act*. 2001, c. 6, s. 1.

Purpose of Act

2 The purpose of this Act is to

(a) provide certainty in ownership of interests in land;

- (b) simplify proof of ownership of interests in land;
- (c) facilitate the economic and efficient execution of transactions affecting interests in land; and
- (d) provide compensation for persons who sustain loss in accordance with this Act. 2001, c. 6, s. 2; 2008, c. 19, s. 1.

Interpretation

3 (1) In this Act,

“cancellation” means the administrative process by which the prospective effects of recording and registration are eliminated;

“certificate of legal effect” means a certificate prepared and submitted by a qualified lawyer setting out the legal effect of a document in the manner prescribed in the regulations made by the Minister;

“Court” means the Supreme Court of Nova Scotia;

“document” means a writing, a plan, a map or any information in a form that can be converted into a writing, a plan or a map by a machine or a device, and includes information

- (a) on microfilm;
- (b) in electronic, mechanical or magnetic storage; or
- (c) in electronic data signals;

“holder” of an interest includes a recorded assignee of the interest holder and an agent empowered to act for the interest holder;

“injurious affection” has the same meaning as in the *Expropriation Act*;

“instrument” means every document by which the title to land is changed or affected in any way;

“interest” means any estate or right in, over or under land recognized under law, a prescribed contract or a prescribed statutory designation, including a right or interest under the *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act*, but does not include any interest under the *Subsurface Energy Storage Act*, the *Mineral Resources Act*, the *Petroleum Resources Act* or the *Oak Island Treasure Act*;

“law” means the law in force in the Province, including enactments and principles of common law and equity;

“lien” means an interest created by operation of law that secures the payment or other performance of an obligation;

“Minister” means the Minister of Service Nova Scotia;

“overriding interest” means an interest referred to in subsection 77(1);

“owner” includes an agent empowered to act for an owner;

“parcel” means an area of land that may be owned in fee simple absolute, but does not mean a structure, building or part thereof

unless the structure, building or part thereof is a unit as defined in the *Condominium Act*;

“parcel identification number” means the unique identification number assigned to a parcel;

“parcel register” means the register established pursuant to this Act for a parcel of lands and includes any document incorporated into the register by reference;

“parcel registered pursuant to this Act” means a parcel for which an application for registration of title pursuant to Section 36 has been accepted by a registrar;

“person” includes an agent empowered to act for a person;

“prescribed” means prescribed by the regulations;

“proceeding” means an action or application;

“qualified lawyer” means a member of the Nova Scotia Barristers’ Society entitled to practise law, but does not include a member who is subject to any limitation or restriction on practice imposed pursuant to the *Legal Profession Act* that precludes the member from certifying title to land;

“record” means to secure priority of enforcement for an interest by means of entries in a parcel register pursuant to this Act;

“recordable” means capable of being recorded pursuant to this Act;

“registered owner” means the person shown in a parcel register as the owner of a registered interest;

“registrable” means capable of being registered pursuant to this Act;

“registration” means to affect, confer or terminate registered interests by means of entries in a parcel register pursuant to this Act, and includes a revision of a registration;

“registration district” means a registration district established by the Governor in Council pursuant to this Act;

“security interest” means a consensual interest recognized by law that secures the payment of an obligation;

“service” includes regular mail, except as otherwise provided in this Act;

“servitude” means an interest affecting the use or enjoyment of land created by covenant, condition, easement or implication at law, and includes a utility interest, but does not include a lien or a security interest;

“subdivision” has the same meaning as in the *Municipal Government Act*;

“successor” means a person who acquires an interest, or an interest derived from that interest, directly or through intermediate transactions, from a prior owner of the interest;

“transaction” means an event or a dealing affecting an interest;

“utility interest” means an easement or other right in or to use land, in existence before March 24, 2003, in favour of a public utility or a municipality, and includes a fee simple interest in land owned by a public utility or a municipality before March 24, 2003;

“wrongful act” does not include an act or omission that is only careless or negligent.

(2) In an enactment, in reference to a parcel registered pursuant to this Act,

“registered”, “recorded”, “deposited” and “filed” mean registered or recorded, as the case may be, pursuant to this Act;

“registrar of deeds” means a registrar appointed pursuant to this Act;

“registration district” means a registration district pursuant to this Act;

“registry of deeds” or “office of the registrar of deeds” means a land registration office established pursuant to this Act.

(3) Where in an enactment it is provided that an order, judgment, charge or lien may be registered, recorded, deposited or filed in any registry so as to bind or charge any interest in any lands in the county in which it is so registered, recorded, deposited or filed, owned by the named defendant or person against whom the order, judgment, charge or lien is made, whether acquired before or after the order, judgment, charge or lien is registered, recorded, deposited or filed, or has the same effect as a judgment pursuant to the *Registry of Deeds Act*, the order, judgment, charge or lien must be recorded in the judgment roll provided by this Act and must not be registered pursuant to the *Registry of Deeds Act*.

(4) Where an enactment provides that any document creating, removing, transferring or affecting an interest in one or more specific parcels may or must be registered, recorded, deposited or filed in the registry of deeds and where the parcel that is the subject of the document is registered pursuant to this Act, the document may or must be registered or recorded, as the case may be, in the parcel register of each of the parcels affected.

(5) Where in an enactment it is provided that any notice or other document may be served upon the registered owner of a parcel, or the person appearing from a search of the records at the registry of deeds to be the owner, and where the parcel is registered pursuant to this Act, the registered owner of the parcel is the person to be served. 2001, c. 6, s. 3; 2002, c. 19, s. 1; 2004, c. 38, s. 1; 2008, c. 19, s. 2.

Interpretation—fraud

4 (1) In this Act, the meaning of “fraud” is subject to this Section.

(2) For the purpose of this Act, the equitable doctrines of “notice” and “constructive notice” are abolished for the purpose of determining whether conduct is fraudulent.

(3) A person who engages in a transaction with the registered owner of an interest that is subject to an interest that is not registered or recorded at the time of the transaction, other than an overriding interest, in the absence of actual knowledge of the interest that is not registered or recorded

(a) may assume without inquiry that the transaction is authorized by the owner of any interest that is not registered or recorded;

(b) may assume without inquiry that the transaction will not prejudice that interest; and

(c) has no duty to ensure the proper application of any assets paid or delivered to the registered owner of the interest that is the subject of the transaction.

(4) A person obtains an interest through fraud if that person, at the time of the transaction,

(a) had actual knowledge of an interest that was not registered or recorded;

(b) had actual knowledge that the transaction was not authorized by the owner of the interest that was not registered or recorded; and

(c) knew or ought to have known that the transaction would prejudice the interest that was not registered or recorded.

(5) A person does not obtain an interest through fraud if the interest that was not registered or recorded was not enforceable against the person who transferred the interest. 2001, c. 6, s. 4.

Application of Act

5 (1) The Crown in right of the Province is bound by this Act.

(2) This Act applies to any interest vested in the Crown in any other right that is within the competence of the Legislature and to any interest that has been subjected to this Act by the Crown.

(3) Except as provided in Section 77, a lien in favour of the Crown in right of the Province pursuant to an enactment may not be enforced against any parcel registered pursuant to this Act unless the lien is recorded pursuant to this Act.

(4) This Act applies to every interest in Nova Scotia lands as defined in the *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

(5) For the purpose of this Act, Nova Scotia lands as defined in the *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act* are deemed to be in the registration district that includes the County of Halifax. 2001, c. 6, s. 6; 2002, c. 19, s. 2; 2004, c. 38, s. 2.

Land registration districts

6 (1) The Governor in Council shall establish one or more land registration districts in the Province for the purpose of this Act.

(2) For greater certainty, the Governor in Council may establish additional land registration districts, divide or combine land registration districts and change the boundaries of land registration districts.

(3) The Minister shall establish and maintain a land registration office in each location prescribed by the Governor in Council.

(4) A land registration office may be combined with a registry of deeds established pursuant to the *Registry of Deeds Act*. 2001, c. 6, s. 7; 2011, c. 20, s. 1.

Registrar General

7 (1) The Minister shall, in accordance with the *Civil Service Act*, appoint a person to be the Registrar General.

(2) The Registrar General is a member of the public service.

(3) The Registrar General shall

(a) supervise and direct the operation of the land registration offices and the land registration system established pursuant to this Act;

(b) supervise and direct the persons employed in land registration offices in the performance of their duties and exercise of their powers pursuant to this Act;

(c) inspect the records of land registration offices; and

(d) perform such other duties as are prescribed by this Act or directed by the Minister.

(4) The Registrar General may perform the duties and exercise the powers of a registrar. 2001, c. 6, s. 8; 2002, c. 19, s. 3.

Deputy Registrar General

8 (1) The Minister shall, in accordance with the *Civil Service Act*, appoint a person to be a deputy registrar general.

(2) The Minister may, in accordance with the *Civil Service Act*, appoint additional deputy registrars general as may be required to assist the Registrar General in the performance of the Registrar General's duties.

(3) A deputy registrar general appointed under subsection (1) or (2) may perform any of the duties and exercise any of powers of the Registrar General as directed by the Registrar General and shall perform such other duties as directed by the Minister. 2011, c. 20, s. 2.

Registrar and deputy registrars

9 (1) A registrar and such deputy registrars and additional employees as are required must be appointed in accordance with the *Civil Service Act*.

(2) A registrar shall perform the duties and exercise the powers of a registrar imposed or conferred by this Act or the regulations.

(3) Any duty performed or power exercised by a deputy registrar, by a person authorized by the Minister or by one of a prescribed class of persons is deemed to have been performed or exercised by a registrar. 2001, c. 6, s. 9; 2004, c. 38, s. 3.

Registrars

10 (1) In this Section, “parcel register” includes a roll established pursuant to this Act.

(2) Unless restricted by regulations made by the Minister, a person who has paid the appropriate prescribed fee

(a) may examine;

(b) must be furnished with a copy of;

(c) must be furnished with a copy certified by a registrar of, any parcel register and any registered or recorded instruments in the register.

(3) A copy of a parcel register or document incorporated in a register appearing to be certified by a registrar is admissible in evidence in any proceeding to the same extent as the original would have been admissible, and is conclusive proof of the facts certified without proof of the signature or official capacity of the person who appears to have signed the certification. 2001, c. 6, s. 10; 2008, c. 19, s. 4.

Parcel registers

11 (1) A parcel register must be established for each parcel that is registered pursuant to this Act.

(2) Where an instrument that results in the subdivision of land is accepted for registration, a new parcel register must be established for each parcel created or affected by the subdivision. 2008, c. 19, s. 5.

Utility rolls

12 (1) A registrar may establish a utility roll for easements or other rights to use land owned by a utility or a municipality that affect more than 10 parcels and are all of the same general effect.

(2) An instrument creating, charging or transferring easements or other rights to use land owned by a utility or municipality may be registered or recorded in a utility roll in lieu of being registered or recorded in each parcel register.

(3) Where a utility roll is established, the utility roll must be noted in the parcel registers of all the parcels subject to the interests in the utility roll. 2001, c. 6, s. 12; 2002, c. 19, s. 4.

Contents of parcel register

13 (1) A parcel register must contain the information prescribed in regulations made by the Minister.

(2) A parcel register may include such additional information as the Registrar General considers expedient.

(3) A unique document identifier must be assigned to each document entered in a parcel register.

(4) A reference in a parcel register to a registered or recorded document by its identifier incorporates that document in the register.

(5) An entry in a parcel register is part of the register whether or not it was made under proper authority.

(6) On subdivision, all interests and qualifications in the parcel register of the parcel to be subdivided must be placed in the parcel register for each parcel created on subdivision and may be removed only in accordance with the regulations. 2001, c. 6, s. 13; 2002, c. 19, s. 5; 2004, c. 38, s. 4; 2008, c. 19, s. 6.

Maintenance of parcel registers

14 (1) In this Section, “parcel register” includes a roll established pursuant to this Act.

(2) A document that is registered or recorded in a parcel register must be assigned an identifier by the registrar.

(3) Parcel registers must be maintained so that a document registered or recorded in a register may be viewed or copied by reference to its identifier. 2001, c. 6, s. 14; 2008, c. 19, s. 7.

Immunity from liability

15 The Registrar General is not liable for the accuracy of any information in a parcel register unless specifically provided in this Act or the regulations. 2001, c. 6, s. 16.

Registrable interests

16 (1) The following interests may be registered:

- (a) a fee simple estate;
- (b) a life estate and the remainder interests; and
- (c) an interest of the Crown.

(2) Where another enactment requires the registration of an interest and the interest is not registrable pursuant to subsection (1), the interest must be recorded.

(3) Where another enactment authorizes the registration of an interest, and the interest is not registrable pursuant to subsection (1), the interest may be recorded. 2001, c. 6, s. 17.

Registration requirements

17 (1) A document submitted for registration, other than a plan of subdivision or a notice of subdivision, must be accompanied by a certificate of legal effect certifying the legal effect of the document.

(2) Where prescribed in the regulations, a document submitted for recording must be accompanied by a certificate of legal effect certifying the legal effect of the document.

(3) A registrar is entitled to rely upon a certificate of legal effect and such other information as prescribed in the regulations.

(4) The qualified lawyer who signed the certificate of legal effect is liable to the Registrar General with respect to any negligent error or omission in the certificate of legal effect if the Registrar General has been required to pay compensation pursuant to this Act as a result of the negligent error or omission in the certificate within 10 years after the date of the certificate.

(5) Liability under subsection (4) may be enforced by the Registrar General joining the qualified lawyer in an action brought against the Registrar General for compensation. 2008, c. 19, s. 9.

Legal description of parcel

18 (1) Where a document is submitted for registration or recording pursuant to this Act, the legal description for the parcel must be referred to in the manner prescribed in the regulations. 2008, c. 19, s. 10.

Registered interests

19 A parcel register is a complete statement of all interests affecting the parcel, as are required to be shown in the qualified lawyer's opinion of title pursuant to Section 37, subject to any subsequent qualifications, revisions of registrations, recordings or cancellation of recordings in accordance with this Act. 2008, c. 19, s. 11.

Location and boundaries

20 (1) The legal description of a parcel in a parcel register is not conclusive as to the location, boundaries or extent of the parcel.

(2) Provincial mapping is not conclusive as to the location, boundaries or extent of a parcel.

(3) A registration may not be rejected only because the location, boundaries or extent of the parcel appear to overlap the location, boundaries or extent of another parcel. 2001, c. 6, s. 21; 2004, c. 38, ss. 7, 26.

Change of name

21 (1) Where a person who is the owner of an interest in a parcel changes that person's name, the registrar may register the change of name on the production of

- (a) an affidavit verifying the change of name;
- (b) any documentation that is required by the registrar; and

(c) the parcel identification numbers of all parcel registers in which the change of name should be noted.

(2) A registrar may not revise a registration to change the ownership of a parcel if the instrument effecting the change is not signed by the registered owner of the parcel in the name in which the parcel is registered unless the instrument contains an affidavit of change of name that complies with this Section.

(3) The registrar shall include any change of name in the judgment roll. 2001, c. 6, s. 22; 2002, c. 19, s. 8.

Subdivisions and consolidations

22 (1) A registrar may not accept for registration or recording a plan of subdivision, an instrument of subdivision or a notice of subdivision with respect to a parcel that is not registered pursuant to this Act.

(2) Where a plan of subdivision, an instrument of subdivision or a notice of subdivision that results in the consolidation of lands is submitted for registration, a registrar shall not accept the document unless the parcel from which any land is taken and the parcel to which any land is added are registered pursuant to this Act.

(3) A registrar may not accept for registration a deed to a parcel that has been approved for consolidation with another parcel unless the deed contains a legal description of the consolidated parcel and the parcel from which any land is taken and the parcel to which any land is added are both registered pursuant to this Act. 2008, c. 19, s. 12.

Wills

23 (1) In this Section, “will” means a will with respect to which probate or administration has been granted.

(2) The registrar of probate shall forward a copy of a will with respect to which probate or administration has been granted, together with any translation obtained by the registrar of probate, to the registrar.

(3) The registrar of probate shall include with each will forwarded to the registrar a list of the parcel identification numbers provided by the executor or administrator with respect to which the deceased owned a registered or recorded interest.

(4) The registrar shall record the will and any translation provided by the registrar of probate in each of the parcel registers identified on the list provided.

(5) A deed from an executor may not be accepted by a registrar as a direction to revise a registration unless the will is recorded in the parcel register for that parcel and the deed is accompanied by a certificate of a qualified lawyer setting out the legal effect of the document.

(6) A will may not be accepted by a registrar as a direction to revise a registration unless the registrar is provided with the certificate of a qualified

lawyer verifying the interest devised, the parcel devised and the person to whom it was devised.

(7) A registrar may not accept a will for registration or recording unless probate or administration has been granted with respect to the will. 2001, c. 6, s. 24; 2008, c. 19, s. 36.

Intestacies

24 (1) Where a registrar of probate grants administration in the case of an intestacy, that registrar shall forward a copy of the grant of administration to the registrar.

(2) The registrar of probate shall include with each grant of administration forwarded to the registrar a list of parcel identification numbers provided by the administrator with respect to which the deceased owned a registered or recorded interest.

(3) The registrar shall record the grant of administration in each of the parcel registers identified on the list provided. 2001, c. 6, s. 25; 2002, c. 19, s. 9.

Prerequisites for acceptance of deed

25 A deed from an administrator may not be accepted by a registrar as a direction to revise a registration unless the will or petition for administration is recorded in the parcel register for that parcel and the order of the court, if any, authorizing the sale is recorded in that register and the deed is accompanied by a certificate of a qualified lawyer setting out the legal effect of the document. 2001, c. 6, s. 26; 2008, c. 19, ss. 13, 36.

Death of joint tenant

26 (1) A registrar shall accept proof of death of a joint tenant as a direction to revise a registration to delete that joint tenant as an owner.

(2) A registrar shall record the proof of death of the joint tenant in the parcel register identified by the applicant. 2001, c. 6, s. 27; 2002, c. 19, s. 10.

Trusts

27 (1) Where an instrument discloses that a party to an instrument is a trust, or holds an interest in the trust, the party's interest must be registered or recorded in the name of the trustee or trustees only, followed by a notation that the interest is held in trust.

(2) Any conveyance or encumbrance of the interest by the trustee is, for the purpose of this Act, deemed to be in furtherance of the purpose of the trust.

(3) No action of a beneficiary of a trust in which the trustee does not join affects the title held by the trustee. 2001, c. 6, s. 28; 2008, c. 19, s. 14.

Expropriations

28 A registrar shall accept an instrument evidencing an expropriation of a parcel or part thereof identified by the applicant pursuant to an enactment of

Canada or the Province as a direction to revise a registration as to the ownership of the registered interest expropriated and shall register the instrument. 2001, c. 6, s. 29.

Bankruptcies

29 A registrar shall accept a certified copy of a receiving order or assignment in bankruptcy pursuant to the *Bankruptcy and Insolvency Act* (Canada) as a direction to revise a registration as to the ownership of any registered interest of the bankrupt specified by the trustee and shall register the order or assignment. 2001, c. 6, s. 30.

Tax sales

30 (1) Where a registered parcel is sold for taxes pursuant to the *Municipal Government Act* or another enactment of the Province, a certificate that the parcel has been sold for taxes must be recorded in the parcel register in the manner provided by the enactment pursuant to which the parcel was sold.

(2) Where the parcel is redeemed before a tax deed is delivered to the purchaser at the tax sale, a certificate of discharge or redemption must be recorded in the parcel register and the registrar shall cancel the recording of the certificate of sale.

(3) On the application of the purchaser of a registered parcel at a tax sale and presentation of the tax deed, the registrar shall revise the registration of the parcel to show the purchaser as the owner of the parcel. 2001, c. 6, s. 31; 2004, c. 38, s. 9.

Right to file certain documents

31 (1) A person who claims to be entitled to be registered as the owner of any registered parcel or the owner of an estate or interest therein

- (a) pursuant to a judgment or order of a court;
- (b) pursuant to an enactment of Canada or the Province or an order in council;
- (c) through the purchase of the parcel by a person at a judicial sale from someone other than the registered owner;
- (d) pursuant to an order, judgment or certificate issued pursuant to the *Land Titles Clarification Act* or the *Quieting Titles Act*;
- (e) pursuant to any other instrument or proceeding,

where no other provision of this Act provides for the registration of that person as owner of the parcel, interest or estate therein, may file the judgment or appropriate documents evidencing the right to be registered as owner thereof with the registrar who shall register the parcel or record the interest in the case of interests that are not registrable.

(2) A registrar may forward the documents to the Registrar General for an interpretation of whether the documents have the effect contended by the applicant, and that any appeal period has expired.

(3) A registrar or the Registrar General may require the applicant to provide a certificate from a qualified lawyer setting out the legal effect of the documents. 2001, c. 6, s. 32; 2002, c. 19, s. 11; 2008, c. 19, s. 36.

Corrections and amendments to parcel register

32 (1) The Registrar General may correct errors and omissions in a parcel register in the circumstances and in the manner prescribed in regulations made by the Minister.

(2) The Registrar General may amend any information in a parcel register to bring the register into conformity with regulations made by the Minister, as amended from time to time. 2008, c. 19, s. 15.

Request for correction

33 (1) A person who objects to and is aggrieved by a registration, a recording or other information contained in a parcel register may submit a request in writing to the Registrar General seeking correction of the registration, recording or information objected to.

(2) The Registrar General shall investigate the facts surrounding the person's request and may, after consideration of written or oral submissions,

(a) correct the registration, recording or information as requested in the circumstances and in the manner prescribed in regulations made by the Minister;

(b) deny the person's request in whole or in part; or

(c) direct the person to pursue a remedy available under this Act, including taking a proceeding under this Act, before continuing with the request. 2008, c. 19, s. 15.

Proceeding to correct registration

34 (1) A person who objects to and is aggrieved by a registration in a parcel register may commence a proceeding before the Court requesting a declaration as to the rights of the parties, an order for correction of the registration and a determination of entitlement to compensation, if any.

(2) Subject to Section 97, and unless otherwise ordered by the Court, the following are parties to any proceeding pursuant to this Section:

(a) all registered owners of the parcel in question

(i) at the time of the registration objected to, and

(ii) at the time that the proceeding is commenced;

and

(b) the person aggrieved.

(3) A person commencing a proceeding pursuant to this Section shall provide written notice, at the time the proceeding is commenced, to all interest holders appearing in the parcel register.

(4) The Court shall determine the rights of the parties according to law, subject to the following principles:

- (a) the person aggrieved may have the registration corrected;
- (b) any correction of the registration must preserve the right to compensation of a person who obtained a registered interest from a registered owner who registered the interest objected to; and
- (c) the Court may, where it is just and equitable to do so, confirm the registration.

(5) Where the Court corrects the registration objected to, but the correction of the registration cannot fully nullify the effects of the registration, or where the Court determines that it is just and equitable to confirm the registration, the Court shall determine which of the parties suffered loss by reason of the registration and order

- (a) that any party who suffered loss be compensated in accordance with subsection (7) and Sections 89 and 90; or
- (b) payment of damages by one party to another.

(6) In determining whether it is just and equitable to confirm the registration objected to, the Court shall consider

- (a) the nature of the ownership and the use of the parcel by the parties;
- (b) the circumstances of the registration;
- (c) the special characteristics of the parcel and their significance to the parties;
- (d) the willingness of any of the parties to receive compensation in lieu of an interest in the parcel;
- (e) the ease with which the amount of compensation for a loss may be determined; and
- (f) any other circumstances that, in the opinion of the Court, are relevant to its determination.

(7) A registered owner is not entitled to compensation or to retention of any of the benefits of a registration made in error unless that owner

- (a) believed that the registration was authorized by law;
- (b) had no knowledge of the facts that made the registration unauthorized; and
- (c) gave consideration for the registered interest or detrimentally relied upon the registration. 2008, c. 19, s. 15.

Priority rules

35 (1) Where interests registered in one parcel register appear to conflict with the interests registered in a different register, the priority to be given to one register over the other must be determined in accordance with the first of the following rules to establish a priority:

(a) *Rule 1:* where there is actual possession of a parcel under an interest conferring a right to possession, that interest and the interests derived from it must be enforced with priority;

(b) *Rule 2:* the interest that was not subject to rectification under this Act when the conflict arose, and the interests derived from it, must be enforced with priority.

(2) Any owner who sustains loss because another interest and the interests derived from it are enforced with priority under this Section must be compensated as provided in this Act.

(3) A person does not sustain loss pursuant to this Section if an interest is enforced in priority to the person's interest pursuant to Rule 1 and the possession is apparent to a reasonable person from an inspection of the parcel. 2001, c. 6, s. 36; 2002, c. 19, s. 14.

Application for registration

36 (1) Any person claiming to own a parcel that is not registered pursuant to this Act may apply to the registrar of the district in which the parcel is situated to have the title to the parcel registered pursuant to this Act.

(2) Subject to Sections 47 and 48, any person who has, for valuable consideration, acquired the ownership of a parcel that is not registered pursuant to this Act shall apply to the registrar of the district in which the parcel is situated to have the title to the parcel registered pursuant to this Act.

(3) Subject to Section 48, a mortgage of a parcel entered into on or after December 1, 2004, and after the county in which the parcel is situated is designated by the Governor in Council pursuant to subsection 101(1), does not create a security interest in that parcel until title to the parcel is registered and the mortgage is recorded pursuant to this Act.

(4) An application must be in the prescribed form and must be accompanied by

- (a) the prescribed fee;
- (b) an opinion of title certified by a qualified lawyer;
- (c) a statement of whether and, if so, for what purpose a title insurance policy was issued in respect of the parcel;
- (d) evidence of compliance with Part V of the *Municipal Government Act*;
- (e) evidence that Part IX of the *Municipal Government Act* has been complied with or certification by the qualified lawyer that Part IX does not apply;
- (f) the parcel identification number assigned to the parcel in the manner prescribed in regulations made by the Minister; and
- (g) such additional information as may be prescribed.

(5) Where the application is complete, the registrar shall accept the application for registration and shall index the registered interests in the parcel,

together with and subject to any encumbrances, liens, estates, qualifications or other interests against or in respect of the parcel as are specified in the opinion of the qualified lawyer.

(6) Where the application is not complete, the registrar shall reject the application and return it to the applicant. 2001, c. 6, s. 37; 2002, c. 19, s. 15; 2004, c. 38, ss. 11, 26; 2006, c. 15, s. 9; 2008, c. 19, ss. 16, 36.

Requirements for application

37 (1) An application must include sufficient information concerning the size and location of the parcel as will permit the registrar to assign the parcel identification number for the parcel and create a geographical representation of the parcel in Provincial mapping, showing it in relation to neighbouring parcels with reasonable accuracy.

(2) The qualified lawyer's opinion of title required in clause 36(4)(b) must be prepared in accordance with the relevant Nova Scotia Barristers' Society practice standards in effect at the time of the opinion and

(a) must set out

(i) the interests being registered in the parcel and, subject to Section 41, all encumbrances, liens, estates, qualifications and other interests affecting the parcel, and

(ii) the direct or indirect right of access to the parcel, if any, from a public street, highway or navigable waterway to the parcel,

as appear on the records at the land registration office in the county where the parcel is situated; and

(b) must be based upon a title search, as evidenced in an abstract of title, that shows a chain of title to the standard required to demonstrate a marketable title pursuant to the *Marketable Titles Act* or to the standard required pursuant to the *Real Property Limitations Act* or any other enactment or the common law, or to such lesser standard as the Registrar General may approve. 2001, c. 6, s. 37; 2002, c. 19, s. 15; 2004, c. 38, s. 11; 2008, c. 19, ss. 16, 36; 2014, c. 35, s. 24.

Liability of qualified lawyer

38 (1) A qualified lawyer is liable to the Registrar General with respect to any negligent error or omission in an opinion furnished pursuant to this Section if the Registrar General has, within 10 years after the opinion was furnished to the Registrar General, been required to pay compensation pursuant to this Act as a result of the negligent error or omission.

(2) Liability under subsection (1) may be enforced by the Registrar General joining the qualified lawyer in an action brought against the Registrar General for compensation.

(3) The Registrar General may, at any time, require the lawyer to produce any information that the lawyer may have relevant to the title with respect to which the opinion was given.

(4) Notwithstanding the *Freedom of Information and Protection of Privacy Act*, an abstract of title prepared pursuant to this Section, Section 36 or 37 may only be disclosed by the Registrar General to an insurer of the qualified lawyer who prepared it for purposes related to claims, to the Lawyers' Insurance Association of Nova Scotia for purposes related to claims or to the Nova Scotia Barristers' Society for purposes related to professional responsibility or competency. 2001, c. 6, s. 37; 2008, c. 19, ss. 16, 36.

Registration

39 (1) A person seeking to register an interest in a parcel that is registered pursuant to this Act may apply to the registrar of the district in which the affected parcel is situated to have the interest registered pursuant to this Act if

(a) the person who acquired the interest has complied with Part V of the *Municipal Government Act*;

(b) the person from whom the interest is transferred is the owner of the interest;

(c) the interest is transferred by a document effective at law to transfer the interest or by operation of law;

(d) the document submitted to effect the registration of the interest is accompanied by a certificate of legal effect, if required by Section 17; and

(e) the document submitted to effect the registration of the interest includes the parcel identification number for the affected parcel.

(2) An interest is registered when the identifier assigned to the document accepted for registration is entered in the parcel register.

(3) The date and time of registration of an interest is deemed to be the date and time when the document describing the interest was received and indexed by the registrar.

(4) Where an interest has been registered pursuant to this Section, the registrar shall revise the parcel register to show the new owner of the parcel. 2008, c. 19, s. 17.

Reference to non-resident owners

40 Where any person applies to have an interest registered pursuant to this Act or to have a registration revised to show a new or additional owner, that person shall include in the application a statement as to whether any of the owners of the interest is a non-resident. 2001, c. 6, s. 38.

Interests not to be included in parcel register

41 For the purpose of this Act, the following interests are not interests that may be included in a parcel register:

(a) an unreleased security interest in a residential mortgage that is more than 40 years old and that has not been amended or supplemented by an instrument registered during the preceding 40 years;

(b) an interest that has escheated to the Crown from any person other than the immediate predecessor in title of the applicant pursuant to Section 36;

(c) a conditional sales agreement or lease with respect to a fixture dated more than 10 years prior to the date of the application pursuant to Section 36. 2008, c. 19, s. 18.

Land acquired by certificate of title

42 (1) Where a person acquires title or confirmation of title to an interest in an unregistered parcel by the order of a court, a certificate of title pursuant to the *Land Titles Clarification Act* or the *Quieting Titles Act* or by an enactment, and a certified copy of the order, certificate or enactment is filed with the registrar, the registrar shall register the interest in the parcel upon payment of the prescribed fee.

(2) Any plan of survey used pursuant to the *Land Titles Clarification Act* or the *Quieting Titles Act* must be recorded along with the order, certificate or enactment referred to in subsection (1). 2001, c. 6, s. 41; 2002, c. 19, s. 18.

Registration on initiative of Registrar General

43 Where the Registrar General

(a) is satisfied that any parcel should be brought under the operation of this Act;

(b) is satisfied that title to the parcel should be registered without a formal application and without complying with some or all of the requirements of this Act; and

(c) has obtained such supporting information as the Registrar General considers necessary,

the Registrar General may make an order directing a registrar to register the title to the parcel. 2001, c. 6, s. 42.

Notice filed in registry of deeds

44 (1) Where a parcel is first registered pursuant to this Act, the registrar shall cause notice of the registration to be filed in the registry of deeds for the registration district within which the parcel is situate pursuant to the *Registry of Deeds Act* as a conveyance from the persons shown as the former owners in the application pursuant to which the parcel was first registered.

(2) The notice must show the person who appears from the lawyer's opinion to have been the owner immediately before registration pursuant to this Act as the grantor, and must include the property identification number of the parcel and a copy of the legal description of it. 2001, c. 6, s. 43; 2002, c. 19, s. 19; 2004, c. 38, s. 26; 2008, c. 19, s. 36.

Effect of registration

45 (1) Where a parcel is registered pursuant to this Act, this Act applies to an interest in the parcel, notwithstanding that the instrument evidencing the interest was previously registered pursuant to the *Registry of Deeds Act*.

(2) An instrument registered pursuant to the *Registry of Deeds Act* after a parcel is registered pursuant to this Act is ineffective in relation to the parcel or an interest appearing in the parcel register. 2008, c. 19, s. 19.

Unregistered instruments ineffective

46 (1) Except as against the person making the instrument, no instrument, until registered or recorded pursuant to this Act, passes any estate or interest in a registered parcel or renders it liable as security for the payment of money.

(2) Subsection (1) does not apply to an instrument creating a leasehold interest not exceeding three years if there is actual occupation of all or part of the parcel under the instrument. 2001, c. 6, s. 45.

Restriction on Registry of Deeds Act and Condominium Act

47 (1) A registrar of deeds may not accept for recording pursuant to the *Registry of Deeds Act*

(a) any transfer of an equitable or legal title of a fee simple estate, life estate or remainder interest that the affidavit filed pursuant to the *Municipal Government Act* discloses is made for a sale price or for value;

(b) a plan of subdivision, instrument of subdivision or notice of subdivision unless

(i) the subdivision results in the creation of fewer than three lots, including any remainder, or

(ii) the plan, instrument or notice is accompanied by an affidavit signed by each of the owners of the parcel to the effect that the sole purpose of the subdivision is to create lots to be gifted to a parent, spouse, sibling, child or grandchild of an owner;

(c) any mortgage of lands; or

(d) any certificate of title pursuant to the *Land Titles Clarification Act* or the *Quieting Titles Act*.

(2) The Registrar of Condominiums may not accept for registration pursuant to the *Condominium Act* any condominium corporation if the property, as defined in the *Condominium Act*, is not registered pursuant to this Act.

(3) This Section does not apply to a transfer of title

(a) between persons married to one another;

(b) with respect to parcels acquired by the Crown in right of the Province or a municipality for the purpose of road widening, alignment or movement;

(c) in a deed that conveys an interest of a predecessor in title being used to feed the estoppel or clarify title;

(d) between persons who are parties to a registered domestic partnership agreement;

(e) in a tax deed;

(f) that involves a piece of land that is not registered and is being created as a parcel under the subdivision provisions of Part IX of the *Municipal Government Act* solely for the purpose of consolidation with an abutting parcel that is not registered;

(g) between persons formerly married to one another, if the transfer is for the purpose of division of matrimonial assets; or

(h) from the Nova Scotia Farm Loan Board to a borrower under the *Agriculture and Rural Credit Act*. 2001, c. 6, s. 46; 2002, c. 19, s. 20; 2004, c. 38, s. 14; 2006, c. 15, s. 10.

Agreement with Minister respecting registration under Registry of Deeds Act

48 (1) Notwithstanding Sections 36 and 47, the Registrar General may recommend that the Minister enter into a written agreement with a person who claims to own a parcel that is not registered to have an instrument respecting that parcel registered under the *Registry of Deeds Act*, if circumstances exist that require the instrument to be registered under that Act.

(2) The agreement referred to in subsection (1) must set out the time period within which title to the parcel must be registered pursuant to this Act.

(3) A registrar of deeds shall register the instrument referred to in subsection (1) if the registration requirements of the *Registry of Deeds Act* have been complied with and the instrument is accompanied by a certificate of the Registrar General.

(4) The agreement referred to in subsection (1) is subject to any provisions prescribed by the Minister in the regulations.

(5) Notwithstanding Section 36, a person who has entered into an agreement with the Minister in accordance with this Section may mortgage the parcel that is the subject of the agreement or any interest in it or provide a security interest in it. 2004, c. 38, s. 15.

Recording of interest

49 (1) An interest in any parcel that is subject to this Act may be recorded.

(2) An interest is recorded by recording the document on which the interest is based.

(3) The registrar shall, upon payment of the prescribed amount, accept for recording in a parcel register any document that may be recorded pursuant to this Act and that complies with the regulations and includes the parcel identification number of the parcel affected.

(4) Any person who has an overriding interest in a parcel may record that interest.

(5) An interest pursuant to the *Matrimonial Property Act* may be recorded.

(6) A plan of survey may be recorded.

(7) Where a plan of survey shows more than one parcel, the registrar may note the recording of the plan in the parcel register of every parcel identified on the plan by parcel identification number.

(8) A notice of claim pursuant to the *Marketable Titles Act* is not registrable or recordable pursuant to this Act.

(9) A recording that is not authorized by this Section is void.

(10) A registrar may not accept for recording any document that does not indicate the parcel identification number of the parcel affected. 2001, c. 6, s. 47; 2004, c. 38, s. 16.

Duties of Registrar

50 (1) A registrar shall register or record documents that comply with this Act, in so far as practicable,

(a) promptly after submission for registration or recording; and

(b) in the order in which they are submitted for registration or recording.

(2) An interest is recorded when the identifier assigned to the document submitted for recording is entered in the appropriate parcel register.

(3) The date and time of the recording of an interest are deemed to be the date and time when the document describing the interest was received and indexed by the registrar. 2001, c. 6, s. 48; 2004, c. 38, s. 17.

Priority of recorded interests

51 (1) A recorded interest must be enforced with priority over a prior interest if the subsequent interest was

(a) obtained for value;

(b) obtained without fraud on the part of the owner of the subsequent interest;

(c) obtained at a time when the prior interest was not recorded; and

(d) recorded at a time when the prior interest was not registered or recorded.

(2) Subsection (1) applies with respect to conflicting interests of successors to the owner of the recorded interest.

(3) In this Section,

(a) where a subsequent interest will not be enforced with priority for an owner of that interest because the requirements of subsection (1) have not all been satisfied, it must be enforced with priority for a subsequent owner of that interest when the requirements of subsection (1) are first satisfied; and

(b) once an interest is entitled to priority of enforcement, it remains so entitled when acquired by a successor. 2001, c. 6, s. 49.

Effect of cancellation

52 (1) Where a recording of a prior interest is cancelled pursuant to an invalid request for cancellation and as a result of the cancellation a subsequent interest becomes enforceable with priority over the improperly cancelled interest, correction of the parcel register does not deprive the subsequent interest of its priority if the owner of the subsequent interest

(a) believed that the recording of the prior interest was validly cancelled;

(b) had no knowledge of facts tending to show the cancellation was unauthorized; and

(c) paid value for the benefits purportedly obtained under, or detrimentally relied upon, the cancellation.

(2) An owner of a prior interest who sustains loss pursuant to this Section must be compensated as provided by this Act. 2001, c. 6, s. 50.

Effect of security interest on title

53 (1) Security interests do not transfer the title of the land charged by them and do not sever a joint tenancy.

(2) A security interest is an interest in land and has effect as security.

(3) A security interest is recognized under law only to the extent of the actual obligation of the debtor under law.

(4) Where the obligation secured by a security interest has been paid in full, the holder of the security interest shall record a release of the security interest.

(5) No fee or expense may be charged by a secured party for recording a release of a security interest unless the charge was agreed to by the parties before the obligation was paid in full.

(6) A security interest may be discharged in whole or in part, or as to all or any of the parcels charged, by recording a full or partial release of the security interest. 2001, c. 6, s. 51.

Rights of holder of security interest

54 (1) The holder of a recorded mortgage or debenture incorporating a mortgage may enforce all rights and remedies permitted by law as if the parcel had been conveyed by mortgage subject to a proviso for redemption.

(2) A mortgage has priority over subsequent recorded interests to the extent of the obligations secured and the sums actually advanced under the mortgage, not exceeding the amount for which the mortgage is expressed to be a

security, even though part of the sums may have been advanced after the recording of a subsequent interest.

(3) Subsection (2) applies to a mortgage that secures a running, current or revolving account or line of credit even though some or all of the sums advanced under it have been repaid.

(4) Subsection (2) does not apply to any advance made after

(a) the holder of a subsequent recorded interest serves written notice of the subsequent interest and its recording particulars on the holder of the prior mortgage and records a copy of the notice in the parcel register;

(b) a lien pursuant to the *Builders Lien Act* is recorded; or

(c) a lien pursuant to the *Maintenance Enforcement Act* is recorded.

(5) Where a mortgage is foreclosed, the order for foreclosure must be recorded.

(6) An application for an order for foreclosure must specify whether the parcel with respect to which the order is sought is registered pursuant to this Act.

(7) Where the parcel with respect to which a foreclosure order is sought is registered pursuant to this Act, the application for an order for foreclosure must include the property identification number of the parcel. 2001, c. 6, s. 52; 2003, c. 7, s. 4; 2008, c. 19, s. 20.

Debentures and floating charges

55 (1) A registered parcel may be mortgaged or charged by the recording of a debenture.

(2) A recorded debenture may be discharged in whole or in part or as to all or any of the parcels mortgaged or charged by the recording of a discharge of debenture.

(3) Where a floating charge contained in a debenture has been crystallized, a notice of crystallization of debenture must be recorded in prescribed form against any parcel with respect to which the floating part of the debenture has been recorded, and the debenture does not charge the parcel until such time as the notice of crystallization is recorded. 2001, c. 6, s. 53; 2004, c. 38, s. 18.

Restriction on effect of court order

56 An order of a court, including a court of probate, affecting the title to or boundaries of a parcel registered pursuant to this Act has no effect with respect to persons not parties to the action in which the order was granted until it is registered or recorded. 2001, c. 6, s. 54.

Leases

57 (1) A lease of a registered parcel may be evidenced by recording a lease or a notice of lease.

(2) A lease that has been recorded or with respect to which notice of lease has been recorded is not valid against the holder of any other interest in the parcel unless

(a) the lease or the notice of lease was recorded before the other interest;

(b) the holder of the interest has consented in writing to the lease; or

(c) the holder of the interest adopts the lease.

(3) A right of the lessee to purchase a parcel or extend or renew the term of the lease or to expand or contract the premises leased may be set out in the lease or notice of lease and, where they are not so set out, are not binding on persons who did not sign the lease.

(4) A lessee may, with the consent of the lessor, surrender a lease that has been recorded or with respect to which notice of lease has been recorded, by the recording of a surrender of lease.

(5) A lease for a period of three years or less need not be recorded and subsection (2) does not apply to the lease if there is actual possession under the lease that could be discovered through reasonable investigation. 2001, c. 6, s. 55.

Duty to refuse

58 (1) A registrar shall refuse to register or record a document if

(a) the prescribed fees are not paid;

(b) the document does not comply with this Act or the regulations;

(c) the registrar has reasonable and probable grounds to believe that the registration or recording might result in a registration or recording that is not in accordance with law;

(d) the Registrar General has ordered that no further registrations or recordings be made with respect to the parcel or with respect to a party to the document or a person attempting to register or record the document; or

(e) any of the requirements of this Act have not been met.

(2) Where the Registrar General determines that an error has been made in a registration or recording or that there is risk of an improper or fraudulent registration or recording being made the Registrar General may order that no further registrations or recordings be made with respect to

(a) a parcel;

(b) documents to which a named person is a party; or

(c) documents presented by, prepared by or certified by a named person,

and, thereupon, no further registration or recording may be made contrary to the order and no certificate of registered ownership may be issued with respect to any parcel identified in the order until the order has been rescinded.

(3) An order pursuant to subsection (2) must be recorded in the parcel register of each parcel identified in the order and must be removed from the register when rescinded. 2001, c. 6, s. 56.

Cancellation of recording

59 (1) The recording of an interest, other than a security interest, is cancelled

(a) when the interest may not be recorded pursuant to this Act;

(b) if the interest is recorded but not registered, when requested by the holder of the interest; and

(c) when the time for which the interest is effective has expired, subject to any recorded renewal, amendment or termination.

(2) Cancellation of the recording of an interest does not terminate the interest.

(3) Cancellation of the recording of an interest does not affect the priority of enforcement rights that accrued before the cancellation.

(4) An interest that is removed from a parcel register and any release or discharge of the interest must be preserved in an archive register. 2001, c. 6, s. 57; 2002, c. 19, s. 21.

Certificate of *lis pendens*

60 (1) A certificate of *lis pendens* in the prescribed form may be recorded with respect to the parcel described in it.

(2) A certificate of *lis pendens* may be removed from the parcel register on the earliest of

(a) cancellation of the recording;

(b) the recording of an order of the court dismissing the action or discharging the *lis pendens*;

(c) the recording of a certificate of a prothonotary of the court that the action was discontinued; and

(d) the expiration of five years from the recording of the certificate of *lis pendens*.

(3) A certificate of *lis pendens* must be signed by a prothonotary of the court in which the action affecting the parcel was commenced.

(4) A person filing or continuing a certificate of *lis pendens* without reasonable cause is liable to compensate any person who may have sustained damage as a result. 2001, c. 6, s. 58; 2002, c. 19, s. 22.

Personal Property Registry

61 (1) A registration in the Personal Property Registry is not a registration or recording pursuant to this Act.

(2) A security interest in a fixture and a security interest in a crop pursuant to the *Personal Property Security Act* may be recorded in the parcel register of the parcel that they affect.

(3) A security interest in a fixture and a security interest in a crop pursuant to the *Personal Property Security Act* must be removed from the parcel register on the earliest of the

- (a) cancellation of the recording;
- (b) expiration of the period for which the interest was recorded; and
- (c) recording of a discharge of the security interest. 2001, c. 6, s. 59; 2002, c. 19, s. 23.

Discharge of security interests

62 (1) Where there are reasonable and probable grounds to believe that

- (a) all of the obligations under the security interest have been performed;
- (b) the holder of the security interest has agreed to release all or part of the collateral;
- (c) the security interest does not affect the parcel in the parcel register; or
- (d) no security interest exists,

the debtor named in the security interest, a person who has or had a registered interest in the parcel to which the security interest purportedly relates or the lawyer of the debtor or the person with the registered interest may serve a written demand on the holder of the security interest, by registered mail or as otherwise prescribed, requiring the holder to discharge the interest so far as it relates to the parcel or to discharge the interest so far as it relates to the collateral agreed to be released or not included in the security interest.

(2) Where the secured party fails to comply with a demand made pursuant to subsection (1) within 30 days after it is served, the person making the demand may require the registrar to cancel or amend the recording in accordance with the demand upon proof of service of the demand.

(3) Notwithstanding subsection (2), a registrar may not cancel or amend a recording if an order of the court is provided by the secured party permitting the continuance of the recording on such terms as may be specified in the order.

(4) An order pursuant to subsection (3) must be recorded.

(5) After having been served with a demand pursuant to subsection (1), a secured party may apply to the Court and the Court may order the continuance of the registration as if the demand had not been made on such terms as the Court thinks just or may order the discharge or amendment of the security interest.

(6) No fee or expense may be charged by a secured party for compliance with a demand pursuant to subsection (1) unless the charge was agreed to by the parties before the demand was given. 2001, c. 6, s. 60; 2002, c. 19, s. 24; 2004, c. 38, s. 19; 2008, c. 19, s. 36.

Effect of condition and covenants

63 (1) Every successive owner of a parcel is affected with notice of a condition or covenant included in an instrument registered or recorded with respect to that land and is bound thereby if it is of such nature as to run with the land, but a condition or covenant may be modified or discharged by order of the court on proof to the satisfaction of the Court that

(a) the modification or discharge will be beneficial to the persons principally interested in the enforcement of the condition or covenant;

(b) the condition or covenant conflicts with the provisions of a land-use bylaw, municipal planning strategy or development agreement issued, made or established pursuant to an enactment and the modification or discharge is in the public interest; or

(c) the condition or covenant offends public policy or is prohibited by law.

(2) A registered owner may create, by grant or otherwise, a right-of-way, restrictive covenant or easement for the benefit of the registered owner and that right-of-way, restrictive covenant or easement may be recorded pursuant to this Act.

(3) Where dominant and servient tenement parcels are registered in the name of the same person, a right-of-way, restrictive covenant or easement referred to in subsection (2) is not merged by reason of the common ownership. 2001, c. 6, s. 61; 2002, c. 19, s. 25; 2004, c. 38, s. 20; 2008, c. 19, s. 21.

Dominate tenement may be unnecessary

64 (1) A person may, and is deemed always to have been able to, create, by grant or otherwise, in favour of

(a) the Crown or a Crown corporation or agency;

(b) a municipality;

(c) a public utility,

an easement, without a dominant tenement, for any purpose necessary for the operation and maintenance of the grantee's undertaking, including a right to flood.

(2) To the extent necessary to give effect to subsection (1), the rule requiring an easement to have a dominant and servient tenement is abrogated. 2008, c. 19, s. 22.

Assignments

65 (1) The right to have the recording of an interest cancelled or to postpone the enforcement of an interest may be assigned by the holder of the interest.

(2) The original holder may have a recording cancelled or postpone the enforcement of an interest unless an assignment of those rights is recorded.

(3) Any party to a recorded interest may record documents that amend, assign, renew, postpone, partially terminate, terminate or otherwise affect the recorded interest at any time before the recording is cancelled. 2001, c. 6, s. 62.

Cancellation

66 (1) The registered owner of a parcel may send a notice requiring cancellation of a recorded interest or a judgment referenced in the parcel register by serving notice on the holder of that interest or judgment to take proceedings in the Court to substantiate the interest or judgment.

(2) The notice pursuant to subsection (1) must include an affidavit outlining the basis for the objection and the reason why the recorded interest or judgment should be cancelled.

(3) This Section does not apply to

- (a) an interest that is registered;
- (b) a security interest;
- (c) an interest to which the registered owner has consented; or
- (d) a recording pursuant to a statute other than this Act.

(4) The Registrar General shall cancel the recording upon proof

(a) that 60 days have expired after the service of the notice pursuant to subsection (1) on the holder of the interest and, where the interest is a servitude, on the owner of every parcel identified in the recorded document as land to which the benefit of the servitude is annexed;

(b) that no certificate of *lis pendens* has been recorded by any person certifying that proceedings in Court have been commenced to substantiate the recorded interest; and

(c) that the person who caused the notice to be served is the registered owner of the parcel against which the recording to be cancelled was recorded.

(5) Notwithstanding clause (4)(a), the Court may, on *ex parte* application, shorten the period of 60 days to such period as the Court thinks just.

(6) An order shortening the 60-day notice period must be served with the notice.

(7) The notice must be served personally by registered mail directed to the address to which notices with respect to the recording are to be sent or in accordance with any directions given by the Court on *ex parte* application. 2001, c. 6, s. 63; 2002, c. 19, s. 26; 2004, c. 38, s. 21; 2008, c. 19, s. 23.

Liability

67 Where a recording

(a) is void because the interest did not qualify for recording under this Act; or

(b) was not cancelled at the request of the holder of the interest after the interest ceased to exist under law and the person affected by it had demanded its cancellation,

the holder of the recorded interest is liable to any person who sustains loss because of the initial recording or its continuance unless it was a registrar's recording or the Court finds that the initial recording or its continuance was reasonable under the circumstances. 2001, c. 6, s. 64.

Judgment roll

68 (1) A registrar shall establish a judgment roll for the registration district.

(2) A judgment creditor may record a judgment for the recovery of money in the judgment roll for a registration district.

(3) A judgment must be certified by the registrar, clerk or prothonotary of the court that issued it.

(4) A judgment recorded in a judgment roll binds and is a charge upon any registered interests of the judgment debtor within the registration district, whether acquired before or after the judgment is recorded, from the date the judgment is recorded until the judgment is removed from the roll. 2001, c. 6, s. 65; 2002, c. 19, s. 27; 2008, c. 19, s. 24.

Effect of judgment

69 (1) A judgment is a charge as effectively and to the same extent as a recorded mortgage upon the interest of the judgment debtor in the amount of the judgment.

(2) A judgment against one joint tenant does not sever the joint tenancy.

(3) A judgment against one owner of an interest does not extend to or bind the interests of the other owners.

(4) A judgment must be removed from the roll on the earliest of

(a) cancellation of the recording;

(b) the recording of a certificate of the registrar, prothonotary or clerk of the court that issued the judgment that the judgment was set aside;

(c) expiration of the time for which the judgment was recorded;

(d) the recording of a release of the judgment signed by the plaintiff, the lawyer for the plaintiff or the registrar, clerk or prothonotary of the court that issued the judgment; and

(e) the expiration of five years from the date of the judgment or the date of the recording of the latest renewal of the judgment.

(5) The recording of a judgment may be renewed not more than three times by recording a certificate of renewal signed by the judgment creditor or the lawyer, agent or attorney of the judgment creditor at any time before the judgment is removed from the roll.

(6) A judgment that is removed from the roll ceases to bind or be a charge upon any parcel in the registration district.

(7) The validity of any title acquired by a sale under a judgment is not affected by the removal of the judgment from the roll.

(8) A judgment does not affect a person's interest in any parcel if the person's name is materially different from that of the judgment debtor.

(9) For the purpose of this Section, service must be by registered mail or as prescribed. 2001, c. 6, s. 66; 2002, c. 19, s. 28; 2008, c. 19, ss. 25, 36.

Material difference in names

70 (1) In subsection (2),

(a) "given name" includes an initial used in the place of a given name; and

(b) an initial and a given name are considered to be commonly used variations of each other only where the initial is the same as the first letter of the given name.

(2) In this Act, there is a material difference in names if

(a) the surname of the debtor named in the judgment certificate at the time the judgment is entered is not identical to the name being compared;

(b) there is not any given name in one name that is identical to or a commonly used variation of any given name in the other name;

(c) one name contains the same number of given names as the other name but one of the given names in one name is not identical to or a commonly used variation of any of the given names in the other name; or

(d) one name contains fewer given names than the other name but one of the given names in the name with the fewer given names is not identical to or a commonly used variation of any of the given names in the other name. 2008, c. 19, s. 26.

Contents of recording of judgment

71 (1) The recording of a judgment must contain the names and addresses of the parties to the action and, in the case of a judgment creditor, must include an address at which the judgment creditor may be served and, in the case of a judgment debtor, must include such information as tends to distinguish the judgment debtor from all other persons of the same or similar names.

(2) A certificate of judgment must contain the amount recovered and the names of the lawyers for the parties, if any.

(3) A certificate of judgment must be certified under the hand of the registrar, clerk or prothonotary of the court that issued it, under the seal of the Court, and, when so certified, must be accepted by the registrar for recording without further proof.

(4) The name of a judgment creditor must be sufficiently detailed and accurate as to permit the name to be distinguished from all other like names and must comply with the prescribed standards.

(5) The registrar may not accept for recording a judgment that does not comply with the prescribed standards. 2001, c. 6, s. 67; 2008, c. 19, s. 36.

Right to require confirmation

72 (1) Any person may require a judgment creditor who has recorded a judgment in the judgment roll to provide, without charge, confirmation that the person is or is not a judgment debtor referred to in the judgment and that the judgment is or is not satisfied.

(2) A request pursuant to subsection (1) must include sufficient information concerning the person making the request to permit the judgment creditor to accurately determine whether the person making the request is or is not the judgment debtor and, for that purpose, the judgment creditor may, within seven days after receipt of the request, require further particulars concerning the person making the request.

(3) Where the judgment creditor does not provide the information required by subsection (1) within 10 days after the request was received, or within 10 days after the additional information requested was received, upon recording an affidavit containing proof that the request was sent to the judgment creditor at the address shown on the judgment roll, that there was no request for further information or that the request was complied with and that no further information was received, the judgment has no effect with respect to any parcel owned by the person making the request.

(4) The registrar shall cancel the recording of a judgment upon receipt of a certificate from the registrar, prothonotary or clerk confirming that sufficient funds have been paid into court to satisfy the judgment and that the judgment creditor has been notified of the payment into court. 2001, c. 6, s. 68; 2002, c. 19, s. 29; 2008, c. 19, s. 27.

Recording of certain documents

73 (1) The assignment of a recorded judgment may be recorded.

(2) The original judgment creditor may release or postpone the judgment unless an assignment of the judgment is recorded.

(3) A judgment may be released in whole or in part, as to some or all of the land affected by it, by the recording of a full or partial release. 2001, c. 6, s. 69.

Builders liens

74 Filing or recording a builders lien or a certificate of *lis pendens* pursuant to the *Registry of Deeds Act* has no effect with respect to a parcel registered pursuant to this Act. 2001, c. 6, s. 70; 2002, c. 19, s. 30.

Attachment order

75 (1) An interest levied upon pursuant to an attachment order is bound by the order from the time a certified copy of the order and of the legal description of the interest levied upon is recorded.

(2) The interest continues to be bound by the order until discharged by order of the court or until 30 days after final judgment has been signed in the action, and the judgment, where recorded before the expiration of the 30 days, binds the interest from the date the attachment order was recorded. 2001, c. 6, s. 71; 2004, c. 38, s. 26.

Powers of attorney

76 (1) Every registrar shall establish an attorney roll for the registration district.

(2) Any person may record a power of attorney in the attorney roll for a registration district.

(3) A power of attorney recorded in an attorney roll is valid with respect to any dealing with any recorded or registered interest of the person granting the power of attorney within the registration district, whether acquired before or after the power of attorney is recorded.

(4) A registrar may not accept for registration or recording any document signed by an attorney for a person unless the power of attorney is recorded in the attorney roll or the parcel register of the parcel to which the document relates, or the power of attorney is included with the document.

- (5) A power of attorney may
- (a) be recorded in the attorney roll;
 - (b) be recorded in a parcel register; or
 - (c) be included in the document to which it relates.

(6) A power of attorney that is included in the document to which it relates does not authorize the registration or recording of any other document pursuant to subsection (4).

(7) Where a power of attorney includes conditions that must be met before it has effect, or names an alternative attorney, a registrar and any other

person may assume for all purposes that the conditions have been met and that the person acting under the power of attorney is authorized to so act. 2001, c. 6, s. 72.

Priority of certain interests

77 (1) Notwithstanding anything contained in this Act, the following interests, whether or not recorded or registered, and no other interests, must be enforced with priority over all other interests according to law:

- (a) an interest of the Crown in right of the Province that was reserved in or excepted from the original grant of the fee simple absolute from the Crown, or that has been vested in the Crown pursuant to an enactment;
- (b) a lien in favour of a municipality pursuant to an enactment;
- (c) a leasehold for a term of three years or less if there is actual possession under the lease that could be discovered through reasonable investigation;
- (d) a utility interest;
- (e) an easement or right-of-way that is being used and enjoyed;
- (f) any right granted by or pursuant to an enactment of Canada or the Province
 - (i) to enter, cross or do things on land for the purpose expressed in the enactment,
 - (ii) to recover municipal taxes, duties, charges, rates or assessments by proceedings in respect of land,
 - (iii) to control, regulate or restrict the use of land, or
 - (iv) to control, regulate or restrict the subdivision of land;
- (g) a lien for assessments pursuant to the *Workers' Compensation Act*;
- (h) an interest created by or pursuant to a statute that expressly refers to this Act and expressly provides that the interest is enforceable with priority other than as provided in this Act.

(2) Notwithstanding clause (1)(f), a designation pursuant to the *Beaches Act* is not an overriding interest and has no effect with respect to a parcel registered pursuant to this Act until it has been recorded in the parcel register for that parcel. 2001, c. 6, s. 73; 2002, c. 19, s. 31.

Adverse possession and prescription

78 (1) Except as provided by Section 79, no person may obtain an interest in any parcel registered pursuant to this Act by adverse possession or prescription unless the required period of adverse possession or prescription was completed before the parcel was first registered.

(2) Any interest in a parcel acquired by adverse possession or prescription before the date the parcel is first registered pursuant to this Act is absolutely void against the registered owner of the parcel in which the interest is claimed 10 years after the parcel is first registered pursuant to this Act, unless

- (a) an order of the court confirming the interest;
- (b) a certificate of *lis pendens* certifying that an action has been commenced to confirm the interest;
- (c) an affidavit confirming that the interest has been claimed pursuant to Section 37 of the *Crown Lands Act*; or
- (d) the agreement of the registered owner confirming the interest,

has been registered or recorded before that time. 2002, c. 19, s. 32; 2004, c. 38, s. 22.

Limit on land acquired

79 (1) The owner of an adjacent parcel may acquire an interest in part of a parcel by adverse possession or prescription after the parcel is first registered pursuant to this Act, if that part does not exceed 20% of the area of the parcel in which the interest is acquired.

(2) An owner of an undivided interest in a parcel may acquire the whole interest in the parcel by adverse possession or prescription after the parcel is first registered pursuant to this Act.

(3) For the purpose of this Section, adverse possession and prescription include time both before, on and after March 24, 2003. 2001, c. 6, s. 75; 2002, c. 19, s. 33.

Lasting improvements

80 (1) In this Section, “person” includes a person and that person’s heirs, executors, administrators, successors or assigns.

(2) Where a person makes lasting improvements on land under the belief that it is the person’s own, the Court may, on the application of either the person making the improvement or the person to whom the land belongs,

- (a) require the person making the improvement to remove it or abandon it;
- (b) require the person making the improvement to acquire an easement, either limited in time or not, from the person to whom the land belongs, in the amount and on such terms as the Court thinks just;
- (c) require the person making the improvement to acquire the land on which it was made from the person to whom the land belongs, in the amount and on such terms as the Court thinks just; or
- (d) require the person to whom the land belongs to compensate the person making the improvement for the amount by which the improvement has enhanced the value of the land to the owner of it, in the amount and on such terms as the Court thinks just.

(3) Where it is found that a building on land encroaches on adjoining land the Court may, on the application of either the registered owner of the land on which the building is located or the registered owner of the land on which the building encroaches,

(a) require the owner of the building to remove or abandon the encroachment;

(b) require the owner of the building to acquire an easement, either limited in time or not, from the person to whom the land belongs, in the amount and on such terms as the Court thinks just;

(c) require the owner of the building to acquire the land on which it was made from the person to whom the land belongs, in the amount and on such terms as the Court thinks just.

(4) An acquisition of land pursuant to this Section is not a subdivision within the meaning of the *Municipal Government Act*.

(5) Any application to the Court pursuant to this Section must include a plan of survey of the lands that are the subject of the application. 2001, c. 6, s. 76.

Service of notices

81 (1) Every instrument assigning or claiming an interest in or a right relating to or affecting the title to land or to any interest in land presented for registration or recording must have endorsed on it or annexed to it the mailing address of the transferee or claimant.

(2) Any document affecting the title to land to which the consent of the registered owner is not affixed must include an address of the transferee or claimant.

(3) A person may notify the registrar in writing of a change of name or address.

(4) All current addresses of a person shown in a parcel register are the addresses for service of all notices and documents given pursuant to this Act.

(5) Any notice to be served pursuant to this Act is sufficiently served if it is served personally or is sent by registered mail directed to the address to which notices with respect to the registration or recording are to be sent or in accordance with any directions given by the Court. 2001, c. 6, s. 77; 2002, c. 19, s. 34.

Effect of lack of seal or consideration

82 Any instrument submitted for registration or recording is validly executed and must be registered or recorded, notwithstanding that it is not under seal and notwithstanding that it does not specify, or is not given for, good or valuable consideration. 2001, c. 6, s. 78.

Proof of execution

83 (1) A registrar shall accept for registration or recording every instrument that may be registered or recorded pursuant to this Act that includes a certificate of execution to the effect that

(a) at least one party executing the instrument has sworn or affirmed that the party executed the instrument;

(b) the person who signed the instrument as a witness has sworn or affirmed that at least one of the parties to the instrument signed it in the presence of the witness; or

(c) at least one of the parties to the instrument signed it in the presence of a person authorized by this Act to sign the certificate of execution.

(2) Where the instrument is executed within the Province, the certificate of execution may be signed by, and the affidavit sworn to or affirmed before,

(a) a registrar;

(b) a judge of the Supreme Court of Nova Scotia or of the Nova Scotia Court of Appeal;

(c) a notary public;

(d) a barrister of the Supreme Court of Nova Scotia;

(e) a justice of the peace;

(f) a commissioner of the Supreme Court of Nova Scotia;

(g) any person authorized to administer an oath or to take and receive an affidavit, affirmation or declaration within the Province for use within the Province.

(3) Where the instrument is executed outside the Province, the certificate of execution may be signed by, and the affidavit sworn to or affirmed,

(a) where made in another province, before

(i) a judge of any court of record,

(ii) a person authorized to take affidavits in the province for use in any court of record in that province,

(iii) a notary or notary public,

(iv) a commissioned officer in the Canadian Armed Forces on active duty, or

(v) any person authorized by the laws of the Province to take affidavits for the Supreme Court of Nova Scotia; or

(b) where made in any foreign country, before

(i) any officer of the Canadian or British diplomatic or consular services, including an ambassador, high commissioner, permanent delegate, envoy, minister, chargé d'affaires, counsellor, secretary, attaché, consul general, con-

sul, vice-consul, pro-consul, honorary consul or consular agent and any person acting for any of them,

(ii) a Canadian Government Trade Commissioner or Assistant Canadian Government Trade Commissioner,

(iii) a judge of any court of record,

(iv) a notary or notary public,

(v) a commissioned officer in the Canadian Armed Forces on active duty, or

(vi) any person authorized by the laws of the Province to take affidavits for the Court.

(4) Where an instrument is executed outside the Province, the official seal or stamp of a notary or notary public who signed the certificate of execution or who took the affidavit is sufficient proof that the person is a notary or notary public.

(5) Where an instrument is executed outside the Province, a certificate of the person who signed the certificate of execution or who took the affidavit to the effect that the person is one of the persons named in subsection (2) or (3) is sufficient proof of the person's authority to do so for purpose of registering or recording the instrument without the need for a seal or stamp.

(6) This Section does not apply to

(a) a grant from the Crown;

(b) an order in council;

(c) a regulation filed pursuant to the *Regulations Act*;

(d) an instrument under the seal of a corporation;

(e) an order of a court or judge of the Province;

(f) a certificate of judgment, an execution order or an attachment order;

(g) a certificate of *lis pendens* issued by a Nova Scotia court;

(h) an instrument executed by a Minister of the Crown or by a person authorized by the Minister to execute the instrument;

(i) a claim for lien under the *Builders Lien Act*;

(j) an instrument or document that, pursuant to the regulations, does not require a certificate of execution;

(k) an instrument, including any instrument executed before March 24, 2003, that is provided for under another Act, its predecessor or a regulation and that does not under that Act or regulation require a witness to the instrument. 2001, c. 6, s. 79; 2004, c. 38, s. 23.

Ineligibility as witness

84 An individual is not eligible to be a witness to an instrument executed on or after March 24, 2003, if that individual is

- (a) a party to the instrument; or
- (b) a spouse who consents to the instrument pursuant to the *Matrimonial Property Act*. 2001, c. 6, s. 80.

Prohibition of registration or recording

85 A registrar may not register or record an instrument executed on or after March 24, 2003, if the individual who signed the certificate of execution for that instrument is

- (a) a party to the instrument; or
- (b) a spouse who consents to the instrument pursuant to the *Matrimonial Property Act*. 2001, c. 6, s. 81.

Effect of failure to comply

86 Failure to comply with an attestation requirement under this or another Act, its predecessor or a regulation does not, for that reason only, affect the validity of any instrument, whether or not it is recorded or registered. 2001, c. 6, s. 82.

Execution by corporation

87 An instrument executed by a corporation, notwithstanding anything to the contrary in the statute, incorporating documents, charter or memorandum and articles of association of the corporation, is, for the purpose of this Act, deemed to be sufficiently executed if the instrument is

- (a) sealed with the corporate seal of the corporation and countersigned by at least one officer or director of the corporation; or
- (b) executed by at least one officer or director of the corporation
 - (i) whose signature is attested to pursuant to Section 83, and
 - (ii) who verifies by affidavit authority to execute the instrument on behalf of the corporation and thereby bind the corporation. 2001, c. 6, s. 83.

Court authorized registration or recording

88 On being satisfied of the due execution of an instrument, the Court may authorize its registration or recording, notwithstanding that the proof of the execution is absent or defective. 2001, c. 6, s. 84.

Compensation

89 (1) Subject to subsection (4), subsection 34(7) and Section 90, a person is entitled to compensation if the person sustains a loss

- (a) due to an error or omission in a parcel register;
- (b) because the person has an interest referred to in Section 41 and the parcel in which the interest is held has been registered pursuant to this Act free of that interest; or
- (c) for which the person has obtained an order for compensation pursuant to Section 34.

- (2) Compensation is the aggregate of
- (a) the market value of the interest lost or a family home for a family home determined according to the principles set out in the *Expropriation Act*;
 - (b) reasonable costs, expenses and losses arising out of or incidental to the person's disturbance, if any;
 - (c) damages for injurious affection to remaining lands of the person arising from the loss of the interest;
 - (d) any reduction in value of the interest due to its priority having been subordinated; and
 - (e) the value of any special economic value of the interest.

(3) Compensation is determined as of the earlier of the date on which the person submits a claim for compensation to the Registrar General and the date on which the person commences an action for compensation.

(4) Notwithstanding the *Real Property Limitations Act*, a person loses the right to compensation if, within six years after the person learns that a loss may have been sustained, or within such additional time as the Registrar General may agree, that person does not either enter into an agreement with the Registrar General providing for compensation or commence an action for compensation. 2001, c. 6, s. 85; 2008, c. 19, s. 28.

Restriction on right to compensation

90 (1) A person is not entitled to compensation for a loss pursuant to subsection 89(1) if the loss was sustained because

- (a) the person caused or effected the error, omission or registration that caused the loss;
- (b) the person had actual knowledge of a right to request correction of the error, omission or registration and failed to request a correction within a reasonable time;
- (c) the person took an action or failed to take an action either after they had actual knowledge of the error, omission or registration or after the error, omission or registration would have been apparent to a reasonable person;
- (d) a recorded interest in the parcel register has lost validity or changed effect due to matters of fact or law subsequent to the recording of the interest;
- (e) there is a discrepancy between the legal description or Provincial mapping in the register and the actual location, boundaries or extent of the parcel in question;
- (f) an overriding interest was not recorded in the register;
- (g) there is an error in a mailing address in the register;
- (h) there is an error in information included in the register pursuant to subsection 13(2);

- (i) there was an interruption in the availability of services at a land registration office or of access to Property Online; or
 - (j) it resulted from a loss sustained by anyone as a result of non-compliance with Section 14 of the *Condominium Act*.
- (2) A person's entitlement to compensation for a loss pursuant to subsection 89(1) must be reduced by the amount of the loss sustained because
- (a) the person caused or effected, in whole or in part, the error, omission or registration;
 - (b) the person failed to request a correction of the error, omission or registration within a reasonable time after the person had actual knowledge of the right to request a correction;
 - (c) the person failed to submit a claim to the Registrar General for compensation or commence an action for compensation within a reasonable period of time after the person had actual knowledge of a right to submit a claim or commence an action; or
 - (d) the person took an action or failed to take an action either after the person had actual knowledge of the error, omission or registration or after the error, omission or registration would have been apparent to a reasonable person. 2008, c. 19, s. 29; 2009, c. 10, s. 30.

Claims for compensation

91 (1) A person who claims to be entitled to compensation may submit a claim in writing to the Registrar General.

(2) The Registrar General shall investigate a person's claim and may, after consideration of written or oral submissions,

- (a) accept the person's claim in whole or in part and determine the amount of compensation owing;
- (b) reject the person's claim in whole or in part; or
- (c) direct the person to pursue a remedy available under this Act, including taking a proceeding under this Act, before continuing with the claim.

(3) Where the Registrar General is satisfied that the person is entitled to compensation, the Registrar General may enter into an agreement with the claimant providing for the payment of compensation and the reasonable expenses of bringing and proving the claim and interest in the amounts set out in or determined according to the agreement.

(4) Upon entering into an agreement,

(a) the Registrar General shall certify to the Minister of Finance and Treasury Board that the person is entitled to the various amounts determined pursuant to the agreement;

(b) the person is entitled to compensation and the Minister of Finance and Treasury Board shall pay the amounts set out in or determined pursuant to the agreement;

(c) the person ceases to be entitled to payment under this Act except as provided in the agreement; and

(d) all causes of action arising from the loss, except those based on fraud, are extinguished. 2001, c. 6, s. 87; 2008, c. 19, s. 30.

Action for compensation

92 (1) A person who claims to be entitled to compensation may commence an action against the Registrar General.

(2) The Court may

(a) declare that the person is entitled to compensation;

(b) determine the amount of or a method of determining the compensation, interest and costs to which the person is entitled;

(c) stay the action and direct the person to pursue a remedy available under this Act, including taking a proceeding under this Act, before continuing the action;

(d) dismiss the action, with or without costs.

(3) Where the Court, by order made pursuant to subsection (2), declares that a person is entitled to compensation and orders that compensation be paid to that person in the amount set out in the order or in the amount that is arrived at according to the method set out in the order, and the order becomes final by lapse of time or by being upheld by the highest authority to which an appeal is taken or where the highest authority to which an appeal is taken upholds the order to the extent that the order declares that the person is entitled to compensation, but varies the amount of compensation or the method whereby the amount of compensation is determined,

(a) the person is entitled to, and the Minister of Finance and Treasury Board shall pay, compensation in the amount set out in the order or calculated in accordance with the method set out in the order, subject to any variation ordered by the highest authority to which any appeal is taken;

(b) the person ceases to be entitled to payment under this Act except as provided in the order with any variation; and

(c) all causes of action arising from the loss, except those based on fraud, are extinguished. 2001, c. 6, s. 88; 2008, c. 19, s. 31.

Liability to Crown for compensation paid

93 (1) Where a loss for which compensation is payable is caused in whole or in part by the wrongful act of any person, that person is liable to the Crown in right of the Province for the amount of the compensation or for such portion thereof as the Court finds to be just and equitable, having regard to the extent of that person's responsibility for the loss.

(2) Liability under subsection (1) may be enforced by

(a) the Registrar General joining that person in an action brought against the Registrar General for compensation; or

(b) the Minister of Finance and Treasury Board in an action brought against the person. 2001, c. 6, s. 89.

Appeal to Registrar General

94 (1) A person who objects to and is aggrieved by the decision of a registrar respecting the administration of this Act may appeal in writing to the Registrar General.

(2) An appeal must be submitted to the Registrar General within 30 days of the decision appealed from.

(3) The Registrar General shall investigate the decision being appealed and the facts surrounding the decision and may, after consideration of written or oral submissions, confirm the registrar's decision or order the registrar to do any action that the registrar is required or authorized to do under this Act.

(4) The Registrar General's decision must be in writing.

(5) A decision of the Registrar General pursuant to this Section is final. 2008, c. 19, s. 32.

Application for direction

95 (1) The Registrar General may apply to the Court for directions with respect to any matter concerning the duties of the Registrar General or a registrar pursuant to this Act.

(2) On an application pursuant to subsection (1), the Court may give any direction and make any order that it thinks just. 2001, c. 6, s. 91.

Court orders

96 (1) Subject to this Act, in any proceeding with respect to a parcel registered pursuant to this Act, the Court may order a registrar to

- (a) record an interest;
- (b) cancel a recording;
- (c) revise the priority of recordings;
- (d) revise a registration;
- (e) take any other action that the Court thinks just.

(2) Any order pursuant to subsection (1) must be recorded in the parcel register of any affected parcel. 2001, c. 6, s. 92; 2008, c. 19, s. 33.

Notice to and intervention by Registrar General

97 (1) A person commencing a proceeding affecting a parcel registered pursuant to this Act, or the administration of this Act, shall provide written notice to the Registrar General at the time the proceeding is commenced.

(2) The Registrar General may, at the Registrar General's sole discretion, intervene in or become a party to the proceeding referred to in subsection (1). 2008, c. 19, s. 34.

Regulations by Governor in Council

98 (1) The Governor in Council may make regulations required to achieve the purpose of this Act and, in particular, regulations

- (a) establishing land registration districts, dividing or combining land registration districts and changing the boundaries of land registration districts;
- (b) prescribing the location of land registration offices;
- (c) prescribing a class of persons who may perform the duties or exercise the powers of a registrar, specifying which powers may be exercised and any conditions under which the powers may be exercised;
- (d) prescribing fees for services in relation to this Act;
- (e) prescribing the circumstances in which a registrar may waive all or part of the prescribed fees;
- (f) defining any term used, but not defined, in this Act;
- (g) required for the effective implementation and continuation of a land titles system.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*, 2001, c. 6, s. 93; 2011, c. 20, s. 3.

Regulations by Minister

99 (1) The Minister may make regulations

- (a) prescribing forms required for the administration of this Act;
- (b) setting out the requirements for verification of documents submitted to obtain the revision of a registration or the cancellation of a recording;
- (c) respecting registrations and recordings;
- (d) respecting forms;
- (e) respecting certificates of execution;
- (f) respecting agreements made pursuant to this Act;
- (g) respecting the circumstances and manner in which errors or omissions in a parcel register may be corrected;
- (h) prescribing the form and content of registers;
- (i) prescribing restrictions on the ability to examine or copy the contents of a register;
- (j) establishing the procedure for applications to revise a registration or cancel a recording;
- (k) prescribing the manner in which names and other particulars in documents submitted for recording or registration must appear;

(l) prescribing information required to be included with an application for initial registration of a parcel pursuant to this Act;

(m) establishing requirements for certification of registers or any documents contained in a register;

(n) requiring every document submitted for registration or recording to be accompanied by a page identifying the parcel affected by parcel identification number, the names of the grantees in the form in which they are to be indexed, a precise identification of the nature of the document, including references to registry numerical coding, and such other information as may be prescribed;

(o) prescribing the manner in which documents may be electronically registered or recorded;

(p) prescribing the manner in which electronically registered or recorded documents may be verified, including the use of digital signatures of the parties or of the official completing the certificate of execution or any other certification authorized by this Act or any affidavit included in the instrument or authorized by this Act;

(q) requiring some or all documents in some or all registries to be submitted for registration or recording in electronic or other form;

(r) respecting any matter necessary to accommodate changes in technology;

(s) defining any term used, but not defined, in this Act;

(t) for the more effective administration of this Act.

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

(3) Subject to the approval of the Governor in Council, the Minister may enter into agreements prescribing the terms and conditions under which the members of a profession may perform prescribed duties of a registrar and the agreements may contain provisions respecting the standards that the members of the profession must meet, the manner of enforcement of the standards, the liability of the members to the Registrar General and such other matters respecting the implementation and administration of this Act as may be expedient. 2001, c. 6, s. 94; 2004, c. 38, s. 24; 2008, c. 19, s. 35.

Powers of Registrar General

100 (1) The Registrar General may

(a) prescribe standard forms of instruments that may be incorporated by reference in an instrument;

(b) prescribe standard terms or clauses that may be incorporated by reference in an instrument;

(c) require mortgagees or other holders of security interests to file standard charge terms.

(2) Any forms, terms or clauses prescribed or filed pursuant to subsection (1) must be maintained in a standard charge terms roll accessible at every land registration office.

(3) Where standard charge terms have been filed, no charge executed after 30 days after the filing that includes the standard terms may be recorded without the consent of the Registrar General.

(4) Where the Registrar General has required the filing of standard charge terms, and the terms have not been filed within 90 days thereafter, the Registrar General may direct that no security interest in favour of the party in default may be accepted for recording.

(5) The exercise of the authority conferred on the Registrar General by this Section is not a regulation. 2001, c. 6, s. 95.

Designation

101 (1) Sections 2 to 67 and 74 to 100 only apply within a county designated by the Governor in Council.

Annapolis County	-	March 1, 2004
Antigonish County	-	December 1, 2003
Cape Breton County	-	March 1, 2005
Colchester County	-	March 24, 2003
Cumberland County	-	December 1, 2003
Digby County	-	March 1, 2004
Guysborough County	-	March 1, 2005
Halifax County	-	December 1, 2004
Hants County	-	March 1, 2004
Inverness County	-	March 1, 2005
Kings County	-	March 1, 2004
Lunenburg County	-	March 1, 2005
Pictou County	-	December 1, 2003
Queens County	-	March 1, 2005
Richmond County	-	March 1, 2005
Shelburne County	-	March 1, 2005
Victoria County	-	March 1, 2005
Yarmouth County	-	March 1, 2005

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2001, c. 6, s. 128.

CHAPTER L-5

**An Act Respecting
Nova Scotia Land Surveyors**

Table of Contents

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

	Section
Short title.....	1
Interpretation.....	2
Association	
Association of Nova Scotia Land Surveyors	3
Powers of Association	4
Exercise of powers	5
Annual meeting and annual report.....	6
Council.....	7
Quorum	8
Council to govern Association	9
Executive.....	10
Executive Director	11
Regulations.....	12
Bylaws.....	13
Available for inspection	14
Standards of Practice and Code of Ethics	15
Board of Examiners	16
Registration	
Register	17
Membership categories	18
Members.....	19
Use of designation.....	20
Prohibition on practice.....	21
Action to collect fees.....	22
Proof of membership.....	23
Imposition of conditions or restrictions	24
Register entries.....	25
Removal of member from roster.....	26
Offences and penalties	27
Injunction respecting violation.....	28
Examination of Witnesses and Entry on Land	
Refusal to inform member	29
Right of entry on land and liability	30
Oath or affidavit taken by member	31
Obstruction of member	32
Corporate Permits	
Corporate permit	33
Exceptions	34
Effect of corporate relationship to member	35
Liability under corporate permit	36
Compellable witnesses.....	37
Power to investigate	38
Corporate offences and penalty.....	39
Suspension	40

Professional Conduct

Non-members subject to professional conduct process	41
Complaints Committee	42
Initiation of complaint	43
Powers of Complaints Committee	44
Complaints Committee procedure	45
Jurisdiction over matter	46
Publication ban	47
Written decision	48
Rights of respondent	49
Duty to disclose	50
Complaints to be confidential	51
Hearing committee	52
Setting and notification of hearing date	53
Service	54
Settlement proposals	55
Powers of Hearing Committee	56
Inadmissibility of evidence before Hearing Committee	57
Rights of parties	58
Finding of misconduct and revocation of membership	59
Reinstatement Committee	60
Rights of member	61
Notification of registration sanction	62
Reinstatement of member	63
Retaining legal or other assistance	64
Right of appeal and procedure on appeal	65
Member duty to report	66
Non-payment of fine	67

Miscellaneous

Offence	68
No action lies	69
Additional members to obtain quorum	70
Standards of Practice and Code of Ethics continue	71
Application of Act to engineer	72

Short title

1 This Act may be cited as the *Land Surveyors Act*. 2010, c. 38, s. 1.

Interpretation

2 In this Act,

“active member” means a person whose name is entered on the Register and in the active membership roster and who is authorized to practise professional land surveying in the Province;

“Association” means the Association of Nova Scotia Land Surveyors constituted by this Act;

“Board” means the Board of Examiners of the Association appointed by the Council to carry out the registration functions as set out in this Act, the regulations and the bylaws;

“bylaw” means a bylaw of the Association;

“candidate” means a person who has met the criteria for entry in the candidate roster pursuant to the regulations and who has entered a period of articles with an active member as approved by the Board;

“Code of Ethics” means a document approved by the members setting out the minimum ethical expectations of a Nova Scotia Land Surveyor;

“competence” means the ability to integrate and apply the knowledge, skills and judgement required to practise safely and ethically in a designated role and practice setting and includes both entry-level and continuing competencies;

“complaint” means a notice in writing pursuant to subsection 43(1), indicating possible professional misconduct, conduct unbecoming, incompetence or incapacity of a member;

“Complaints Committee” means the Complaints Committee appointed pursuant to this Act;

“conduct unbecoming” means conduct in a member’s personal or private capacity that tends to bring discredit upon professional land surveying;

“corporate permit” means a corporate permit issued pursuant to Section 33 and the regulations;

“Council” means the Council of the Association;

“Executive” means the members of the Executive as set out in the regulations;

“Executive Director” means the Executive Director appointed by the Council, who may be an employee, consultant, independent contractor or agent appointed by Council;

“former Act” means Chapter 249 of the Revised Statutes, 1989, the *Land Surveyors Act*;

“hearing” means a process before the Hearing Committee, following the issuance of a notice of hearing, in which the parties lead evidence and make submissions to the Hearing Committee, and does not include the consideration by the Hearing Committee of a settlement proposal or an application for consent revocation and does not include any proceeding before the Complaints Committee;

“Hearing Committee” means the Hearing Committee appointed pursuant to this Act;

“incapacity” means the status whereby a respondent, at the time of the subject-matter of a complaint, suffered from a medical, physical, mental or emotional condition, disorder or addiction that rendered the respondent unable to practise professional land surveying with reasonable skill or judgement or that may have endangered the safety of clients;

“incompetence” means the display of lack of knowledge, skill or judgement in the respondent’s delivery of professional land-surveying services that, having regard to all the circumstances, falls below the expected standard of practice;

“investigator” means a member of the Complaints Committee assigned to conduct an investigation or a person designated by the Complaints Committee to conduct or supervise an investigation into a complaint;

“legal proceeding” means any civil proceeding, discovery, inquiry, proceeding before any tribunal, board or commission or arbitration, in which evidence is or may be given, and includes an action or proceeding for the

imposition of punishment by fine, penalty or imprisonment for the violation of a Provincial enactment, but does not include any proceeding or hearing conducted pursuant to this Act or the regulations;

“life member” means a life member appointed pursuant to the bylaws;

“member” means, unless the context otherwise requires, a person whose name is entered on the Register;

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

“Nova Scotia Land Surveyor” means a professional land surveyor who is an active member of the Association, or is otherwise authorized pursuant to the bylaws to use the designations set out in Section 20;

“party” means the Association or a respondent as the context requires;

“professional conduct process” means the processes described in this Act and in the regulations respecting professional conduct;

“professional corporation” means one or more land surveyors incorporated pursuant to the laws of the Province for the purpose of engaging in professional land surveying, and includes an association of persons or a partnership engaged in the practice of professional land surveying;

“professional development program” means a program approved by the Council or its delegate providing credits for the attendance of members at programs and conferences, and participation in other activities of a professional development nature;

“professional land surveying” means the advising on, the reporting on, the supervising of or the conducting of surveys to determine the horizontal and vertical position of any point and the direction and length of any line required to control, establish, locate, define or describe the extent or limitations of title;

“professional land surveyor” means a person who is registered or licensed by a professional surveying body or organization to carry out the activities of professional land surveying;

“professional misconduct” includes such conduct or acts relevant to professional land surveying that, having regard to all of the circumstances, would reasonably be regarded as disgraceful, dishonourable or unprofessional, including

- (a) failing to maintain the Standards of Practice;
- (b) failing to uphold the Code of Ethics adopted by the Association;
- (c) publishing or causing to be published any advertisement that is false, fraudulent, deceptive or misleading;
- (d) engaging or assisting in fraud, misrepresentations, deception or concealment of a material fact when applying for or securing registration to practise professional land surveying or taking any examination provided for in this Act, including using fraudulently procured credentials; and
- (e) taking or using the designation “Nova Scotia Land Surveyor”, or any derivation or abbreviation thereof, or describing a person’s activities as professional land surveying in any advertise-

ment or publication, including business cards, websites or signage, unless the referenced activity falls within the meaning of professional land surveying under this Act;

“public representative” means a member of the Board, the Council or a committee established by the Board or the Council who is not a member of the Association and who is not a professional land surveyor;

“Register” means the permanent list, documentation or database in which the names of the members of the Association are entered upon being admitted to the Association by the Board and in which all historical facts and records are kept with respect to the members;

“registration” means the process by which an applicant for membership in the Association becomes an initial member of the Association, and maintains membership on an annual basis;

“Registration Appeal Committee” means the Registration Appeal Committee appointed pursuant to this Act;

“registration examination” means such examination or examinations as may be approved by the Board as a prerequisite for qualification as a Nova Scotia Land Surveyor;

“registration sanction” means

(a) the imposition of conditions or restrictions on a member’s registration by the Complaints Committee or the Hearing Committee or their equivalent in another jurisdiction;

(b) a consent reprimand ordered by the Complaints Committee or its equivalent in another jurisdiction;

(c) a reprimand issued by the Hearing Committee or its equivalent in another jurisdiction;

(d) a suspension of a member’s registration by the Complaints Committee or the Hearing Committee or their equivalent in another jurisdiction; or

(e) a revocation of registration by the Hearing Committee or its equivalent in another jurisdiction;

“Reinstatement Committee” means the Reinstatement Committee appointed pursuant to this Act;

“respondent” means the person who is the subject of a complaint or the subject of a registration appeal pursuant to the regulations;

“roster” means the record of the category of membership established pursuant to this Act or the regulations;

“settlement proposal” means a proposal for the settlement of a complaint as prescribed in the regulations;

“Standards of Practice” means the minimum professional practice expectations for any Nova Scotia Land Surveyor in any setting or role, approved by the members;

“witness” includes every person who, in the course of a legal proceeding, is examined for discovery or is cross-examined upon an affidavit made by that person, answers any interrogatories or makes an affidavit as to

documents or is called upon to answer any questions or produce any document, whether under oath or not, and includes the Association or any representative of the Association. 2010, c. 38, s. 2.

ASSOCIATION

Association of Nova Scotia Land Surveyors

3 (1) The Association of Nova Scotia Land Surveyors, incorporated under the former Act, is continued as a body corporate under the same name, and is composed of its members.

(2) The Association has perpetual succession and a common seal, with power to acquire, hold, lease, mortgage and otherwise dispose of real and personal property, and may sue and be sued. 2010, c. 38, s. 3.

Powers of Association

4 In order to

- (a) serve and protect the public interest;
- (b) preserve the integrity of the profession; and
- (c) maintain public confidence in the ability of the profession to regulate itself,

the Association shall

- (d) regulate the practice of professional land surveying and govern its members in accordance with this Act and the regulations;
- (e) establish, develop, promote and monitor the Standards of Practice among its members;
- (f) establish, develop, promote and monitor a Code of Ethics for the benefit of its members;
- (g) subject to clauses (a) to (f), and in the public interest, advance and promote professional land surveying;
- (h) do such other lawful acts and things as are incidental to the attainment of the foregoing purpose and objects set out in this Section. 2010, c. 38, s. 4.

Exercise of powers

5 In addition to any other power conferred by this or any other Act, the Association may do such things as it considers appropriate to advance the objects of the Association and, without limiting the generality of the foregoing, may

- (a) purchase, take in, lease, exchange, hire, construct and otherwise acquire and hold, sell, mortgage, hypothecate, lease out or otherwise deal with any real or personal property;
- (b) draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange, warrants and other negotiable and transferable instruments;
- (c) engage such agents and employees as it considers expedient;

- (d) expend the money of the Association in the advancement of its objects in such manner as it considers expedient;
- (e) establish and maintain such offices and agencies as it considers expedient;
- (f) invest and deal with any money and funds of the Association that are not immediately required, in such manner as it considers expedient;
- (g) improve, manage, develop, exchange, dispose of, turn to account or otherwise deal with the real or personal property of the Association;
- (h) borrow money for the use of the Association, issue bonds, debentures, debenture stock and other securities on the credit of the Association and pledge or sell such securities for such sums or at such prices as considered expedient;
- (i) secure the repayment of money borrowed, in such manner and upon such terms and conditions as it considers fit and, in particular, by the execution and delivery of mortgages of all or any part of the real or personal property of the Association, both present and future; and
- (j) do such things as are incidental or necessary to the exercise of the powers referred to in clauses (a) to (i). 2010, c. 38, s. 5.

Annual meeting and annual report

- 6** (1) There shall be an annual meeting of the Association at such time and place as prescribed by the Council.
- (2) An annual report as described in the bylaws must be distributed at or before the annual meeting for review by the members of the Association.
- (3) The bylaws must prescribe the form and content of the notice of the annual meeting.
- (4) Special meetings of the Association may be held at such time and place, and upon such notice as prescribed in the bylaws.
- (5) Auditors are recommended by the Council but are subject to the approval of the Association at the annual meeting. 2010, c. 38, s. 6.

Council

- 7** (1) The Council is composed of such persons as set out in the regulations and bylaws and must include not fewer than one public representative and a person appointed by the Minister.
- (2) Persons on the Council are elected or appointed or succeed to office in the manner prescribed by the bylaws.
- (3) Notwithstanding subsection (2), public representatives on the Council continue to hold office until their successors are appointed or until such time as they are reappointed. 2010, c. 38, s. 7.

Quorum

8 A majority of the members of the Council constitutes a quorum. 2010, c. 38, s. 8.

Council to govern Association

9 (1) The Council shall govern the Association and manage its affairs, and may take any action consistent with this Act and the regulations that it considers necessary for the promotion, protection, interest or welfare of the Association, including

(a) the setting of fees, assessments or levies payable by members and those applying for membership in the Association, with the exception of annual fees for membership, which must be voted on at the annual meeting or a special meeting of the Association;

(b) proposing a budget for approval by the members at the annual meeting or a special meeting, and approving the process for revising and monitoring the budget;

(c) submitting to each annual meeting of the Association an audited financial statement of the Association's operations for the past fiscal year;

(d) recommending proposed changes to the bylaws, the regulations and this Act for approval by the members entitled to vote at an annual meeting or a special meeting; and

(e) recommending the approval of or revisions to the Code of Ethics and the Standards of Practice for approval by the members entitled to vote at an annual meeting or a special meeting.

(2) The Council may take any action consistent with this Act by resolution. 2010, c. 38, s. 9.

Executive

10 The Executive consists of those persons as are set out in the regulations, and shall perform such functions as are set out in the bylaws. 2010, c. 38, s. 10.

Executive Director

11 (1) The Council shall appoint an Executive Director, who shall perform the duties set out in this Act, the regulations and the bylaws, and such other duties as may be determined by the Council.

(2) The Executive Director may delegate functions assigned to the Executive Director by this Act, the regulations or the bylaws.

(3) The Executive Director is a non-voting member of the Executive and the Council. 2010, c. 38, s. 11.

Regulations

12 (1) Subject to the approval of the Governor in Council, the Council may make regulations

- (a) regulating the registration of members and applicants for registration;
- (b) regulating the discipline and reinstatement of members, and the investigation and resolution of complaints against members;
- (c) prescribing the procedures for an appeal of registration or membership on a particular roster, and establishing a Registration Appeal Committee and its powers and its authority;
- (d) determining the functions, powers and responsibilities of the Board of Examiners;
- (e) creating categories of membership and prescribing the privileges, qualifications and obligations of the persons for those categories, including establishing criteria for entry into the respective membership roster;
- (f) determining the composition of the Executive;
- (g) setting the requirements for professional liability insurance or other forms of malpractice coverage or liability protection in such amounts as are determined by the Council, and establishing any exemptions from such requirement;
- (h) respecting the registration sanctions issued pursuant to this Act and the reinstatement of such registration and allowing for conditions, limitations or restrictions to be attached to a reinstated registration;
- (i) allowing for an award of costs on a solicitor-client or other basis;
- (j) providing that the registration of a member be suspended without notice or investigation upon contravention of any regulation that requires the member to pay a fee, to file a document or do any other act by a specified or ascertainable date and providing for the reinstatement of a registration so suspended upon payment of such fee as is determined by the Board;
- (k) respecting the ability of the Complaints Committee and the Hearing Committee to impose a fine if a member has engaged in the practice of professional land surveying while not being an active member;
- (l) respecting the reporting and publication of decisions in disciplinary matters;
- (m) prescribing the requirements and processes for practice by partnerships and professional corporations;
- (n) respecting the ability of the Association to engage in the practice review of its active members and prescribing the obligations of active members to comply with such practice reviews;
- (o) establishing processes for resolving boundary line uncertainties;
- (p) prescribing the functions, powers and duties of any entity established in the regulations to resolve boundary disputes;

- (q) defining any word or expression used but not defined in this Act;
- (r) further defining any word or expression defined in this Act;
- (s) respecting any matter or thing the Council considers necessary or advisable to effectively discharge its functions or the exercise of its powers.

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

(3) A regulation must not be forwarded to the Governor in Council for approval unless the regulation has been voted on and approved by members entitled to vote at an annual meeting or a special meeting of the Association. 2010, c. 38, s. 12.

Bylaws

- 13 (1) The Association may make bylaws not inconsistent with this Act
- (a) respecting the holding of the annual meeting and special meetings of the Association, including the notice for such meetings, the content of such meetings, the quorum, the procedures to be followed and the manner of voting;
 - (b) establishing zones or geographical areas for the purpose of electing members to the Council and holding meetings in such areas on matters of interest to members in those areas;
 - (c) establishing the number of members, in addition to the executive members, public representatives, and person appointed by the Minister, to serve on the Council;
 - (d) establishing the eligibility for election or appointment to the Council;
 - (e) establishing the process for elections to the Council;
 - (f) respecting the terms of office of the Council members, the manner in which vacancies on the Council may be filled and the manner of removing Council members;
 - (g) prescribing the manner in which resolutions or motions are forwarded to the Council;
 - (h) establishing the role of the Executive;
 - (i) providing for the payment of honoraria and expenses;
 - (j) respecting the holding of the Council meetings, including required meetings, the notice for such meetings, the quorum and procedure to be followed and the manner of voting;
 - (k) respecting the quorum for committees appointed under this Act, the regulations or the bylaws;
 - (l) respecting the establishment of committees appointed by the Council, and providing for the holding and conduct of meet-

ings of such committees and the process for approving terms of reference for such committees;

(m) establishing a mandatory professional-development program, and providing for the administration of the program and the consequences for non-compliance with the program;

(n) providing for the audit of the Association;

(o) providing for the establishment of the fiscal year of the Association;

(p) respecting the seal of the Association;

(q) respecting the location of the head office of the Association;

(r) establishing the criteria for entry into and the entitlements of life members, retired members and associate, honorary and other categories of membership;

(s) respecting a code of conduct and conflict of interest policy for the Council members and Association volunteers and employees;

(t) establishing the criteria required for completion of a period of articles;

(u) respecting all other things necessary for the administration of the affairs of the Association.

(2) A bylaw does not come into force until the bylaw has been voted on and approved by members entitled to vote at an annual meeting or a special meeting of the Association. 2010, c. 38, s. 13.

Available for inspection

14 All regulations and bylaws of the Council must be available for inspection by any person, free of charge, at the head office of the Association at all reasonable times during business hours. 2010, c. 38, s. 14.

Standards of Practice and Code of Ethics

15 The Standards of Practice and the Code of Ethics, or revisions to them, do not come into force until they have been voted on and approved by the members entitled to vote at an annual meeting or a special meeting of the Association. 2010, c. 38, s. 15.

Board of Examiners

16 (1) A Board of Examiners must be appointed, consisting of such members as set out in the regulations.

(2) The Board shall elect a Chair from its own members.

(3) The Executive Director is a non-voting member of the Board.

(4) Where a member of the Board for any reason becomes unable to complete the member's term, the Council may appoint another person to complete the unexpired portion of the term.

(5) Where the Chair of the Board is unable to attend a meeting of the Board, the Chair shall designate a member of the Board to act as the chair of the Board at such meeting.

(6) The Board, with the approval of the Council, may appoint one or more persons to assist the Board in any of the subjects of examination.

(7) The Board shall hold meetings as required and shall report to Council.

(8) The Board of Examiners shall perform such functions as are set out in this Act, the regulations and the bylaws. 2010, c. 38, s. 16.

REGISTRATION

Register

17 (1) The Association shall keep a Register in which must be entered the names of all persons who are entitled pursuant to this Act and the regulations to be registered.

(2) The Register must include such other information as may be required by the regulations.

(3) The Association shall cause to be kept a record available to the public showing

(a) the name and registration number of every active member;

(b) any conditions or restrictions on such person's registration if the Board of Examiners determines it is in the public interest to have such conditions or restrictions available to the public; and

(c) any registration sanctions imposed on a member that are not otherwise subject to a publication ban. 2010, c. 38, s. 17.

Membership categories

18 (1) The categories of membership must be as set out in the regulations.

(2) The Association shall cause to be maintained separate rosters for each category of membership as provided by the regulations. 2010, c. 38, s. 18.

Members

19 The Board shall register a person as a member of the Association who has applied for and met all of the criteria for registration as set out in the regulations. 2010, c. 38, s. 19.

Use of designation

20 No person shall take or use the designation “Nova Scotia Land Surveyor” or “NSLS”, or any derivation or abbreviation thereof or any other words, names or designations, to imply that the person is a member of the Association unless such person is an active member in the Association or is otherwise authorized, pursuant to the bylaws, to use such designation. 2010, c. 38, s. 20.

Prohibition on practice

21 (1) No person shall engage in the practice of professional land surveying or shall describe the person’s activities as activities falling within the meaning of “professional land surveying” unless the person

- (a) is an active member of the Association; or
- (b) is otherwise authorized to engage in the practice of professional land surveying as set out in this Act or the regulations.

(2) No person shall engage in the practice of professional land surveying for the general public, directly or indirectly, whether for or without compensation, unless the person holds the required professional liability insurance as set out in the regulations.

(3) Notwithstanding subsections (1) and (2), a person working under the supervision of an active member is not engaging in the practice of professional land surveying. 2010, c. 38, s. 21.

Action to collect fees

22 No person shall bring an action in any court to collect fees, compensation or other remuneration for services performed in the practice of professional land surveying, unless that person was registered as an active member at the time the services were performed. 2010, c. 38, s. 22.

Proof of membership

23 A statement certified under the hand of the Executive Director respecting the membership and entry in the appropriate roster of a person’s name is admissible in evidence as prima facie proof of that person’s entry in such roster. 2010, c. 38, s. 23.

Imposition of conditions or restrictions

24 Where the authority of a professional land surveyor to be an active member has been limited by the imposition of conditions or restrictions imposed on that professional land surveyor, the conditions or restrictions must be noted in the records of the Association and may be disclosed to the public in accordance with this Act. 2010, c. 38, s. 24.

Register entries

- 25 (1)** The Executive Director shall make a notation in the Register if
- (a) data has been entered incorrectly;
 - (b) notification is received of a member’s death;
 - (c) the registration of a member has been revoked;

(d) the Complaints Committee, as part of an informal resolution of a complaint, or the Hearing Committee authorizes the resignation of a member from the register; or

(e) a member has resigned.

(2) Where a notation has been made on the register pursuant to clause (1)(b), (c), (d) or (e), the person ceases to be a member of the Association. 2010, c. 38, s. 25.

Removal of member from roster

26 (1) The Executive Director shall cause the removal of the name of a member from the appropriate roster

(a) where data has been incorrectly entered requiring the removal of the member's name;

(b) where the member no longer meets the criteria for entry on the relevant roster;

(c) at the request of the member, if approved by the Executive Director;

(d) for non-payment of fees or other assessments levied under this Act or the regulations;

(e) where the member has been suspended, for the term of the suspension;

(f) where the registration of the member has been revoked;

(g) where the Complaints Committee or the Hearing Committee authorize the resignation of the member from the Register; or

(h) where notification is received of the member's death.

(2) Subject to subsection (3), the name of a person removed from the appropriate roster pursuant to clauses (1)(a) to (g) must be restored upon

(a) payment of the prescribed fee; and

(b) compliance by the person with this Act and the regulations.

(3) The reinstatement of the name to the register pursuant to clause (1)(g) must only be made if

(a) the Committee authorizing the resignation of the member permitted the opportunity to reapply for membership in the Association; and

(b) the Reinstatement Committee determines, on such conditions or with such restrictions as it directs, that the registration or membership should be reinstated. 2010, c. 38, s. 26.

Offences and penalties

27 (1) Every person who

(a) knowingly furnishes false information in any application under this Act or in any statement required to be furnished under this Act or the regulations;

(b) engages in the practice of professional land surveying in the Province without complying with Section 21;

(c) engages in the practice of professional land surveying in violation of any condition or restriction contained in the person's registration or membership; or

(d) otherwise contravenes this Act or the regulations,

is guilty of an offence and liable on summary conviction to a fine of not more than \$2,000 or to imprisonment for a term of not more than six months, or to both.

(2) The *Summary Proceedings Act* applies in addition to any fine or penalty otherwise provided for in this Act or the regulations.

(3) All fines payable under this Act or under the *Summary Proceedings Act* as a result of a prosecution by or on behalf of the Association are payable to the Crown in right of the Province.

(4) In any prosecution by or on behalf of the Association, any information to be laid pursuant to this Act or pursuant to the *Summary Proceedings Act* must be laid by such person as authorized by the Council.

(5) In a prosecution of an offence contrary to this Act or the regulations, the onus to prove that a person accused of an offence has the right to practise professional land surveying, or that a person comes within any of the exemptions provided by this Act, is on the person accused.

(6) Where a violation of this Act or the regulations by a person continues for more than one day, the person is guilty of a separate offence for each day that the violation continues.

(7) For the purpose of this Act or the regulations, proof of the performance by a non-member of one act of professional land surveying is sufficient to establish that a person has engaged in the practice of professional land surveying. 2010, c. 38, s. 27.

Injunction respecting violation

28 (1) In the event of a threatened or continuing violation of this Act or the regulations, the Association may apply to a judge of the Supreme Court of Nova Scotia for an injunction to restrain the person from continuing or committing the violation and, where the judge considers it to be just, the judge may grant the injunction.

(2) A judge may, on application, grant an interim injunction pending the hearing of an application for an injunction pursuant to subsection (1) if the judge is satisfied that there is reason to believe that a person is likely to commit or is continuing to commit a violation of this Act or the regulations.

(3) A judge may make such orders as to costs as the judge considers appropriate in any proceedings pursuant to this Section. 2010, c. 38, s. 28.

EXAMINATION OF WITNESSES AND ENTRY ON LAND

Refusal to inform member

29 (1) Where an active member has reason to believe that any person, including a member, is possessed of any information touching a corner, boundary or limit, or of any writing, plan or document tending to establish the true position of a corner, boundary or limit and will not willingly produce to the member such writing, plan or document, the member may apply to a judge for an order directing that person to appear before such judge at a time and place mentioned in the order, not earlier than seven days after service of the order, and to bring with the person any writing, plan or document mentioned or referred to therein, and to show the same, and to be orally examined on oath or affirmation before such judge regarding such corner, boundary or limit, or any writing, plan or document in the person's possession.

(2) An order issued under subsection (1) may be served on the person named therein by delivering a copy thereof to them or by leaving a copy for them with some adult person at the person's residence together with the ordinary witness fees as prescribed by the *Costs and Fees Act*.

(3) Upon hearing the evidence pursuant to subsection (1), the judge may make any order the judge considers appropriate, including an order for costs. 2010, c. 38, s. 29.

Right of entry on land and liability

30 All active members and their assistants, while engaged in professional land surveying, may enter upon and pass over any land, doing as little damage as possible and, save as hereinafter provided, no action lies against an active member or their assistants for any act done under this Section, but any active member is liable for any unnecessary damage done by the member or by the member's assistants under this Section. 2010, c. 38, s. 30.

Oath or affidavit taken by member

31 An oath, affidavit, affirmation or declaration for use in the Province may be administered, sworn, affirmed or made within the Province before an active member if the subject-matter of the oath, affidavit, affirmation or declaration relates to the location of land, boundaries, the extent or limitations of title to land, or other matters relevant to professional land surveying. 2010, c. 38, s. 31.

Obstruction of member

32 Every person who molests, hinders or obstructs any active members or their assistants while engaged in the carrying on of their profession is guilty of an offence under this Act. 2010, c. 38, s. 32.

CORPORATE PERMITS

Corporate permit

33 No partnership, association of persons or body corporate shall engage or offer to engage in professional land surveying unless the partnership, association of persons or body corporate holds a corporate permit issued in accordance with the regulations. 2010, c. 38, s. 33.

Exceptions

34 Notwithstanding Section 33, nothing in this Act prohibits a partnership, association of persons or body corporate from having active members in the partnership's, association's or body corporate's employ, or as a partner or consultant, if professional land surveying is incidental to the principal business or objects of the partnership, association of persons or body corporate, and the services of the active members are not made available to the public. 2010, c. 38, s. 34.

Effect of corporate relationship to member

35 An active member's position as a partner, shareholder, director, officer or employee of a partnership, association of persons or body corporate does not affect, modify or diminish the application of this Act and the regulations to the member. 2010, c. 38, s. 35.

Liability under corporate permit

36 All persons who carry on the practice of professional land surveying by, through or on behalf of a partnership, association of persons or body corporate are, for the purpose of this Act and the regulations, responsible for acts or omissions done or omitted to be done by them in the course of the practice of professional land surveying to the same extent and in the same manner as if such practice were carried on by them as active members. 2010, c. 38, s. 36.

Compellable witnesses

37 All shareholders, directors, officers, employees or partners of a partnership, association of persons or body corporate engaged in the practice of professional land surveying are compellable witnesses in any proceedings pursuant to this Act. 2010, c. 38, s. 37.

Power to investigate

38 (1) Where the conduct of a Nova Scotia Land Surveyor is the subject of a complaint, investigation or a hearing and the Nova Scotia Land Surveyor was a partner, officer, director, shareholder or employee of a partnership, association of persons or body corporate at the time the conduct occurred, any power of inspection, investigation or inquiry that may be exercised in respect of the Nova Scotia Land Surveyor or Nova Scotia Land Surveyor's records may be exercised in respect of the partnership, association of persons or body corporate or its records.

(2) Sections 41 to 67 apply with necessary changes to all partnerships, associations of persons or bodies corporate engaged in the practice of professional land surveying. 2010, c. 38, s. 38.

Corporate offences and penalty

39 (1) Every partnership, association of persons or body corporate engaged in the practice of professional land surveying that contravenes this Act or the regulations is guilty of an offence and is liable to the same penalties as any person who is guilty of an offence under this Act.

(2) Sections 27 and 28 apply with necessary changes to all partnerships, associations of persons or bodies corporate engaged in the practice of professional land surveying. 2010, c. 38, s. 39.

Suspension

40 Where a partnership, an association of persons or a body corporate is convicted of an offence contrary to this Act or the regulations, its corporate permit is, in default of paying any fine ordered to be paid, suspended until such time as the fine is paid. 2010, c. 38, s. 40.

PROFESSIONAL CONDUCT

Non-members subject to professional conduct process

41 Where a person ceases to be registered as a member for any reason, that person remains subject to the jurisdiction of the Association for the purpose of the professional conduct process if the subject-matter of the professional conduct process arose out of the person's conduct while registered. 2010, c. 38, s. 41.

Complaints Committee

42 (1) The Council shall appoint a Complaints Committee composed of such members and public representatives as set out in the regulations.

(2) The Council shall appoint a Chair and a Vice-chair of the Complaints Committee.

(3) The Vice-chair shall act as Chair in the absence of the Chair.

(4) Where for any reason neither the Chair nor the Vice-chair is available for the purpose of subsections (5), (6) and (7), the Committee may, for such purpose, appoint a member of the Complaints Committee as chair of the Complaints Committee.

(5) Any three persons from the Complaints Committee, regardless of whether such persons are members or a public representative, constitute a quorum of the Complaints Committee.

(6) Failure of one or more Complaints Committee members to receive any notice of a meeting does not invalidate the proceedings at the meeting, and nothing herein precludes the members from waiving notice of meetings.

(7) All Complaints Committee decisions require a majority vote.

(8) Where a proceeding is commenced before the Complaints Committee and the term of office of any person sitting on the Complaints Committee has expired, such person may remain part of the Complaints Committee until the proceeding is concluded.

(9) Where at any time a quorum of a Complaints Committee cannot be constituted, the Council may appoint replacement members to the Complaints Committee. 2010, c. 38, s. 42.

Initiation of complaint

43 (1) A complaint may be initiated by

- (a) a member;
- (b) any body corporate or association;

- (c) the Executive Director;
- (d) a committee of the Association; or
- (e) any other person.

(2) Where the Complaints Committee and the complainant agree, a complaint may be withdrawn. 2010, c. 38, s. 43.

Powers of Complaints Committee

44 Each person on the Complaints Committee and each investigator has all the powers conferred by this Act and the regulations in the discharge of their functions, including all the rights, powers, privileges and immunities of commissioners under the *Public Inquiries Act*. 2010, c. 38, s. 44.

Complaints Committee procedure

45 The Complaints Committee may set its own procedure for meetings. 2010, c. 38, s. 45.

Jurisdiction over matter

46 The Complaints Committee retains jurisdiction over a matter until such time as a hearing commences before the Hearing Committee or the matter is otherwise resolved. 2010, c. 38, s. 46.

Publication ban

47 With respect to any decision issued by the Complaints Committee that is available to the public pursuant to this Act or the regulations, the Complaints Committee may impose a publication ban on such portions of its decision as considered necessary by the Committee. 2010, c. 38, s. 47.

Written decision

48 (1) A complaint must be dealt with in accordance with the regulations.

(2) When a complaint is forwarded to the Complaints Committee for disposition, the Complaints Committee shall give its decision in writing and shall send a copy of the written decision, by registered mail or personal service, to the respondent and the complainant and may send some or all of the written decision to such other persons as the Complaints Committee determines. 2010, c. 38, s. 48.

Rights of respondent

49 In a proceeding before the Complaints Committee, a respondent has the right to

- (a) be represented by legal counsel;
- (b) disclosure of the complaint, any written reports of the investigator provided to the Complaints Committee and any other document produced or received by the Complaints Committee;
- (c) a reasonable opportunity to present a response and make submissions; and

- (d) have the complaint dealt with in a reasonable time. 2010, c. 38, s. 49.

Duty to disclose

50 (1) Notwithstanding anything contained in this Act or the regulations, where a member or a person applying for membership in the Association

(a) has been charged with, pled guilty to, been convicted or found to be guilty of any offence in or outside of Canada that is inconsistent with the proper professional behaviour of a member, including a conviction under

(i) the *Criminal Code* (Canada), or

(ii) such other legislation as prescribed in the regulations,

unless a pardon has been issued;

(b) has been found guilty of a disciplinary finding relating to the provision of professional services in another jurisdiction;

(c) has had a licensing sanction relating to the provision of professional services imposed by another jurisdiction; or

(d) is the subject of an investigation or disciplinary process relating to the provision of professional services in any jurisdiction,

the member or person applying for membership shall immediately report the matter to the Executive Director.

(2) The Executive Director shall refer any information disclosed pursuant to subsection (1) to the Complaints Committee, which may, by such notice as it prescribes, require the person to attend a hearing before the Complaints Committee to fully disclose the facts and circumstances of the matter so disclosed.

(3) For the purpose of a hearing pursuant to subsection (1), the Complaints Committee may take any of the actions authorized to be taken by a Complaints Committee pursuant to this Act or the regulations.

(4) For the purpose of subsection (1), a certificate of conviction of a member is conclusive evidence that the member has committed the offence stated therein, unless it is proven that the conviction has been quashed or set aside. 2010, c. 38, s. 50.

Complaints to be confidential

51 (1) All complaints received or under investigation, all information gathered in the course of the professional conduct process and all proceedings and decisions of the Complaints Committee and the Hearing Committee that are not open to or available to the public in accordance with this Act or the regulations must be kept confidential by any person who possesses such information.

(2) Notwithstanding subsection (1) but subject to subsections (3) and (4), where it is consistent with the objects of the Association,

(a) the Complaints Committee or the Hearing Committee may direct the Executive Director to disclose to law enforcement

authorities any information about possible criminal activity on the part of a member that is obtained during an investigation pursuant to this Act;

(b) the Complaints Committee or the Hearing Committee may authorize the Executive Director to release specific information to a specific person or persons;

(c) the Complaints Committee or the Hearing Committee may direct the Executive Director to disclose information with respect to the complaint to a land-surveying regulatory body in another jurisdiction if it is relevant and concerns the fitness of the member for membership in the extra-provincial land-surveying regulatory body; and

(d) the Council may direct the Executive Director to disclose information with respect to a complaint for the purpose of administration of this Act or to comply with the objects of the Association.

(3) Where information sought to be disclosed under subsection (2) includes a member's personal health information, or treatment provided by any health provider, such information must not be disclosed.

(4) A witness in any legal proceeding, whether a party thereto or not, is excused from answering any question as to any proceedings of the Complaints Committee, the Hearing Committee or the Reinstatement Committee, and is excused from producing any report, statement, memorandum, recommendation, document or information prepared for purposes of the Association, including any information gathered in the course of an investigation, or produced for the Complaints Committee, the Hearing Committee or the Reinstatement Committee.

(5) Subsection (4) does not apply to documents or records that have been made available to the public by the Association.

(6) Unless otherwise determined by a court of competent jurisdiction, a decision of the Complaints Committee or the Hearing Committee is not admissible in a civil proceeding other than an appeal or review pursuant to this Act.

(7) The Complaints Committee, the Hearing Committee or the Reinstatement Committee may impose a publication ban on any or all parts of proceedings conducted by the committee, or decisions rendered by the committee, if the committee considers it appropriate. 2010, c. 38, s. 51.

Hearing committee

52 (1) The Council shall appoint a Hearing Committee composed of such members and public representatives as set out in the regulations, none of whom are current members of the Council.

(2) The Council shall appoint a Chair and a Vice-chair of the Hearing Committee.

(3) The Vice-chair shall act as chair in the absence of the Chair.

(4) Where for any reason neither the Chair nor the Vice-chair are available, the Hearing Committee may appoint a member of the Hearing Committee as chair of the Hearing Committee.

(5) Any three persons from the Hearing Committee, regardless of whether such persons are members or public representatives, constitute a quorum of the Hearing Committee.

(6) No person on the Hearing Committee may concurrently serve on the Complaints Committee.

(7) Failure of one or more Hearing Committee members to receive any notice of a meeting does not invalidate the proceedings thereat, and nothing herein precludes Committee members from waiving notice of meetings.

(8) All Hearing Committee decisions require a majority vote.

(9) Where a proceeding is commenced before the Hearing Committee, and the term of office of any person sitting on the Hearing Committee has expired, such person may remain part of the Hearing Committee until the proceeding is concluded.

(10) Where at any time a quorum of a Hearing Committee cannot be constituted, the Council may appoint replacement members to the Hearing Committee. 2010, c. 38, s. 52.

Setting and notification of hearing date

53 (1) Where the Complaints Committee refers a matter to the Hearing Committee, the Executive Director shall, within 30 days from the date of the referral, fix a date, time and place for holding a hearing, which must commence not later than 90 days from the date of the referral by the Complaints Committee, or such later date as the respondent and the Association may agree or the Hearing Committee may order following an opportunity for submissions from both parties as to such date.

(2) A notice of hearing, containing such information as required by the regulations, must be forwarded by the Executive Director to the respondent and the complainant at least 30 days before the hearing. 2010, c. 38, s. 53.

Service

54 At any stage of the professional conduct process, any document required to be served on or provided to a respondent or any other individual is deemed to be served or provided if

(a) the intended recipient or the intended recipient's counsel acknowledges receipt of the document;

(b) a registered mail receipt is provided from Canada Post;

(c) an affidavit of service on the respondent is provided; or

(d) the Association provides evidence satisfactory to the Hearing Committee that all reasonable efforts to effect service have been exhausted. 2010, c. 38, s. 54.

Settlement proposals

55 Where the Complaints Committee refers a matter to the Hearing Committee, the Association, before the commencement of a hearing by the Hearing Committee, may enter into a settlement proposal with the respondent, which proposal must be dealt with in accordance with the regulations. 2010, c. 38, s. 55.

Powers of Hearing Committee

56 Each person on the Hearing Committee has all the powers conferred by this Act and the regulations in the discharge of the person's functions, including all the rights, powers, privileges and immunities of a commissioner appointed pursuant to the *Public Inquiries Act*. 2010, c. 38, s. 56.

Inadmissibility of evidence before Hearing Committee

57 (1) A proceeding held by the Hearing Committee must be conducted in accordance with the regulations.

(2) Evidence is not admissible before the Hearing Committee unless the opposing party has been given, at least 10 days before a hearing,

(a) in the case of written or documentary evidence, an opportunity to examine the evidence;

(b) in the case of evidence of an expert, a copy of the expert's written report or, where there is no written report, a written summary of the evidence; and

(c) in the case of evidence of any other witness, the identity of the witness.

(3) Notwithstanding subsection (2), the Hearing Committee may, in its discretion, allow the introduction of evidence that would be otherwise inadmissible under subsection (2) and may make directions it considers necessary to ensure that a party is not prejudiced. 2010, c. 38, s. 57.

Rights of parties

58 In a proceeding before the Hearing Committee, the parties have the right to

(a) be represented by legal counsel;

(b) present evidence and make submissions, including the right to cross-examine witnesses; and

(c) receive written reasons for a decision within a reasonable time. 2010, c. 38, s. 58.

Finding of misconduct and revocation of membership

59 (1) Where the Hearing Committee finds professional misconduct, conduct unbecoming, incompetence or incapacity, the Hearing Committee shall process the matter or matters in accordance with the regulations.

(2) Where a Hearing Committee has revoked the registration of a member, the Hearing Committee shall determine whether the member is entitled to apply for reinstatement of registration, or whether the revocation is final.

(3) Where the Hearing Committee determines that a member whose registration has been revoked may apply for reinstatement, the Hearing Committee shall determine the time when the member may apply for reinstatement, which may not be earlier than two years from the date of the Hearing Committee's decision. 2010, c. 38, s. 59.

Reinstatement Committee

60 (1) The Council shall appoint a Reinstatement Committee, composed of not fewer than three and not more than five members of the Council, at least one of whom must be a public representative.

(2) The Council shall appoint the Chair of the Reinstatement Committee.

(3) The Reinstatement Committee shall, in the circumstances set out in this Act and the regulations, review applications for reinstatement of registration, and shall perform such other duties as set out in this Act and the regulations.

(4) A quorum of the Reinstatement Committee consists of any three members of such committee, regardless of whether such Committee members are members or a public representative.

(5) Applications for reinstatement must proceed in accordance with the regulations.

(6) Where a member's registration has been reinstated pursuant to this Section, the Reinstatement Committee, in its discretion, shall determine whether publication of the reinstatement is required in the interest of the public.

(7) The Reinstatement Committee has all the powers conferred by this Act and the regulations in the discharge of its functions, including the powers, privileges and immunities of commissioners under the *Public Inquiries Act*.

(8) Evidence is not admissible before the Reinstatement Committee unless, at least 10 days before the hearing, the opposing party has been given

(a) in the case of written or documentary evidence, an opportunity to examine the evidence;

(b) in the case of evidence of an expert, a copy of the expert's written report or, where there is no written report, a written summary of the evidence; and

(c) in the case of evidence of any other witness, the identity of the witness.

(9) Notwithstanding subsection (8), the Reinstatement Committee may, in its discretion, allow the introduction of evidence that is otherwise inadmissible under subsection (8) and may make directions it considers necessary to ensure that a party is not prejudiced. 2010, c. 38, s. 60.

Rights of member

61 In a proceeding before the Reinstatement Committee, a member has the right to

- (a) be represented by legal counsel;
- (b) disclosure of any information to be provided to the Committee; and
- (c) a reasonable opportunity to present a response and make submissions. 2010, c. 38, s. 61.

Notification of registration sanction

62 (1) Subject to any publication bans in existence, where a registration sanction has been issued by the Complaints Committee or the Hearing Committee, the Executive Director shall

- (a) make such entries on the records of the Association and as set out in the regulations;
- (b) publish such information on the website of the Association and in official publications of the Association as set out in the regulations;
- (c) notify other professional land-surveying licensing bodies as set out in the regulations;
- (d) provide such information to individuals or the public as set out in the regulations.

(2) Where the Hearing Committee dismisses a matter, the Committee shall disclose its decision in such manner as the Committee determines. 2010, c. 38, s. 62.

Reinstatement of member

63 (1) Where the period of suspension of a member has expired, or the conditions imposed on the member have been satisfied, or the restrictions imposed on the member have been removed, the Executive Director shall restore the membership of the respondent in the form it existed before the imposition of the suspension, conditions or restrictions if the member otherwise meets the criteria for membership and entry on the relevant roster, including the payment of any prescribed fees for renewal.

- (2)** Where action has been taken pursuant to subsection (1),
 - (a) the Executive Director shall make the appropriate entries in the records of the Association;
 - (b) where registering bodies in other Canadian professional land-surveying jurisdictions had previously been informed of the suspension, conditions or restrictions, the Executive Director shall notify such registering bodies of the lifting of such suspension, conditions or restrictions; and
 - (c) the Executive Director shall notify such other persons as directed by the Committee that initially imposed the suspension, conditions or restrictions. 2010, c. 38, s. 63.

Retaining legal or other assistance

64 (1) For the purpose of the execution of its duties under this Act, the Association or any committee of the Association may retain such legal or other assistance as the Association or the committee, as the case may be, may think necessary or proper.

(2) Where authorized by this Act or the regulations, the costs of such legal or other assistance may be included, in whole or in part, as costs ordered by the committee. 2010, c. 38, s. 64.

Right of appeal and procedure on appeal

65 (1) A party may appeal on any point of law from the findings of the Hearing Committee to the Nova Scotia Court of Appeal.

(2) The notice of appeal must be filed at the Court of Appeal and served upon the other party not later than 30 days after service of the decision of the Hearing Committee.

(3) The record on appeal from the findings of the Hearing Committee consists of a copy of the transcript of the proceedings, the decision of the Committee and the evidence before the Hearing Committee certified by the Chair of the Hearing Committee.

(4) The *Civil Procedure Rules* governing appeals from the Supreme Court of Nova Scotia to the Court of Appeal that are not inconsistent with this Act apply with necessary changes to appeals to the Court of Appeal pursuant to this Section.

(5) Where a matter is appealed to the Court of Appeal pursuant to this Section, the decision of the Hearing Committee takes effect immediately unless the Court of Appeal grants a stay of any order made pursuant to this Act if, in its discretion, it considers fit. 2010, c. 38, s. 65.

Member duty to report

66 (1) A member has a duty to report to the Executive Director if the member has reasonable grounds to believe that another member of the Association

(a) has engaged in professional misconduct, incompetence or conduct unbecoming;

(b) is incapacitated; or

(c) is practising in a manner that otherwise constitutes a danger to the public.

(2) No action for damages or other relief lies against a member for any report made pursuant to subsections (1), if such report was made in good faith. 2010, c. 38, s. 66.

Non-payment of fine

67 Any fine or cost ordered to be paid pursuant to this Act or the regulations is a debt due to the Association recoverable by civil action, in addition to any

other remedy available to the Association for non-payment of a fine or cost. 2010, c. 38, s. 67.

MISCELLANEOUS

Offence

68 No person shall, without the prior written consent of the member who prepared the same, alter or make additions to or deletions from or make an obliteration on a member's plan or on a copy or reproduction thereof, and any person who contravenes this Section is guilty of an offence pursuant to this Act. 2010, c. 38, s. 68.

No action lies

69 (1) No action for damages or other relief lies against the Association, the Council, the Board, the persons on the Council or Board, committees, subcommittees of the Council or Board, the persons on the committees or subcommittees, persons or groups conducting practice reviews, or the Executive Director, officers, agents or employees of the Association

(a) for any act or failure to act, or any proceeding initiated or taken within the jurisdiction of the Association, or in carrying out the duties or obligations under this Act;

(b) for any decision, order or resolution made or enforced within the jurisdiction of the Association; or

(c) for any act or failure to act, proceeding initiated or taken, or any decision, order or resolution made or enforced outside the jurisdiction of the Association,

initiated, taken, carried out, made or enforced in good faith.

(2) No member of the Association, the Council, committees or subcommittees of the Association or the Council, or any officer, agent, or employee thereof, is personally liable for any of the debts or liabilities of the Association unless such person expressly agrees to be liable. 2010, c. 38, s. 69.

Additional members to obtain quorum

70 Whenever for any reason a quorum of members of any committee is not available for a meeting or hearing, the Council may, for the purpose of such meeting or hearing, appoint to the committee such additional members as are needed for a quorum. 2010, c. 38, s. 70.

Standards of Practice and Code of Ethics continued

71 The Standards of Practice and the Code of Ethics applicable under the former Act continue in effect until revised by the Association pursuant to this Act.

Application of Act to engineer

72 Subject to Sections 33 to 40, and the regulations, this Act does not apply to a professional engineer or partnership, association of persons or body corporate entitled under the *Engineering Profession Act* to practise or undertake the application of engineering, or a person employed by and acting under the supervision and direction of such professional engineer or such partnership, association or

body corporate while practising or applying engineering within the meaning of the *Engineering Profession Act*. 2010, c. 38, s. 76.

CHAPTER L-6

**An Act Respecting
the Clarification of Land Titles**

Table of Contents

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

	Section
Short title.....	1
Interpretation of Act.....	2
Land Registration Act.....	3
PART I	
Land Titles Clarification Areas	
Interpretation of Part.....	4
Land titles clarification area.....	5
Application for certificate of claim.....	6
Certificate of claim.....	7
Lienholder.....	8
Other interest holder.....	9
Person adversely affected.....	10
Land Titles Initiative	
Interpretation.....	11
Land Titles Initiative.....	12
Commissioners.....	13
Powers of commissioner.....	14
Award of compensation.....	15
Referral to commissioner by applicant.....	16
Referral to commissioner by adverse interest.....	17
Referral through other process.....	18
Resolution of claim.....	19
Regulations.....	20
PART II	
Ungranted Land	
Purpose of Part.....	21
Interpretation of Part.....	22
Certificate under Crown Lands Act.....	23
Certificate of release.....	24
Exclusions.....	25
Regulations.....	26

Short title

1 This Act may be cited as the *Land Titles Clarification Act*. R.S., c. 250,
s. 1.

Interpretation of Act

2 In this Act, except for Sections 11 to 20, “Minister” means the Minister of Natural Resources and Renewables. 2006, c. 15, s. 12; 2021, c. 7, s. 2.

Land Registration Act

3 This Act does not apply to a parcel registered pursuant to the *Land Registration Act*. 2001, c. 6, s. 114.

PART I

LAND TITLES CLARIFICATION AREAS

Interpretation of Part

4 In this Part,

“certificate of claim” means a certificate of claim issued by the Minister under this Part;

“certificate of revocation” means a certificate of revocation filed by the Minister under this Part;

“certificate of title” means a certificate of title granted by the Minister under this Part;

“municipality” means a regional municipality or a municipality of a county or district. 2006, c. 15, s. 13.

Land titles clarification area

5 (1) Where the residents of an area of a municipality are in necessitous circumstances as a result of lack of property development in the area and where there appears to be confusion as to the ownership of land, the Governor in Council may designate the area as a land titles clarification area.

(2) No area of a municipality may be designated as a land titles clarification area unless the council of the municipality approves.

(3) When an area of a municipality is designated as a land titles clarification area, the Minister shall file a plan of the area certified as approved by the Governor in Council and the municipal council in the registry of deeds for the registration district in which the area is situate.

(4) The fact that a plan certified as provided in subsection (3) has been filed in the registry of deeds is conclusive proof that the area shown on the plan is a land titles clarification area. R.S., c. 250, s. 3.

Application for certificate of claim

6 (1) A person who claims to own land in a land titles clarification area may apply to the Minister for a certificate of claim in respect of a lot of land in the area that the person claims to own.

(2) An application for a certificate of claim must contain

(a) a description of the land sufficient to identify and distinguish it from all other lands;

(b) a concise statement of the facts on which the applicant bases the applicant's claim to ownership of the lot of land; and

(c) the names of the persons other than the applicant who have occupied the lot of land or who have at any time claimed ownership of the lot or any interest in it.

(3) An application for a certificate of claim must be accompanied by

(a) an abstract of the title to the lot of land showing all the records in the registry of deeds that affect or may affect title to the lot or any interest in it;

(b) a statutory declaration attesting to the history of the occupation of the lot of land so far as the same is known; and

(c) a statement showing the names of any person who holds any lien, judgment, mortgage or encumbrance or any other charge on the lot of land and the details thereof.

(4) The Minister may require the applicant to furnish any information that the Minister desires and may require the applicant to verify by affidavit or otherwise any information or material furnished or included in or accompanying the application. R.S., c. 250, s. 4; 2021, c. 7, s. 3.

Certificate of claim

7 (1) Where it appears from the application that the applicant is entitled to the lot of land, the Minister may issue a certificate of claim to the applicant.

(2) Where the Minister cannot determine from the application that the applicant is entitled to the lot of land, the Minister may appoint a barrister of the Supreme Court of Nova Scotia as a commissioner to examine the applicant's claim.

(3) A commissioner appointed by the Minister pursuant to subsection (2) has all the powers of a commissioner appointed under the *Public Inquiries Act*.

(4) Where a commissioner examines the claim, the commissioner shall either recommend issuance of a certificate of claim or report the commissioner's reasons for not making this recommendation.

(5) Where a commissioner recommends issuance of a certificate of claim, the Minister may issue a certificate of claim without further inquiry.

(6) No certificate of claim may be issued in respect of any lot of land unless any lien, judgment, mortgage, encumbrance or charge other than a lien for municipal taxes has been discharged or satisfied or unless the holder thereof consents in writing.

(7) Where the Minister issues a certificate of claim, the Minister must file the certificate in the registry of deeds for the registration district in which the land is situate in the same manner as a deed of conveyance and forthwith cause

notice thereof to be published in a newspaper having circulation in the municipality in which the land is situate or as prescribed by the regulations.

(8) Where a certificate of claim is issued and filed in the registry of deeds and there are rates and taxes owing in respect of the lot of land described in the certificate, the applicant may apply to the council of the municipality for relief from the rates and taxes owed and the council may give a discharge of all or a portion of such rates or taxes either absolutely or on the condition that a certificate of title is subsequently granted. R.S., c. 250, s. 5; 2021, c. 7, s. 4.

Lienholder

8 (1) Where a lien affecting land for which an application for a certificate of claim has been made is registered in the registry of deeds and has been in effect for a period of two years or longer and no payment on account or written acknowledgement has been made within one year, the applicant for the certificate or some person on the applicant's behalf or the Minister or a person requested by the Minister to do so may give written notice to the person having the lien, requesting the person to take steps within three months after service of the notice to realize on the lien.

(2) A notice under subsection (1) may be served by

(a) being delivered personally to the lienholder or, if the lienholder is a corporation, to its recognized agent; or

(b) registered post addressed to the lienholder's last known place of address,

and a copy of the notice must be filed in the registry of deeds.

(3) Where the holder of the lien does not within three months after service of the notice upon the lienholder take steps for the enforcement of the lienholder's lien, the lien is deemed to be discharged in relation to the land for which the certificate of claim is sought.

(4) Upon the filing in the registry of deeds of an affidavit or statutory declaration that the notice referred to in this Section has been given in accordance with this Section and that the holder of the lien has not within three months after service of the notice on the lienholder taken steps to enforce the lienholder's lien, the lien ceases to bind the land.

(5) In this Section, "lien" includes any judgment, mortgage, encumbrance or charge on land other than a lien for municipal taxes.

(6) For the purpose of this Section, the cost of filing a document in the registry of deeds is 50¢ for each page of the document. R.S., c. 250, s. 6.

Other interest holder

9 (1) Any person who claims to have an interest in the lot of land described in a certificate of claim or who is the holder of a lien, judgment, mortgage, encumbrance or any other charge may, within 60 days of the date of registration of the certificate, file a written notice thereof with the Minister.

(2) Where a notice is not filed pursuant to subsection (1) within the time set out therein, the Minister may grant a certificate of title to the applicant.

(3) Where a notice is filed pursuant to subsection (1), the Minister shall deliver a copy of the notice to the applicant either by personal service or by prepaid registered mail.

(4) A person who files a notice pursuant to subsection (1) may, within 60 days after filing the notice, commence a proceeding in the Supreme Court of Nova Scotia for a declaration that the interest claimed in the notice or that the lien, judgment, mortgage, encumbrance or other charge referred to in the notice is valid.

(5) Where a proceeding is not commenced pursuant to subsection (4), the Minister shall grant a certificate of title to the applicant.

(6) In a proceeding commenced pursuant to subsection (4),

(a) the parties are each person who filed the notice pursuant to subsection (1) as plaintiff, the applicant for the certificate of claim as defendant and such other persons as the Court orders be joined as parties;

(b) the Court may

(i) declare the interests of the parties,

(ii) dismiss the proceeding,

(iii) make such order as the Court considers just.

(7) After any proceeding commenced pursuant to subsection (4) is finally disposed of, the Minister shall

(a) grant a certificate of title;

(b) revoke the certificate of claim; or

(c) grant a certificate of title subject to an interest in accordance with the decision of the Court.

(8) Where the Minister revokes a certificate of claim pursuant to subsection (7), the Minister shall file the revocation in the registry of deeds for the registration district in which the land is situate.

(9) Where a certificate of revocation has been filed but the objection mentioned in any notice given pursuant to subsection (1) has been removed and 60 days have elapsed from the date the objection was removed, the Minister may grant a certificate of title to the applicant.

(10) Where a certificate of title has been filed in the registry of deeds, title to the lot of land described in the certificate vests in the applicant named in the certificate in fee simple and such title is absolute and indefeasible but subject to any liens, judgments, mortgages, encumbrances or other charges or reservations, exceptions or other qualifications mentioned in the certificate. R.S., c. 250, s. 7; 1992, c. 22, s. 1.

Person adversely affected

10 (1) A person who claims to have been adversely affected by the effect of subsection 9(10) may apply to the Minister for compensation.

(2) The Minister shall make or cause to be made such independent investigation as is required in the opinion of the Minister to determine whether or not the applicant has been adversely affected.

(3) Where the independent investigation determines that the applicant has been adversely affected, the Minister may, with the approval of the Governor in Council and subject to subsection (4), pay to the applicant such compensation as the Minister considers fair in the circumstances.

(4) The compensation must not exceed the value of the land at the time the certificate of title was filed. 2010, c. 55, s. 1.

LAND TITLES INITIATIVE

Interpretation

11 In Sections 12 to 20,

“commissioner” means a person appointed pursuant to subsection 13(1);

“Fund” means the Land Titles Initiative Trust Fund established by the Attorney General;

“Minister” means the Minister of African Nova Scotian Affairs. 2021, c. 7, s. 5.

Land Titles Initiative

12 The Land Titles Initiative is established for the purpose of

(a) addressing land title interests in the designated land titles clarification areas of

(i) Cherry Brook,

(ii) East Preston,

(iii) Lincolnville,

(iv) New Road Settlement (North Preston), and

(v) Sunnyville,

and such other areas as may be prescribed by the regulations; and

(b) providing an accelerated approach to clearing title for the areas referred to in clause (a). 2021, c. 7, s. 5.

Commissioners

13 (1) The Minister may appoint persons to act as commissioners for the purpose of Sections 12 to 19.

(2) The Minister shall determine the remuneration, expenses and terms of appointment of commissioners. 2021, c. 7, s. 5.

Powers of commissioner

14 A commissioner has all the powers, privileges and immunities of a commissioner appointed under the *Public Inquiries Act*. 2021, c. 7, s. 5.

Award of compensation

15 A commissioner may make a decision awarding compensation from the Fund

(a) to persons adversely affected by the issuance of a certificate of title; and

(b) in lieu of title to land, to resolve competing interests in land, within the designated land titles clarification areas referred to in Section 12. 2021, c. 7, s. 5.

Referral to commissioner by applicant

16 (1) Where

(a) an applicant has made a claim pursuant to subsection 6(1) and there are other interest holders to all or a portion of the same lot of land making a claim pursuant to Section 9; or

(b) multiple applicants with competing interests have made claims to all or a portion of the same lot of land pursuant to subsection 6(1),

the Minister may refer the matter to a commissioner.

(2) A commissioner shall assist applicants and other interest holders to resolve their dispute through alternative dispute resolution.

(3) Where applicants and other interest holders wish to proceed by way of arbitration, they must agree that the decision of the commissioner will be final and binding. 2021, c. 7, s. 5.

Referral to commissioner by adverse interest

17 (1) Where a person claims to have been adversely affected by the issuance of a certificate of title and has not applied to the Minister under Section 10, the Minister may refer the matter to a commissioner.

(2) Following an investigation, the commissioner may make a decision to award compensation. 2021, c. 7, s. 5.

Referral through other process

18 Where there is no claim pursuant to subsection 6(1), but a person has commenced clarifying title through another process and there are competing claims, the Minister may refer the matter to a commissioner. 2021, c. 7, s. 5.

Resolution of claim

19 (1) Where a resolution has been reached respecting a claim referred under Section 16, the commissioner may

- (a) recommend to the Minister that a certificate or certificates of title be issued; and
- (b) make a decision to award compensation.

(2) Where a resolution has been reached respecting a competing claim under Section 18, the commissioner may make a decision to award compensation.

(3) The commissioner shall provide reasons for a recommendation and a decision to award compensation made under subsection (1) and for a decision to award compensation made under subsection (2).

(4) A decision whether to award compensation and the amount of any compensation made by the commissioner is not subject to further review or appeal.

- (5) An award shall not be paid from the Fund until the later of
 - (a) when title for the parcel of land with respect to which the decision for an award of compensation is made is registered pursuant to the *Land Registration Act*; and
 - (b) 25 days after the date the decision of the commissioner is communicated to the parties. 2021, c. 7, s. 5.

Regulations

20

- (1) The Governor in Council may make regulations
 - (a) prescribing a method for giving notice upon the filing of a certificate of title;
 - (b) respecting the addition of a land titles clarification area to the Land Titles Initiative;
 - (c) respecting any additional information required and processes for land claims under this Act;
 - (d) prescribing the qualifications of persons who may be appointed as commissioners;
 - (e) respecting the scope of duties of a commissioner and conferring additional powers, functions, duties and responsibilities upon a commissioner;
 - (f) respecting record-keeping for matters or proceedings before a commissioner;
 - (g) respecting the valuation criteria for decisions to award compensation;
 - (h) respecting processes and procedures for alternative dispute resolution;
 - (i) defining any word or expression used in this Part and not defined in this Part;
 - (j) 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*, 2021, c. 7, s. 6.

PART II

UNGRANTED LAND

Purpose of Part

21 The purpose of this Part is to

- (a) facilitate the economic and efficient reconciliation of the Crown's interest in certain ungranted land;
 - (b) permit the Crown to release its interest in certain ungranted land; and
 - (c) provide clarity in respect of Crown interests in ungranted land.
- 2006, c. 15, s. 14.

Interpretation of Part

22 In this Part,

“acknowledged Crown land” means land that has been surveyed, managed, confirmed through investigation or used historically by the public as Crown land;

“certificate of release” means a certificate of release issued by the Minister under this Part;

“Crown” means the Crown in right of the Province;

“Crown land” means all or any part of land that is under the administration and control of the Minister;

“current” means as of February 6, 2007;

“ungranted land” means Crown land that has never been the subject of a grant transferring ownership from the Crown. 2006, c. 15, s. 14.

Certificate under Crown Lands Act

23 Nothing in this Part prejudices a person's right to make a claim or the Minister's power to issue a certificate under Section 37 of the *Crown Lands Act*. 2006, c. 15, s. 14.

Certificate of release

24 (1) Notwithstanding Section 15 of the *Crown Lands Act*, where it appears to the Minister that it is desirable to reconcile the Crown's interest in certain ungranted land, the Minister may, with the approval of Governor in Council, issue a certificate of release to the effect that the Crown asserts no interest or claim to that land and upon issuance of the certificate, all interest or claim of the Crown to that land ceases.

(2) In determining whether it is desirable to reconcile the Crown's interest pursuant to this Section, the Minister shall consider

(a) the nature and extent of the current and historical usage of the land; and

(b) any other information the Crown determines necessary to be satisfied that title has been extinguished.

(3) A certificate of release must be filed in the registry of deeds for the registration district or districts in which the land therein described is situate.

(4) A plan of the area as described in the certificate of release must be filed with the certificate in the registry of deeds in the registration district or districts in which the land therein described is situate. 2006, c. 15, s. 14; 2010, c. 55, s. 2.

Exclusions

25 No certificate of release may be issued with respect to acknowledged Crown land or land that exhibits no current or historical usage. 2010, c. 55, s. 3.

Regulations

26 (1) The Governor in Council may make regulations

(a) respecting the form of and information to be contained in a certificate of release and plan;

(b) prescribing guidelines for determining whether it is desirable to reconcile the Crown's interest in land;

(c) defining any word or expression used in this Part and not defined in this Part;

(d) respecting any other 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*. 2006, c. 15, s. 14.

CHAPTER L-7

**An Act Respecting Language Schools
for International Students**

Table of Contents

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

	Section
Short title.....	1
Purpose of Act.....	2
Interpretation.....	3
Restrictions on application of Act.....	4
Prohibition.....	5
Application for registration.....	6
Registration.....	7
Register.....	8
Suspension and cancellation.....	9
Representations.....	10
Misleading advertising.....	11
Duties of school operator.....	12
Recruiting practices.....	13
Complaints.....	14
Review by Senior Executive Director.....	15
Inspectors.....	16
Inspections.....	17
Order to enter and inspect.....	18
Language Program Completion Fund.....	19
Offence.....	20
Injunction.....	21
Order to comply.....	22
Administrative sanction.....	23
Regulations by Minister.....	24
Regulations by Governor in Council.....	25

Short title

1 This Act may be cited as the *Language Schools Act*. 2013, c. 5, s. 1.

Purpose of Act

2 The purpose of this Act is to ensure language schools provide quality English and French language programs along with adequate support services to international students in the Province. 2013, c. 5, s. 2.

Interpretation

3 In this Act,

“bridging language program” means a language program in which an international student is enrolled concurrently while attending a university, a community college or another institution in the Province designated in the regulations;

“certificate of registration” means a certificate of registration issued or renewed pursuant to this Act that is not revoked;

“Director” means the Director of the Private Career College Division at the Department of Advanced Education or such other person in the Department designated by the Minister;

“Fund” means the Language Program Completion Fund established by this Act;

“inspector” means a person appointed as an inspector by the Minister;

“international student” means a person who is a foreign national studying in the Province;

“language program” means either an English or French language program;

“language school” means an institution offering language programs to international students on one or more campuses in the Province;

“Minister” means the Minister of Advanced Education;

“operator” means the owner of a language school or a person designated by the owner;

“Senior Executive Director” means the Senior Executive Director of the Higher Education Branch at the Department of Advanced Education or such other person in the Department designated by the Minister;

“student contract” means an agreement between a language school and an international student to provide a language program;

“surety bond” means a bond, irrevocable letter of credit or other type of security approved by the Minister and prescribed by the regulations. 2013, c. 5, s. 3.

Restrictions on application of Act

4 This Act does not apply to

- (a) language schools that do not accept international students; or
- (b) bridging language programs offered by universities, community colleges or other institutions designated by the regulations. 2013, c. 5, s. 4.

Prohibition

5 No person shall operate a language school for international students in the Province unless a certificate of registration has been issued for the language school. 2013, c. 5, s. 5.

Application for registration

6 Every person who applies to register a language school for international students shall

- (a) complete and submit an application as prescribed by the regulations;
- (b) permit an inspector to inspect the premises to be used as a language school and the premises to be used for student housing;

- (c) provide confirmation that the language school is registered with the Registrar of Joint Stock Companies;
- (d) provide a copy of the language school's corporate ownership share register if applicable;
- (e) establish to the satisfaction of the Director that
 - (i) the language school meets the financial, human resources and administrative capacities prescribed by the regulations,
 - (ii) the language school has facilities and equipment as prescribed by the regulations to offer language programs,
 - (iii) the language school has policies and procedures, including policies or procedures regarding credential assessment, language testing and tuition payment and refund that satisfy the requirements as prescribed by the regulations,
 - (iv) the language school has adequate accommodation and support services for students as prescribed by the regulations, and
 - (v) the language school and the language program offered by the language school are eligible to be accredited by an accreditation agency approved by the Minister and listed in the regulations;
- (f) pay the application fee prescribed by the regulations;
- (g) post a surety bond with the Minister in an amount and in accordance with requirements prescribed by the regulations;
- (h) undertake to make the payments to the Fund required pursuant to this Act; and
- (i) satisfy any additional requirements prescribed by the regulations. 2013, c. 5, s. 6.

Registration

- 7 (1) Upon receiving a satisfactory inspection report prepared pursuant to clause 6(b), the Director shall register a language school that meets the criteria set out in this Act and the regulations by issuing a certificate of registration listing each individual campus location in the Province of the language school.
- (2) Only campus locations listed on the certificate of registration may be used for a language school's language program.
- (3) The certificate of registration may not be transferred or assigned.
- (4) The certificate of registration must be displayed on each campus of the language school in a place clearly visible to the public.
- (5) A certificate of registration issued by the Director remains in force until it expires on a date determined by the regulations or is revoked by the Director.
- (6) A certificate of registration that has not been revoked may be renewed by following the process set out in the regulations. 2013, c. 5, s. 7.

Register

8 (1) The Director shall keep a register of all registered language schools.

(2) The Director shall strike from the register a language school whose registration is not renewed in accordance with the regulations.

(3) The Director shall strike from the register a language school whose registration has been revoked. 2013, c. 5, s. 8.

Suspension and cancellation

9 (1) The Director may attach conditions or restrictions to a language school's certificate of registration.

(2) The Director may revoke or suspend a language school's certificate of registration for its operator's failure to comply with this Act, the regulations or conditions or restrictions attached to the certificate of registration.

(3) The Director shall give the operator 10 days written notice of the revocation or suspension of the language school's certificate of registration pursuant to subsection (2).

(4) Where a certificate of registration is revoked, the operator of the language school shall cease offering language programs to international students and surrender its certificate of registration to the Minister.

(5) Where a certificate of registration is suspended, the operator of the language school shall not accept new international students and shall fulfill all obligations to the international students enrolled in the language school at the time the certificate of registration is suspended. 2013, c. 5, s. 9.

Representations

10 No person, including an agent of a language school, shall hold out a language school as registered unless the registration has been made pursuant to this Act. 2013, c. 5, s. 10.

Misleading advertising

11 No person shall publish or cause to be published an advertisement relating to a language school that is misleading, tends to mislead or does not meet the advertising requirements prescribed by the regulations. 2013, c. 5, s. 11.

Duties of school operator

12 The operator of a language school shall

(a) keep and maintain at the language school's place of business student files, student records, attendance records, student transcripts, certificates, diplomas and all other student documentation prescribed by the regulations;

(b) have a student contract with each international student as prescribed by the regulations;

(c) before entering into the student contract pursuant to clause (b) provide to each international student a copy of the policies and procedures required by subclause 6(e)(iii);

(d) report to the Minister on its activities, operations and any changes to the corporate ownership share register as prescribed by the regulations;

(e) provide annually its financial statements along with any other reporting documentation as set out in the regulations;

(f) at the request of the Minister, immediately make available to the Minister any documents or records;

(g) comply with all applicable federal, provincial and municipal laws; and

(h) satisfy any additional requirements as set out in the regulations. 2013, c. 5, s. 12.

Recruiting practices

13 The operator or agent of a language school shall not engage in any student recruiting practices that are misleading or contrary to the requirements prescribed by the regulations. 2013, c. 5, s. 13.

Complaints

14 (1) A complaint against a language school may be initiated by any person.

(2) A complaint must be in writing, signed by the complainant and filed with the Director in accordance with the regulations.

(3) Within seven days of receipt of the complaint, the Director shall dismiss a complaint if it is

- (a) frivolous or vexatious;
- (b) not advanced in good faith; or
- (c) not within the jurisdiction of the Director.

(4) Where a complaint is not dismissed by the Director pursuant to subsection (3), the Director shall

- (a) advise the operator of the language school that a complaint alleging a violation of this Act or the regulations has been received;
- (b) disclose to the operator of a language school the information received respecting the alleged violation of this Act or the regulations, in the form prescribed by the regulations; and
- (c) advise the operator of the language school that a written response may be filed in accordance with the regulations.

(5) Within 14 days of receipt of the complaint or within seven days of the date of the Director's decision not to dismiss the complaint pursuant to subsection (3), whichever is earlier, the Director shall

- (a) informally resolve the complaint; or
- (b) make an order dismissing the complaint or doing one or more of the following:
 - (i) giving clear directions that certain immediate actions be taken by the language school,
 - (ii) imposing conditions or restrictions on the language school's certificate of registration,
 - (iii) suspending or revoking the language school's certificate of registration,
 - (iv) reinstating a dismissed international student until all appeals and reviews have been completed,
 - (v) imposing restrictions on the language school's advertising,
 - (vi) directing the operator of the language school to reimburse all or a portion of the tuition and other program costs paid by an international student to the student,
 - (vii) directing the release of all or a portion of the surety bond posted pursuant to clause 6(g),
 - (viii) granting any other remedy that is just and reasonable in the circumstances.

(6) The decision or order of the Director made pursuant to subsection (5) must be in writing and must be sent to the parties by registered mail, personal service or such other method as is prescribed by the regulations. 2013, c. 5, s. 14.

Review by Senior Executive Director

15 (1) An affected party may request a review by the Senior Executive Director of the Director's

- (a) decision imposing conditions or restrictions on a language school's certificate of registration pursuant to subsection 9(1);
 - (b) decision to revoke or suspend a language school's certificate of registration pursuant to subsection 9(2);
 - (c) decision or order made pursuant to subsection 14(5);
- and
- (d) administrative sanction issued pursuant to subsection 23(1).

(2) The request for a review must be in writing, signed by the party and filed in accordance with the regulations with the Senior Executive Director no later than seven days from the date on which the decision or order of the Director referred to in subsection (1) was sent.

(3) Upon the filing of the request for a review, the Senior Executive Director shall advise the parties of the review procedures prescribed by the regulations.

(4) Within 14 days of receipt of the request for a review, the Senior Executive Director shall confirm, reverse or vary the decision or order being reviewed.

(5) The decision of the Senior Executive Director must be in writing and must be sent to the parties by registered mail, personal service or such other method as is prescribed by the regulations. 2013, c. 5, s. 15.

Inspectors

16 (1) The Minister shall appoint inspectors for the purpose of this Act.

(2) The Minister may delegate to any person any power conferred or duty imposed on the Minister by this Act. 2013, c. 5, s. 16.

Inspections

17 (1) Subject to subsection (2), an inspector may, at any reasonable time, enter upon the premises of a language school to make an inspection for the purpose of this Act or the regulations.

(2) An inspector may not enter a private dwelling or student housing premises in which an international student resides except

(a) with the consent of the principal occupant of the dwelling or premises; or

(b) pursuant to an order to enter and inspect obtained pursuant to Section 18.

(3) An inspector, on the request of a person occupying the premises, shall produce the identification provided by the Director for this purpose.

(4) An inspector has such other powers and duties as are prescribed by the regulations.

(5) Upon an inspection under this Section, an inspector may

(a) require the production of any documents or records for inspection and copying;

(b) inspect the physical premises and equipment; and

(c) inquire into matters that relate to compliance with the requirements of this Act or the regulations. 2013, c. 5, s. 17.

Order to enter and inspect

18 (1) Notwithstanding anything contained in this Act, where a judge is satisfied on evidence under oath by an inspector that

(a) there are reasonable grounds to believe that it is appropriate for the administration of this Act for the inspector to do anything set out in Section 17; and

(b) the inspector may not be able to carry out duties under this Act effectively without an order under this Section because

(i) no person is present to grant access to premises that are locked or otherwise inaccessible,

(ii) a person has denied the inspector access to premises or there are reasonable grounds for believing that a person may deny the inspector access to premises,

(iii) a person has prevented the inspector from doing anything set out in Section 17 or denied the inspector access to any thing, as a result of which the inspector is unable to do anything set out in Section 17,

(iv) there are reasonable grounds to believe that a person may prevent an inspector from doing anything set out in Section 17, or may deny the inspector access to any thing as a result of which the inspector may be unable to do anything set out in Section 17,

(v) it is unpractical, because of the remoteness of the premises to be inspected or because of any other reason, for the inspector to obtain an order under this Section without delay if access is denied, or

(vi) there are reasonable grounds to believe that an attempt by the inspector to do anything set out in Section 17 without the order might defeat the purpose of that Section or cause an adverse effect,

the judge may issue an order authorizing the inspector to do anything set out in Section 17 that is specified in the order for the period set out in the order.

(2) The period referred to in subsection (1) may not extend beyond 30 days after the date on which the order is made, but the order may be renewed for any reason set out in subsection (1) for one or more periods, each of which may not be more than 30 days.

(3) An application pursuant to subsection (2) may be made before or after the expiry of the period.

(4) An order under this Section may be issued or renewed on application without notice. 2013, c. 5, s. 18.

Language Program Completion Fund

19 (1) A trust fund within the meaning of the *Finance Act* is established, to be known as the Language Program Completion Fund.

(2) The Fund consists of

(a) fees that operators are required by the regulations to pay into the Fund;

(b) donations to the Fund; and

(c) any income and earnings from investments of the Fund.

(3) The Minister of Finance and Treasury Board shall administer the Fund.

(4) Subject to the approval of the Minister of Finance and Treasury Board, the Minister may direct payments out of the Fund to

(a) compensate international students who have entered into a student contract with an operator who is unable to meet the requirements of the student contract;

(b) compensate third party sponsors who have paid tuition on behalf of an international student;

(c) pay for the expenses of administering and auditing the Fund; and

(d) do any other thing relating to a language school that is necessary to effectively carry out the intent and purpose of this Act.

(5) The Minister of Finance and Treasury Board may

(a) invest any monies of the Fund in any investments that are authorized for the investment of money in the General Revenue Fund;

(b) dispose of the investments in the manner and on terms that that Minister considers appropriate and invest the proceeds in other investments authorized pursuant to clause (a);

(c) pay for the expenses of administering and auditing the Fund; and

(d) do any other thing that is prescribed by the regulations.

(6) In each fiscal year the Minister of Finance and Treasury Board shall prepare and submit to the Minister a financial statement showing the business of the Fund for the preceding fiscal year and the Minister shall publish the report.

(7) The fiscal year of the Fund is the same as the fiscal year of the Province.

(8) No action may be brought against the Crown in right of the Province for claims against the Fund. 2013, c. 5, s. 19.

Offence

20 (1) Every person who

(a) operates a language school without a valid certificate of registration;

(b) knowingly furnishes false information in any application under this Act or the regulations or in any statement or return required to be furnished under this Act or the regulations;

(c) obstructs, misleads, interferes or otherwise refuses to comply with an inspector in the exercise of a power granted pursuant to this Act;

(d) fails to comply with an order of the Director; or

(e) otherwise contravenes this Act or the regulations, is guilty of an offence and liable on summary conviction to a fine of not more than \$100,000 and, in default of payment, to imprisonment for a period not exceeding six months.

(2) A prosecution for an offence pursuant to this Act may not be commenced more than two years from the date of the alleged offence.

(3) Where a corporation commits an offence under this Act or the regulations, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the violation of this Act or the regulations is guilty of the offence and is liable to the punishment provided for the offence, whether or not the corporation has been prosecuted. 2013, c. 5, s. 20.

Injunction

21 (1) In the event of a threatened or a continuing contravention of this Act or the regulations, the Minister may file an application to be heard by a judge of the Supreme Court of Nova Scotia for an injunction to restrain the person from continuing or committing the contravention and, where the judge considers it to be just, the judge may grant such injunction.

(2) A judge may, on motion, grant an interim injunction pending the hearing of an application for an injunction pursuant to subsection (1) if the judge is satisfied that there is reason to believe that a person is likely to commit or is continuing to commit a contravention of this Act or the regulations. 2013, c. 5, s. 21.

Order to comply

22 (1) Where the Director is of the opinion that a person has failed to comply with this Act or the regulations, the Director may issue an order in writing requiring compliance immediately or within such period of time as the Director specifies.

- (2) An order to comply issued pursuant to subsection (1) must
- (a) indicate the nature of the non-compliance and state the provisions of this Act or the regulations that were contravened; and
 - (b) state that failure to follow the order may result in the Director
 - (i) issuing a notice and imposing an administrative sanction as set out in the regulations, or
 - (ii) laying a charge for failure to comply with this Act or the regulations. 2013, c. 5, s. 22.

Administrative sanction

23 (1) Where a person fails to follow an order to comply issued pursuant to Section 22, the Director may issue a notice in writing imposing an administrative sanction as set out in the regulations.

- (2) The notice referred to in subsection (1) must
- (a) include a copy of the order to comply issued pursuant to Section 22;
 - (b) provide details of the person's failure to comply with the order referred to in clause (a);
 - (c) provide a clear description of the administrative sanction;
 - (d) state when and how the administrative sanction can be satisfied;
 - (e) state the date by which any monetary sanction must be paid; and
 - (f) provide the manner in which the person may request a review of the administrative sanction by the Senior Executive Director no later than seven days from the date of the notice referred to in subsection (1).

(3) A person who satisfies the administrative sanction pursuant to this Section may not be charged with an offence respecting the matter that gave rise to the administrative sanction. 2013, c. 5, s. 23.

Regulations by Minister

- 24 (1) The Minister may make regulations
- (a) establishing a listing of approved accreditation agencies for language schools and language programs;
 - (b) respecting the designation of institutions offering a bridging language program;
 - (c) respecting application forms and fees;
 - (d) prescribing the form and content of a certificate of registration, including the expiry date of the certificate;
 - (e) establishing procedures and criteria for the renewal of a certificate of registration;
 - (f) prescribing criteria for the revocation or suspension of a certificate of registration;
 - (g) respecting files, forms, records and documents relating to students to be kept at the place of business of the language school;
 - (h) prescribing the form and content of the student contract;
 - (i) prescribing the content of the report required for the purpose of clause 12(d);
 - (j) prescribing reporting documents required for the purpose of clause 12(e);
 - (k) prescribing the procedures for filing, responding to, processing and disposing of a complaint for the purpose of Section 14;

- (l) prescribing the procedure for filing a request for review and establishing review procedures for the purpose of Section 15;
- (m) prescribing methods of notifying parties of a decision or order;
- (n) prescribing the fees that operators are required to pay into the Fund.

(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. 5, s. 24.

Regulations by Governor in Council

- 25 (1) The Governor in Council may make regulations
- (a) establishing registration criteria for language schools;
 - (b) establishing the financial, human resources and administrative capacities required of language schools;
 - (c) prescribing policies and procedures, including policies or procedures regarding credential assessment, language testing and tuition payment and refund;
 - (d) establishing criteria for adequate student accommodation and support services;
 - (e) regarding student recruiting practices;
 - (f) authorizing the Director to determine whether recruiting practices are misleading or contrary to these regulations, for the purpose of a complaint, revocation or suspension pursuant to this Act;
 - (g) prescribing the form for the disclosure of the information for the purpose of clause 14(4)(b);
 - (h) prescribing the form, amount and requirements for the security to be posted by a person who applies to register a language school;
 - (i) respecting the Fund;
 - (j) regulating the content of language-school advertising;
 - (k) authorizing the Director to determine whether an advertisement is misleading, tends to mislead or does not meet the advertising requirements prescribed by these regulations for the purpose of a complaint, revocation or suspension pursuant to this Act;
 - (l) prescribing powers and duties of inspectors;
 - (m) respecting administrative sanctions;
 - (n) defining any word or expression used by but not defined in this Act;
 - (o) further defining any word or expression defined in this Act;

(p) 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*, 2013, c. 5, s. 25.

CHAPTER L-8

An Act Respecting Legal Aid

Table of Contents

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

	Section
Short title.....	1
Interpretation.....	2
Nova Scotia Legal Aid Commission established.....	3
Directors.....	4
Quorum and right to vote.....	5
Business and practices of Commission.....	6
Objects of Commission.....	7
Powers and duties of Commission.....	8
Personnel.....	9
Administration cost and expenses.....	10
Accounts and records.....	11
Audit.....	12
Fiscal year and annual report.....	13
Tax exemption.....	14
Property vested in Crown.....	15
Chief Executive Officer.....	16
Entitlement to legal aid and powers of lawyer.....	17
When legal aid granted.....	18
Application for legal aid.....	19
Certificate of eligibility.....	20
Refusal or suspension of legal aid.....	21
Charge for legal aid.....	22
Panels of lawyers.....	23
Agreement to pay part of cost.....	24
Party and party costs.....	25
Effect of recovery by recipient.....	26
Collection of costs of legal aid by Commission.....	27
Where false or misleading information given.....	28
Appeal to Commission.....	29
Agreements.....	30
No conflict of interest.....	31
Privileged information.....	32
Liability of director, officer or employee of Commission.....	33
Regulations.....	34

Short title

1 This Act may be cited as the *Legal Aid Act*. R.S., c. 252, s. 1.

Interpretation

2 In this Act,
“Chief Executive Officer” means the person appointed as the Chief Executive Officer of the Commission pursuant to this Act;
“Commission” means the Nova Scotia Legal Aid Commission;
“lawyer” has the same meaning as in the *Legal Profession Act*;

“legal aid” means legal aid provided pursuant to this Act and the regulations. R.S., c. 252, s. 2; 2020, c. 15, s. 1.

Nova Scotia Legal Aid Commission established

3 (1) A body corporate to be known as the Nova Scotia Legal Aid Commission is established.

(2) The Commission consists of

(a) nine directors appointed by the Governor in Council on the recommendation of the Attorney General; and

(b) two persons in the public service designated by the Attorney General.

(3) Four of the directors appointed by the Governor in Council must be from those persons nominated to the Attorney General as directors by the Council of the Nova Scotia Barristers’ Society.

(4) In nominating persons to the Attorney General, the Council of the Nova Scotia Barristers’ Society shall provide a sufficient number of names of proposed directors so that the Attorney General will be able to make an appropriate recommendation to the Governor in Council.

(5) Directors of the Commission may include persons in the public service and persons who hold an office or appointment under any enactment of the Parliament of Canada or of the Province.

(6) All directors appointed subsequent to the appointments establishing the Commission must be for a term of not more than three years.

(7) Each director is eligible for reappointment to the Commission upon expiry of the director’s term.

(8) Where the term of office of a director expires, that director may continue to act as a director until the director is reappointed, a successor is appointed or the appointment of the director is revoked.

(9) Where a vacancy occurs on the Commission for any reason whatsoever due to a director not completing the director’s term, then such vacancy must be filled as soon as practicable by appointment in the manner provided in this Section and the director so appointed shall hold office for the residue of the term for which the director is appointed or until a successor is appointed.

(10) A vacancy on the Commission does not impair the right of the remaining directors to act.

(11) When making recommendations or nominations, as the case may be, the Attorney General and the Nova Scotia Barristers’ Society shall consider a potential director’s knowledge of and skills and experience in

(a) business, management and financial matters;

(b) law and the operation of courts, tribunals and alternative dispute-resolution processes;

- (c) the provision of legal aid;
- (d) familiarity with the Province's Indigenous Black and Mi'kmaq communities;
- (e) urban and rural areas;
- (f) the cultural, linguistic and geographic diversity of the Province; and
- (g) the social and economic circumstances associated with the special legal needs of low-income individuals. R.S., c. 252, ss. 3, 4 (part); 2020, c. 15, s. 2.

Directors

4 (1) One of the directors must be appointed Chair of the Commission.

(2) The directors may be full-time directors or part-time directors in the discretion of the Governor in Council.

(3) Each full-time director of the Commission shall devote the whole of the director's time to the performance of the director's duties under this Act and must be paid such remuneration as is determined by the Governor in Council.

(4) Each part-time director of the Commission may be paid such remuneration for attendance at meetings of the Commission as is determined by the Governor in Council.

(5) Each director of the Commission must be paid such travelling and living expenses incurred by the director in the performance of the director's duties under this Act as are determined by the Governor in Council. R.S., c. 252, s. 4; 2020, c. 15, s. 3.

Quorum and right to vote

5 (1) A quorum of the Commission consists of five members.

(2) The persons in the public service designated by the Attorney General do not have a vote in the deliberations of the Commission. R.S., c. 252, s. 5; 2020, c. 15, s. 4.

Business and practices of Commission

6 Subject to this Act and the regulations, the Commission controls and directs the business of the Commission and may, by resolution or bylaw, determine its own practices and procedures. 2020, c. 15, s. 5.

Objects of Commission

7 The objects of the Commission are to

- (a) deliver quality legal services in accordance with this Act;
- (b) improve access to justice for Nova Scotians; and
- (c) provide such other legal services as the Attorney General may direct the Commission to provide to individuals or groups. 2020, c. 15, s. 5.

Powers and duties of Commission

8 (1) The Commission is responsible for all matters relating to legal aid in the Province and for persons employed by the Commission and has all the powers and shall perform all the duties conferred and imposed upon it by this Act, any other Act, the Governor in Council or the Attorney General, including

- (a) determining the legal needs of low-income individuals and of disadvantaged communities;
- (b) establishing priorities for the areas of law, types of cases and types of proceedings for which it will provide legal aid;
- (c) establishing policies for the kinds of legal aid to be provided in different areas of law, types of cases and types of proceedings;
- (d) establishing procedures for applying for legal aid;
- (e) establishing guidelines, procedures and requirements for lawyers and other persons providing services under this Act;
- (f) establishing offices and maintaining facilities;
- (g) establishing strategic policy and plans to meet the objectives of the Commission by
 - (i) assessing current and future needs for legal aid,
 - (ii) formulating strategies to meet those needs, and
 - (iii) setting performance measures to determine if the objectives have been met;
- (h) developing the Commission's capacity to participate in the development of an integrated justice system in collaboration with other partners in the justice system;
- (i) facilitating coordination among the different methods and different persons and entities by which legal aid is provided;
- (j) informing the public respecting the nature and extent of services available under this Act;
- (k) initiating, conducting and participating in public legal education and other programs that advance the purpose of this Act;
- (l) reviewing and approving investment policies;
- (m) developing and maintaining an information-technology strategy;
- (n) establishing policies for the retention, preservation and destruction of records;
- (o) establishing and implementing quality-control mechanisms;
- (p) evaluating the programs of the Commission;
- (q) undertaking inquiries and investigations in relation to the functions of the Commission;
- (r) making payments for services rendered by lawyers in accordance with this Act and the regulations; and

(s) doing any other thing that is necessary, incidental or conducive for the carrying out of the purpose of this Act.

(2) In the exercise and performance of its functions, powers and duties under this or any other enactment, the Commission shall act in accordance with any general directions of the Attorney General.

(3) The Commission shall advise the Attorney General respecting legal aid and access to justice for individuals.

(4) Subject to this Act and the regulations, the Commission may delegate, in writing, any of its powers or duties to a committee of the Commission, a member of a committee or an officer or employee of the Commission. R.S., c. 252, s. 6; 2020, c. 15, s. 6.

Personnel

9 (1) Subject to this Act, the Commission may employ such officers and employees and technical and professional advisers and consultants as it considers necessary for the proper conduct of its activities.

(2) For the purpose of the *Public Service Superannuation Act*, every person employed by the Commission, otherwise than temporarily, is deemed to be a person employed in the public service of the Province and service in the employment of the Commission is deemed to be public service.

(3) The Commission shall

(a) deduct periodically from the salary of every person to whom subsection (2) applies such amount as is directed in accordance with the *Public Service Superannuation Act* to be deducted from the salary of an employee in the public service of the Province under that Act;

(b) pay over the same plus the employer's contributions calculated in accordance with the *Public Service Superannuation Act* to the Minister of Finance and Treasury Board,

which amounts when so received must be paid into and form part of the Superannuation Fund under the *Public Service Superannuation Act*.

(4) Where by the *Public Service Superannuation Act*

(a) any payment is directed to be made into the Superannuation Fund by the Governor in Council or by the Minister of Finance and Treasury Board; or

(b) any superannuation allowance or other sum is directed to be paid out of the General Revenue Fund,

in respect of any employee of the Commission, the Governor in Council may provide that such payment, superannuation allowance or other sum must be paid by the Commission. R.S., c. 252, s. 7; 2010, c. 2, s. 84; O.I.C. 2013-348; 2020, c. 15, s. 7.

Administration cost and expenses

10 The cost and expenses of administering this Act must be paid out of the money voted by the Legislature for that purpose and such other money as may be received by the Commission for that purpose by gift or grant. R.S., c. 252, s. 8.

Accounts and records

11 (1) The Commission may maintain in its name one or more accounts in one or more chartered banks designated by the Minister of Finance and Treasury Board.

(2) All money received by the Commission through the conduct of its operations or otherwise on behalf of or to the credit of the Commission may be deposited to the credit of the accounts established pursuant to subsection (1) and may be administered and expended by the Commission exclusively in the exercise and performance of the powers, duties and functions of the Commission.

(3) The Commission shall keep proper books of account and records and shall comply with Public Sector Accounting Board principles.

(4) Subject to such directions as to form as the Minister of Finance and Treasury Board may give, the Commission shall prepare in relation to its operations, in respect of each financial year of the Commission, statements of accounts that include

(a) statements of operations, changes in net financial assets and cash flows; and

(b) such other information in respect of the financial affairs of the Commission as the Minister of Finance and Treasury Board may require.

(5) Upon the request of the Minister of Finance and Treasury Board, the Commission shall provide to the Minister of Finance and Treasury Board and the Attorney General financial statements and reports in the form and containing the information prescribed by the Minister of Finance and Treasury Board. R.S., c. 252, s. 9; O.I.C. 2013-348; 2020, c. 15, s. 8.

Audit

12 The accounts of the Commission must be audited and reported on by the Auditor General or a qualified independent auditor at least once every year and at such other times as the Governor in Council or the Minister of Finance and Treasury Board may direct. R.S., c. 252, s. 10; O.I.C. 2013-348; 2020, c. 15, s. 9.

Fiscal year and annual report

13 (1) The fiscal year of the Commission is the period beginning on April 1st and ending on March 31st of the following year.

(2) The Commission shall before November 1st in each year make an annual report to the Attorney General containing

(a) an audited financial statement as outlined in subsection 11(4) for the last fiscal year;

(b) such other matters as may be prescribed by the Attorney General or the Governor in Council. R.S., c. 252, s. 11.

Tax exemption

14 The Commission and its property are exempt from taxation under or pursuant to any Act of the Legislature. R.S., c. 252, s. 12.

Property vested in Crown

15 All property, whether real or personal, acquired, possessed or received by the Commission and all profits earned in the administration of the same are property of the Crown in right of the Province. R.S., c. 252, s. 13.

Chief Executive Officer

16 (1) The Commission shall appoint a Chief Executive Officer.

(2) Subject to the Commission, the Chief Executive Officer is responsible for the general administration of the legal aid plan and staff in accordance with this Act and the regulations. R.S., c. 252, s. 14; 2020, c. 15, s. 10.

Entitlement to legal aid and powers of lawyer

17 (1) The Commission may grant legal aid in any area of law involving the liberty or civil rights of an individual and for matters involving the integrity and protection of an individual's family, including

- (a) criminal law;
- (b) family law;
- (c) social justice or administrative matters, if the matter affects the individual's income, housing, entitlement to benefits, ability to earn a livelihood, family integrity or mental health; and
- (d) any other matter as directed by the Attorney General.

(2) In determining whether to grant legal aid and which services to grant, the Commission shall consider

- (a) the need to achieve an effective balance among the different methods of providing legal aid;
- (b) the needs of low-income individuals and of disadvantaged communities;
- (c) the cost of providing such services; and
- (d) the Commission's resources.

(3) Subject to subsections (1) and (2), the Commission may provide legal aid by any method it considers appropriate, including

- (a) by providing services ordinarily provided by a lawyer;
- (b) by providing services other than those referred to in clause (a);
- (c) by providing duty counsel;

(d) by assisting individuals representing themselves, including providing those individuals with summary advice, legal information packages, self-help kits and assistance in preparing documents;

(e) by providing alternative dispute-resolution services;

(f) by providing public legal education and information.

(4) The Commission may provide legal aid through lawyers or other persons, whether or not those lawyers or other persons are employed by the Commission.

(5) Except as otherwise provided in this Act or the regulations, a lawyer providing legal aid may prepare documents, negotiate settlements or give legal advice necessary to carry out the lawyer's duties under this Act. 2020, c. 15, s. 11.

When legal aid granted

18 (1) Legal aid may be granted at any stage of proceeding, proposed proceeding or at any other time determined by the Commission.

(2) Legal aid may not be granted after the matter for which legal aid may have been granted has been completed, except in unusual circumstances and then only with the consent of the Commission. R.S., c. 252, s. 16; 2020, c. 15, s. 12.

Application for legal aid

19 (1) An application for legal aid must be made in the manner and form determined by the Commission to

(a) the appropriate legal aid official in the area in which the applicant resides at the time the application is made or in which the matter or proceeding for which legal aid is required arises or in which the legal services required are to be performed; or

(b) the Chief Executive Officer.

(2) An application for legal aid must set forth

(a) the financial condition of the applicant;

(b) the basis of the applicant's claim and all the information required by the Commission; and

(c) any additional information required by the Commission.

(3) Every applicant or recipient of legal aid shall notify without delay the Chief Executive Officer or the lawyer in charge of the applicant's or recipient's case of any change in the applicant's or recipient's condition making inaccurate any information supplied by the applicant or recipient to obtain legal aid. R.S., c. 252, s. 17; 2020, c. 15, s. 13.

Certificate of eligibility

20 (1) Where the regulations provide for legal aid to be provided or where the Chief Executive Officer determines that legal aid should be provided by a lawyer who is to be compensated by the Commission, the appropriate legal aid official shall issue a certificate of eligibility in a form approved by the Commission.

(2) No compensation may be paid for legal aid rendered prior to the issuance of such a certificate without the approval of the Commission. R.S., c. 252, s. 18; 2020, c. 15, s. 14.

Refusal or suspension of legal aid

21 Legal aid may be refused, suspended or withdrawn, as the case may be, or a certificate cancelled with regard to any person otherwise eligible where that person, without sufficient reason,

(a) refuses to provide the information or documents required to study the person's application;

(b) refuses to provide the information required under this Act and by the regulations;

(c) refuses to exercise the person's legal rights and remedies;

(d) refuses to co-operate with the lawyer rendering professional services for the person, in the manner that is normal and customary between a lawyer and a client;

(e) makes a false statement or conceals information in applying for legal aid;

(f) is charged for an offence the same as or similar to one for which the person has been convicted previously;

(g) is receiving or has received an unreasonable total amount of legal aid; or

(h) is not ordinarily resident in one of the provinces of Canada. R.S., c. 252, s. 19; 2020, c. 15, s. 15.

Charge for legal aid

22 Subject to this Act and the regulations, the Commission may, upon receipt of an application and where the applicant is found eligible, furnish legal aid

(a) without charge to any individual who is unable to pay therefor; or

(b) with a contribution agreement, to any individual who is able to pay a portion of the cost thereof. R.S., c. 252, s. 20; 2020, c. 15, s. 16.

Panels of lawyers

23 (1) The Commission may, in accordance with the regulations, appoint panels of lawyers who may provide legal aid.

(2) The Commission may establish minimum standards that a lawyer must meet to be appointed to a panel. 2020, c. 15, s. 17.

Agreement to pay part of cost

24 (1) Where the Commission determines that the applicant can pay some part of the cost of the legal aid applied for, the Commission may require the applicant to enter into a written agreement to pay that part of the cost under such conditions and at such time or times as may be set by the Commission.

(2) The amount that an applicant or person responsible for an applicant agrees to contribute towards the costs of the legal aid given to the applicant

(a) must be paid to the Commission by the applicant or person responsible for the applicant;

(b) is a debt owing to the Commission; and

(c) may be recovered in any court of competent jurisdiction.

(3) Where a person does not pay an amount that the person agreed to contribute when it becomes due, the Commission may issue the person with a notice stating that the person is in default under this Act and setting out the amount owed to the Commission.

(4) The Commission may file a notice issued under subsection (3) with the Supreme Court of Nova Scotia or with the Small Claims Court and that Court shall treat it in the same way as an order of the Court and it is enforceable as such.

(5) Notwithstanding any rule of court, the Commission may file the notice with a court by mail. R.S., c. 252, s. 21; 2020, c. 15, s. 18.

Party and party costs

25 (1) Unless a court otherwise orders, a court has the discretion to award party and party costs for or against a recipient of legal aid.

(2) Where a court orders costs against a recipient of legal aid, these costs must be payable by the recipient and not by the Commission unless prior written agreement exists between the recipient and the Commission.

(3) Where a court orders costs to be paid to a recipient of legal aid, the recipient may be required by the Commission to pay those costs to the Commission. R.S., c. 252, s. 22; 2020, c. 15, s. 19.

Effect of recovery by recipient

26 (1) Where a recipient of legal aid recovers under a judgment, order, settlement or otherwise in respect of the proceedings for which legal aid was rendered, the recipient may be required to make a payment to the Commission for the services rendered on the same basis as if an ordinary lawyer and client relationship existed.

(2) Costs awarded in any order made in favour of an individual who has received legal aid are recoverable in the same manner and to the same extent as though awarded to an individual who has not received legal aid.

(3) Subsection (2) applies even if no part of the costs of the legal aid received by the individual in whose favour the order is made was or will be contributed to the Commission by the individual or by a person responsible for the individual.

(4) Subsection (2) applies even if the costs are in excess of the total amount contributed or to be contributed to the Commission by the individual, or by a person responsible for the individual, for the costs of the legal aid received by the individual.

(5) All costs ordered by a court to be paid to an individual who has received legal aid are the property of the Commission and must be paid to the Commission. R.S., c. 252, s. 23; 2020, c. 15, s. 20.

Collection of costs of legal aid by Commission

27 (1) Where an applicant recovers any sum in respect of a matter for which the applicant received legal aid under a judgment, order, settlement or otherwise, the amount of the costs of the legal aid provided to the applicant is a charge against the sum so recovered and must be deducted from the sum recovered and paid to the Commission.

(2) Where an applicant who has been given legal aid in any matter recovers property other than money, the Commission has a charge against the property so recovered for the amount of the costs of the legal aid provided to the applicant and may enforce such a charge.

(3) Where the recovered property is personal property, the charge is deemed to be a financing statement as prescribed by the regulations made under the *Personal Property Security Act*.

(4) The charge is not invalidated nor its effect impaired by reason only of an error or omission in the charge or in its execution or registration, unless a reasonable person would be likely to be materially misled by the error or omission.

(5) Where the recovered property is real property, the Commission may register the charge against it in the land registry office for the county in which the property is located and the Commission may enforce the charge by sale of the real property against which it is registered in the same manner as a sale to realize on a mortgage.

(6) Where a person who owns or has any interest in real property in the Province has agreed to contribute towards the costs of legal aid given to the person or to a person for whom the person is responsible, the Commission may register a notice of lien for an amount equal to the amount that the person agreed to contribute against the person's land in the land registry office for the area in which the interest is located.

(7) Where the person fails to pay the Commission an amount the person agreed to contribute, the Commission may enforce a lien made under subsection (6) by sale of the real property against which it is registered in the same manner as a sale to realize on a mortgage.

(8) The Commission is not required to enforce the charge or lien immediately upon default occurring, but may delay enforcing the charge or lien to a

later date or, in accordance with the terms of the agreement entered into by the person and the Commission, to the occurrence of an event.

(9) A charge or lien against real property under this Section must be in a form approved by the Attorney General.

(10) The Commission may, in accordance with the regulations, waive any of its rights under this Section to collect amounts due to it and may accept payment from an applicant or person responsible for an applicant in a lesser amount than that owed by the applicant or person to the Commission.

(11) This Section does not apply in respect of legal aid provided by a legal aid clinic or any other entity that is not the Commission. 2020, c. 15, s. 21.

Where false or misleading information given

28 A person who knowingly makes false or misleading statements or provides false or misleading information in an application for legal aid may be required to make a payment to the Commission for services rendered upon that application on the same basis as if an ordinary solicitor and client relationship existed. R.S., c. 252, s. 24.

Appeal to Commission

29 An applicant or client, as the case may be, may appeal to the Commission where

- (a) the applicant or client is refused a grant of legal aid;
- (b) the applicant or client is refused a legal aid certificate;
- (c) the applicant or client is refused an amendment to the applicant's or client's legal aid certificate;
- (d) contributions are required by the applicant as a condition of the granting of legal aid or the issuing of a certificate;
- (e) legal aid is suspended or withdrawn; or
- (f) the legal aid certificate is cancelled or amended. R.S., c. 252, s. 25; 2020, c. 15, s. 22; revision corrected.

Agreements

30 Subject to the approval of the Governor in Council, the Attorney General or the Commission, or both, may enter into, vary or amend any agreement or agreements with the Government of Canada, a province or Dalhousie Legal Aid Service, or any or all of them, respecting legal aid upon such terms and conditions as are agreed. R.S., c. 252, s. 26.

No conflict of interest

31 A lawyer employed by the Commission to provide legal aid is not in a conflict of interest by reason only of representing a person in a dispute where a party opposite in interest in the dispute is being advised or represented by another lawyer working for a different office of the Commission. 1999 (2nd Sess.), c. 8, s. 8; 2020, c. 15, s. 23.

Privileged information

32 (1) Information disclosed by a client or an applicant for legal aid to a director, employee or officer of the Commission is privileged and must be kept confidential in the same manner and to the same extent as if it had been disclosed to a lawyer under a lawyer and client relationship.

(2) Where a civil or criminal proceeding is or may be brought against a person respecting the person's eligibility for legal aid, subsection (1) does not apply to information respecting eligibility. 2020, c. 15, s. 24

Liability of director, officer or employee of Commission

33 (1) A director, officer or employee of the Commission is not personally liable for anything done or omitted to be done or for any neglect or default in

(a) the exercise or purported exercise of a power conferred upon that director, officer or employee pursuant to this Act or the regulations; or

(b) the performance of a duty under this Act or the regulations.

(2) Subsection (1) does not apply if the act or omission was

(a) done in bad faith;

(b) fraudulent; or

(c) criminal.

(3) Subsection (1) does not protect the Commission from vicarious liability arising out of anything done or omitted by a person referred to in that subsection for which the Commission would be vicariously liable if this Section were not in effect. 2020, c. 15, s. 24.

Regulations

34 (1) The Governor in Council, on the recommendation of the Commission and the Attorney General, may make such regulations as the Governor in Council considers necessary or advisable for the more effective carrying out of the purpose of this Act and for dealing with any matters for which no express provision has been made or in respect of which only partial or imperfect provision has been made and, without restricting the generality of the foregoing, may make regulations

(a) designating regions of the Province as areas for the purpose of this Act;

(b) respecting the delegation by the Commission of any of its powers or duties;

(c) prescribing the classification, remuneration and other terms and conditions of employment of the Chief Executive Officer and other persons employed for the purpose of this Act;

(d) prescribing oaths of secrecy and requiring persons, or any class thereof, engaged in the administration of this Act to take and subscribe such oaths;

- (e) respecting the non-disclosure of information furnished by or about an applicant for or recipient of legal aid;
- (f) prescribing the accounts and records that must be kept of the transactions of the fund;
- (g) respecting the payment out of the fund of the expenses of the Commission attributable to the administration of this Act and the regulations;
- (h) to prevent unnecessary utilization or abuse of legal aid;
- (i) providing for the investigation of complaints of violations of this Act or the regulations or of any order made under this Act or the regulations;
- (j) providing for the settlement, recovery and payment of costs and other money due to the Commission;
- (k) providing for the payment of costs awarded against a person to whom legal aid has been given;
- (l) respecting the waiver or reduction by the Commission of amounts owed to it by an applicant or recipient of legal aid;
- (m) respecting panels of lawyers who may provide legal aid;
- (n) respecting panels of lawyers who may provide legal aid, including establishing minimum standards those lawyers must meet;
- (o) respecting the participation of Dalhousie Legal Aid Service in legal aid;
- (p) respecting the participation of students-at-law in legal aid;
- (q) respecting the matters in respect of which legal aid may be provided;
- (r) respecting entitlement to legal aid;
- (s) prescribing procedures for applying for legal aid;
- (t) prescribing information to be disclosed by applicants for legal aid;
- (u) prescribing rules for determining financial eligibility for legal aid;
- (v) respecting the fees to be paid to lawyers for professional services under this Act or the regulations;
- (w) respecting the establishment and revision from time to time of a tariff of fees to be used in taxing a lawyer's bill;
- (x) providing for the settlement of accounts for professional services under this Act or the regulations;
- (y) respecting appeals to the Commission;
- (z) respecting lawyers' reports on legal aid;
- (aa) respecting the repayment of disbursements to lawyers;

(ab) governing the calling of meetings of the Commission and the conducting of business at such meetings;

(ac) governing the appointment of committees and subcommittees and prescribing the duties of committees and subcommittees;

(ad) prescribing the procedures to be followed and the forms to be used in carrying out the provisions of this Act and the regulations;

(ae) respecting any matter, whether of any of the foregoing kinds or not, 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*. R.S., c. 252, s. 27; 2020, c. 15, s. 25; revision corrected.

CHAPTER L-9

An Act Respecting the Legal Profession

Table of Contents

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

	Section
Short title.....	1
Interpretation.....	2
PART I	
The Nova Scotia Barristers' Society	
Society continued.....	3
Purpose of Society.....	4
Members.....	5
Council.....	6
Members of Council.....	7
Officers.....	8
Executive Director.....	9
Annual meeting.....	10
Regulations.....	11
Committees.....	12
Notary public commissions.....	13
Membership records.....	14
Fees.....	15
PART II	
Authority to Practise Law	
Practice of law.....	16
Offence.....	17
Injunction respecting violation.....	18
Regulations.....	19
Law corporations.....	20
Shares of law corporations.....	21
Qualifications of officers and directors.....	22
Principles applicable to corporations.....	23
Regulations.....	24
Limited liability partnership.....	25
Regulations.....	26
PART III	
Protection of the Public	
Interpretation of Part.....	27
Jurisdiction of Society.....	28
Books and records.....	29
Trust money or property.....	30
Law foundation may use interest for general purposes.....	31
Regulations.....	32
Protection of public and integrity of profession.....	33
Complaints Investigation Committee.....	34
Fitness to Practise Committee.....	35
Investigation of member.....	36
Access to member's client's files.....	37
Referral to Fitness to Practise or Complaints Investigation Committee.....	38
Powers of Complaints Investigation and Fitness to Practise Committees.....	39

Suspension of certificate or imposition of conditions	40
Show cause hearing respecting offences	41
Procedure and jurisdiction	42
Complaints to be confidential	43
Hearing Committee and regulations	44
Powers of Hearing Committee	45
Conduct of hearings	46
Public attendance at hearing	47
Actions by panel during and after hearing	48
Publication of decision or order	49
Enforcement in same manner as order of Supreme Court	50
Professional misconduct by member in a foreign jurisdiction	51
Appeal of order or decision	52
Court orders respecting trust money or property	53
Appointment of receiver	54
Definition of "property"	55
Appointment of custodian	56
Application of Act to law corporations and foreign lawyers	57

PART IV

Lawyers' Fund for Client Compensation

Fund continued	58
Property of Fund	59
Council may pay compensation to claimants	60
Public Inquiries Act	61
Compensation programs with other jurisdictions	62
Agreement respecting the Land Registration Act	63

PART V

Lawyers' Insurance Association of Nova Scotia

Claims Fund continued as Association	64
Professional liability claims program	65
Regulations	66
Reciprocal exchange	67

PART VI

Legal Fees

Interpretation of Part	68
Account recoverable	69
Taxation	70
Initiation of taxation	71
Where lawyer is party	72
Appeal	73
Regulations	74

PART VII

The Law Foundation of Nova Scotia

Foundation continued	75
Objects	76
Source of funds	77
Powers of Board	78
Report by Board	79

PART VIII

General

Solicitor-client privilege	80
Non-compellable testimony or evidence and admissibility of evidence	81

Appointment of King’s Counsel..... 82
 Precedence..... 83
 Rights unaffected..... 84
 No action lies..... 85
 Library 86
 Law stamps..... 87
 Notices and petitions require law stamps..... 88
 Prothonotary to affix and initial law stamps..... 89

PART IX

Transitional Provisions

Substituted reference 90
 Fee for law stamp 91

Short title

1 This Act may be cited as the *Legal Profession Act*. 2004, c. 28, s. 1.

Interpretation

2 In this Act,

“adjudicative body” means a court, an arbitrator or a legislative body, administrative agency or other body acting in an adjudicative capacity;

“adjudicative capacity” means the capacity of a neutral person or body to render a binding judgment directly affecting a party’s interests in a matter, after the presentation of evidence or legal argument by a party or parties;

“annual meeting” means the annual general meeting of the Society;

“articled clerk” means a person enrolled in the Society’s bar admission program and registered on the register of articled clerks in accordance with this Act and the regulations;

“Association” means the Lawyers’ Insurance Association of Nova Scotia continued pursuant to this Act;

“Board” means the Board of the Law Foundation;

“call to the Bar” means the admission of a person to membership in the Society as a lawyer;

“capacity” means a member’s ability to practise law with reasonable skill and judgement that is not substantially impaired by a physical, mental or emotional condition, disorder or addiction;

“charge” means an allegation of professional misconduct, conduct unbecoming a lawyer or incompetence against a member of the Society that is referred by the Complaints Investigation Committee to the Hearing Committee;

“Complaints Investigation Committee” means the Complaints Investigation Committee appointed pursuant to this Act;

“corporation” means a body corporate incorporated under the laws of the Province, the laws of Canada or the laws of another province of Canada;

“Council” means the Council of the Society;

“court” means the Supreme Court of Nova Scotia or the Nova Scotia Court of Appeal, as the context requires;

“disbar” means to revoke a lawyer’s membership in the Society as a result of a finding of professional misconduct, conduct unbecoming a lawyer or incompetence;

“districts” means the judicial districts of the Province established by the *Judicature Act* or such other geographic areas of the Province that are prescribed by the regulations for purpose of the election of members of the Council;

“Executive Director” means the Executive Director of the Society appointed pursuant to this Act;

“First Vice-president” means the First Vice-president of the Society holding office pursuant to this Act;

“foreign jurisdiction” means a jurisdiction, other than the Province, in which the legal profession is regulated;

“former Act” means Chapter 30 of the Revised Statutes, 1989, the *Barristers and Solicitors Act*;

“Fund” means the Lawyers’ Fund for Client Compensation continued pursuant to this Act;

“Hearing Committee” means the Hearing Committee appointed pursuant to this Act;

“hearing panel” means a quorum of the Hearing Committee empanelled to hear a charge;

“judge” means a justice of the Supreme Court of Nova Scotia;

“law corporation” means a corporation that holds a valid permit issued under Section 20;

“law firm” means a partnership, a law corporation, any other joint arrangement, or any legal entity carrying on the practice of law;

“Law Foundation” means the Law Foundation of Nova Scotia continued pursuant to this Act;

“lawyer” means a person who has been called to the Bar in the Province or a foreign jurisdiction and who is eligible to carry on the practice of law in accordance with this Act and the regulations and includes a barrister, a barrister-at-law, a barrister of the Supreme Court of Nova Scotia, a solicitor of the Supreme Court of Nova Scotia and a member of the Bar, an attorney-at-law and an *avocat* or *notaire*;

“limited liability partnership” means a partnership established pursuant to Section 51 of the *Partnership Act*;

“medical assessment” means a physical, mental health or addictions assessment or examination by a qualified health professional approved by the Society;

“permit” means a permit issued pursuant to this Act to a corporation permitting the corporation to carry on the practice of law in the Province;

“practice of law” means the practice of law as described in subsection 16(1);

“practising certificate” means a document issued by the Executive Director to a lawyer who has met the criteria to be eligible to carry on the practice of law;

“practising lawyer” means a lawyer who holds a practising certificate;

“prescribed person” means a person prescribed by the regulations;

“President” means the President of the Society;

“Prothonotary” means the Prothonotary of the Supreme Court of Nova Scotia at Halifax;

“Register of Articled Clerks” means a record maintained by the Executive Director of all persons who are articled clerks;

“Roll of Lawyers” means the record maintained by the Prothonotary of all persons who have been called to the Bar and includes the Roll of Barristers maintained pursuant to the former Act;

“Second Vice-president” means the Second Vice-president of the Society elected pursuant to this Act;

“settlement agreement” means an agreement regarding disposition of a charge that is approved by the Complaints Investigation Committee and a hearing panel;

“Society” means the Nova Scotia Barristers’ Society. 2004, c. 28, s. 2; 2010, c. 56, s. 1.

PART I

THE NOVA SCOTIA BARRISTERS’ SOCIETY

Society continued

3 (1) The Nova Scotia Barristers’ Society as constituted by the former Act is continued as a body corporate with its head office at Halifax.

(2) In pursuing its purpose and carrying out its duties, the Society has all the powers and capacity of a natural person.

(3) The Society has perpetual succession and a common seal.

(4) The Society may be referred to as “Le Barreau de la Nouvelle-Écosse”. 2004, c. 28, s. 3.

Purpose of Society

4 (1) The purpose of the Society is to uphold and protect the public interest in the practice of law.

(2) In pursuing its purpose, the Society shall

(a) establish standards for the qualifications of those seeking the privilege of membership in the Society;

(b) establish standards for the professional responsibility and competence of members in the Society;

(c) regulate the practice of law in the Province; and

(d) seek to improve the administration of justice in the Province by

(i) regularly consulting with organizations and communities in the Province having an interest in the Society's purpose, including organizations and communities reflecting the economic, ethnic, racial, sexual and linguistic diversity of the Province, and

(ii) engaging in such other relevant activities as approved by the Council. 2004, c. 28, s. 4; 2010, c. 56, s. 2.

Members

5 (1) Subject to subsection (8), the following persons are members of the Society:

- (a) lawyers registered on the Roll of Lawyers;
- (b) articled clerks; and
- (c) other persons who qualify as members under the regulations.

(2) No person may become a member of the Society or be reinstated as a member unless the Council is satisfied that the person meets the requirements established by the regulations.

(3) A person who meets the requirements established by the regulations for membership in the Society as a lawyer shall be called to the Bar by appearing before a judge, taking the oath or affirmation prescribed by the regulations and signing the Roll of Lawyers.

(4) The Council may, in circumstances it considers appropriate, authorize the appearance referred to in subsection (3) to be other than in person.

(5) The Prothonotary shall maintain a Roll of Lawyers that must be signed by all persons who are called to the Bar.

- (6) A person ceases to be a member of the Society when
- (a) the person dies;
 - (b) as a result of disciplinary proceedings,
 - (i) the person is disbarred,
 - (ii) the person's name is ordered to be struck from the Register of Articled Clerks, or
 - (iii) the person is permitted to resign;
 - (c) the person ceases to be an articled clerk, unless the person is called to the Bar;
 - (d) the person is appointed to a judicial office; or
 - (e) permitted by Council to resign.

(7) No person may resign as a member of the Society unless permitted to do so by a resolution of the Council or by order of a hearing panel pursuant to subsection 48(4).

(8) The Council may make regulations

(a) establishing categories of membership in the Society and prescribing the rights, privileges, restrictions and obligations that apply to those categories;

(b) establishing requirements to be met by members, including educational, good character and other requirements, and procedures for admitting or reinstating persons as members of the Society in each of the categories of membership;

(c) governing the educational program for articled clerks;

(d) establishing the procedures and the oath or affirmation of office for calling lawyers to the Bar;

(e) establishing requirements and procedures for the reinstatement of former members of the Society;

(f) governing practising certificates;

(g) governing the resumption of practice by non-practising members of the Society;

(h) governing the requirements to change categories of membership in the Society;

(i) authorizing members of the Hearing Committee to sit as a credentials appeal panel and to hold hearings and make orders, including orders as to costs, concerning the admission or reinstatement of persons as members of the Society in each of the categories of membership;

(j) establishing the powers of a credentials appeal panel, including some or all of the powers, privileges and immunities enumerated in Sections 45 and 47;

(k) governing the resignation of lawyers from membership in the Society and their obligations with regard to client files, trust funds, property of clients and the accounting therefor, and other matters that must be dealt with before a lawyer is permitted to resign. 2004, c. 28, s. 5; 2010, c. 56, s. 3.

Council

6 (1) The Council under the former Act is continued and is the governing body of the Society.

(2) The Council shall govern the Society and manage its affairs, and may take any action consistent with this Act that it considers necessary for the promotion, protection, interest or welfare of the Society.

(3) The Council may take any action consistent with this Act by resolution.

(4) Where there is a quorum at a meeting of the Council, the Council may exercise its powers under this Act notwithstanding any vacancies among the members of the Council.

(5) In addition to any specific power or requirement to make regulations under this Act, the Council may make regulations to manage the Society's affairs, pursue its purpose and carry out its duties. 2004, c. 28, s. 6.

Members of Council

7 (1) The Council consists of

(a) such number of members of the Society elected or appointed as prescribed by the regulations;

(b) the Attorney General of the Province for the time being or a representative appointed by the Attorney General;

(c) the President, First Vice-president and Second Vice-president of the Society;

(d) the Dean of the Faculty of Law of Dalhousie University; and

(e) at least three persons who are not members of the Society and who are appointed in the manner prescribed by the regulations.

(2) The Executive Director is a non-voting member of the Council.

(3) Persons elected or appointed to the Council take office at the first meeting of the Council after the annual meeting of the Society that follows their election or appointment and, subject to the regulations, hold office until their successors take office.

(4) The regulations prescribing the number of members to be elected from each district for the purpose of clause (1)(a) must provide for a sufficient number of elected members to ensure that a majority of the Council is made up of members of the Society.

(5) Where the *Judicature Act* is amended in such a way that it no longer provides for the division of the Province into judicial districts, the Council may make regulations prescribing geographic areas of the Province as districts for the purpose of the election of members of the Council. 2004, c. 28, s. 7; 2010, c. 56, s. 4.

Officers

8 (1) The officers of the Society are the President, the First Vice-president and the Second Vice-president, at least one of whom resides in the Halifax Regional Municipality and at least one of whom resides outside that municipality.

(2) When the President is absent or unable to act, the First Vice-president shall act for the President and when neither of them is present or able to act, the Second Vice-president shall act for the President.

(3) Each year there must be an election, in accordance with the regulations, by the members of the Society for a person to hold the office of Second Vice-president.

(4) The Second Vice-president becomes the First Vice-president and the First Vice-president becomes the President on the expiry of the term of their immediate predecessor, unless the Council, in accordance with the regulations, determines otherwise.

(5) The term of the President commences immediately following the annual meeting of the Society at which that person is the First Vice-president and the President holds office until the conclusion of the annual meeting at the end of the President's term.

(6) Where an officer resigns or otherwise becomes unable to carry out the duties of that officer, another person shall be appointed in the officer's stead in accordance with the regulations. 2004, c. 28, s. 8.

Executive Director

9 (1) The Council shall employ a person as Executive Director of the Society and fix the Executive Director's remuneration, and may, by regulation, authorize the Executive Director to do any act or exercise any power or jurisdiction that by this Act and the regulations the Council is authorized to do or exercise, except the power to make regulations.

(2) The Executive Director has the powers and duties given to the Executive Director by or under this Act and the regulations.

(3) The Executive Director may delegate to one or more employees of the Society any of the Executive Director's powers, duties or functions.

(4) The Executive Director shall report to Council and the Society's annual meeting on the results of the consultations carried out pursuant to clause 4(2)(d). 2004, c. 28, s. 9; 2010, c. 56, s. 5.

Annual meeting

10 (1) The Council shall call an annual meeting of members of the Society each year and may call special meetings of members of the Society from time to time in accordance with the regulations.

(2) At each annual meeting,

(a) the Executive Director shall present the Society's annual report for the immediately preceding year, which must include the financial statements for the fiscal year and the auditor's report on those statements;

(b) the members of the Society shall appoint an auditor for the current fiscal year; and

(c) the Society shall receive the annual report of the Law Foundation. 2004, c. 28, s. 10.

Regulations

- 11** The Council may make regulations
- (a) governing the election or appointment of members of the Council;
 - (b) prescribing the manner in which members of the Council shall be appointed pursuant to clause 7(1)(e);
 - (c) fixing the terms of office for all members of the Council;
 - (d) prescribing circumstances in which a person ceases to be a member of the Council, or may be removed as a member of the Council or as an officer of the Society;
 - (e) providing for the filling of vacancies on the Council;
 - (f) providing for the replacement of officers of the Society who resign or otherwise become unable to carry out their duties;
 - (g) providing a procedure for calling the annual meeting and special meetings of the members of the Society;
 - (h) governing the meetings of members of the Society;
 - (i) governing the meetings of members of the Council and the practice and procedure to be used at such meetings;
 - (j) establishing the number of districts and the geographical boundaries of each district;
 - (k) establishing the number of members of the Society to be elected to the Council from each district;
 - (l) prescribing which members of the Society are eligible to vote in which districts;
 - (m) prescribing the quorum for meetings of the Council, the annual meeting and special meetings of members of the Society. 2004, c. 28, s. 11; 2010, c. 56, s. 6.

Committees

- 12** (1) The Council may establish committees and may authorize a committee to do any act or exercise any power or jurisdiction that, by this Act, the Council is authorized to do or to exercise, except the power to make regulations.
- (2) The Council may make regulations
- (a) defining a committee's mandate and authority;
 - (b) governing the membership of a committee;
 - (c) governing meetings of a committee;
 - (d) governing the practice and procedure for proceedings before a committee. 2004, c. 28, s. 12.

Notary public commissions

- 13** (1) Where the Lieutenant Governor is satisfied that a person is a practising lawyer, the Lieutenant Governor may issue a commission as a notary public for the Province to that person.

(2) A person who holds a commission issued pursuant to subsection (1) has all the powers and authority of a notary public appointed under the *Notaries and Commissioners Act*.

(3) The Governor in Council may revoke any commission issued pursuant to subsection (1).

(4) No act performed by a practising lawyer, as a notary public, is valid unless the practising lawyer holds a commission as a notary public.

(5) Where the practising certificate of a lawyer is suspended, the lawyer shall not act as a notary public during the period of the suspension.

(6) Where a person ceases to be a member of the Society, the person's commission as a notary public is revoked.

(7) A practising lawyer is a commissioner under Section 6 of the *Notaries and Commissioners Act*.

(8) The *Notaries and Commissioners Act* applies to a notary public who holds a commission issued pursuant to subsection (1). 2004, c. 28, s. 13.

Membership records

14 (1) The Executive Director shall keep membership records, including

- (a) a list of all persons whose names appear on the Roll of Lawyers and the membership category for each person;
- (b) the Register of Articled Clerks;
- (c) records of changes in categories of membership;
- (d) a list of former members of the Society;
- (e) a record of any disposition by the Complaints Investigation Committee or a hearing panel that affects a member of the Society.

(2) The Council may make regulations

- (a) addressing the manner and form in which the membership and other records of the Society are to be kept;
- (b) allowing for sharing of membership records with a law society in a foreign jurisdiction;
- (c) addressing the release of information from membership records. 2004, c. 28, s. 14.

Fees

15 (1) Applicants for membership in the Society shall pay the fees set by the Council if applying for

- (a) admission as an articled clerk;

- (b) membership as a lawyer; or
- (c) reinstatement.

(2) To obtain a practising certificate, a member of the Society shall pay a fee consisting of

- (a) a practising fee;
- (b) an amount to be contributed to the Association, unless the member is exempt in accordance with the regulations;
- (c) an amount to be contributed to the Fund; and
- (d) any other fee or levy imposed on some or all practising lawyers under the regulations.

(3) The Council may make regulations

- (a) setting the fees payable under subsection (1);
- (b) setting each component of the fee payable under subsection (2);
- (c) setting the fees payable by each category of member of the Society;
- (d) setting other fees to be paid by the members of the Society or one or more categories of members;
- (e) setting special assessments, surcharges or transaction fees to be paid for the purpose of the Society;
- (f) setting special assessments, surcharges or transaction fees to be paid for the purpose of the Association;
- (g) setting the date for the payment of fees and assessments;
- (h) permitting payment of any fees by instalments;
- (i) prorating the fees for practising certificates issued for less than a full year;
- (j) specifying consequences for failing to pay a fee, assessment, surcharge or transaction;
- (k) governing the establishment, administration and collection of any other fees, assessments, surcharges or transaction fees.

2004, c. 28, s. 15.

PART II

AUTHORITY TO PRACTISE LAW

Practice of law

16 (1) The practice of law is the application of legal principles and judgement with regard to the circumstances or objectives of a person that requires the knowledge and skill of a person trained in the law, and includes any of the following conduct on behalf of another:

(a) giving advice or counsel to persons about the persons' legal rights or responsibilities or to the legal rights or responsibilities of others;

(b) selecting, drafting or completing legal documents or agreements that affect the legal rights or responsibilities of a person;

(c) representing a person before an adjudicative body, including preparing or filing documents or conducting discovery;

(d) negotiating legal rights or responsibilities on behalf of a person.

(2) No person shall carry on the practice of law in the Province for fee, gain, reward or other direct or indirect compensation, unless the person is

(a) a member of the Society who holds a practising certificate;

(b) entitled to practise law by the governing body for lawyers in a foreign jurisdiction approved by the Council and has met the requirements established by the regulations to engage in the practice of law in the Province;

(c) an articled clerk and is practising in accordance with the regulations;

(d) a student of the Faculty of Law of Dalhousie University during the period the student is participating in a legal aid or clinical law program operated by and under the supervision of the Faculty or under the authority of an enactment; or

(e) otherwise entitled pursuant to this Act or the regulations to carry on the practice of law in the Province.

(3) Only a lawyer, a law firm or a law corporation may advertise or hold out that the services of a lawyer are available to the public.

(4) Notwithstanding subsection (1), (2) or (3), this Act does not prohibit

(a) any public officer from fulfilling the public officer's duty;

(b) any incorporated loan or trust company carrying on business within the Province from doing anything that its act of incorporation empowers it to do;

(c) an accountant from preparing for the person by whom the accountant is employed any document or portion thereof dealing with the accounting affairs of that person;

(d) any person from representing oneself in a matter or proceeding to which that person is party;

(e) any corporation from being represented by an agent if such representation is authorized by statute;

(f) a law corporation from carrying on the practice of law in accordance with this Act and the regulations;

(g) an insurance agent or adjuster from adjusting, negotiating and settling claims, including consenting to judgments in uncontested matters;

(h) a mediator or arbitrator from mediating or arbitrating disputes;

(i) an employee of a trade union from acting on behalf of that union or a member of that union in arbitration proceedings or proceedings before an administrative tribunal;

- (j) a member of
- (i) the House of Commons of Canada,
 - (ii) the House of Assembly, or
 - (iii) a council of a municipality,

from acting as an advocate or representative of a person in the member's capacity as an elected representative;

(k) a member of the Senate of Canada from acting as an advocate or representative of a person in that member's capacity as a Senator;

(l) any other person or class of persons permitted by the regulations made by the Council and approved by the Governor in Council to carry on one or more of the activities referred to in subsection (1); or

(m) any other person or class of persons permitted by the regulations made by the Governor in Council to carry on one or more of the activities referred to in subsection (1) if the Governor in Council considers the carrying on of the activities to be necessary or advisable for the purposes of the government of the Province. 2004, c. 28, s. 16.

Offence

- 17 (1)** Every person, other than a member of the Society, who
- (a) carries on the practice of law for fee, gain, reward or other direct or indirect compensation, unless permitted to do so pursuant to subsection 16(4); or
 - (b) otherwise contravenes this Act or the regulations,

is guilty of an offence and is liable on summary conviction for a first offence to a fine of not more than \$10,000, or for a second or subsequent offence to a fine of not more than \$25,000, or to imprisonment for a term of not more than six months, or to both.

(2) The *Summary Proceedings Act* applies with respect to the enforcement of this Section.

(3) Where a corporation commits an offence under this Section, a director, officer or employee of the corporation who authorized, permitted or acquiesced in the commission of the offence is also guilty of an offence and is liable on summary conviction, whether or not the corporation has been prosecuted or convicted,

- (a) for a first offence to a fine of not more than \$10,000;
and
(b) for a second or subsequent offence to a fine of not more than \$25,000.

(4) Where a violation of this Act or the regulations by a person or corporation continues for more than one day, the offender is guilty of a separate offence for each day that the violation continues.

(5) All fines and penalties payable under the *Summary Proceedings Act* and pursuant to this Section as a result of a prosecution by or on behalf of the Society are payable to the Crown in right of the Province. 2004, c. 28, s. 17.

Injunction respecting violation

18 (1) In the event of a threatened or continuing violation of this Act or the regulations, the Society may apply to a judge for an injunction to restrain a member of the Society or any other person from continuing or committing the violation.

(2) A judge may on an *ex parte* application, grant an interim injunction pending the hearing of an application for an injunction pursuant to subsection (1) if the judge is satisfied that there is reason to believe that a person is likely to commit or is continuing to commit a violation of this Act or the regulations.

(3) A judge may make such orders as to costs as the judge considers appropriate in any proceedings pursuant to this Section.

(4) An application for an injunction against a member may be in addition to any other authority over the member provided by this Act or the regulations. 2004, c. 28, s. 18.

Regulations

- 19 (1)** The Council may make regulations
- (a) allowing lawyers who are authorized to practise law in a foreign jurisdiction to practise law in the Province;
 - (b) imposing conditions or restrictions on the practice of law in the Province by lawyers pursuant to clause (a);
 - (c) setting fees for permission to practise law in the Province pursuant to clause (a);
 - (d) setting conditions, restrictions, rights, privileges, standards or duties that apply to lawyers practising law in the Province pursuant to clause (a) and to the practice of law in the Province by those lawyers; and
 - (e) extending or limiting the application of provisions of this Act and the regulations to lawyers practising law in the Province pursuant to clause (a).

- diction shall
- (2) A member of the Society who practises law in a foreign jurisdiction shall
- (a) comply with the legislation, regulations, rules and professional conduct requirements that apply to the members of the legal profession of that jurisdiction; and
- (b) on the request of the authority that governs the legal profession in that jurisdiction, provide the authority with the names of all jurisdictions in which the member is a member of the legal profession. 2004, c. 28, s. 19.

Law corporations

- 20 (1) No corporation shall carry on or hold itself out as carrying on the practice of law, except as provided by this Act.
- (2) The Executive Director may issue a permit to a law corporation allowing it to carry on the practice of law in the Province.
- (3) Subject to the regulations, a law corporation holding a permit that is not under suspension may carry on the practice of law in its own name or under a business name.
- (4) Notwithstanding anything contained in this Section, a law corporation may not be entered on the Roll of Lawyers as a lawyer pursuant to this Act.
- (5) All persons who carry on the practice of law on behalf of a law corporation must be practising lawyers.
- (6) For the purpose of subsection (5), the practice of a law is deemed not to be carried on by articled clerks, clerks, secretaries and other assistants employed by a law corporation to perform the services that are not ordinarily considered by law, custom or practice to be services that may be performed only by a practising lawyer, nor is the practice of law deemed to be carried on by articled clerks employed by a law corporation to do anything in the course of their duties as articled clerks if it is done under the direction or supervision of a practising lawyer and in accordance with this Act and the regulations. 2004, c. 28, s. 20.

Shares of law corporations

- 21 (1) All issued voting shares of a law corporation must be legally and beneficially owned by one or more practising lawyers or by a trust of which all the trustees and all the beneficiaries are practising lawyers.
- (2) All issued non-voting shares, if any, of a law corporation must be legally and beneficially owned by prescribed persons or by a trust of which all the trustees and all the beneficiaries are prescribed persons.
- (3) Notwithstanding subsection (1), issued voting shares of a law corporation may be legally and beneficially owned by a corporation of which
- (a) all the issued voting shares are legally and beneficially owned by one or more practising members of the Society or by a trust of which all the trustees and all the beneficiaries are practising members of the Society;

(b) all the issued non-voting shares are legally and beneficially owned by prescribed persons or by a trust of which all the trustees and beneficiaries are prescribed persons; and

(c) all the officers and directors are practising lawyers.

(4) Notwithstanding subsection (2), issued non-voting shares, if any, of a law corporation may be legally and beneficially owned by a corporation of which

(a) all the issued shares are beneficially and legally owned by prescribed persons or by a trust of which all the trustees and beneficiaries are prescribed persons; and

(b) all the officers and directors are prescribed persons.

(5) No voting shareholder of a law corporation shall enter into a trust agreement, proxy or any other type of agreement vesting in another person who is not a practising lawyer the voting rights attached to any or all of the shares of a law corporation.

(6) No shareholder of a corporation owning shares of a law corporation shall enter into a trust agreement, proxy or any other type of agreement vesting in another person who is not a practising lawyer the voting rights attached to any or all of the shares of the corporation.

(7) No corporation holding voting shares of a law corporation may authorize any person to represent it at a meeting of the shareholders of the law corporation unless that person is a practising lawyer.

(8) No corporation holding non-voting shares of a law corporation may authorize any person to represent it at a meeting of the shareholders of the law corporation unless that person is a prescribed person. 2004, c. 28, s. 21.

Qualifications of officers and directors

22 (1) All officers and directors of a law corporation must be practising lawyers.

(2) No officer or director of a law corporation or a corporation owning voting shares of a law corporation shall enter into a trust agreement, proxy or any other type of agreement vesting in a person who is not a practising lawyer any authority or voting rights as an officer or director of a law corporation and any attempt to do so is invalid to the extent that it purports to vest such authority or rights in a person who is not a practising lawyer.

(3) No officer or director of a corporation owning non-voting shares of a law corporation shall enter into a trust agreement, proxy or other type of agreement vesting in a person who is not a prescribed person any authority or voting rights as an officer or director of the corporation and any attempt to do so is invalid to the extent that it purports to vest such authority or rights in a person who is not a prescribed person.

(4) Where there is any change in the shareholders, shareholdings, officers, directors, name or business name of a law corporation, the corporation

shall provide notice, in writing, to the Executive Director within 15 days of the change.

(5) Every person who is a voting shareholder of a law corporation and every person who is a voting shareholder of a corporation owning voting shares of the law corporation is liable to every person for whom professional services of a lawyer are undertaken or provided by the law corporation in respect of such professional services to the same extent and in the same manner as if such voting shareholders were carrying on the practice of law in a limited-liability partnership or, where there is only one such voting shareholder, as an individual carrying on the practice of law. 2004, c. 28, s. 22.

Principles applicable to corporations

23 (1) The following principles apply to the practice of law carried on by a corporation:

(a) the relationship of a practising lawyer or of an articulated clerk to a corporation carrying on the practice of law, whether a shareholder, director, officer or employee, does not affect, modify or diminish the application to that person of this Act and the regulations;

(b) nothing contained in this Section modifies or limits any law applicable to the fiduciary, confidential or ethical relationships between a lawyer and a person receiving the professional services of a lawyer;

(c) the relationship of a corporation carrying on the practice of law and a person receiving the professional services of the corporation is subject to all applicable law relating to the fiduciary, confidential and ethical relationship between a lawyer and the lawyer's client;

(d) all professional responsibilities and obligations pertaining to communications made to or information received by a lawyer, or the advice of the lawyer therein, apply to the shareholders, directors, officers and employees of a corporation carrying on the practice of law; and

(e) any undertaking given by or on behalf of a corporation carrying on the practice of law that, where given by a practising member, would constitute a specific undertaking, is deemed to be a lawyer's undertaking given by the corporation and the practising lawyers who give it, sign it or authorize it.

(2) Notwithstanding anything contained in this Section and Sections 20 to 22, all provisions of this Act and the regulations that are applicable to practising lawyers apply with all necessary modifications to a law corporation, and a law corporation is deemed, for this purpose, to be a practising lawyer and, without limiting the generality of the foregoing, proceedings that may be taken under this Act or the regulations against a member who is an individual may also be taken against a law corporation, and any order that may be made against an individual may be made against a law corporation.

(3) Subject to this Act and the regulations, a law corporation may commence an action and sue to recover its account for the provision of any services

provided by it in the course of carrying on the practice of law if those services were performed while the law corporation was a holder of a valid permit that was not under suspension.

(4) A law corporation shall not, while it is the holder of a permit, carry on any business prohibited by the regulations and no act of a law corporation, including the transfer of property to or by a corporation, is invalid by reason only that it contravenes this subsection.

(5) A permit may be refused, suspended, revoked, cancelled or reinstated by the Society, a committee established by the Society for that purpose or the Executive Director, as prescribed by the regulations.

(6) The Council may make regulations

(a) prescribing the requirements for the issuing of a permit permitting a corporation to carry on the practice of law in the Province;

(b) prescribing the requirements for the renewal of a permit;

(c) providing for the refusal, suspension, revocation, cancellation or reinstatement of a permit by the Society, a committee or the Executive Director;

(d) prescribing forms necessary or desirable for carrying out the procedures pursuant to this Section;

(e) regulating the practice of law carried on by a law corporation;

(f) regulating the name of a law corporation and the name under which a corporation may carry on the practice of law;

(g) defining "prescribed person" for the purpose of Sections 20 to 22;

(h) prescribing businesses and undertakings that a law corporation is prohibited from carrying on or holding itself out as carrying on;

(i) providing for an appeal from any decision of the Executive Director pursuant to this Section;

(j) prescribing liability insurance to be carried by persons carrying on the practice of law;

(k) that the Council considers necessary or advisable to carry out effectively the intent and purpose of this Section. 2004, c. 28, s. 23.

Regulations

24 The Council may make regulations

(a) requiring law firms to register with the Society;

(b) requiring law firms to designate a member of the firm who is to receive official communication from the Society to the firm;

(c) specifying what information law firms must provide and keep current with the Society. 2004, c. 28, s. 24.

Limited liability partnership

25 (1) A lawyer or a law corporation may carry on the practice of law as a partner in a limited liability partnership.

(2) The Council may make regulations that are not contrary to the *Partnership Act* and the *Partnerships and Business Names Registration Act* respecting limited liability partnerships that are used to carry on the practice of law. 2004, c. 28, s. 25.

Regulations

26 The Council may make regulations

(a) permitting practice arrangements between lawyers and non-lawyers;

(b) respecting conditions to be met in such practice arrangements;

(c) providing for the registration of an entity embodying such arrangements;

(d) specifying any requirements respecting such arrangements that are necessary to protect the public interest;

(e) permitting the practice of law in the Province by law firms having an office in the Province and an office in one or more foreign jurisdictions;

(f) regulating the practice of law by a firm referred to in clause (e). 2004, c. 28, s. 26.

PART III

PROTECTION OF THE PUBLIC

Interpretation of Part

27 In this Part and Part IV, unless otherwise indicated, “member of the Society” includes a law firm. 2004, c. 28, s. 27.

Jurisdiction of Society

28 (1) The Society has jurisdiction over

(a) members of the Society in respect of their conduct, capacity and professional competence in the Province or in a foreign jurisdiction;

(b) persons who were members of the Society at the time when a matter regarding their conduct or professional competence occurred;

(c) lawyers from foreign jurisdictions in respect of their practice of law in the Province;

(d) members of the Society, who have been subject to a disciplinary proceeding in a foreign jurisdiction, in respect of the

members' behaviour in a foreign jurisdiction and regardless of disciplinary proceedings taken in that jurisdiction.

- (2) The Council may make regulations
- (a) establishing or adopting ethical standards for members of the Society;
 - (b) establishing or adopting professional standards for the practice of an area of law;
 - (c) establishing and maintaining, or otherwise supporting, a system of post law school legal education, including
 - (i) a bar admission program, and
 - (ii) courses for lawyers from foreign jurisdictions seeking the right to practise law in the Province;
 - (d) respecting the promotion of standards for the practice of law, including regulations setting mandatory requirements for some or all members of the Society for attendance and successful completion of programs of continuing legal education and professional development and prescribing the sanctions or restrictions that apply where a member fails to successfully complete the requirements.
- (3) The Council may, by resolution,
- (a) establish a
 - (i) continuing legal education and professional development program,
 - (ii) remedial legal education program,
 - (iii) loss prevention program;
 - (b) provide library services;
 - (c) publish or support the publication of legal materials, including court and other legal decisions;
 - (d) provide support for legal education, research, public legal information or other matters considered by the Council to be in the interest of the legal profession or the public;
 - (e) establish and maintain programs to assist lawyers in handling or avoiding personal, emotional, medical or substance abuse problems;
 - (f) establish and maintain programs to assist lawyers with issues arising from the practice of law.

(4) The Council may make regulations establishing rules of confidentiality regarding information obtained by those engaged by the Society to assist lawyers in programs established under this Section. 2004, c. 28, s. 28; 2010, c. 56, s. 7.

Books and records

29 Every member of the Society shall maintain books and records of accounts as required by the regulations. 2004, c. 28, s. 29.

Trust money or property

30 (1) Every member of the Society shall hold in trust money or property received in trust for a client or another person.

(2) Money held in trust pursuant to subsection (1) must be deposited to an interest-bearing account at a financial institution approved by the Council and at an interest rate approved by the Law Foundation.

(3) A financial institution holding trust funds pursuant to subsection (2) shall remit the interest earned on those funds, less any charges or fees for the operation of the account, to the Law Foundation semi-annually in April and October of each year.

(4) A member of the Society is not liable, by virtue of the relationship between the member and a client or the member and a beneficiary of the trust, to account for interest earned on money deposited in a financial institution pursuant to subsection (2).

(5) Every member of the Society who receives money from a person, which the member holds in trust, and who has reasonable grounds to believe that the money will not be required for more than 30 days, has a duty to advise that person that the money may be deposited in a separate interest-bearing trust account in a financial institution and the interest credited to that person.

(6) Nothing in subsection (2)

(a) applies to money deposited in a separate account for a person with interest that shall be and remain the property of the person; or

(b) affects any arrangement in writing, whenever made, between a member of the Society and a person as to the application of the person's money or interest thereon. 2004, c. 28, s. 30.

Law foundation may use interest for general purposes

31 The interest on the funds paid to the Law Foundation may be used by the Law Foundation for its general purposes. 2004, c. 28, s. 31.

Regulations

32 The Council may make regulations

(a) requiring members of the Society to maintain certain books and records of accounts;

(b) requiring members of the Society to establish and maintain trust accounts;

(c) regulating the investment of funds held in trust by members of the Society;

(d) prescribing the types of financial institutions in which members of the Society may deposit money held in trust;

(e) requiring members of the Society to keep books and records of accounts with respect to money and other property entrusted to or received by them for the benefit of clients or other persons in the course of

practising law, and to produce those books and records of accounts on demand, to the Executive Director or any other person designated by the Council;

(f) requiring members of the Society to have their books, records of accounts and related files independently reviewed by an accountant or a person designated by the Council;

(g) providing for the audit, review or examination of books, records of accounts and related files of a member of the Society by a person designated by the Council;

(h) requiring a member of the Society to provide the Executive Director or any other person designated by the Council with a report on the review conducted under clause (e);

(i) requiring a member of the Society to answer questions about the books, records of accounts and related files that were reviewed;

(j) prescribing anything that is to be prescribed pursuant to this Act. 2004, c. 28, s. 32.

Protection of public and integrity of profession

33 The purpose of Sections 34 to 56 is to protect the public and preserve the integrity of the legal profession by

(a) promoting the competent and ethical practice of law by the members of the Society;

(b) resolving complaints of professional misconduct, conduct unbecoming a lawyer, professional incompetence and incapacity;

(c) providing for the protection of clients' interests through the appointment of receivers and custodians in appropriate circumstances;

(d) addressing the circumstances of members of the Society requiring assistance in the practice of law, and in handling or avoiding personal, emotional, medical or substance abuse problems; and

(e) providing relief to individual clients of members of the Society and promoting the rehabilitation of members. 2004, c. 28, s. 33; 2010, c. 56, s. 8.

Complaints Investigation Committee

34 (1) The Council shall appoint a Complaints Investigation Committee made up of lawyers and persons who are not members of the Society and may make regulations

(a) establishing processes for receiving and responding to complaints or other information concerning the conduct, practice, professional competence or capacity of members of the Society;

(b) establishing processes for investigating the conduct, practice, professional competence or capacity of a member of the Society;

(c) prescribing the makeup of the Complaints Investigation Committee and determining the criteria for being the Chair or a Vice-chair;

(d) determining the quorum for the Complaints Investigation Committee;

(e) determining the manner in which members of the Complaints Investigation Committee must receive notice of meetings and the consequences of failing to receive notices;

(f) determining the means by which the Complaints Investigation Committee makes decisions;

(g) prescribing the circumstances in which a member of the Complaints Investigation Committee whose term has expired may remain a part of the Committee until matters in which that member of the Committee has been involved have concluded.

(2) Regulations made pursuant to clause (1)(c) must provide that a majority of the members of the Complaints Investigation Committee are members of the Society. 2004, c. 28, s. 34; 2010, c. 56, s. 9.

Fitness to Practise Committee

35 (1) The Council shall establish a Fitness to Practise Committee composed of members of the Society and persons who are not members of the Society as prescribed by the regulations.

(2) The Council may make regulations

(a) prescribing the makeup of the Fitness to Practise Committee and determining the criteria for being the Chair or Vice-chair;

(b) establishing the processes and procedures to be utilized by the Fitness to Practise Committee;

(c) prescribing the circumstances in which a member of the Fitness to Practise Committee whose term has expired may remain a part of the Committee until matters in which that member of the Committee has been involved have concluded;

(d) establishing the processes and procedures by which the Executive Director may refer a matter to the Fitness to Practise Committee pursuant to subsection 38(1);

(e) establishing the circumstances in which, and the processes and procedures by which, a matter may be referred

(i) by the Fitness to Practise Committee to the Complaints Investigation Committee pursuant to subsection 38(3),

(ii) by the Complaints Investigation Committee to the Fitness to Practise Committee pursuant to subsection 38(4).
2010, c. 56, s. 10.

Investigation of member

36 The conduct, capacity, practice or professional competence of a member of the Society may be the subject of an investigation pursuant to this Part. 2010, c. 56, s. 11.

Access to member's client's files

37 For the purpose of conducting an investigation of a member pursuant to this Part, the Executive Director, the Complaints Investigation Committee or any person designated by either of them may request, and is entitled to obtain, any file or record regarding a client or former client of the member that is reasonably required to further the investigation, whether or not the file or record or any part of it is

- (a) subject to solicitor-client privilege; or
- (b) the subject of a charge or complaint. 2010, c. 56, s. 11.

Referral to Fitness to Practise or Complaints Investigation Committee

38 (1) Notwithstanding anything contained in this Act or the regulations, where a complaint concerns a member's capacity, or where a person, in the absence of a complaint, raises concerns about a member's capacity to the Society, or a member self reports incapacity to the Society, the Executive Director may, where it is in the public interest to do so, refer the matter to the Fitness to Practise Committee in accordance with the regulations.

(2) Where a matter is referred to the Fitness to Practise Committee, the matter must be addressed in accordance with this Act and the regulations.

(3) The Fitness to Practise Committee may refer a matter to the Complaints Investigation Committee in the circumstances set out in, and in accordance with, the regulations.

(4) The Complaints Investigation Committee may refer a matter to the Fitness to Practise Committee in the circumstances set out in, and in accordance with, the regulations.

(5) Where a matter is referred by the Fitness to Practise Committee to the Complaints Investigation Committee pursuant to subsection (3) or 39(4), the matter must be considered a complaint and be processed in accordance with this Act and the regulations. 2010, c. 56, s. 11.

Powers of Complaints Investigation and Fitness to Practise Committees

39 (1) The Complaints Investigation Committee and the Fitness to Practise Committee have all the powers conferred by this Act and the regulations in the discharge of their functions as well as the powers, privileges and immunities of a commissioner under the *Public Inquiries Act*.

(2) The Complaints Investigation Committee may do one or more of the following things during or after an investigation:

- (a) require a member of the Society to attend before it for purposes of assisting with the investigation or for any other purpose consistent with the objects of the professional responsibility process;
- (b) dispose of a complaint in a manner prescribed by the regulations;
- (c) issue a reprimand with the consent of the member of the Society;

(d) authorize the Executive Director to lay a charge against a member of the Society;

(e) recommend approval of a settlement agreement to a hearing panel;

(f) order a financial audit of the practice of a member of the Society to be carried out by a person or persons qualified to do so;

(g) order a review of the practice of a member of the Society to be carried out by any person or persons;

(h) where a review conducted pursuant to clause (g) identifies inadequacies in the member's practice or conduct that pose a substantial risk that the member will face disciplinary action in the future, assist the member to remedy those inadequacies;

(i) require a member of the Society to submit to an assessment or examination, or both, to determine whether the member is professionally competent;

(j) require a member of the Society to submit to a medical assessment;

(k) receive reports from the audit, review, examination or assessment referred to in clause (f), (g), (h), (i) or (j);

(l) after providing a member of the Society with an opportunity to be heard, and where it is in the public interest to do so, direct the member to comply with any reasonable requirements specified by the Complaints Investigation Committee as a result of its consideration of the audit, review, examination or assessment referred to in clause (f), (g), (h) or (i);

(m) direct that there be an application pursuant to Section 53 regarding the trust account of a practising lawyer;

(n) by resolution, appoint a receiver pursuant to Section 54;

(o) by resolution, direct that the Society apply to the court for the appointment of a custodian pursuant to Section 56;

(p) in addition to the other powers conferred by this subsection, where the member of the Society complained against is a law firm, require the law firm to do what the Complaints Investigation Committee reasonably requires to assist in an investigation.

(3) Upon referral of a matter by the Executive Director or the Complaints Investigation Committee, the Fitness to Practise Committee may, where it is in the public interest to do so and with the member's consent, enter into an agreement which may include some or all of the following provisions:

(a) that the member submits to a medical assessment to determine a member's capacity;

(b) that the member undertakes and completes any applicable course of treatment designed to address any issues concerning the member's capacity;

(c) that the member authorizes the Fitness to Practise Committee to receive reports from the medical assessments or treatment referred to in clauses (a) and (b);

(d) that the member agrees to accept practice restrictions or conditions on the member's practising certificate or a withdrawal from practice pending completion of the terms and conditions in an agreement reached between the Fitness to Practise Committee and the member in accordance with this Act and the regulations;

(e) that the member consents to such other provisions of an agreement as agreed upon by the member and the Fitness to Practise Committee.

(4) For greater certainty and subject to subsection 38(3), the process in subsection (3) is voluntary and requires the consent of the member after the member has been advised of the authority of the Executive Director under Section 43.

(5) Where a member of the Society fails to comply with the agreement or requirements under subsection (3), the Fitness to Practise Committee may refer the matter to the Complaints Investigation Committee.

(6) The Fitness to Practise Committee in existence at any time retains jurisdiction over a member who is subject to ongoing terms and conditions of an agreement to monitor the member's compliance and may, at any time and with the member's consent, amend the terms and conditions of the agreement, if the Fitness to Practise Committee determines that it is in the public interest to do so.

(7) Where a member of the Society other than a law firm fails to comply with any of the requirements imposed upon the member pursuant to its authority under subsection (2), the Complaints Investigation Committee may order that the member be suspended until the member complies.

(8) The Complaints Investigation Committee may, by resolution, order that a member pay to the Society all or a portion of the reasonable costs of the audit, review, examination, medical or other assessment ordered or allowed under this Section, and may set and extend the date for payment.

(9) A member who is ordered by the Complaints Investigation Committee under this Section to pay costs shall pay those costs in full by the date set or extended by the Committee.

(10) A member who has not paid the amount owing under this Section by the date set or extended by the Complaints Investigation Committee is in breach of this Section and, where any part of the amount owing remains unpaid by the date set or extended, shall have the member's practising certificate suspended unless the Committee otherwise orders.

(11) An order under subsection (8) is enforceable in the same manner as an order of the Supreme Court of Nova Scotia.

(12) A member who is subject to an order under subsection (8) may, within 30 days, appeal the order on any grounds to the Hearing Committee, which shall refer the appeal to a hearing panel.

(13) Sections 45 and 46 apply with necessary changes to an appeal under subsection (12).

(14) The hearing of an appeal under subsection (12) is not open to the public except at the member's request and any decision and reasons for the decision may be provided only to the member and the Society.

(15) For the purpose of an appeal under subsection (12), a hearing panel shall be given access to all correspondence, records, reports and other materials available to or produced by the Complaints Investigation Committee.

(16) Following the hearing of an appeal under subsection (12), a hearing panel may issue an order varying, upholding or striking down the order of the Complaints Investigation Committee as it considers appropriate and the order may be registered for the purpose of enforcement.

(17) An order of a hearing panel pursuant to subsection (16) may be appealed to the Court of Appeal under Section 52. 2004, c. 28, s. 36; 2010, c. 56, s. 12.

Suspension of certificate or imposition of conditions

40 (1) The Complaints Investigation Committee may, by resolution, where in its opinion it is in the public interest to do so,

- (a) suspend a practising certificate; or
- (b) impose restrictions or conditions on a practising certificate,

during or following an investigation until the suspension, restrictions or conditions are rescinded or amended by the Complaints Investigation Committee or a hearing panel.

(2) The power of the Complaints Investigation Committee pursuant to subsection (1) may be exercised with or without hearing the practising lawyer.

(3) The Complaints Investigation Committee shall, forthwith after passing a resolution pursuant to subsection (1), provide a copy of the resolution to the practising lawyer to whom the resolution applies, including the reasons for a decision to suspend the practising certificate or impose restrictions or conditions on the practising certificate.

(4) A lawyer who receives written notice pursuant to subsection (3) may request in writing, a meeting with the Complaints Investigation Committee.

(5) Where a request is received pursuant to subsection (4), the Complaints Investigation Committee shall

- (a) provide an opportunity for the lawyer to meet with the Complaints Investigation Committee within 10 days of the written request; and
- (b) after meeting with the lawyer, confirm, vary or terminate the suspension, restrictions or conditions imposed pursuant to subsection (1).

(6) Where the Complaints Investigation Committee holds a hearing before making a determination under subsection (1), or where a lawyer requests the opportunity to meet with the Complaints Investigation Committee pursuant to subsection (4), the lawyer has the right to

- (a) be represented by counsel, at the lawyer's expense;
- (b) disclosure of the nature of the complaint; and
- (c) an opportunity to present a response and make submissions.

(7) A lawyer may appeal to the Nova Scotia Court of Appeal on any question of law from a decision of the Complaints Investigation Committee pursuant to this Section, in accordance with Section 52. 2004, c. 28, s. 37; 2010, c. 56, s. 13.

Show cause hearing respecting offences

41 (1) Where a member of the Society has been convicted or found to be guilty in or out of Canada of any offence that is inconsistent with the proper professional behaviour of a member of the Society, including a conviction under

- (a) the *Criminal Code* (Canada);
- (b) the *Controlled Drug and Substances Act* (Canada);
- (c) the *Income Tax Act* (Canada); or
- (d) such other legislation as is prescribed in the regulations,

the Complaints Investigation Committee may, by such notice as it prescribes, require the member to attend a show-cause hearing to establish why the member should not be subject to review by the Complaints Investigation Committee.

(2) During the course of a show-cause hearing pursuant to subsection (1), the Complaints Investigation Committee may, where it considers it proper, take any of the actions authorized by clauses 39(2)(f) to (o) or Section 40.

(3) When the Complaints Investigation Committee has concluded a show-cause hearing pursuant to subsection (1), it may, where it considers it proper, take any of the actions authorized by subsection 39(2) or Section 40.

(4) For the purpose of subsection (1), a certificate of conviction of a member of the Society is conclusive evidence that the member has committed the offence stated therein, unless it is proved that the conviction has been quashed or set aside.

(5) Where a member of the Society has been convicted of an offence referred to in subsection (1), the member shall report the conviction to the Executive Director within 30 days of the conviction having been entered. 2004, c. 28, s. 38.

Procedure and jurisdiction

42 (1) The Complaints Investigation Committee may set its own procedure for hearings pursuant to Sections 40 and 41.

(2) The Complaints Investigation Committee retains jurisdiction over a matter until such time as a hearing commences before a hearing panel, or a hearing panel otherwise resolves the matter through a settlement agreement. 2004, c. 28, s. 39.

Complaints to be confidential

43 (1) All complaints received or under investigation and all proceedings of the Complaints Investigation Committee must be kept confidential by the Society.

(2) Notwithstanding subsection (1),

(a) subject to any order of a hearing panel, a complaint or information with respect to a complaint that forms part of the notice of hearing pursuant to the regulations, may be disclosed to the public when the notice of hearing is published in accordance with the regulations;

(b) subject to any order of a hearing panel, a complaint or information with respect to a complaint may be disclosed to the public if such complaint or information is disclosed in the course of a hearing;

(c) the Executive Director may disclose to the Minister of Justice and Attorney General of the Province and the Minister of Justice and Attorney General of Canada, or to persons designated by either or both of them, information that the Executive Director considers necessary for the purpose of considering judicial appointments and appointments as His Majesty's Counsel learned in the law;

(d) the President or the Executive Director, or a person designated by either of them, may disclose

(i) that a complaint about the conduct, capacity or competence of a member of the Society has been received,

(ii) that the complaint is or will be under investigation,

(iii) information that is otherwise available to the public, or

(iv) where Section 40 applies, that conditions or restrictions have been imposed on a practising certificate, or that a lawyer's practising certificate has been suspended, pending completion of the investigation and any disciplinary proceeding that may follow;

(e) the Executive Director, on the recommendation of the Complaints Investigation Committee, may disclose to law enforcement authorities any information about possible criminal activity on the part of a member of the Society that is obtained during an investigation pursuant to this Act;

(f) subject to Section 81, the Complaints Investigation Committee may authorize the Executive Director to release specific information to a specific person or persons if it is determined by the

Complaints Investigation Committee that it is in the public interest to do so;

(g) the Executive Director may disclose information with respect to a complaint to a regulatory body in a foreign jurisdiction when it is relevant and concerns the fitness of a member of the Society for membership in the foreign jurisdiction;

(h) disclosure of information with respect to a complaint may be made for the administration of this Act or to comply with the purpose of this Act.

(3) All information received by and all proceedings of the Fitness to Practise Committee must be kept confidential by the Society.

(4) Notwithstanding subsection (3) and subject to any order of a hearing panel, where a matter referred to the Fitness to Practise Committee is referred to a hearing panel, information disclosed to the Fitness to Practise Committee may be disclosed to the public if such information is disclosed in the course of a hearing.

(5) Notwithstanding subsection (3), the Fitness to Practise Committee may authorize the Executive Director to disclose

(a) to the Minister of Justice and the Attorney General of the Province and the Minister of Justice and Attorney General of Canada, or to persons designated by either or both of them, information that the Executive Director considers necessary for the purpose of considering judicial appointments and appointments as His Majesty's Counsel learned in the law;

(b) subject to Section 81, specific information to a specific person or persons if it is determined by the Fitness to Practise Committee that it is in the public interest to do so;

(c) information with respect to a matter before the Fitness to Practise Committee to a regulatory body in a foreign jurisdiction when it is relevant and concerns the fitness of a member of the Society for membership in the foreign jurisdiction;

(d) information with respect to a matter before the Fitness to Practise Committee for the administration of this Act or to comply with the purpose of this Act.

(6) The Council may, by regulation, prescribe the manner in which confidential information is handled and shared within the Society and between the Society and the Nova Scotia Lawyers' Insurance Association. 2004, c. 28, s. 40; 2010, c. 56, s. 14.

Hearing Committee and regulations

44 (1) The Council shall appoint a Hearing Committee made up of lawyers and persons who are not members of the Society and may make regulations

(a) prescribing the makeup of the Hearing Committee including the requirements for a Chair and one or more Vice-chairs;

(b) prescribing the quorum for a hearing panel and the means by which members of the Hearing Committee are designated to sit on a hearing panel for adjudication of matters included in a charge;

(c) prescribing the means by which non-lawyers are appointed to the Hearing Committee;

(d) establishing processes for a charge to proceed to a hearing;

(e) prescribing the procedure to govern hearings, the means by which hearing panels are to make decisions, the timing for the release of decisions and such other matters that will ensure a fair hearing;

(f) prescribing the circumstances in which a member of the Hearing Committee whose term has expired may remain on a hearing panel until the matters in which that person has been involved, have concluded;

(g) prescribing the procedures to be employed for settlement agreements;

(h) establishing processes respecting Section 51.

(2) Regulations made pursuant to clause (1)(a) or (b) must provide that a majority of the members of the Hearing Committee and any hearing panel thereof are to be members of the Society. 2004, c. 28, s. 41.

Powers of Hearing Committee

45 (1) The Hearing Committee, and any hearing panel thereof, has all the powers conferred by this Act and the regulations in the discharge of its functions as well as the powers, privileges and immunities of a commissioner under the *Public Inquiries Act*.

(2) A hearing panel may determine its own procedure and may

(a) issue subpoenas and enforce the attendance of witnesses and compel them to give oral or written evidence on oath and to produce such documents and things as the hearing panel considers necessary for the full consideration of a charge;

(b) order pre-hearing procedures, including pre-hearing conferences that are held in private, and direct the times, dates and places of the hearing for those procedures;

(c) order that a hearing, parts of a hearing or pre-hearing conference be conducted using a means of telecommunication that permits the parties and the panel to communicate simultaneously;

(d) administer oaths and solemn affirmations;

(e) receive and accept such evidence and information on oath, affidavit or otherwise as the hearing panel in its discretion sees fit, whether admissible in a court of law or not;

(f) prescribe the disclosure obligations of the parties prior to a hearing;

(g) compel, at any stage of a proceeding, any person to provide information or to produce documents or things that may be relevant to a matter before it;

(h) adjourn or postpone a proceeding from time to time;

(i) amend or permit the amendment of any document filed in connection with the proceeding, including a notice of hearing and a charge contained therein;

(j) make interim orders to affirm, amend or rescind any outstanding order of the Complaints Investigation Committee;

(k) reject or by order approve a settlement agreement.
2004, c. 28, s. 42; 2010, c. 56, s. 15.

Conduct of hearings

46 (1) In a hearing before a hearing panel, the parties to the hearing are the Society and the member of the Society who is the subject of the charge.

(2) A hearing held by a hearing panel must be conducted in accordance with this Act and the regulations.

(3) In a proceeding before a hearing panel, the parties have the right to

(a) representation by legal counsel;

(b) the opportunity to present evidence and make submissions, including the right to cross-examine witnesses;

(c) disclosure of relevant information and documents as prescribed in the regulations; and

(d) receipt of written reasons for a decision within a reasonable time as prescribed by regulation.

(4) In a hearing before a hearing panel, a member of the Society who is the subject of a charge is a compellable witness. 2004, c. 28, s. 43.

Public attendance at hearing

47 (1) Subject to subsection (2), a hearing before a hearing panel must be open to the public.

(2) A hearing panel may order that the public, in whole or in part, be excluded from a hearing or any part of it if the hearing panel is satisfied that

(a) financial, personal or other matters may be disclosed at the hearing of such a nature that the desirability of avoiding public disclosure of those matters in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings may be open to the public; or

(b) the safety of a person may be jeopardized.

(3) A hearing panel

(a) shall order that the public, in whole or in part, be excluded from a hearing or any part of it if satisfied that matters involving solicitor-client privilege that have not otherwise been waived may be disclosed; and

(b) may order that the public, in whole or in part, be excluded from a hearing or any part of it if satisfied that the public interest in disclosure of other information is outweighed by the interest of the public or any person in preventing the information from being disclosed.

(4) A hearing panel may make orders it considers necessary to prevent the public disclosure of matters disclosed at a hearing, including orders prohibiting publication or broadcasting of those matters.

(5) No order may be made pursuant to subsection (4) that prevents the publication of anything that is otherwise available to the public.

(6) A hearing panel may make an order that the public be excluded from the part of the hearing dealing with a motion for an order pursuant to subsection (2).

(7) A hearing panel may make any order necessary to prevent the public disclosure of matters disclosed in a submission relating to any motion described in subsection (6), including an order prohibiting the publication or broadcasting of those matters.

(8) Subject to any orders pursuant to this Section, a hearing panel shall state, at the hearing, its reasons for an order made pursuant to this Section.

(9) Where a hearing panel makes an order pursuant to subsection (2), wholly or partly because of the desirability of avoiding disclosure of matters in the interest of a person affected, the hearing panel

(a) shall allow the parties and their legal and personal representatives to attend the hearing; and

(b) may allow such other persons as the panel considers appropriate to attend all or part of the hearing.

(10) Notwithstanding anything contained in this Section, public attendance at a hearing without restriction does not constitute authorization to take photographs, record sound, videotape or otherwise mechanically or electronically record the proceedings, and no such recording is permitted, unless specifically authorized by the hearing panel. 2004, c. 28, s. 44; 2010, c. 56, s. 16.

Actions by panel during and after hearing

48 (1) At any time during a hearing, or where a hearing panel finds a member of the Society, other than a law firm, guilty of professional misconduct, professional incompetence or conduct unbecoming a lawyer or articled clerk or makes a finding of incapacity, it may, before making an order pursuant to subsection (4) and upon application by a party, do one or more of the following:

- (a) order an audit of the member's practice to be carried out by such person or persons as directed by the hearing panel;
- (b) order the member to submit to a review of the practice of the member by a qualified person or persons designated by the hearing panel, and to provide a copy of the review to the hearing panel;
- (c) order the member to submit to an assessment or examination to determine whether the member is professionally competent to practise law, and to provide the assessment or the report of the examination to the hearing panel;
- (d) order a member to submit to a medical assessment to determine whether the member has the capacity to practise law, and to provide any medical assessment report to the hearing panel;
- (e) receive any reports from the medical assessments;
- (f) resolve to bring an application pursuant to Section 53.

(2) Where a member of the Society fails to comply with any order of a hearing panel made pursuant to subsection (1), the hearing panel may order that the member be suspended until the member complies.

(3) The costs of complying with an order made pursuant to subsection (1) must be initially borne by the Society and may be awarded as costs against a member of the Society pursuant to subsection (4).

(4) Where a hearing panel finds a member of the Society, other than a law firm, guilty of professional misconduct, professional incompetence or conduct unbecoming a lawyer or articled clerk or makes a finding of incapacity, it shall, following an opportunity for the parties to present evidence and submissions respecting the proposed disposition by the hearing panel, do one or more of the following:

- (a) where the member is a lawyer, disbar the member;
- (b) where the member is an articled clerk,
 - (i) expel the articled clerk and order the articled clerk's name to be struck off the Register of Articled Clerks,
 - (ii) defer the articled clerk's call to the Bar, or
 - (iii) impose conditions on the articled clerk's call to the Bar;
- (c) permit the member to resign the member's membership;
- (d) for any period the hearing panel considers appropriate,
 - (i) suspend the member from practising law,
 - (ii) confirm, vary or impose restrictions on the member's practice;
- (e) order the member to pay an amount not to exceed \$20,000 to be paid into the Fund;
- (f) order that restitution be made to any person;

- (g) reprimand the member;
- (h) order the member to pay all or any part of the costs incurred by the Society in connection with any investigation or proceedings relating to the matter in respect of which the member was found guilty and, in particular, to pay the costs of the proceedings authorized by Sections 39 to 41;
- (i) order the member to submit to an assessment or examination, or both, as the hearing panel considers appropriate;
- (j) order the member to submit to a medical assessment;
- (k) where the member is a director, officer or shareholder of a law corporation, revoke or suspend the corporation's permit, or impose conditions on the permit;
- (l) apply for a variation of any custodial order;
- (m) resolve to bring an application pursuant to Section 53;
- (n) rescind or vary any order made or action taken under this subsection;
- (o) make any other order or take any other action the hearing panel determines to be appropriate in the circumstances including an order to retain jurisdiction to monitor the enforcement of its order.

(5) Where a hearing panel finds a law firm guilty of professional misconduct, it may, following the opportunity for the parties to present evidence or submissions respecting the potential disposition, do one or more of the following:

- (a) order the law firm to pay an amount not to exceed \$50,000 into the Fund; or
- (b) make any other order or take any other action the panel thinks is appropriate in the circumstances including an order to retain jurisdiction to monitor the enforcement of its order. 2004, c. 28, s. 45; 2010, c. 56, s. 17.

Publication of decision or order

49 (1) Subject to any publication ban ordered by a hearing panel or provision in this Act, the Society shall publish any decision or order of a hearing panel and the reasons for it, notwithstanding the fact that members of the public may have been excluded from the hearing or part of the hearing.

(2) Publication under subsection (1) may be to members of the Society, to the governing body of a legal profession in a foreign jurisdiction or to the public, or to any combination of them. 2004, c. 28, s. 46.

Enforcement in same manner as order of Supreme Court

50 Any resolution, decision or order by a hearing panel must be signed by the chair of the hearing panel and may be enforced in the same manner as an order of the Supreme Court of Nova Scotia. 2004, c. 28, s. 47.

Professional misconduct by member in a foreign jurisdiction

51 A member of the Society is guilty of professional misconduct under this Act if

- (a) as a result of disciplinary proceedings in a foreign jurisdiction,
 - (i) the member is disbarred or permitted to resign the member's membership in the legal profession of that jurisdiction,
 - (ii) the member is suspended from practising law in that jurisdiction,
 - (iii) conditions are imposed on the member's practice of law in that jurisdiction, or
 - (iv) the disciplinary authority in that jurisdiction declares that the member would have been disbarred, permitted to resign, suspended from practising law or had conditions imposed on the member's practice of law if the member of the Society had been a member of the legal profession in that jurisdiction; or
- (b) the member contravenes an order of a disciplinary authority of a foreign jurisdiction having jurisdiction over the member. 2004, c. 28, s. 48.

Appeal of order or decision

52 (1) Subject to this Section, every order or decision of a Complaints Investigation Committee or a hearing panel is final and may not be questioned or reviewed in any court.

(2) A party may appeal to the Nova Scotia Court of Appeal on any question of law from the findings of a hearing panel, following the rendering of a decision pursuant to subsection 48(4) or (5) or from a decision of the Complaints Investigation Committee under Section 40 or 41.

(3) The notice of appeal must be filed at the Nova Scotia Court of Appeal and served upon the other party not later than 30 days after service of the written decision of the Complaints Investigation Committee or hearing panel.

(4) The record on appeal from the findings of a hearing panel consists of a copy of the transcript of the proceedings, the decisions and resolutions of the panel and the evidence before the panel certified by the chair of the hearing panel.

(5) The *Civil Procedure Rules* governing appeals from the Supreme Court of Nova Scotia to the Nova Scotia Court of Appeal that are not inconsistent with this Act, apply with necessary changes to appeals to the Court of Appeal pursuant to this Section.

(6) Where a matter is appealed to the Nova Scotia Court of Appeal pursuant to this Section, the decision of the hearing panel takes effect immediately unless the Court of Appeal grants a stay of any order made pursuant to this Act. 2004, c. 28, s. 49.

Court orders respecting trust money or property

53 (1) On *ex parte* application of the Society, following a resolution of the Complaints Investigation Committee or a hearing panel, a judge who determines that a member of the Society is improperly handling or dealing with money or other valuable property required to be held in trust, may order that

(a) money or other valuable property not be paid out or dealt with by the member or any other person named in the order, except as provided in the order; or

(b) a portion or all of the money or property be paid out or dealt with by any person named in the order in the manner provided in the order.

(2) A member of the Society in respect of whom an order has been made pursuant to this Section, the Society or any member of the Society affected by an order made pursuant to this Section may apply to the judge who made the order or another judge for an order varying or discharging the order.

(3) An order made under this Section is subject to appeal on a question of law to the Nova Scotia Court of Appeal. 2004, c. 28, s. 50.

Appointment of receiver

54 (1) Where a member of the Society has been suspended from practice pursuant to this Act or the regulations or disbarred, the Complaints Investigation Committee or a hearing panel may, by resolution, order the appointment of a receiver to

(a) take possession of the office of the member and of all records, documents, bank accounts, clients' property and the like relating to the member's practice, or to any trust of which the member is or was a sole trustee or of which the member is or was a co-trustee with a partner, clerk or employee;

(b) receive all money that the member in the member's professional or fiduciary capacity is or becomes entitled to receive from any person; and

(c) generally conduct or wind down such practice, transfer such trusteeship and account therefor, as the Complaints Investigation Committee or the hearing panel may from time to time direct.

(2) A resolution appointing a receiver has the same effect as an order of the Supreme Court appointing a receiver.

(3) Notice of a resolution made pursuant to subsection (1) must be made public in the manner prescribed by the regulations.

(4) A receiver, the Society or, after 10 days notice to the receiver and the Society, any interested person, may apply to a judge for an order varying or vacating the order made pursuant to subsection (1), or giving such direction in connection with the receivership as the judge considers appropriate. 2004, c. 28, s. 51.

Definition of “property”

55 In Section 56, “property”, in relation to a member of the Society, means any negotiable instrument, financial account, cash, money on deposit, file, record or other document or chattel that

- (a) relates to the member’s practice; or
- (b) is in the possession or control of the member or the member’s estate and relates to the business or affairs of a client or former client of the member. 2004, c. 28, s. 52.

Appointment of custodian

56 (1) A judge may, upon application of the Society, make an order appointing a custodian to

- (a) take custody of the property of a member of the Society;
- (b) conserve, protect and properly dispose of property; and
- (c) manage or wind up the practice of a member of the Society.

(2) An order may be made pursuant to subsection (1) where the judge is satisfied there are reasonable grounds to believe that

- (a) a member of the Society is no longer authorized or able to practise law;
- (b) a law corporation through which a member of the Society is or has been practising is no longer authorized to practise law;
- (c) a member of the Society has absconded or is otherwise improperly absent from a location at which the member ordinarily practises;
- (d) the practice of a member of the Society has been neglected for an undue period of time;
- (e) a member of the Society, or a law corporation through which the member is or has been practising, has insufficient trust money to meet the trust liabilities of the member or the corporation; or
- (f) other sufficient grounds exist for making the order.

(3) A judge in an order made under subsection (1) or in a subsequent order made upon the application of the Society or the custodian, either *ex parte* or on such notice as the judge requires, may

- (a) authorize a sheriff to
 - (i) enter any premises in which the judge is satisfied there are reasonable grounds to believe that any of the member’s property is located,
 - (ii) seize and remove property and place it in the possession of the custodian, and

- (iii) open any safety deposit box or other receptacle on the premises;
- (b) authorize the custodian to employ such professional assistance as the custodian requires to carry out the custodian's duties;
- (c) direct any bank or other depository of property to deal with, hold, pay or dispose of such property to the custodian or in such manner as the Supreme Court of Nova Scotia or judge considers proper;
- (d) give directions to the custodian as to the disposition of property in the custodian's hands or any part thereof;
- (e) make provisions for the remuneration, disbursements and indemnification of the custodian out of the property in the custodian's hands or otherwise as the judge may specify;
- (f) make provision for the discharge of the custodian upon completion of the responsibilities imposed upon the custodian by any order made under this Section; and
- (g) give such further directions as the judge considers are required in the circumstances. 2004, c. 28, s. 53.

Application of Act to law corporations and foreign lawyers

57 (1) Sections 33 to 56 apply, with necessary changes, to the following persons as if they were members of the Society:

- (a) law corporations;
- (b) lawyers from foreign jurisdictions who are practising law in the Province under the regulations relating to interjurisdictional practice.

(2) Any regulations made by the Council under Sections 33 to 56 may be made applicable to the following persons as if they were members:

- (a) law corporations;
- (b) lawyers from foreign jurisdictions who are practising law in the Province under the regulations relating to interjurisdictional practice. 2004, c. 28, s. 54.

PART IV

LAWYERS' FUND FOR CLIENT COMPENSATION

Fund continued

58 (1) The Reimbursement Fund established pursuant to the former Act is hereby continued as the Lawyers' Fund for Client Compensation.

(2) The purpose of the Fund is to compensate claimants who have sustained pecuniary losses because of misappropriation or wrongful conversion of the claimants' money or property by a member of the Society or by a law corporation. 2004, c. 28, s. 55.

Property of Fund

- 59** The property of the Fund
- (a) is the property of the Society;
 - (b) must be accounted for separately from other funds of the Society;
 - (c) is not subject to any process of seizure or attachment by a creditor of the Society; and
 - (d) is not subject to a trust in favour of a person who claims to have sustained a loss. 2004, c. 28, s. 56.

Council may pay compensation to claimants

- 60** (1) In its sole and absolute discretion, the Council may pay compensation out of the Fund to a claimant if it is satisfied that
- (a) money or other property was entrusted to or received by a member of the Society in the member's capacity as a lawyer;
 - (b) the member of the Society misappropriated or wrongfully converted the money or other property; and
 - (c) the claimant sustained a pecuniary loss as a result of that misappropriation or wrongful conversion.
- (2) Compensation paid out of the Fund is an *ex gratia* payment.
- (3) When the Council receives a claim for compensation out of the Fund, it may
- (a) use the Fund to compensate the claimant for all or any part of the claimant's loss, on any terms it considers appropriate; or
 - (b) refuse to compensate the claimant.
- (4) No payment may be made out of the Fund unless notice of the claim is received by the Executive Director within six months after the loss comes to the knowledge of the claimant.
- (5) Notwithstanding subsection (4), the Council may extend the time for making a claim to a maximum of 24 months after the loss came to the knowledge of the claimant.
- (6) When a claimant is compensated out of the Fund, the Society has all the rights of recovery of the claimant and the Society may bring an action in its own name, alone or in a joint action with the claimant, to enforce those rights to the extent of the amount paid to the claimant and any costs incurred in recovering the amount paid.
- (7) Where the Society or the claimant recovers money or other property for the claimant's loss, the recovered money or property must be paid or applied in the following order:
- (a) to cover the legal costs and fees incurred in recovering it;

(b) to compensate the Fund for the compensation paid to the claimant;

(c) to the claimant to compensate for any part of the claimant's loss that was not compensated for pursuant to subsection (3) in the event any balance remains after the payments required by clauses (a) and (b); and

(d) to the person from whom the money or other property was recovered if any balance remains after the payments required by clauses (a) to (c) are made.

(8) A member of the Society whose conduct results in payment of a claim from the Fund is liable to the Fund for the amount paid and the Society may take such action as it considers appropriate to recover such payment to the extent of the amount paid and any costs incurred in recovering the amount paid.

(9) The Council may make regulations

(a) setting the amount of contributions to be paid into the Fund by all or some members of the Society;

(b) establishing limits on payments out of the Fund regarding claims against a member;

(c) establishing aggregate limits for payment out of the Fund in any fiscal year of the Society;

(d) providing for insurance for the Fund and the payment of premiums out of the Fund;

(e) prescribing what may be paid out of the Fund in addition to claims. 2004, c. 28, s. 57.

Public Inquiries Act

61 When considering a claim for compensation from the Fund, the Council or a committee established for this purpose, has all the powers, privileges and immunities of commissioners under the *Public Inquiries Act*. 2004, c. 28, s. 58.

Compensation programs with other jurisdictions

62 (1) The Council may participate with governing bodies of the legal profession in foreign jurisdictions in programs to compensate persons who sustain pecuniary losses by reason of misappropriation or wrongful conversion of property entrusted to or received by lawyers or their professional corporations in the course of practising law in the Province or outside the jurisdiction in which they are members of the legal profession.

(2) The Council may use money from the Fund to

(a) contribute to a program referred to in subsection (1);

(b) reimburse, in whole or in part, persons who sustain pecuniary losses by reason of a misappropriation or wrongful conversion, by a member of the Society or a law corporation, of property entrusted to or received by the member or law corporation in the course of practising law outside of the Province; and

(c) pay an insurance premium or otherwise participate in an insurance program that provides compensation for persons who sustain a loss of a type referred to in subsection (1). 2004, c. 28, s. 59.

Agreement respecting the Land Registration Act

63 (1) The Society may enter into an agreement with the Government of the Province to pay compensation as a result of a claim made under Section 91 of the *Land Registration Act*.

(2) The Society may establish a fund or other means, including an insurance policy, to provide for compensation that it is required to pay under subsection (1).

(3) Until the Society has established the fund or other means to provide compensation referred to in subsection (2), the Society may pay from the Fund the amounts it is required to pay under an agreement made pursuant to subsection (1).

(4) Where the Society has paid amounts from the Fund, the Society may, by regulation, require contributions from some or all members of the Society to reimburse the Fund for amounts paid. 2004, c. 28, s. 60.

PART V

LAWYERS' INSURANCE ASSOCIATION OF NOVA SCOTIA

Claims Fund continued as Association

64 (1) The Nova Scotia Barristers' Liability Claims Fund as established by the former Act is continued as a body corporate under the name the "Lawyers' Insurance Association of Nova Scotia".

(2) Subject to this Act and the regulations, the Association shall be managed by a board of directors consisting of persons from time to time appointed by the Council. 2004, c. 28, s. 61.

Professional liability claims program

65 (1) The Association shall conduct a mandatory professional liability claims program in accordance with this Section and Sections 66 and 67 and may conduct a voluntary excess liability coverage program.

(2) The Association has all the powers necessary to conduct the mandatory professional liability claims program and, without limiting the generality of the foregoing, the Association may

(a) acquire, hold, dispose of or otherwise deal with interests in property;

(b) with the approval of the Council, borrow money for its general purposes and give promissory notes, bills of exchange and other negotiable instruments in respect of any amount borrowed, and mortgage or pledge its properties to secure the sums so borrowed;

(c) enter into agreements of indemnity or guarantee;

(d) indemnify members with respect to liability retained by the Association under a group insurance contract entered into pursuant to subsection 67(2) in accordance with such contract.

(3) The Association has all the powers necessary to conduct and maintain the programs established by the Council pursuant to clause 66(e) and, without limiting the generality of the foregoing, the Association may enter into contracts with service providers to provide or support the programs of assistance. 2004, c. 28, s. 62; 2010, c. 56, s. 18.

Regulations

66 The Council may make regulations

(a) authorizing the Council to make a policy giving broad policy directions with respect to the mandatory professional liability program of the Association;

(b) respecting the management of the Association and, without limiting the generality of the foregoing, determining the powers, duties and responsibilities of the board of directors of the Association;

(c) providing for the minimum amount of liability insurance to be carried by members of the Society and for the payment by members of amounts for such annual assessments, surcharges and such other amounts as may be determined by the Council from time to time for the purpose of the Association;

(d) providing for the exemption or exclusion of members of the Society from the payment of annual assessments referred to in clause (c), and from entitlement to indemnification under the mandatory professional liability claims program, and the conditions on which the exemption or exclusion may be made;

(e) establishing

(i) programs to assist lawyers and other persons designated in the policy direction of the Council in handling or avoiding personal, emotional, medical or substance abuse problems,

(ii) programs to assist lawyers with issues arising in the practice of law as part of the mandatory professional liability program of the Association;

(f) authorizing the Council to make a policy giving broad policy directions with respect to programs established under clause (e);

(g) where a member has entered into an agreement with the Association pursuant to a voluntary excess liability coverage program, providing for the payment by such member of assessments in such amount as may be fixed by the agreement. 2004, c. 28, s. 63; 2010, c. 56, s. 19.

Reciprocal exchange

67 (1) The Association may, with the approval of the Council, participate in a reciprocal exchange of contracts of indemnity or inter-insurance and thereby exchange contracts of indemnity.

(2) The Association may

(a) enter into a group insurance contract with an insurer, including a reciprocal exchange of contracts of indemnity or inter-insurance, providing for the indemnification by the insurer in whole or in part of members of the Society in respect of professional liability claims against them, on such terms and conditions as may be agreed upon; and

(b) enter into a group insurance contract with an insurer either alone or jointly with one or more governing bodies of the legal professions in foreign jurisdictions, or one or more corporations designated by such a governing body and incorporated for purposes similar to those of the Association.

(3) The Association may enter into contracts with insurers or other persons whereby the Association may be indemnified in whole or in part against claims, expenses and losses of the Association. 2004, c. 28, s. 64.

PART VI

LEGAL FEES

Interpretation of Part

68 In this Part,

“account” means the fees, costs, charges and disbursement to be paid by a client or a party to a matter as a result of an order of a court;

“adjudicator” means an adjudicator of the Small Claims Court of Nova Scotia;

“lawyer” includes a law firm and a law corporation. 2004, c. 28, s. 65.

Account recoverable

69 A lawyer may sue to recover the lawyer’s reasonable and lawful account. 2004, c. 28, s. 66.

Taxation

70 Notwithstanding any other enactment, a lawyer’s account may be taxed by

(a) an adjudicator; or

(b) a judge. 2004, c. 28, s. 67.

Initiation of taxation

71 A taxation may be initiated by

(a) any person claiming the whole or a portion of an account; or

(b) any person from whom an account or any portion of it is claimed. 2004, c. 28, s. 68.

Where lawyer is party

72 Where a lawyer is a party in a proceeding in which the reasonableness of the lawyer's account is raised, the presiding judge or adjudicator may

- (a) tax the account as part of the proceeding; or
 - (b) order the account to be taxed by another judge or adjudicator.
- 2004, c. 28, s. 69.

Appeal

73 A decision on a taxation may be appealed to

- (a) the Supreme Court of Nova Scotia, if the taxation is conducted by an adjudicator; or
- (b) the Nova Scotia Court of Appeal, if the taxation is conducted by a judge. 2004, c. 28, s. 70.

Regulations

74 (1) The Governor in Council may, after consultation with the Council in the time and in the manner determined by the Governor in Council, make regulations

- (a) prescribing the length of notice required before a taxation;
- (b) prescribing the circumstances in which notice may be waived;
- (c) prescribing the means of service of a notice;
- (d) prescribing the means of proof of service;
- (e) prescribing when a taxation may be held in the absence of one or more parties to the taxation;
- (f) governing the practice and procedures of taxations;
- (g) respecting payment of the cost of taxations;
- (h) permitting a person or class of persons to carry out activities referred to in subsection 16(1) for the purpose of clause 16(4)(m);
- (i) defining any word or expression used but not defined in this Act;
- (j) further defining any word or expression defined in this Act; and
- (k) 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*.

(3) Where regulations made pursuant to subsection (1) conflict with the *Small Claims Court Act* or any regulations made pursuant to that Act, the regulations made pursuant to subsection (1) prevail. 2004, c. 28, s. 71.

PART VII

THE LAW FOUNDATION OF NOVA SCOTIA

Foundation continued

75 (1) The Law Foundation of Nova Scotia, as constituted by the former Act, is continued as a body corporate, and is governed by a Board composed of

- (a) five persons appointed by the Governor in Council; and
- (b) four members of the Society appointed by the Council.

(2) Each member of the Board shall be appointed for a term of two years.

(3) Notwithstanding subsection (2), if the term of appointment of a member of the Board expires and no successor has been appointed, the term of that member of the Board continues until a successor is appointed.

(4) The chair of the Board shall be appointed from the members of the Board by the Governor in Council upon the joint recommendation of the Attorney General and the Society.

(5) The chair and members of the Board shall serve on the Board without remuneration.

(6) Where any vacancy occurs on the Board, the Governor in Council or the Council, depending upon who made the appointment of the person who did not complete the term, shall appoint a person to fill the vacancy and the member of the Board so appointed holds office for the remainder of that term or until a successor is appointed.

(7) A quorum of the Board consists of any five members of the Board and those members may act notwithstanding any vacancy on the Board.

(8) Notwithstanding subsection (2), the appointment of any member of the Board terminates when the member

- (a) resigns in writing;
- (b) ceases to be a member of the Society or leaves the Province permanently;
- (c) becomes mentally incompetent or bankrupt;
- (d) where appointed by the Governor in Council, is removed by revocation of the order in council making the appointment.

(9) No act of the Board is invalid because a defect is afterwards found in the appointment of any of its members. 2004, c. 28, s. 72.

Objects

76 The objects of the Law Foundation are to establish and maintain a fund to be used for the examination, research, revision and reform of and public access to the law, legal education, the administration of justice in the Province and

any other purposes incidental or conducive to or consequential upon the attainment of any such objects. 2004, c. 28, s. 73.

Source of funds

- 77 (1) The funds of the Law Foundation must be derived from
- (a) gifts, bequests and devises referred to in subsection (2);
 - (b) money received from lawyers under Section 30;
 - (c) money resulting from the use, disposal or investment of property received under clauses (a) and (b); and
 - (d) any other source.

(2) The Law Foundation has power to receive gifts, bequests and devises of property, real or personal, and to hold, use or dispose of such property in furtherance of the objects of the Law Foundation, subject to the terms of any trust affecting the property.

(3) Any form of words is sufficient to constitute a gift, bequest or devise to the Law Foundation so long as the person making the gift, bequest or devise indicates an intention to contribute to the Law Foundation. 2004, c. 28, s. 74.

Powers of Board

- 78 (1) The Board may, subject to this Act,
- (a) approve interest rates to be paid by financial institutions on trust accounts established pursuant to subsection 30(2);
 - (b) pay out of the funds of the Law Foundation any costs, charges, audit and other fees, and expenses involved in the administration and operation of the Law Foundation;
 - (c) appoint, employ or otherwise retain such persons as are required to carry out the powers and purposes of the Law Foundation;
 - (d) acquire, hold, mortgage, dispose of and otherwise deal with real and personal property in the name of and for the purposes of the Law Foundation;
 - (e) borrow money for the general purposes of the Law Foundation and make and give promissory notes, bills of exchange and other negotiable instruments in respect of any amount borrowed and mortgage, hypothecate or pledge the property of the Law Foundation to secure sums so borrowed;
 - (f) make regulations respecting the administration of its affairs, funds and property, and of any other matter that relates to the powers and purposes of the Law Foundation or that is incidental thereto;
 - (g) do any other matter that relates to the powers and purposes of the Law Foundation or that is incidental thereto.

(2) All money of the Law Foundation must, pending their investment or application in accordance with this Section, be paid into a financial institu-

tion authorized by law to receive money on deposit to the credit of the Law Foundation.

(3) Any money that is not immediately required for the purpose of the Law Foundation may be invested in the name of the Law Foundation by the Board in any manner in which trustees are authorized by law to invest trust funds.

(4) The accounts of the Law Foundation must be audited annually by a chartered accountant appointed for the purpose by the Board and the accountant shall report to the Law Foundation.

(5) The Board shall report to the Council from time to time or when requested by the Council and shall present an annual report, including its audited accounts, to the Society at its annual meeting. 2004, c. 28, s. 75.

Report by Board

79 (1) Within three months next after the end of each fiscal period, the Law Foundation shall prepare and submit to the Attorney General a report consisting of

(a) a general summary of its transactions and affairs during such period, its revenues and the application of its expenditures during that year;

(b) an audited balance sheet of its accounts and financial transactions during such period; and

(c) such other information as the Attorney General may require.

(2) Upon receiving a report under subsection (1), the Attorney General shall lay a copy of it before the Legislature if it is then sitting or, if it is not then sitting, within 15 sitting days after the commencement of the next ensuing sitting. 2004, c. 28, s. 76.

PART VIII

GENERAL

Solicitor-client privilege

80 (1) Any person, committee, panel or agent of the Society carrying out duties under this Act may, for the purpose of the Act only, receive and use information or documents that are confidential or subject to solicitor-client privilege, but has the same obligation respecting disclosure of that information or document as the member of the Society or other person from whom the information or document is received.

(2) A member of the Society who, in accordance with this Act, provides the Society with information or a document that is confidential or is subject to solicitor-client privilege is deemed not to have breached any duty or obligation that the member would otherwise have had to the client or to the Society respecting disclosure of that information or document.

(3) Any person who, during any court proceeding respecting a matter arising under this Act, becomes aware of information or a document that is confidential or is subject to solicitor-client privilege, shall not use, produce or disclose the information for a purpose other than that for which it was obtained.

(4) A committee, panel or court considering a complaint, charge, review or appeal under this Act or the regulations

(a) shall order that the public, in whole or in part, be excluded from a proceeding or any part of it if satisfied that the matters involving solicitor-client privilege that have not otherwise been waived may be disclosed; and

(b) may order that the public, in whole or in part, be excluded from a proceeding or any part of it if satisfied that the public interest in disclosure of other information is outweighed by the interest of the public or any person in preventing the information from being disclosed.

(5) The committee, panel or court may make the order on its own motion or on the application of any person having an interest in the information to be disclosed.

(6) The order or application referred to in subsections (4) and (5) may be made before the proceeding begins or at any time during the proceeding.

(7) In giving reasons for judgment in any court proceeding respecting a matter arising under this Act, the court shall take all reasonable precautions to avoid including in those reasons any information before the court that is confidential or is subject to solicitor-client privilege. 2004, c. 28, s. 77; 2010, c. 56, s. 20.

Non-compellable testimony or evidence and admissibility of evidence

81 (1) In this Section,

“legal proceeding” means any civil proceeding, discovery, inquiry, proceeding before a tribunal, court, board of commission or arbitration, in which evidence may be sought or given, and includes an action or proceeding for the imposition of a fine, penalty or imprisonment for the violation of a Provincial enactment, but does not include any proceeding, review, hearing or appeal conducted pursuant to this Act or the regulations;

“relevant committee” means the committee of the Society for whose purpose a report was created or received, and includes the Complaints Investigation Committee, the Fitness to Practise Committee, a panel of the Hearing Committee or the Credentials Committee;

“report” includes any document, statement, electronic record, minute, note, correspondence or memorandum created or received by a person, committee, panel or agent of the Society for the purpose of any process under Section 5 or Part III and regulations under those provisions, but does not include an original document that belongs to a complainant or a member or to a person other than an employee or agent of the Society.

(2) The Society, its employees or agents or persons who are members of committees or panels established or authorized under this Act, are not compelled to

- (a) testify in a legal proceeding;
- (b) disclose reports in a legal proceeding; or
- (c) disclose in a legal proceeding any other information they may have acquired for the purpose of processes under Section 5 or Part III and the regulations under those provisions.

(3) Reports are not admissible in a legal proceeding except where the relevant committee determines that it is in the public interest to make the report available and authorizes the Executive Director to make the report available in the legal proceeding.

(4) Notwithstanding subsections (2) and (3), where a person has made a complaint to the Society respecting a member, the complaint is admissible with the consent of the complainant, but not otherwise.

(5) Notwithstanding subsections (2) and (3), where a member responds to the Society in respect of a complaint or investigation, the member's response is admissible with the consent of the member, but not otherwise, even though the Executive Director may have delivered a copy or a summary to the complainant. 2010, c. 56, s. 21.

Appointment of King's Counsel

82 (1) The Lieutenant Governor may by letters patent under the Great Seal of the Province appoint from the members of the Society such persons as the Lieutenant Governor considers proper to be during pleasure provincial officers under the name of "His Majesty's Counsel learned in the law in the Province of Nova Scotia".

(2) Where, pursuant to this Act or the regulations, any person appointed pursuant to subsection (1) is disbarred or suspended from practising for any time as a result of a decision that the lawyer is guilty of professional misconduct, conduct unbecoming a lawyer or incompetence, the appointment of the person as His Majesty's Counsel learned in the law in the Province of Nova Scotia is immediately revoked and shall not at any time revive, but the Lieutenant Governor may, pursuant to this Section, reappoint the person.

(3) No person may be appointed His Majesty's Counsel learned in the law in the Province of Nova Scotia who is not a lawyer of at least 15 years standing at the Bar of Nova Scotia. 2004, c. 28, s. 78.

Precedence

83 Precedence in the courts is in the following order:

- (a) the Attorney General for the time being of Canada;
- (b) the Attorney General for the time being of the Province;
- (c) His Majesty's Counsel learned in the law in the Province of Nova Scotia according to seniority of appointment;

(d) other members of the Society in order of their call to the Bar. 2004, c. 28, s. 79.

Rights unaffected

84 For greater certainty, nothing in this Act affects any right of precedence that applies to a member of the Bar when acting as counsel for the Crown or for an Attorney General of the Crown. 2004, c. 28, s. 80.

No action lies

85 (1) No action for damages lies against the Society, the Council, members of the Council, committees of the Society, persons serving as members of committees of the Society, the Executive Director or officers, agents or employees of the Society

(a) for any act or failure to act, or any proceeding initiated or taken, or anything done or not done, in good faith while acting or purporting to act on behalf of the Society in the carrying out of the duties or obligations under this Act; or

(b) for any decision, order or resolution made or enforced in good faith under this Act.

(2) No action lies against any person for the disclosure of any information or any document or anything therein pursuant to this Act unless such disclosure was made in bad faith.

(3) No action for damages lies against any person for making a complaint to the Society in good faith about a member of the Society.

(4) No member of the Society or officer, agent or employee of the Society is personally liable for any of the debts or liabilities of the Society unless such person expressly agrees to be so liable.

(5) The Society shall indemnify any person referred to in subsection (1) or (2) for any costs or expenses incurred by such person in the defence of any legal proceedings brought against them in their capacity under this Act. 2004, c. 28, s. 81; 2010, c. 56, s. 22.

Library

86 The library of the Society is exempt from all civic and municipal rates, taxes and assessments of every kind. 2004, c. 28, s. 82.

Law stamps

87 (1) A person who causes to be issued out of the Supreme Court of Nova Scotia or the Nova Scotia Court of Appeal

(a) an originating notice (action) in a proceeding;

(b) any other originating notice, other than a concurrent originating notice or renewal of an originating notice;

(c) a petition, including a petition for divorce; or

(d) a notice of appeal,

shall pay to the Society towards the support of library services of the Society a sum determined by the Governor in Council.

(2) Clauses (1)(a) to (c) do not apply to proceedings commenced in Cape Breton County.

(3) The sum payable under this Section must be paid by stamps.

(4) This Section does not apply to any person who qualifies for a waiver of court fees pursuant to the *Civil Procedure Rules*. 2004, c. 28, s. 83.

Notices and petitions require law stamps

88 The stamps referred to in Section 87 must be provided by the Society and kept for sale at the office of each prothonotary of the Supreme Court of Nova Scotia and no originating notice, petition or notice of appeal may be issued unless a stamp for the appropriate amount is attached thereto and any such originating notice, petition or notice of appeal without a stamp is void and may be set aside. 2004, c. 28, s. 84.

Prothonotary to affix and initial law stamps

89 A prothonotary of the Supreme Court of Nova Scotia who issues an originating notice, petition or notice of appeal shall at the time such originating notice, petition or notice of appeal is issued mark each stamp with the prothonotary's initials and the date of issue of the originating notice, petition or notice of appeal to which it is affixed. 2004, c. 28, s. 85.

PART IX

TRANSITIONAL PROVISIONS

Substituted reference

90 A reference in any other enactment to the former Act, or to any procedure under the former Act, is deemed to be a reference to this Act or the equivalent procedure under this Act. 2004, c. 28, s. 86.

Fee for law stamp

91 The amount payable pursuant to subsection 50(1) of the former Act is payable as the sum referred to in subsection 87(1) until such time as the Governor in Council determines otherwise. 2004, c. 28, s. 88.

CHAPTER L-10

**An Act Securing
the Liberty of the Subject**

Table of Contents

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

	Section
Short title.....	1
Acts of Imperial Parliament adopted	2
Infant children	3
Application for writ of habeas corpus.....	4
Duty to make return	5
Procedure after return received	6
Duty to communicate and obey order.....	7
Authority to require production and examine	8
Certiorari.....	9
Contempt.....	10
Jurisdiction to consider return.....	11
Effect of order	12
Civil remedy preserved.....	13
Appeal	14
Notice of application for discharge.....	15

Short title

1 This Act may be cited as the *Liberty of the Subject Act*. R.S., c. 253, s. 1.

Acts of Imperial Parliament adopted

2 (1) The Act of the Imperial Parliament, passed in the 31st year of the reign of King Charles the Second, entitled *An Act for the Better Securing the Liberty of the Subject, and for the Prevention of Imprisonment Beyond the Seas* and the Act of the Imperial Parliament, passed in the 56th year of the reign of King George the Third, entitled *An Act for More Effectually Securing the Liberty of the Subject* and all Acts of the Imperial Parliament passed in addition to, or amendment of, or on the same subject as the said recited Acts, or either of them, have full force and effect in the Province, so far as the same are applicable therein.

(2) The Supreme Court of Nova Scotia, and the judges thereof, have the same authority and power over cases within the purview of such Acts in the Province as the courts mentioned in such Acts, and the judges thereof, have in England.

(3) The rights and remedies, and the obligations, punishments and penalties conferred and imposed by the said statutes, or either of them, are conferred and imposed upon and made applicable to persons within the Province, as fully as if such Acts were re-enacted, and specially extended to the courts, judges, officers and persons within the Province.

(4) This Section is not to be construed to abrogate or abridge the remedy of an order in the nature of habeas corpus at common law, but the same exists in full force and is the undoubted right of the people of the Province. R.S., c. 253, s. 2.

Infant children

3 In all motions and proceedings on orders in the nature of habeas corpus where the care and custody of infant children are concerned, the judges of the Supreme Court of Nova Scotia shall deal therewith according to the principles of equitable jurisprudence. R.S., c. 253, s. 3.

Application for writ of habeas corpus

4 (1) The order in the nature of habeas corpus, whether under statute or at common law, may be applied for to, and be granted by, a judge of the Supreme Court of Nova Scotia, returnable before that judge or any other judge, or before the Court, and may be applied for to, and be granted by, the Court, returnable to itself, or to a judge at chambers, at any time, including vacation.

(2) Where it would be attended with unnecessary delay, expense or inconvenience to bring in the body of a person illegally restrained of the person's liberty before the Court or judge, the Court or judge, upon sufficient cause shown by or on behalf of any person confined in any jail or prison, may, in the discretion of such Court or judge, instead of granting an order in the nature of *habeas corpus cum causa* requiring the keeper of such jail or prison to bring the prisoner before the Court or a judge in order that the legality of such imprisonment may be inquired into, and discharge, bailment or recommitment had thereon, by order of the Court, or by order of the judge in writing, signed by the judge with the judge's name, addition of office and place of residence, require and direct such keeper to return to the Court, or to the judge, whether or not such person is detained in such jail or prison, together with the day and cause of the person having been taken and detained. R.S., c. 253, s. 4.

Duty to make return

5 (1) Such keeper shall immediately, upon the receipt of such order, make a true and full return in writing to the Supreme Court of Nova Scotia, or to the judge, of the day and cause of such taking and detention as would be required in case of a return to an order in the nature of habeas corpus.

(2) Every such return must include a copy of the process, warrant or order upon which the prisoner is held where the same is made in a criminal matter, or upon any summary complaint or conviction before any justice of the peace.

(3) Such Court or judge may enforce obedience to such order by process of contempt in the same manner as a proper return may be compelled to be made to a writ of habeas corpus. R.S., c. 253, s. 5.

Procedure after return received

6 (1) Upon return to such order, the Supreme Court of Nova Scotia or judge may proceed to examine into and decide upon the legality of the imprisonment and make such order, require such verification and direct such notices or further returns in respect thereto as are considered necessary or proper for the purpose of justice.

(2) The Court by order, or the judge by order in writing signed as aforesaid, may require the immediate discharge of the prisoner or may direct the prisoner's bailment in such manner, and for such purpose, and with the like effect and proceeding, as is allowed upon habeas corpus.

(3) Such bail, when ordered, may be entered into before any justice of the peace specially named in such order, or any justice of the county or place if no such justice is named. R.S., c. 253, s. 6.

Duty to communicate and obey order

7 Such keeper shall, immediately upon the receipt of any order of the Supreme Court of Nova Scotia or a judge in relation to a prisoner in custody, communicate the same to such prisoner, and give the prisoner a true copy thereof if demanded and obey the requirements of the same. R.S., c. 253, s. 7.

Authority to require production and examine

8 In all cases whether under statute or at common law, or under this Act, the Supreme Court of Nova Scotia or a judge may require the production of all such proceedings, documents and papers relating to the matter in question, before whomsoever and in whose possession soever they are, as to the Court or judge appear necessary for the elucidation of the truth, and may also examine into the truth of the return to any order in the nature of habeas corpus or order granted under this Act, in the same manner as such examination is provided for in cases under the before mentioned Act of Parliament, passed in the 56th year of the reign of King George the Third. R.S., c. 253, s. 8.

Certiorari

9 (1) In cases in which an order in the nature of habeas corpus is issued under the authority of this Act, at common law or otherwise, or an order in lieu thereof made under this Act, the Supreme Court of Nova Scotia or judge may direct the issuing of an order in the nature of *certiorari* or order in lieu thereof directed to the person by whom or by whose authority any person is confined or restrained of liberty, or other person having the custody or control thereof, requiring the person to certify and return to the Court or judge as by the order may be provided, all the evidence, depositions, convictions, and all proceedings had or taken, touching or concerning such confinement, or restraint of liberty, to the end that the same may be viewed and considered by the Court or judge, and to the end that the sufficiency thereof to warrant such confinement or restraint may be determined.

(2) Subsection (1) applies on an application for an order in the nature of *certiorari* to remove a warrant, conviction or order for the purpose of being quashed and also on any motion to quash a warrant, conviction or order that has been previously removed by an order in the nature of *certiorari* on an application to the Supreme Court of Nova Scotia or judge thereof.

(3) Subsections (1) and (2) apply notwithstanding that the order in the nature of *certiorari* may have been taken away by any Act or law in force in the Province. R.S., c. 253, s. 9.

Contempt

10 Every wilful neglect or disobedience of an order of the Supreme Court of Nova Scotia, or judge, in relation to a prisoner, is punishable as a contempt by fine and imprisonment, or either, at the discretion of the Court. R.S., c. 253, s. 10.

Jurisdiction to consider return

11 The matter of the return made to the order of a judge may be heard and decided by any other judge of the Supreme Court of Nova Scotia, who has the same power and jurisdiction in respect thereto as the judge by whom the first order was made. R.S., c. 253, s. 11.

Effect of order

12 (1) No order made under this Act may require or enable the keeper of any jail or prison to discharge the prisoner from any commitment or charge other than that specified in the order, but it is the duty of the keeper in every return to specify the several causes of commitment and detention, if more than one.

(2) Where between the time of making the return and receiving an order for the discharge or bailment, any other warrant, process or order has been delivered to the keeper of any jail or prison, requiring the detention of the prisoner upon any charge of a criminal nature, or upon summary complaint or conviction, such keeper shall, without any further order, make and transmit to the Supreme Court of Nova Scotia or judge an additional return with a copy of such warrant, process or order and the time of receiving the same, and such return may be dealt with by the Court or judge as if made pursuant to an order granted for that purpose. R.S., c. 253, s. 12.

Civil remedy preserved

13 No person who has been falsely imprisoned may by reason of this Act be deprived or restrained from a remedy by civil action against any person who has illegally caused such imprisonment, but the Supreme Court of Nova Scotia or judge ordering, under statute or at common law or under this Act, the discharge of the prisoner from such imprisonment may by order exempt any sheriff, keeper of a jail or any officer or person from civil action who appears to the Court or judge to have acted upon the warrant or order of any judge or justice according to the requirements of the same without malice or evil intent although such warrant or order is bad in form or substance, and any such order of exemption is a defence to any action brought against such sheriff, keeper, officer or person. R.S., c. 253, s. 13.

Appeal

14 (1) Where the application, whether under the habeas corpus Acts or at common law or under this Act, for the discharge of the prisoner has been once refused by any one judge sitting alone, it is not lawful to renew the application before that judge, or before any other judge, except upon some ground not taken on the former application, but such prisoner may appeal according to the existing practice from such refusal of the judge to the Nova Scotia Court of Appeal, and thereupon the writ of habeas corpus or order in lieu thereof under the provisions in this Act, the return thereto and all and singular the affidavits, depositions, evidence, conviction and all other matter used on such application must be certified to the Nova Scotia Court of Appeal by the proper officer under the seal of the Court.

(2) The Nova Scotia Court of Appeal shall thereupon, upon the application of the prisoner, fix a time for hearing and hear and determine the appeal at an early day, whether in or out of the prescribed sessions of the Court, and if the Court allows the appeal, it shall order the immediate discharge of the prisoner and the prisoner must be discharged accordingly, provided, however, that nothing herein contained may be deemed to abridge the right of such prisoner to apply to the Nova Scotia Court of Appeal in the first instance for the prisoner's discharge from custody or to abrogate the power and authority of the judge to refer any such application of such prisoner to the Nova Scotia Court of Appeal or to make any writ of habeas corpus or order in lieu thereof returnable before such Court. R.S., c. 253, s. 14.

Notice of application for discharge

15 (1) Notwithstanding this Act or any other Act or law, the Supreme Court of Nova Scotia or judge in cases in which a writ of *habeas corpus ad subjiciendum* is issued under the authority of this Act or at common law or otherwise, or an order in lieu thereof is made under this Act, or an order *nisi* or summons for an order of *habeas corpus ad subjiciendum* is granted or issued, except where imprisonment is under civil process, shall not decide upon the legality of the imprisonment or order the discharge of the person imprisoned unless notice in writing of an application for the discharge of such person or the order *nisi* or summons has been served on the Attorney General or on the prosecuting officer for the county in which the person is imprisoned, together with a copy of every affidavit, exhibit and other document to be used in support of such application.

(2) The grounds on which the application will be made must be set forth fully in such notice, order *nisi* or summons and, unless the Supreme Court of Nova Scotia or judge otherwise orders, there must be at least two clear days between the service of said notice, order *nisi* or summons and the making of said application.

(3) Where such application is made to a judge, the judge shall refer the application to the Nova Scotia Court of Appeal if requested to do so by or on behalf of the Attorney General and if such request is made the judge may not order the discharge of the person imprisoned, and such request may be made at any time before a formal order for the discharge of such person is actually made and issued. R.S., c. 253, s. 15.

CHAPTER L-11

**An Act Respecting the Provincial Library
and Regional Public Libraries**

Table of Contents

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

	Section
Short title.....	1
Purpose of Act.....	2
Interpretation.....	3
Provincial Library.....	4
Administration.....	5
Appointment of Provincial Librarian.....	6
Duties of Provincial Librarian.....	7
Regional libraries	
Agreement to establish regional library.....	8
Additional participation.....	9
Borrowing power.....	10
Source of funds.....	11
Regional library board.....	12
Powers.....	13
Funding Review Committee.....	14
Grant procedure.....	15
Annual audit and financial report.....	16
Regulations respecting funding.....	17
Regulations.....	18

Short title

1 This Act may be cited as the *Libraries Act*. R.S., c. 254, s.1.

Purpose of Act

2 The purpose of this Act is to

- (a) have the Provincial Library coordinate the activities of provincially funded libraries;
- (b) establish and provide for the orderly operation of regional public libraries; and
- (c) provide support services to libraries in the Province. 1990, c. 32, s. 1.

Interpretation

3 In this Act, “municipality” means a regional municipality, a town or a county or district municipality.

Provincial Library

4 There is a Provincial Library of Nova Scotia, hereinafter called the “Provincial Library”. R.S., c. 254, s. 2; 1990, c. 32, s. 2.

Administration

5 The Minister of Communities, Culture, Tourism and Heritage has the general supervision and administration of the Provincial Library and of libraries and library services provided under this Act and, subject to this Act, the functions previously vested in the Regional Libraries Commission. R.S., c. 254, s. 3; 2011, c. 65, s. 1.

Appointment of Provincial Librarian

6 A librarian must be appointed Provincial Librarian in accordance with the *Civil Service Act*. 1990, c. 32, s. 3.

Duties of Provincial Librarian

7 Under the direction of the Minister of Communities, Culture, Tourism and Heritage, the Provincial Librarian shall

- (a) have general charge of the Provincial Library;
 - (b) direct the work of other officials and employees in the Provincial Library;
 - (c) promote and encourage the extension of library service throughout the Province;
 - (d) supervise libraries and library work supported under this Act;
 - (e) perform such services as the Minister of Communities, Culture, Tourism and Heritage considers necessary or advisable to supplement the activities of libraries established under any Act;
 - (f) co-operate with any cultural or educational organization, library association, library board or librarian in matters pertaining to the organization, maintenance and administration of the Provincial Library or any library established under any Act;
 - (g) co-operate or associate with the Libraries and Archives Canada in any undertaking of value to the Province;
 - (h) perform such other duties as are assigned by the Minister.
- R.S., c. 254, s. 5; 2011, c. 65, s. 2.

REGIONAL LIBRARIES**Agreement to establish regional library**

8 (1) With the approval of the Minister of Communities, Culture, Tourism and Heritage, a municipality may enter into and carry out an agreement with other municipalities and the Minister, or with any one or more of them, for the establishment and operation of a regional public library.

(2) A party to an agreement under this Section may withdraw from participation in the agreement on December 31st in any year by giving to each of the other parties not less than one year written notice of its intention to withdraw. R.S., c. 254, s. 6; 2011, c. 65, s. 3.

Additional participation

9 Where an agreement made under Section 8 provides that an additional municipality may become a party to the agreement, the regional library board that was constituted as a result of the agreement is deemed to be the agent of each municipality that is a party to the agreement and as such agent may, in their names and on their behalf, enter into an agreement with an additional municipality for participation by it in the establishment, operation or support of the regional public library. R.S., c. 254, s. 7.

Borrowing power

10 A municipality that enters into an agreement under this Act for the establishment and operation of a regional public library may borrow or raise by way of loan on the credit of the municipality such sum or sums as the council thereof considers necessary for the purpose of erecting, acquiring, purchasing, altering, adding to, improving, furnishing or equipping a building or buildings for a regional public library or for the purpose of purchasing or acquiring books for such library. R.S., c. 254, s. 8.

Source of funds

11 Any sums required by the council of a municipality for the purpose of establishing or supporting a regional public library under this Act must be held to be sums voted or granted for the ordinary lawful purpose of the municipality and may 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. R.S., c. 254, s. 9.

Regional library board

12 (1) Where an agreement for the establishment and support of a regional public library is entered into under this Act, there must be a regional library board for the management and operation of the library.

- (2)** A regional library board consists of
- (a) one member appointed by each municipality that is a party to the agreement;
 - (b) two members appointed by the Governor in Council;
- and
- (c) additional members appointed in such manner and number as the parties to the agreement agree.

(3) A member of a regional library board appointed by a municipality holds office for a period of one, two or three years, as determined by the municipality making the appointment, and a member appointed by the Governor in Council holds office for such term as the Governor in Council prescribes.

(4) A member of a regional library board who is absent without cause from more than one half of the meetings of the board in any term is ineligible for appointment to the board for the following term. R.S., c. 254, s. 10; 1990, c. 32, s. 4.

Powers

13 A regional library board is a body corporate under the name of “(here insert name of region or district) Regional Library Board” and may

- (a) acquire and hold real and personal property of every description;
- (b) equip, establish and maintain a regional public library;
- (c) acquire and circulate books, periodicals, pamphlets and other articles and objects of educational or artistic value;
- (d) borrow for the purpose of defraying its operating expenses an amount not exceeding one half of the amount expended by it during its immediately preceding financial year;
- (e) receive, hold and administer bequests, donations and gifts of real and personal property;
- (f) enter into and carry out agreements with municipalities, persons, associations or organizations for the provision of library services to them on such terms and conditions as the board thinks advisable;
- (g) make rules and regulations for the conduct and management of the business of the board and of the library;
- (h) with the approval of the Minister of Communities, Culture, Tourism and Heritage, engage a librarian to act as chief executive officer;
- (i) engage such assistant librarians and other employees as the board considers advisable, and fix their compensation;
- (j) do and perform such other acts and things as are conducive or incidental to the carrying out of its purposes and the exercise of its powers.

R.S., c. 254, s. 11; 1990, c. 32, s. 5; 2011, c. 65, s. 4; revision corrected.

Funding Review Committee

14 (1) A Funding Review Committee is established, which consists of

- (a) the Deputy Minister of Communities, Culture, Tourism and Heritage or the Minister’s designee, who is chair of the Funding Review Committee;
- (b) the Provincial Librarian, who is secretary to the Committee;
- (c) one representative from each regional library board who is a member of the board recommended to the Minister by the regional library board and appointed by the Governor in Council; and
- (d) any other additional members the Governor in Council may wish to appoint.

(2) The Governor in Council may fix the term of office of any member of the Funding Review Committee for a period not exceeding three years.

(3) A member of the Funding Review Committee who is a member by virtue of position or office ceases to be a member when the member ceases to hold that position or office.

(4) Each member is entitled to actual and reasonable travel and living allowances while attending meetings or travelling on behalf of the Funding Review Committee.

(5) The Funding Review Committee, with the approval of the Governor in Council, may make bylaws for the proper conduct of its business.

(6) The Funding Review Committee may study and review public library service in the Province and make recommendations to the Minister regarding same. R.S., c. 254, s. 12; 2011, c. 65, s. 5.

Grant procedure

15 (1) The Funding Review Committee, on or before January 31st, each financial year, shall forward to the Minister of Communities, Culture, Tourism and Heritage its recommendations respecting operating grants to regional library boards, maintenance grants to a council of a municipality and capital grants by the Province during the following financial year.

(2) The Minister shall announce the Provincial operating grants, maintenance grants and capital grants in respect of regional libraries as near as possible to the start of the financial year to which the grants apply. R.S., c. 254, s. 13; 1990, c. 19, s. 44; 2011, c. 65, s. 6.

Annual audit and financial report

16 (1) Each regional library board shall annually appoint as an auditor for the board a person who holds a public accounting licence issued under the *Chartered Professional Accountants Act*.

(2) The auditor shall annually, not later than June 15th, submit to the regional library board, the Minister of Communities, Culture, Tourism and Heritage, and each municipality that is a party to an agreement for the operation of a regional public library, a financial report of the operations of the library for the financial year ending March 31st. R.S., c. 254, s. 14; 1990, c. 32, s. 6; 1990, c. 19, s. 45; 2011, c. 65, s. 7.

Regulations respecting funding

17 (1) The Governor in Council may make regulations

(a) establishing a funding formula for calculating operating grants to regional library boards;

(b) establishing a funding formula for calculating Provincial grants to help defray part of the maintenance costs incurred by the council of a municipality in providing space and covering the cost of utilities and other related expenditures for branch libraries;

(c) providing for Provincial grants for capital construction and related operating costs in respect of regional libraries;

(d) respecting payments to regional library boards by the councils of municipalities;

(e) governing such grants as the Minister considers appropriate.

(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. 254, s. 15; 1990, c. 32, s. 7.

Regulations

18 The Governor in Council may make such regulations as necessary for the carrying out of this Act. R.S., c. 254, s. 16; 1990, c. 32, s. 8; 2011, c. 65, s. 8.

CHAPTER L-12

**An Act Respecting
Library Associations and Institutes**

Table of Contents

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

	Section
Short title.....	1
Library association or institute.....	2
Contents of declaration.....	3
Filing of declaration.....	4
Duplicate declaration.....	5
Corporation.....	6
Alteration of declaration.....	7
Directors or trustees.....	8
Bylaws.....	9
Officers.....	10
Trustees continue in office.....	11
Contravention of bylaw.....	12
Recovery of sum owing.....	13
Certificate as prima facie evidence.....	14
Objects of corporation.....	15
Source of funds.....	16
Tax exemption.....	17

Short title

1 This Act may be cited as the *Library Associations and Institutes Act*.
R.S., c. 255, s. 1.

Library association or institute

2 Any number of persons, not fewer than 10, having subscribed or holding together not less than \$100 in money or money's worth, for the use of their intended institution, may make and sign a declaration in duplicate of their intention to establish a library association or institute, or both, as the case may be, at some place to be named in such declaration. R.S., c. 255, s. 2.

Contents of declaration

- 3** The declaration must state
- (a) the corporate name of the institution;
 - (b) the purpose for which it is to be established;
 - (c) the amount of money or money's worth subscribed by such persons respectively, or held together for the use thereof;
 - (d) the names of the persons who are to be the trustees for managing the affairs of the institution;
 - (e) the mode in which successors of such trustees are to be appointed, or new members of the corporation admitted, or in which bylaws

are to be made for such appointment or admission, or for any other purpose; and

(f) generally such other particulars and provisions as are deemed necessary, not contrary to this Act or to law. R.S., c. 255, s. 3.

Filing of declaration

4 One duplicate of the declaration must be filed in the land registry office for the registration district in which the institution is proposed to be established by one of the subscribing parties, who shall before the registrar of the district acknowledge the execution of the declaration and declare the same to have been executed by the other parties thereto, either in person or by their attorneys. R.S., c. 255, s. 4.

Duplicate declaration

5 The registrar shall keep the duplicate so filed and deliver a duplicate to the person who filed it, with a certificate of the same having been so filed and of the execution having been attested before the registrar, and the duplicate or any copy thereof certified by the registrar is prima facie evidence of the facts alleged in such declaration and certificate. R.S., c. 255, s. 5.

Corporation

6 When the formalities aforesaid have been complied with, the persons who signed the declaration, and any person afterwards becoming a member of the institution, are a body corporate and have the powers, rights and immunities vested in such bodies bylaw, with power to such corporation in their corporate name to acquire and hold to them and to their successors for the uses of such corporation any real property situated within the Province. R.S., c. 255, s. 6.

Alteration of declaration

7 (1) The members of a library association or institute may, by resolution passed by a majority of not less than two thirds of the members present at a special meeting called for the purpose after not less than two weeks notice in writing, alter the declaration of intention to establish the association or institute.

(2) The alteration is effective when a copy of the resolution certified by two officers to be a correct copy is filed in the land registry office where the declaration was filed.

(3) When the copy of the resolution altering the declaration is filed in the land registry office, the declaration as altered by that resolution becomes the declaration of the association or institute.

(4) The registrar shall attach the copy of the resolution to the declaration originally filed pursuant to Section 4, and a copy of every resolution for the time being in force must be embodied in or annexed to every certified copy of the declaration thereafter made by the registrar. R.S., c. 255, s. 7.

Directors or trustees

8 The affairs of every such corporation must be managed by the directors or trustees thereof for the time being, appointed as in this Act or any bylaw of

the corporation provided, and such directors or trustees, or a majority of them, may exercise all the powers of the corporation and act in its name and on its behalf, and use its seal, subject to any provisions touching the exercise of such powers in the declaration aforesaid or in any bylaw of the corporation. R.S., c. 255, s. 8.

Bylaws

9 The trustees or a majority of them may make bylaws for all purposes relative to the affairs and business of the corporation, except as to matters touching which it is provided by the declaration that bylaws must be made in some other manner. R.S., c. 255, s. 9.

Officers

10 The members of every such corporation may at the annual meeting, to be held on the day appointed by a bylaw of the corporation, choose a president, and may appoint, unless it is otherwise provided in the declaration and bylaws, a librarian, treasurer, secretary, lecturer and such other officers and servants of the corporation as are required, and when necessary fix and pay their remuneration, and also select a board of directors and trustees of such corporation, who hold office for one year. R.S., c. 255, s. 10.

Trustees continue in office

11 A failure to elect trustees on any day appointed for that purpose by the declaration or by any bylaw does not cause the dissolution of the corporation, but the trustees then in office remain in office until their successors are elected, which may be, if no other provision is made therefor by the declaration or bylaw, at any meeting of the members of the corporation at which a majority of such members are present, in whatever way such meeting has been called. R.S., c. 255, s. 11.

Contravention of bylaw

12 Every such corporation may by bylaw impose a fine, not exceeding four dollars, on any member contravening the same, or on any person, not being a member of the corporation, who has in writing agreed to obey the bylaw for the contravention whereof it is imposed. R.S., c. 255, s. 12.

Recovery of sum owing

13 Any such fine if incurred, and any subscription or other sum of money that any member has agreed to pay to the corporation for the member's subscription to the funds of the corporation for any certain time, or for the loan of any book or instrument, or the right of entry to the rooms of the corporation, or of attending any lectures, or for any other privilege or advantage afforded to the member by such corporation, may be recovered by the corporation by action in any court having jurisdiction in civil matters to the amount of such fine, and any fine so recovered belongs to the corporation for the use thereof. R.S., c. 255, s. 13.

Certificate as prima facie evidence

14 In any action to which the corporation is plaintiff, a copy of any bylaw bearing the signature of the defendant, or bearing the seal of the corporation and the signature of some person purporting to have affixed such seal by authority of the corporation, is prima facie evidence of such bylaw. R.S., c. 255, s. 14.

Objects of corporation

15 Any such corporation may, if so stated in the declaration, be at the same time an institute and library association, or either of them, and its business must accordingly be the ordinary and usual business of a library and scientific institute or of a library association, or both, as the case may be, for the proper and convenient carrying on of such business or objects, and its funds and property must be appropriated and used for purposes legitimately appertaining to such business and objects, and for no other. R.S., c. 255, s. 15.

Source of funds

16 (1) Any town council of a town, and any municipal council of any municipality, may vote and appropriate an annual sum, not exceeding \$2,500 per year, towards the support, purchase of books or other purposes of any library association, incorporated under this Act, and whose library is within the bounds of the registration district wherein said town or municipality is situated.

(2) Such sum when voted must be included in the annual appropriations for the town or municipality for the year, and must be assessed and collected with other rates and taxes required to be assessed for town or municipal purposes. R.S., c. 255, s. 16.

Tax exemption

17 All property, real and personal, of any library association, incorporated under this Act, is exempt from taxation for town, school, road, relief of the poor, railway, municipal, civic, provincial or other purposes. R.S., c. 255, s. 17.

CHAPTER L-13

**An Act Respecting the Great Seal
and the Executive Administration of
the Laws of Nova Scotia**

Table of Contents

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

	Section
Short title.....	1
Authorities.....	2
Power to pardon	3
Interpretation.....	4
Appointment of deputy	5
Great Seal.....	6
Change of Great Seal	7
Great Seal preserved	8

Short title

1 This Act may be cited as the *Lieutenant Governor and Great Seal Act*.
R.S., c. 256, s. 1.

Authorities

2 In matters within the jurisdiction of the Legislature, all powers, authorities and functions that, in respect to like matters, were vested in or exercisable by the governors or lieutenant governors of the several provinces now forming a part of the Dominion of Canada, or any of the said provinces, under commissions, instructions or otherwise, at or before the passing of the *Constitution Act, 1867*, are, so far as the Legislature has power thus to enact, vested in and exercisable by the Lieutenant Governor, or Administrator for the time being, of this Province, in the name of the Crown, or otherwise, as the case requires, subject always to the Royal Prerogative as heretofore. R.S., c. 256, s. 2.

Power to pardon

3 Section 2 is deemed to include the power of pardoning any person or commuting or remitting the sentence of any person sentenced to imprisonment for an offence against the laws of this Province or an offence over which the legislative authority of this Province extends even though such person is imprisoned for non-payment of money to some other person than the Crown. R.S., c. 256, s. 3.

Interpretation

4 Nothing in this Act is to be construed to imply that the Lieutenant Governor or Administrator has not had heretofore the powers and functions mentioned in Sections 2 and 3. R.S., c. 256, s. 4.

Appointment of deputy

5 The Lieutenant Governor may, with the advice and consent of the Executive Council, appoint any person or persons, jointly or severally, to be the Lieutenant Governor's deputy or deputies for the Province, or any part or parts thereof, for the purpose of executing marriage licences, money-warrants and commissions under any Act of the Legislature. R.S., c. 256, s. 5.

Great Seal

6 There must be a Great Seal of the Province, which the Governor in Council may change. R.S., c. 256, s. 6.

Change of Great Seal

7 Whenever the Governor in Council changes the Great Seal, the Governor in Council shall issue a proclamation under the Governor in Council's hand and seal directing when such change takes effect, specifying as far as can be the changes made and describing the Seal to be thenceforth used. R.S., c. 256, s. 7.

Great Seal preserved

8 Until changed under this Act, the Great Seal at present in use continues to be the Great Seal of the Province. R.S., c. 256, s. 8.

CHAPTER L-14

**An Act Respecting
Life Partners in Long-term Care**

Table of Contents

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

	Section
Short title.....	1
Interpretation.....	2
Right of life partners to be placed in same facility	3

Short title

1 This Act may be cited as the *Life Partners in Long-term Care Act*.
2020, c. 3, s. 1.

Interpretation

2 In this Act,

“facility” means a nursing home or residential care facility licensed by the Department of Health and Wellness under the *Homes for Special Care Act* and funded by the Department;

“life partner” means either of two individuals who

- (a) are married to each other;
- (b) have cohabited with each other in a conjugal relationship for at least one year immediately prior to one of the individuals being placed in a facility;
- (c) are in a domestic partnership with each other within the meaning of Part II of the *Vital Statistics Act*; or
- (d) are considered by the Minister of Health and Wellness, or the Minister’s delegate, to be in a relationship with each other analogous to a relationship referred to in clauses (a) to (c). 2020, c. 3, s. 2.

Right of life partners to be placed in same facility

3 Where an individual and the individual’s life partner have both been assessed and deemed eligible by the provincial health authority, as defined by the *Health Authorities Act*, for placement in a facility, the individual and the individual’s life partner have the right to be placed in the same facility. 2020, c. 3, s. 3.

CHAPTER L-15

**An Act Respecting
the Limitation of Actions**

Table of Contents

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

	Section
Short title.....	1
Interpretation.....	2
Application of Act.....	3
Aboriginal and treaty rights and equitable claims	4
Act binds the Crown	5
Conflict with other enactments	6
Conflict of laws.....	7
General Limitation Periods	
General rules	8
Burden of proof.....	9
Exceptions to the General Limitation Periods	
Proceedings by the Crown	10
Certain proceedings re trespass to the person, assault or battery	11
Disallowance or invocation of limitation period.....	12
Recovery of personal property.....	13
Operation of the General Limitation Periods	
Demand obligations	14
Contribution and indemnity	15
Successors, principals and agents	16
Wilful concealment or wilfully misleading claimant.....	17
Minors	18
Incapacity.....	19
Acknowledgements.....	20
Agreements	21
Claims Brought After Expiry of Limitation Period	
Claims added to proceedings	22
Transitional Provisions	
Transitional	23

Short title

1 This Act may be cited as the *Limitation of Actions Act* or the *Statute of Limitations*. 2014, c. 35, s. 1.

Interpretation

2 (1) In this Act,

“claim” means a claim to remedy the injury, loss or damage that occurred as a result of an act or omission;

“claimant” means a person who has a claim, regardless of whether the claim has been brought;

“defendant” means a person against whom a claimant has a claim, regardless of whether the claim has been brought.

- (2) For the purpose of this Act, a claim is brought
- (a) when a proceeding in respect of the claim is commenced; or
 - (b) where the claim is added to an existing proceeding by a new or an amended pleading that is not an originating process, when that pleading is filed. 2014, c. 35, s. 2.

Application of Act

3 Subject to Section 4, this Act applies to a claim pursued in a court proceeding, other than a claim

- (a) to which the *Real Property Limitations Act* applies; or
- (b) in a proceeding for judicial review. 2014, c. 35, s. 3.

Aboriginal and treaty rights and equitable claims

4 (1) This Act does not apply to

- (a) a claim based on the existing aboriginal and treaty rights of the aboriginal peoples of Canada that are recognized and affirmed in section 35 of the *Constitution Act, 1982*; or
- (b) an equitable claim by aboriginal peoples against the Crown.

(2) A claim referred to in subsection (1) is governed by the law that would have been in force in respect of limitation of actions if this Act had not been enacted. 2014, c. 35, s. 4; 2015, c. 22, s. 1.

Act binds the Crown

5 This Act binds the Crown. 2014, c. 35, s. 5; 2015, c. 22, s. 2.

Conflict with other enactments

6 Where there is a conflict between this Act and any other enactment, the other enactment prevails. 2014, c. 35, s. 6.

Conflict of laws

7 For the purpose of applying the rules regarding conflict of laws, the limitations law of the Province and of any other jurisdiction is substantive law. 2014, c. 35, s. 7.

GENERAL LIMITATION PERIODS

General rules

8 (1) Unless otherwise provided in this Act, a claim may not be brought after the earlier of

- (a) two years from the day on which the claim is discovered; and
- (b) 15 years from the day on which the act or omission on which the claim is based occurred.

(2) A claim is discovered on the day on which the claimant first knew or ought reasonably to have known

- (a) that the injury, loss or damage had occurred;
- (b) that the injury, loss or damage was caused by or contributed to by an act or omission;
- (c) that the act or omission was that of the defendant; and
- (d) that the injury, loss or damage is sufficiently serious to warrant a proceeding.

(3) For the purpose of clause (1)(b), the day an act or omission on which a claim is based occurred is

- (a) in the case of a continuous act or omission, the day on which the act or omission ceases; and
- (b) in the case of a series of acts or omissions concerning the same obligation, the day on which the last act or omission in the series occurs. 2014, c. 35, s. 8.

Burden of proof

9 (1) A claimant has the burden of proving that a claim was brought within the limitation period established by clause 8(1)(a).

(2) A defendant has the burden of proving that a claim was not brought within the limitation period established by clause 8(1)(b). 2014, c. 35, s. 9.

EXCEPTIONS TO THE GENERAL LIMITATION PERIODS

Proceedings by the Crown

10 Section 8 does not apply to a proceeding

- (a) to recover money owing to the Crown in respect of
 - (i) fines, taxes or penalties, or
 - (ii) interest on fines, taxes or penalties;
- (b) commenced by the Crown or an agent of the Crown in respect of a claim relating to the administration of a social, health or economic program; or

(c) commenced by the Crown or an agent of the Crown to recover money owing in respect of student loans, awards or grants. 2014, c. 35, s. 10; 2015, c. 22, s. 3.

Certain proceedings re trespass to the person, assault or battery

11 Section 8 does not apply to a proceeding in respect of a claim in relation to trespass to the person, assault or battery if

- (a) the claim is based on misconduct of a sexual nature; or
- (b) at the time of the injury on which the claim is based
 - (i) one of the defendants was living with the claimant in an intimate relationship, or
 - (ii) the claimant was dependent, whether financially, emotionally or physically, on one of the defendants. 2014, c. 35, s. 11.

Disallowance or invocation of limitation period

12 (1) In this Section, “limitation period” means the limitation period established by

- (a) clause 8(1)(a); or
- (b) any enactment other than this Act.

(2) This Section applies only to claims brought to recover damages in respect of personal injuries.

(3) Where a claim is brought without regard to the limitation period applicable to the claim, and an order has not been made under subsection (4), the court in which the claim is brought, upon application, may disallow a defence based on the limitation period and allow the claim to proceed if it appears to the court to be just having regard to the degree to which

- (a) the limitation period creates a hardship to the claimant or any person whom the claimant represents; and
- (b) any decision of the court under this Section would create a hardship to the defendant or any person whom the defendant represents, or any other person.

(4) Where a limitation period has expired, a person who wishes to invoke the limitation period, upon giving at least 30 days notice to any person who may have a claim, may apply to the court for an order terminating the right of the person to whom such notice was given from commencing the claim and the court may issue such order or may authorize the commencement of the claim only if it is commenced on or before a day determined by the court.

(5) In making a determination under subsection (3), the court shall have regard to all the circumstances of the case and, in particular, to

- (a) the length of and the reasons for the delay on the part of the claimant;
- (b) any information or notice given by the defendant to the claimant respecting the limitation period;

- (c) the effect of the passage of time on
 - (i) the ability of the defendant to defend the claim, and
 - (ii) the cogency of any evidence adduced or likely to be adduced by the claimant or defendant;
- (d) the conduct of the defendant after the claim was discovered, including the extent, if any, to which the defendant responded to requests reasonably made by the claimant for information or inspection for the purpose of ascertaining facts that were or might be relevant to the claim;
- (e) the duration of any incapacity of the claimant arising after the date on which the claim was discovered;
- (f) the extent to which the claimant acted promptly and reasonably once the claimant knew whether or not the act or omission of the defendant, to which the injury was attributable, might be capable at that time of giving rise to a claim;
- (g) the steps, if any, taken by the claimant to obtain medical, legal or other expert advice and the nature of any such advice the claimant may have received;
- (h) the strength of the claimant's case; and
- (i) any alternative remedy or compensation available to the claimant.

(6) A court may not exercise the jurisdiction conferred by this Section if the claim is brought more than two years after the expiry of the limitation period applicable to that claim.

(7) This Section does not apply to a claim for which the limitation period is 10 years or more. 2014, c. 35, s. 12.

Recovery of personal property

13 Notwithstanding Section 8, where personal property is converted and a defendant, acting in good faith, purchases the property for value, a claim to recover possession of property may not be brought against the defendant after two years from the day on which the property is converted. 2014, c. 35, s. 13.

OPERATION OF THE GENERAL LIMITATION PERIODS

Demand obligations

14 In the case of a claim in relation to a default in performing a demand obligation, the first day on which there is a failure to perform the obligation, once a demand for performance has been made, is

- (a) for the purpose of clause 8(2)(a), the day on which the injury, loss or damage occurs; and
- (b) for the purpose of clause 8(1)(b), the day on which the act or omission on which the claim is based occurs. 2014, c. 35, s. 14.

Contribution and indemnity

15 In the case of a claim by one alleged wrongdoer against another for contribution and indemnity, the day on which the first alleged wrongdoer is served with the claim in respect of which contribution and indemnity is sought, or incurs a liability through the settlement of the claim, is, for the purpose of clause 8(1)(b), the day on which the act or omission on which the claim for contribution and indemnity is based occurs. 2014, c. 35, s. 15.

Successors, principals and agents

16 (1) In the case of a proceeding commenced by a claimant claiming through a predecessor in right, title or interest, the claimant is deemed to have had knowledge of the matters referred to in subsection 8(2) on the earlier of

(a) the day on which the claimant first knew or ought to have known of those matters; and

(b) the day on which the predecessor first knew or ought to have known of those matters.

(2) In the case of a proceeding commenced by a claimant who is the principal of an agent, the claimant is deemed to have had knowledge of the matters referred to in subsection 8(2) on the earlier of

(a) the day on which the claimant first knew or ought to have known of those matters; and

(b) the day on which the agent first knew or ought to have known of those matters,

if the agent had a duty to communicate knowledge of those matters to the claimant.

(3) The day on which a predecessor or agent ought to have known of the matters referred to in subsection 8(2) is the day on which a reasonable person in the predecessor's or agent's circumstances and with the predecessor's or agent's abilities ought first to have known of the matters. 2014, c. 35, s. 16.

Wilful concealment or wilfully misleading claimant

17 The limitation period established by clause 8(1)(b) does not run during any time in which the defendant

(a) wilfully conceals from the claimant the fact that injury, loss or damage has occurred, that it was caused by or contributed to by an act or omission or that the act or omission was of the defendant; or

(b) wilfully misleads the claimant as to whether the injury, loss or damage is sufficiently serious to warrant a proceeding. 2014, c. 35, s. 17.

Minors

18 The limitation periods established by this Act do not run while a claimant is a minor. 2014, c. 35, s. 18.

Incapacity

19 (1) The limitation periods established by this Act do not run while a claimant is incapable of bringing a claim because of the claimant's physical, mental or psychological condition.

(2) Where the running of a limitation period is suspended under subsection (1) and the limitation period has less than six months to run as of the day on which the suspension ends, the limitation period is extended to include the day that is six months after the day on which the suspension ends. 2014, c. 35, s. 19.

Acknowledgements

20 (1) Where, before the expiry of the relevant limitation period established by this Act, a person acknowledges liability in respect of a claim for

- (a) payment of a liquidated sum;
- (b) the recovery of personal property;
- (c) the enforcement of a charge on personal property; or
- (d) relief from enforcement of a charge on personal property,

the limitation period begins again at the time of the acknowledgement.

(2) An acknowledgement of liability in respect of a claim for interest is an acknowledgement of liability in respect of a claim for the principal and for interest falling due after the acknowledgement is made.

(3) An acknowledgement of liability in respect of a claim to realize on or redeem collateral under a security agreement or to recover money in respect of the collateral is deemed to be an acknowledgement by any other person who later comes into possession of the collateral.

(4) A debtor's performance of an obligation in respect of a security agreement is an acknowledgement by the debtor of liability in respect of a claim by the creditor for realization on the collateral under agreement.

(5) A creditor's acceptance of a debtor's payment or performance of an obligation in respect of a security agreement is an acknowledgement by the creditor of liability in respect of a claim by the debtor for redemption of the collateral under the agreement.

(6) An acknowledgement by a trustee is an acknowledgement by any other person who is or who later becomes a trustee of the same trust.

(7) An acknowledgement of liability in respect of a claim to recover or enforce an equitable interest in personal property by a person in possession of it is an acknowledgement by any other person who later comes into possession of it.

(8) Subject to subsections (9) and (10), this Section applies to an acknowledgement of liability in respect of a claim for payment of a liquidated sum even if the person making the acknowledgement refuses or does not promise to pay the sum or the balance of the sum owing.

(9) This Section does not apply unless the acknowledgement is made to

- (a) the claimant;

(b) the claimant's agent; or

(c) an official receiver of or trustee for the claimant, acting under the *Bankruptcy and Insolvency Act* (Canada),

before the expiry of the limitation period applicable to the claim.

(10) Subsections (1), (2), (3), (6) and (7) do not apply unless the acknowledgement is in writing and signed by the person making it or the person's agent.

(11) In the case of a claim for payment of a liquidated sum, part payment of the sum by the defendant or the defendant's agent has the same effect as an acknowledgement referred to in subsection (10). 2014, c. 35, s. 20.

Agreements

21 (1) A limitation period established by this Act may be extended, but not shortened, by agreement.

(2) Subsection (1) does not affect an agreement made before September 1, 2015. 2014, c. 35, s. 21.

CLAIMS BROUGHT AFTER EXPIRY OF LIMITATION PERIOD

Claims added to proceedings

22 Notwithstanding the expiry of the relevant limitation period established by this Act, a claim may be added, through a new or amended pleading, to a proceeding previously commenced if the added claim is related to the conduct, transaction or events described in the original pleadings and if the added claim

(a) is made by a party to the proceeding against another party to the proceeding and does not change the capacity in which either party sues or is sued;

(b) adds or substitutes a defendant or changes the capacity in which a defendant is sued, but the defendant has received, before or within the limitation period applicable to the added claim plus the time provided by law for the service of process, sufficient knowledge of the added claim that the defendant will not be prejudiced in defending against the added claim on the merits; or

(c) adds or substitutes a claimant or changes the capacity in which a claimant sues, but the defendant has received, before or within the limitation period applicable to the added claim plus the time provided by law for the service of process, sufficient knowledge of the added claim that the defendant will not be prejudiced in defending against the added claim on the merits, and the addition of the claim is necessary or desirable to ensure the effective determination or enforcement of the claims asserted or intended to be asserted in the original pleadings. 2014, c. 35, s. 22.

TRANSITIONAL PROVISIONS

Transitional

23 (1) In this Section,

“effective date” means September 1, 2015;

“former limitation period” means, in respect of a claim, the limitation period that applied to the claim before the effective date.

(2) Subsection (3) applies to claims that are based on acts or omissions that took place before the effective date, other than claims referred to in Section 11, and in respect of which no proceeding has been commenced before the effective date.

(3) Where a claim was discovered before the effective date, the claim may not be brought after the earlier of

(a) two years from the effective date; and

(b) the day on which the former limitation period expired or would have expired.

(4) A claimant may bring a claim referred to in Section 11 at any time, regardless of whether the former limitation period expired before the effective date. 2014, c. 35, s. 23; 2015, c. 22, s. 4.

CHAPTER L-16

An Act Respecting Limited Partnerships

Table of Contents

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

	Section
Short title.....	1
Interpretation.....	2
Partnership Act and equity and common law.....	3
Business that may be carried on.....	4
Certificate.....	5
Partners.....	6
Restriction on firm name.....	7
Restriction on contribution of limited partner.....	8
Rights and powers and liabilities of general partner.....	9
Liability of limited partner.....	10
Right of limited partner to information and dissolution.....	11
Right to profit and return of contribution.....	12
Business dealings of limited partner with partnership.....	13
Sharing among limited partners of assets.....	14
Return of contribution.....	15
Liability of limited partner to firm.....	16
Limited partner may be liable as general partner.....	17
Admission of additional limited partners.....	18
Interest of limited partner is assignable.....	19
Dissolution of limited partnership.....	20
Powers of executor of limited partner.....	21
Cancellation of certificate.....	22
Amendment of certificate.....	23
Refusal of required signatory to sign.....	24
Cancellation or amendment effective on filing.....	25
Priority of payment of liabilities upon dissolution.....	26
Liability for false statement in certificate.....	27
Person mistakenly believing to be a limited partner.....	28
Indebted limited partner.....	29
Limited partner as party in proceeding against firm.....	30
Special signing authority.....	31
Death, bankruptcy or incompetence.....	32
Regulations.....	33

Short title

- 1 This Act may be cited as the *Limited Partnerships Act*. R.S., c. 259, s. 1.

Interpretation

- 2 In this Act,
“business” includes every trade, occupation and profession;
“certificate” means a certificate made pursuant to Section 5 and includes a certificate that has been amended;
“Court” means the Supreme Court of Nova Scotia;

“partnership property” means property and rights and interests in property originally brought into the partnership stock, or acquired, whether by purchase or otherwise, on account of the firm, or for the purpose of and in the course of partnership business;

“person” includes an individual, sole proprietorship, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, body corporate and a natural person in that person’s capacity as trustee, executor, administrator or other legal representative. R.S., c. 259, s. 2.

Partnership Act and equity and common law

3 The *Partnership Act* and the rules of equity and common law applicable to partnerships, except as such rules are inconsistent with the *Partnership Act* and this Act, apply to limited partnerships. R.S., c. 259, s. 3.

Business that may be carried on

4 (1) A limited partnership may be formed to carry on any business that a partnership without limited partners may carry on.

(2) A limited partnership shall consist of one or more persons who are general partners and one or more persons who are limited partners. R.S., c. 259, s. 4.

Certificate

5 (1) A limited partnership is formed when a certificate substantially complying with subsection (2) is filed and recorded in the office of the Registrar of Joint Stock Companies.

(2) A certificate must be signed by all the persons desiring to form a limited partnership and must state

- (a) the firm name under which the limited partnership is to be conducted;
- (b) the character of the business;
- (c) the name and place of residence of each partner, general and limited partners being respectively designated;
- (d) the term for which the limited partnership is to exist;
- (e) the amount of cash and the nature and fair value of other property, if any, contributed by each limited partner;
- (f) the amount of additional contributions, if any, agreed to be made by each limited partner and the times at which or events on the happening of which an additional contribution is to be made;
- (g) the time, if agreed upon, when the contribution of each limited partner is to be returned;
- (h) the share of the profits or other compensation by way of income that each limited partner is entitled to by reason of that partner’s contribution;

(i) the right, if given, of a limited partner to substitute an assignee as contributor in that partner's place, and the terms and conditions of the substitution;

(j) the right, if given, of the partners to admit additional limited partners;

(k) the right, if given, of one or more of the limited partners to priority over other limited partners, to a return of contributions or to compensation by way of income, and the nature of the priority;

(l) the right, if given, of the remaining general partner or partners to continue the business on the death, retirement or mental incompetence of a general partner; and

(m) the right, if given, of a limited partner to demand and receive property other than cash in return for that partner's contribution.

(3) Where a certificate is filed pursuant to this Act, a declaration is not required to be filed under the *Partnerships and Business Names Registration Act*.

(4) Where a certificate is filed pursuant to this Act, it must be accompanied by an appointment of agent in the same form and to the same effect as an appointment of agent filed pursuant to the *Partnerships and Business Names Registration Act*. R.S., c. 259, s. 5.

Partners

6 (1) A person may be a general partner and a limited partner at the same time in the same limited partnership.

(2) A person who is at the same time a general partner and a limited partner has the same rights and powers and is subject to the same restrictions as a general partner except that in respect of that person's contribution as a limited partner the person has the rights against the other partners that the person would have if the person were not also a general partner. R.S., c. 259, s. 6.

Restriction on firm name

7 (1) The surname of a limited partner may not appear in the firm name of the limited partnership unless it is also the surname of one of the general partners.

(2) A limited partner whose surname appears in the firm name contrary to subsection (1) is liable as a general partner to any creditor of the limited partnership who has extended the credit without actual knowledge that the limited partner is not a general partner. R.S., c. 259, s. 7.

Restriction on contribution of limited partner

8 (1) A limited partner may contribute cash and other property to the limited partnership, but not services.

(2) A limited partner's interest in the limited partnership is personal property.

(3) Only the general partners may be shown at the registry of deeds as owners of any interest of the limited partnership in real property. R.S., c. 259, s. 8.

Rights and powers and liabilities of general partner

9 A general partner in a limited partnership has all the rights and powers and is subject to all the restrictions and liabilities of a partner in a partnership without limited partners except that, without the written consent to or ratification of the specific act by all the limited partners, a general partner has no authority to

- (a) do any act in contravention of the certificate;
- (b) do any act that makes it impossible to carry on the ordinary business of the limited partnership;
- (c) consent to a judgment against the limited partnership;
- (d) possess limited partnership property, or assign any rights in specific partnership property, for other than a partnership purpose;
- (e) admit a person as a general partner;
- (f) admit a person as a limited partner, unless the right to do so is given in the certificate; or
- (g) continue the business of the limited partnership on the death, retirement or mental incompetence of a general partner, unless the right to do so is given in the certificate. R.S., c. 259, s. 9.

Liability of limited partner

10 A limited partner is not liable for the obligations of the limited partnership except in respect of the amount of property that partner contributes or agrees to contribute to the capital of the limited partnership. R.S., c. 259, s. 10.

Right of limited partner to information and dissolution

- 11 A limited partner has the same right as has a general partner
- (a) to inspect and make copies of or take extracts from the limited partnership books at all times;
 - (b) to be given, on demand, true and full information of all things affecting the limited partnership, and to be given a formal account of partnership affairs whenever circumstances render it just and reasonable;
 - (c) to obtain dissolution and winding up of the limited partnership by court order. R.S., c. 259, s. 11.

Right to profit and return of contribution

- 12 (1) A limited partner has the right
- (a) to a share of the profits or other compensation by way of income;

(b) to have contributions made to the limited partnership returned.

(2) A limited partner may receive from the limited partnership the share of the profits or the compensation by way of income stipulated for in the certificate if, after payment thereof is made, whether from the property of the limited partnership or that of a general partner, the limited partnership assets exceed all the limited partnership liabilities, excepting liabilities to limited partners on account of their contributions and to general partners. R.S., c. 259, s. 12.

Business dealings of limited partner with partnership

13 A limited partner may loan money to and transact other business with the limited partnership and, unless that partner is also a general partner, may receive on account of resulting claims against the limited partnership, with general creditors, a pro rata share of the assets, but no limited partner shall in respect of any such claim

(a) receive or hold as collateral security any of the limited partnership property; or

(b) receive from a general partner or the limited partnership any payment, conveyance or release from liability if, at the time, the assets of the partnership are not sufficient to discharge partnership liabilities to persons not claiming as general or limited partners. R.S., c. 259, s. 13.

Sharing among limited partners of assets

14 (1) Subject to subsection (2), limited partners, in relation to one another, share in the limited partnership assets in respect of their claims

(a) for capital; and

(b) for profit or compensation by way of income on their contributions,

in proportion to the respective amounts of their claims.

(2) Where there are several limited partners, the partners may agree that one or more of the limited partners is to have a priority over other limited partners

(a) as to the return of contribution;

(b) as to compensation by way of income; or

(c) as to any other matter,

but the existence of and nature of the agreement must be stated in the certificate and, in the absence of a statement, all limited partners, subject to subsection (1), stand upon equal footing. R.S., c. 259, s. 14.

Return of contribution

15 (1) A limited partner is not entitled to receive from a general partner or out of the limited partnership property any part of that partner's contribution until

(a) all liabilities of the limited partnership, excepting liabilities to general partners and to limited partners on account of their

contributions, have been paid or there remains sufficient limited partnership property to pay them;

(b) the consent of all partners is obtained, unless the return of the contribution may be rightfully demanded under subsection (2); and

(c) the certificate is cancelled or so amended as to set forth the withdrawal or reduction.

(2) Subject to subsection (1), a limited partner may rightfully demand the return of that partner's contribution

(a) upon the dissolution of the limited partnership;

(b) when the time specified in the certificate for its return has arrived; or

(c) after the partner has given six months notice in writing to all other partners, if no time is specified in the certificate either for the return of the contribution or for the dissolution of the limited partnership.

(3) A limited partner has, irrespective of the nature of that partner's contribution, only the right to demand and receive cash in return therefor, unless

(a) there is a statement to the contrary in the certificate; or

(b) all the partners consent to some other manner of returning the contribution.

(4) A limited partner is entitled to have the limited partnership dissolved and its affairs wound up where

(a) that partner rightfully but unsuccessfully demands the return of the partner's contribution; or

(b) the other liabilities of the limited partnership have not been paid, or the limited partnership property is insufficient for their payment as required by clause (1)(a) and the limited partner seeking dissolution would otherwise be entitled to the return of that partner's contribution. R.S., c. 259, s. 15.

Liability of limited partner to firm

16 (1) A limited partner is liable to the limited partnership for

(a) the difference, if any, between the amount of that partner's contribution as actually made and the amount stated in the certificate as having been made; and

(b) any unpaid contribution which that partner agreed in the certificate to make in the future at the time and on the conditions, if any, stated in the certificate.

(2) A limited partner holds as trustee for the limited partnership

(a) specific property stated in the certificate contributed by that partner, but that has not in fact been contributed or that has been wrongfully returned; and

(b) money or other property wrongfully paid or conveyed to that partner on account of the partner's contribution.

(3) The liabilities of a limited partner as set forth in this Section may, subject to subsection (4), be waived or compromised, but only with the consent of all partners.

(4) A waiver or compromise agreed to pursuant to subsection (3) does not affect the right of a creditor of the limited partnership to enforce a liability arising from credit that was extended or a claim that otherwise arose

(a) subsequent to the filing of the certificate whereby the limited partnership was formed; but

(b) prior to the cancellation or amendment thereof whereby the waiver or compromise was effected.

(5) Where a limited partner has rightfully received the return, in whole or in part, of the capital of that partner's contribution, that partner is nevertheless liable to the limited partnership for any sum, not in excess of that return with interest, necessary to discharge its liabilities to all creditors who extended credit or whose claims otherwise arose before the return. R.S., c. 259, s. 16.

Limited partner may be liable as general partner

17 A limited partner does not become liable as a general partner unless, in addition to exercising that partner's rights and powers as a limited partner, the partner takes part in the control of the business. R.S., c. 259, s. 17.

Admission of additional limited partners

18 After the formation of a limited partnership, additional limited partners may be admitted by amendment of the certificate in accordance with this Act. R.S., c. 259, s. 18.

Interest of limited partner is assignable

19 (1) The interest of a limited partner is assignable.

(2) A substituted limited partner is a person admitted to all the rights of a limited partner who has died or has assigned the partner's interest in the limited partnership.

(3) An assignee who does not become a substituted limited partner has no right to

(a) require any information or account of the partnership transactions; or

(b) inspect the partnership books,

but is entitled only to receive the share of the profits or other compensation by way of income, or the return of the assignee's contribution, to which the assignor would otherwise be entitled.

- (4) An assignee may become a substituted limited partner if
- (a) all the members, except the assignor, consent thereto;
 - or
 - (b) the assignor, being so authorized by the terms in the certificate, gives the assignee that right.

(5) An assignee becomes a substituted limited partner when the certificate is appropriately amended in accordance with the requirements of this Act.

(6) A substituted limited partner has all the rights and powers and is subject to all the restrictions and liabilities of the assignor, except those liabilities of which the substituted partner was unaware at the time of becoming a limited partner and that could not be ascertained from the certificate.

(7) The substitution of an assignee as a limited partner does not release the assignor from the liability imposed by Sections 16 and 27. R.S., c. 259, s. 19.

Dissolution of limited partnership

20 The retirement, death or mental incompetence of a general partner, or the dissolution of a general partner when the partner is a corporation, dissolves a limited partnership unless the business is continued by the remaining general partners

- (a) pursuant to a right to do so stated in the certificate; or
- (b) with the consent of all the remaining partners. R.S., c. 259, s. 20.

Powers of executor of limited partner

21 (1) The executor or administrator of the estate of a deceased limited partner has

- (a) all the rights and powers of a limited partner for the purpose of settling the estate of the deceased limited partner; and
- (b) whatever power the deceased had to constitute an assignee a substituted limited partner.

(2) The estate of a deceased limited partner is liable for all that person's liabilities as a limited partner. R.S., c. 259, s. 21.

Cancellation of certificate

22 (1) A certificate must be cancelled when

- (a) the limited partnership is dissolved; or
- (b) all limited partners cease to be limited partners.

(2) The notice to cancel a certificate must be signed by all the partners. R.S., c. 259, s. 22.

Amendment of certificate

23 (1) A certificate must be amended when

(a) there is a change in the name of the limited partnership or in the amount or character of the contribution of any limited partner not provided for in the certificate;

(b) a person is substituted as a limited partner;

(c) a person is added as a limited partner;

(d) a person is added as a general partner;

(e) a general partner retires, dies or becomes mentally incompetent, and the business is continued pursuant to Section 20;

(f) there is a change in the character of the business of the limited partnership;

(g) a false or erroneous statement is discovered in the certificate;

(h) there is a change in the time as stated in the certificate for the dissolution of the limited partnership or for the return of a contribution;

(i) a time is fixed for the dissolution of the limited partnership or for the return of a contribution, no time having been specified in the certificate;

(j) the partners desire to make a change in any other statement in the certificate in order to make the certificate accurately represent the agreement between them.

(2) The notice to amend a certificate must

(a) set forth clearly the change in or addition to the certificate that is desired; and

(b) be signed by all the partners.

(3) A notice to amend a certificate by substituting a limited partner or adding a limited or general partner must also be signed by the person to be substituted or added and, where a limited partner is substituted, the amendment must also be signed by the assigning limited partner. R.S., c. 259, s. 23.

Refusal of required signatory to sign

24 (1) Where anyone designated pursuant to Section 22 or 23 as being a person who must sign a notice to cancel or amend a certificate refuses to do so, a person desiring the cancellation or amendment may apply to the Court for an order directing the cancellation or amendment.

(2) Upon hearing an application brought under subsection (1), the Court, if it finds that the applicant is entitled to have the notice in question signed, shall by order direct the Registrar of Joint Stock Companies to record the cancellation or amendment of the certificate as set forth in the order. R.S., c. 259, s. 24.

Cancellation or amendment effective on filing

25 A certificate is cancelled or amended, as the case indicates, when there is filed with and recorded in the office of the Registrar of Joint Stock Companies

- (a) a notice signed as required by this Act; or
- (b) a certified copy of a Court order made pursuant to Section 24. R.S., c. 259, s. 25.

Priority of payment of liabilities upon dissolution

26 In settling accounts after the dissolution of a limited partnership the liabilities of the partnership to creditors, excepting

- (a) to limited partners on account of their contributions; and
- (b) to general partners,

must be paid first and then, subject to any statement in the certificate or to subsequent agreement, in the following order:

- (c) to limited partners in respect of their share of the profits and other compensation by way of income on their contributions;
- (d) to limited partners in respect of the capital of their contributions;
- (e) to general partners other than for capital and profits;
- (f) to general partners in respect of profits;
- (g) to general partners in respect of capital. R.S., c. 259, s. 26.

Liability for false statement in certificate

27 Where a certificate contains a false statement, any person suffering loss as a result of relying upon that statement may hold liable as a general partner every party to the certificate who

- (a) knew, when the person signed the certificate, that the statement relied upon was false; or
- (b) became aware, subsequent to the time when the person signed the certificate, but within a sufficient time before the false statement was relied upon to enable that person to cancel or amend the certificate or to commence proceedings in accordance with this Act for the cancellation or amendment of the certificate, that the statement relied upon was false. R.S., c. 259, s. 27.

Person mistakenly believing to be a limited partner

28 A person who contributes to the capital of a business conducted by a person or partnership erroneously believing that the person has become a limited partner in a limited partnership

- (a) is not, by reason only of that person exercising the rights of a limited partner, a general partner with the person or in the partnership carrying on the business; and
- (b) is not bound by the obligations of the person or partnership carrying on the business,

if, upon ascertaining the fact that the person is not a limited partner, that person promptly renounces any interest in the profits or other compensation by way of income from the business. R.S., c. 259, s. 28.

Indebted limited partner

29 (1) The Court may, upon application by a judgment creditor of a limited partner, charge the interest of the indebted limited partner with payment of the unsatisfied amount of the judgment debt, and may appoint a receiver and make all other orders, directions and inquiries that the circumstances of the case require.

(2) A charged interest referred to in subsection (1) may be redeemed with the separate property of a general partner, but may not be redeemed with limited partnership property.

(3) The remedies conferred by subsection (1) are not exclusive of others that may exist. R.S., c. 259, s. 29.

Limited partner as party in proceeding against firm

30 A limited partner, unless that person is also a general partner, is not a proper party to proceedings against a limited partnership, except where the object of the proceedings is to enforce a right of the limited partner against or liability to the limited partnership. R.S., c. 259, s. 30.

Special signing authority

31 (1) An actual or proposed general or limited partner may give special authority to any other person to execute on that person's behalf any document under this Act.

(2) A special authority referred to in subsection (1) must be filed in the office of the Registrar of Joint Stock Companies and recorded with the document or one of the documents executed in the exercise of the special authority. R.S., c. 259, s. 31.

Death, bankruptcy or incompetence

32 (1) A limited partnership is not dissolved by the death or bankruptcy of a limited partner.

(2) The mental incompetence of a limited partner is not a ground for dissolution of the limited partnership by a court unless the share of that limited partner cannot be otherwise ascertained and realized. R.S., c. 259, s. 32.

Regulations

33 The Governor in Council may make regulations

- (a) prescribing fees for the purpose of this Act;
- (b) respecting additional information to be included in a certificate filed under this Act;
- (c) prescribing forms and providing for their use;
- (d) defining any word or expression used in this Act and not defined in this Act;

(e) respecting any matter necessary or advisable to carry out the intent and purpose of this Act. R.S., c. 259, s. 33.

CHAPTER L-17

An Act to Provide for the Regulation and Sale of Alcoholic Liquors

Table of Contents

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

	Section
Short title.....	1
Interpretation	
Interpretation.....	2
Division of Act.....	3
PART I	
Administration of Act, Creation of Commission and its Powers and Functions	
Commission continued as Corporation.....	4
Powers of natural person.....	5
Companies Act applies.....	6
Board of Directors.....	7
Salaries and expenses.....	8
Quorum.....	9
President of Corporation.....	10
Appointment of employees.....	11
Conflict of Interest Act.....	12
Disqualification.....	13
Fiscal year.....	14
Bylaws and regulations.....	15
Duties and powers of Corporation.....	16
Dealing in bottles by Corporation.....	17
Duties of Minister of Service Nova Scotia.....	18
Regulations.....	19
Ownership of Property Acquired by the Corporation, Financing and Accounting by the Corporation and Application of Profits	
Proceeds of sale of liquor.....	20
Annual budget.....	21
Five-year strategic plan.....	22
Detailed business plans.....	23
Evaluation of activities.....	24
Borrowing power.....	25
Audited annual statements.....	26
Reserve fund.....	27
Report to House of Assembly.....	28
Monthly audit of receipts.....	29
Money paid to General Revenue Fund.....	30
Authority to administer oath.....	31
Consent of Attorney General required.....	32
Proceedings by or against Corporation.....	33
Appointment of inspectors and employees.....	34
No action lies.....	35
Payment to Minister of Finance and Treasury Board.....	36
Security from holder of licence or permit.....	37

PART II

Sales of Liquor

Sale of liquor.....	38
Executive Director	39
Liquor licences.....	40
Appeal to Review Board.....	41
Authority of Executive Director	42
Rescission of decision of Executive Director	43
Hearing by Review Board	44
Authority of Review Board	45
Classes of licence.....	46
Designation of licensing area.....	47
Regulations by Governor in Council	48
Deemed licence fees	49
Deemed charge, fee and levy.....	50
Store manager	51
Sale permitted	52
Consumption of liquor prohibited	53
Transportation of liquor	54
Gift	55
Special permit	56
Expiration of permit.....	57
Permit not transferable.....	58
Defacing permit prohibited.....	59
Manner of issuing permit.....	60
Special licence for service personnel.....	61
Possession of liquor permitted.....	62
Permit for brewer, distiller or vintner	63
Cancellation or suspension of permit	64
Appeal.....	65

Liquor Kept and Sold Under Special Permits

Special permit for druggist	66
Use of liquor by physician	67
Use of liquor in approved institution.....	68

Application of Act

Sale of liquor outside the Province.....	69
Sale of medicine permitted	70
Sale of preparations permitted	71
Order prohibiting sale of product	72
Order prohibiting possession of product.....	73
Information may be required on label	74
Licence to sell or distribute.....	75
Beer or wine making for personal use	76
Liquor, beer and wine societies	77

PART III

Prohibitions, Penalties and Procedure in Prosecutions and on Appeal

Unlawful sale of liquor	78
Offence.....	79
Gift prohibited	80
Selling at prohibited place or time.....	81
Commission, remuneration, profit or gift prohibited.....	82
Business association prohibited.....	83
Liquor not to be consideration.....	84
Prohibited premises	85
Religious use permitted	86
Seizure and forfeiture of liquor.....	87
Public intoxication prohibited.....	88
Sale to impaired person	89

Use of liquor by minor 90

Unlawful purchase of liquor 91

Restoration of permit or licence 92

Unlawful use of permit or licence 93

Offence by Corporation personnel 94

Bribery 95

Duty to prevent drunkenness 96

Promotion of liquor prohibited 97

Regulations respecting alcohol and pregnancy 98

Promotion payment prohibited 99

Storage of liquor prohibited 100

Sale or supply of liquor prohibited 101

Prohibited sale by manufacturer 102

Prohibited purchase 103

False proof of age 104

Penalty for corporation 105

Limitation period 106

Liquor to be forfeited 107

Officer of corporation personally liable 108

Occupant liable 109

Warrant to enter and search 110

Blanket search warrant 111

Presumption that liquor for sale 112

Power to arrest 113

Right to determine name and address 114

Power to search 115

Search of female 116

Liquor unlawfully kept in building 117

Liquor unlawfully kept in vehicle 118

Liquor found by peace officer 119

Forfeited liquor to Corporation 120

Informant to be confidential 121

Inspection of commercial paper 122

Disposition of pecuniary penalty 123

Peace officer exempt from prosecution 124

Particulars unnecessary 125

Proof of unlawful transfer of liquor 126

Certificate as evidence 127

Inference from description 128

Inference from circumstance 129

Burden on accused 130

Obstruction is prima facie evidence 131

Burden respecting right to have liquor 132

Restriction on right to claim liquor 133

Concealment is evidence 134

Presence of appliances or preparations 135

Appearance of premises 136

Order closing premises 137

Proof of incorporation 138

PART IV

General

Purpose and intent of Act 139

Payment respecting incarceration 140

Doctrine of *mens rea* 141

Civil liability 142

Prohibition proclamation 143

Short title

1 This Act may be cited as the *Liquor Control Act*. R.S., c. 260, s. 1.

INTERPRETATION

Interpretation

2 In this Act,

“agency store” means a store established pursuant to the authority in subsection 38(4), the operator of which may pursuant to this Act sell liquor under the control of the Corporation, and includes a private wine or specialty retail store;

“beer” means any alcoholic liquor obtained by the fermentation of an infusion or decoction of barley, malt and hops or of any similar products in drinkable water;

“Board of Directors” means the Board of Directors of the Corporation;

“Chair” means the Chair of the Board of Directors;

“Corporation” means the Nova Scotia Liquor Corporation;

“dentist” means a member of the Nova Scotia Dental Association authorized to practise dentistry under the *Dental Act*;

“Department” means the Department of Service Nova Scotia;

“druggist” means a pharmaceutical chemist registered and entitled to practise under the *Pharmacy Act*;

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

“ferment-on-premises facility” means premises, operated for profit, on which equipment is provided to individuals for the making of beer or wine for personal consumption;

“government control” means the sale of liquor within the Province in accordance with this Act or the regulations, through the instrumentality of the Corporation;

“Government store” means a store established by the Corporation for the sale of liquor and includes a duty-free liquor store;

“hotel” means any place where the public may, for a consideration, obtain sleeping accommodation, with or without meals;

“inspector” includes an inspector appointed under this Act, a deputy inspector or a member of the Provincial Police;

“licence” means a licence granted pursuant to this Act to

- (a) sell, have, deliver, carry or convey beer or liquor;
- (b) operate a ferment-on-premises facility; or
- (c) perform or participate in any other activity for which a licence is required by this Act or the regulations;

“liquor” means and includes any alcohol, alcoholic, spirituous, vinous, fermented malt or other intoxicating liquor or combination of liquors and mixed liquor a part of which is spirituous, vinous, fermented or otherwise intoxicating and all drinks or drinkable liquids and all preparations or mixtures, whether liquid or solid, capable of human consumption that are

intoxicating, and any compound, mixture or preparation whether in solid or liquid form to which the addition of water or any other liquid or any substance will produce intoxicating liquor;

“Minister” means the member of the Executive Council to whom for the time being is assigned the supervision of the administration of the Corporation except where the context otherwise requires;

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

“occupant” includes the person in charge of a house, building or premises or under whose care they are, and a person apparently in charge thereof or exercising control or authority thereover;

“package” means any container, bottle, vessel or other receptacle used for holding liquor;

“permit” means a permit issued by the Corporation for the purchase, storage, manufacture or transfer of liquor;

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

“prescription” means a memorandum in the form prescribed by the regulations, signed by a physician, and given by the physician to a patient for the purpose of obtaining liquor pursuant to this Act for use for medicinal purposes only;

“President” means the President of the Corporation appointed pursuant to this Act;

“Provincial Police” means the Nova Scotia Provincial Police and includes the Royal Canadian Mounted Police, police officers appointed by a municipality and the military police of the Canadian Armed forces;

“public place” means and includes any place, building or convenience to which the public has, or is permitted to have, access, and any highway, street, lane, park or place of public resort or amusement;

“regulations” means the regulations made by the Governor in Council or made by the Corporation and approved by the Governor in Council under this Act;

“residence” means

(a) any building, part of a building, tent, mobile home, trailer, ship, yacht or boat where a person resides, including lands appurtenant and adjacent thereto that are essential or appropriate for the private use, occupation and enjoyment thereof, but not

(i) part of a hotel or club other than a private guest room,

(ii) a mobile home or trailer being operated on a highway or stopped within the highway right-of-way; and

(b) such other areas, places or properties as designated by the regulations as a residence;

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

“sale” or “sell” includes exchange, barter and traffic and the selling or supplying or distribution, by any means whatsoever, of liquor or of any liquor known or described as “beer” or “light beer” by any partnership, or by any society, association or club, whether incorporated or unincorporated, and whether heretofore or hereafter formed or incorporated, to any partnership, society, association or club or to any member thereof;

“veterinarian” means a person authorized to practise veterinary science in the Province under the *Veterinary Medicine Act*;

“Vice-chair” means the Vice-chair of the Board of Directors;

“wine” means and includes any alcoholic beverage obtained by the fermentation of the natural sugar contents of fruits, including grapes and apples, or other agricultural products containing sugar, including honey or milk. R.S., c. 260, s. 2; 2000, c. 28, s. 69; 2001, c. 4, ss. 11, 29; 2002, c. 30, s. 10; 2011, c. 21, s. 1; 2012, c. 8, s. 10; 2014, c. 18, s. 1; 2022, c. 18, s. 1.

Division of Act

3 The division of this Act into Parts is for convenience only. R.S., c. 260, s. 3.

PART I

ADMINISTRATION OF ACT, CREATION OF COMMISSION AND ITS POWERS AND FUNCTIONS

Commission continued as Corporation

4 (1) The Nova Scotia Liquor Commission is continued as a body corporate under the name “Nova Scotia Liquor Corporation” consisting of those persons who comprise the Board of Directors.

(2) The Corporation is an agent of the Crown in right of the Province.

- (3)** The objects of the Corporation with respect to liquor are
- (a) the promotion of social objectives regarding responsible drinking;
 - (b) the promotion of industrial or economic objectives regarding the beverage alcohol industry in the Province;
 - (c) the attainment of suitable financial revenues to government; and
 - (d) the attainment of acceptable levels of customer service.

(4) The Corporation may contract in its corporate name without specific reference to the Crown.

(5) The Corporation has a corporate seal that it may alter or change at pleasure. 2001, c. 4, s. 12; 2018, c. 3, s. 38.

Powers of natural person

5 Subject to this Act, the Corporation has the capacity, rights, powers and privileges of a natural person to do anything that the Corporation considers necessary or convenient for, or incidental or conducive to, the carrying out of its objects and has the same powers and capacity as a company under subsection 33(4) of the *Companies Act*. 2001, c. 4, s. 12.

Companies Act applies

6 The *Companies Act* applies to the Corporation so far as it is not inconsistent with this Act. 2001, c. 4, s. 12.

Board of Directors

7 (1) The affairs of the Corporation are administered by a Board of Directors of 11 members,

(a) nine of whom are appointed by the Governor in Council to hold office for a term of not less than two years and not more than five years;

(b) one of whom is a deputy minister appointed by the Governor in Council, and who is not a voting member; and

(c) one of whom is the President, and who is not a voting member.

(2) The Board of Directors is responsible for ensuring that the affairs of the Corporation are administered on a commercial basis and that all decisions and actions of the Board are based on sound business practices in accordance with the objects of the Corporation.

(3) The members of the Board of Directors are directors of the Corporation within the meaning of the *Companies Act* except where inconsistent with this Act.

(4) The Governor in Council shall appoint from among the members of the Board of Directors one member to be the Chair and one member to be the Vice-chair of the Board who hold office for a term to be fixed by the Governor in Council, such term of office to be not less than two years nor to exceed five years.

(5) The Vice-chair shall act as Chair in the absence or during the incapacity of the Chair.

(6) Notwithstanding clause (1)(a), on the initial appointment of the members of the Board of Directors, the members of the Board appointed pursuant to that clause must be appointed to hold office for the following terms:

(a) two members for a term of two years;

(b) two members for a term of three years;

(c) two members for a term of four years; and

(d) one member for a term of five years.

(7) The Chair, the Vice-chair and each member of the Board of Directors appointed pursuant to clause (1)(a) enjoys tenure during the term of their

appointment but may be removed at any time by the Governor in Council for misbehaviour, incapacity or inability to perform their duties properly.

(8) Each member of the Board of Directors appointed pursuant to clause (1)(a) remains in office, notwithstanding the expiry of the member's term, until reappointed or replaced and, when a vacancy occurs on the Board, the Governor in Council may appoint a person to fill the vacancy for the balance of the term of the member of the Board replaced.

(9) A vacancy on the Board of Directors does not impair the capacity of the Board to act. 2001, c. 4, s. 12; 2012, c. 8, s. 11.

Salaries and expenses

8 (1) The Chair and the Vice-chair and other members of the Board of Directors are entitled to be paid such salaries and allowances as are fixed by the bylaws of the Corporation.

(2) Each member of the Board of Directors is entitled to be paid such travelling and living expenses incurred by the member in the performance of the member's duties as are fixed by the bylaws of the Corporation. 2001, c. 4, s. 12; 2012, c. 8, s. 12.

Quorum

9 (1) Five voting members, at least one of whom is the Chair or Vice-chair, constitute a quorum of the Board of Directors.

(2) The President and the deputy minister appointed pursuant to subsection 7(1) are not included as members of the Board of Directors in determining a quorum of the Board.

(3) Where a member of the Board of Directors is absent from the member's duties for a period in excess of three months or becomes incapacitated or disabled and is unable to act by reason of such absence, illness, infirmity, incapacity or inability, the Governor in Council may appoint a person to act in the member's stead during the period that the member is absent or incapacitated and the person appointed while so acting may discharge all the duties and has all the rights and powers of a director.

(4) The affirmative votes of a majority of the members present at a meeting of the Board of Directors at which a quorum is present are sufficient to pass any resolution that the Board is competent to make.

(5) Subject to this Act, the Board of Directors may make bylaws for the management of the property, effects, affairs and business of the Corporation or relating to any other thing that may be necessary for carrying out the purposes of the Corporation and for the exercise of any other powers of the Corporation incidental thereto.

(6) Minutes must be taken of the meetings of the Board of Directors, which must be approved by the Board and certified to be correct by the Chair.

(7) A copy of the minutes of each meeting of the Board of Directors, certified to be correct by the Chair, must be submitted to the Minister after each meeting of the Board. 2001, c. 4, s. 12; 2012, c. 8, s. 13.

President of Corporation

10 (1) The Governor in Council shall, by order and upon the recommendation of the Minister, appoint a President of the Corporation who is selected on merit and in accordance with the fair-hiring practices of the Government.

(2) The President is the Chief Executive Officer of the Corporation and is charged with the general direction, supervision and control of the business of the Corporation, and may exercise such other powers as may be conferred on the President by the bylaws of the Corporation or the Minister.

(3) The President shall devote the President's whole time and attention to the performance of the President's functions for the Corporation and shall follow no other occupation.

(4) The President is accountable to the Minister and reports to the Board of Directors. 2001, c. 4, s. 12.

Appointment of employees

11 (1) The employees of the Corporation are to be appointed in accordance with the bylaws of the Corporation.

(2) The remuneration and other conditions of employment of the employees are to be established by the bylaws of the Corporation.

(3) The *Public Service Superannuation Act* applies to the President and all employees of the Corporation. 2001, c. 4, s. 12.

Conflict of Interest Act

12 The Corporation 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 the members of the Board. 2001, c. 4, s. 12; 2010, c. 35, s. 38.

Disqualification

13 A person is not eligible to be appointed or to continue as President or a member of the Board of Directors if the person is not a Canadian citizen ordinarily resident in the Province or, directly or indirectly, as owner, shareholder, director, officer, partner or otherwise, is in a position of conflict of interest under conflict of interest rules established in the regulations. 2001, c. 4, s. 12.

Fiscal year

14 The fiscal year of the Corporation ends on March 31st in each year or such other time as may be prescribed by the Governor in Council. 2001, c. 4, s. 12.

Bylaws and regulations

15 (1) The making of bylaws of the Corporation by the Board of Directors is subject to the approval of the Governor in Council.

(2) The Governor in Council may make regulations respecting any matter in respect of which the Board of Directors may make bylaws and, where there is a conflict between the regulations and a bylaw made by the Board, the regulations made pursuant to this Section prevail.

(3) The Governor in Council may make regulations establishing and respecting the operation of a consultation committee composed of members appointed by the Minister who, by virtue of their experience, are considered by the Minister to be appropriate to provide, at the request of the Board of Directors or the Minister, advice on any matter relating to the objects or operations of the Corporation.

(4) The Governor in Council may make regulations respecting conflict of interest rules governing the President and members of the Board of Directors. 2001, c. 4, s. 12.

Duties and powers of Corporation

16 It is the duty of the Corporation and it has power to

(a) buy, import, have in its possession and sell liquor and merchandise for the purpose of this Act;

(b) control the possession, sale, transportation and delivery of liquor in accordance with this Act and the regulations;

(c) determine, subject to the approval of the Governor in Council, the municipalities within which liquor may be sold;

(d) make provision for the maintenance or operation of warehouses for beer or liquor and control or regulate the keeping in and delivery to or from any such warehouses;

(e) lease as tenant any land or building required to achieve the objects of the Corporation;

(f) subject to the approval of the Governor in Council, lease as landlord, sublet, assign or sell any land, building or other property or any part thereof owned or leased by the Corporation;

(g) purchase or lease or acquire the use by any manner whatsoever of any plant, as approved by the Governor in Council, that may be considered necessary or useful in carrying into effect the objects of the Corporation;

(h) purchase or lease or acquire the use by any manner whatsoever of any equipment that may be considered necessary or useful in carrying into effect the objects of the Corporation;

(i) engage the services of experts and persons engaged in the practice of any profession if it is considered expedient;

(j) appoint officials to issue and grant licences and permits under this Act;

(k) prescribe the days and hours when Government stores or agency stores, or any of them, may be open;

- (l) control and supervise the advertising, promotion and marketing methods and procedures of manufacturers, distributors, agents and their representatives;
- (m) determine the classes, varieties and brands of liquor to be kept for sale at Government stores and maintain standards therefor;
- (n) issue permits in accordance with this Act and the regulations;
- (o) determine the nature, form and capacity of all packages to be used for containing liquor to be kept or sold and their use;
- (p) determine, subject to the approval of the Governor in Council, the classes of permits and the terms and conditions thereof;
- (q) prescribe regulations for governing the possession and use of liquor, beer and wine by liquor, beer and wine societies;
- (r) provide for sampling and tasting rooms and to determine terms and conditions upon which liquor may be consumed therein;
- (s) examine the books of a brewer, distiller, vintner or other person required to make a return under this Act for the purpose of verifying the accuracy of the return;
- (t) without in any way limiting or being limited by the foregoing clauses, generally do all such things considered necessary or advisable by the Corporation for the purpose of carrying into effect the purpose and intent of this Act or the regulations. R.S., c. 260, s. 12; 2001, c. 4, ss. 13, 29; 2018, c. 3, s. 39.

Dealing in bottles by Corporation

17 The Corporation may acquire, buy, sell and deal in empty bottles of a type in which liquor is or has been sold by the Corporation. R.S., c. 260, s. 13; 2001, c. 4, s. 29.

Duties of Minister of Service Nova Scotia

- 18 (1) The Minister of Service Nova Scotia shall
- (a) have general supervision and management over
 - (i) licensing premises for the sale of liquor for consumption on the premises and, where authorized by the regulations, away from the premises or for the operation of a ferment-on-premises facility,
 - (ii) inspecting licensed premises, and
 - (iii) the issuance and enforcement of all licences granted under this Act and the regulations;
 - (b) determine the nature, form and capacity of all containers used for containing liquor to be kept or sold in licensed premises;
 - (c) perform such other duties as may be required by this Act or the regulations; and
 - (d) in general, do or refrain from doing anything that the Minister considers necessary or advisable to carry out the purpose and intent of this Act and the regulations.

(2) The Minister of Service Nova Scotia may delegate in writing to any person or class of persons any of the powers, duties or functions of that Minister pursuant to this Act and shall, when so delegating, specify the powers, duties and functions to be exercised by the person or class of persons and any conditions imposed on the exercise of the powers or performance of the duties or functions. 2000, c. 28, s. 71; 2011, c. 21, s. 2; 2014, c. 18, s. 2; 2015, c. 43, s. 1; 2022, c. 18, s. 2.

Regulations

19 The Corporation, with the approval of the Governor in Council, may make such regulations as the Corporation considers necessary for carrying out the purpose and intent of this Act and for the efficient administration thereof, and for prescribing the fees payable in respect of licences and permits issued, and for anything done or permitted to be done under this Act or the regulations for which no fees are prescribed in this Act, and such regulations must be published in the Royal Gazette, and upon being so published have the same force and effect as if enacted in this Act, and any such regulations may be repealed, altered or amended from time to time by the Corporation, subject to like approval and the publication of the alteration, repeal or amendment in the manner aforesaid. R.S., c. 260, s. 15; 2001, c. 4, s. 29.

OWNERSHIP OF PROPERTY ACQUIRED BY THE CORPORATION, FINANCING AND ACCOUNTING BY THE CORPORATION AND APPLICATION OF PROFITS

Proceeds of sale of liquor

20 (1) All money received from the sale of liquor in Government stores, the revenue from agency stores and money otherwise accruing in the administration of this Act is to be paid to the Corporation.

(2) All property, whether real or personal, all money acquired, administered, possessed or received by the Corporation and all profits earned in the administration of this Act vest in the Corporation as agent of the Crown in right of the Province and may be dealt with, leased, sold or otherwise disposed of by the Corporation in its corporate name.

(3) The Corporation shall maintain in its own name one or more accounts in any chartered bank designated by the Minister of Finance and Treasury Board.

(4) Notwithstanding the *Finance Act*, all money received by the Corporation through the conduct of its operations or otherwise is to be deposited to the credit of the accounts established pursuant to subsection (3) and must be administered by the Corporation exclusively in the exercise and performance of its powers, duties and functions.

(5) The Corporation shall pay all salaries of the members of the Board of Directors and its employees and all expenditures incurred by the Corporation in operating its business. 2001, c. 4, s. 15; 2010, c. 2, s. 110; 2014, c. 34, s. 24.

Annual budget

21 (1) The Board of Directors shall, annually at such time as the Minister may prescribe, prepare and submit to the Minister a budget containing estimates of the amounts required for working capital and for capital expenditures

required during the next year for the purpose of the Corporation and forecasting the estimated net profit of the Corporation for the next year.

(2) Where in any fiscal year it appears that the actual revenue or expenditure of the Corporation is likely to be substantially greater or less than estimated in its budget, the Board of Directors shall submit to the Minister a revised budget containing the particulars required under subsection (1).

(3) All outlays and expenditures of a capital nature in excess of \$50,000 over approved total capital spending outlined in the budget for the fiscal year must be approved in advance by the Minister.

(4) The Board shall submit to the Minister, at such times as the Minister may prescribe, reports setting out the net profit and net profit forecasts of the Corporation and such reports must contain such information as the Minister may prescribe. 2001, c. 4, s. 15; 2012, c. 8, s. 14.

Five-year strategic plan

22 On or before January 31, 2003, the Corporation shall submit to the Minister for approval a five-year strategic plan, including estimates of budgetary requirements for the operation of the Corporation, and including a detailed business plan for the fiscal year ending March 31, 2003. 2001, c. 4, s. 15; 2012, c. 8, s. 15.

Detailed business plans

23 Annually at such time as the Minister may prescribe, the Corporation shall submit to the Minister for approval a detailed business plan for the following fiscal year, including estimates of budgetary requirements. 2001, c. 4, s. 15; 2012, c. 8, s. 16.

Evaluation of activities

24 (1) Within six months after the fiscal year ending March 31, 2008, and every fifth year thereafter, the Corporation shall submit to the Minister a detailed evaluation of its activities showing how results of its operations compare and contrast with the five-year strategic plan referred to in Section 22, and including any recommendations for changes to the objects, powers, duties and functions of the Corporation or the Board of Directors.

(2) At the time it submits an evaluation referred to in subsection (1), the Corporation shall also submit to the Minister for approval a five-year strategic plan, including estimates of budgetary requirements for the operation of the Corporation. 2001, c. 4, s. 15; 2012, c. 8, s. 17.

Borrowing power

25 (1) The Corporation may, with the approval of the Minister of Finance and Treasury Board, borrow money from and make arrangements with any chartered bank for loans or money overdrafts with such times of repayment as the Corporation considers advisable and necessary and may mortgage the lands and other assets of the Corporation to secure such loans.

(2) The Governor in Council may, on such terms and conditions as the Governor in Council considers expedient, authorize the guarantee by the

Minister of Finance and Treasury Board, on behalf of the Crown in right of the Province, of the repayment of all money borrowed by the Corporation under this Section, and such guarantee, when given, renders the Crown in right of the Province liable for the repayment of the money so borrowed, and is conclusive evidence of the liability of the Province.

(3) The Minister of Finance and Treasury Board may advance out of the General Revenue Fund such sums as may be necessary for the purpose of discharging, in whole or in part, all or any liabilities of the Corporation or guarantees, and all sums so advanced are to be repaid by the Corporation in such amounts and at such times as that Minister may decide and, until paid, bear interest, for credit to the General Revenue Fund, at such rate as may be determined by that Minister. 2001, c. 4, s. 15; 2010, c. 2, s. 111; 2014, c. 34, s. 25.

Audited annual statements

26 (1) The Corporation shall prepare audited financial statements and submit them to the Minister in each year at such time as may be prescribed by the Minister.

(2) The accounts of the Corporation must show the gross income arising from the sale of liquor and cannabis.

(3) All books or records of accounts, bank books and other documentation of the Corporation must at all times be open to the inspection of the Minister or such other person as the Minister may designate.

(4) The Governor in Council may request the Auditor General or any other person to audit the accounts of the Corporation and a report of the audit containing such particulars as the Governor in Council may require must be made to the Governor in Council on or before August 1st next following the close of the fiscal year for which the report is made. 2001, c. 4, s. 15; 2018, c. 3, s. 40.

Reserve fund

27 (1) From the profits arising under this Act, as certified by the Minister of Finance and Treasury Board, there must be taken such sums as may be determined by the Governor in Council for the creation of a reserve fund to repay money borrowed under Section 25.

(2) The net profits remaining from time to time after providing the sums required for the purpose of the reserve fund are to be paid into the General Revenue Fund in the manner and at the times prescribed by the Minister of Finance and Treasury Board. 2001, c. 4, s. 15; 2010, c. 2, s. 112; 2014, c. 34, s. 26.

Report to House of Assembly

28 The Corporation shall, within five months after the termination of its fiscal year, submit to the Minister an audited report, in such form as the Minister may direct, on the operations of the Corporation for that fiscal year, and the Minister shall lay the report before the House of Assembly, if it is then sitting, or, if not, at the next sitting. 2001, c. 4, s. 15.

Monthly audit of receipts

29 The receipts of the Corporation from all sources must be checked and audited at least once in every calendar month by the Minister of Finance and Treasury Board or an officer of that Minister's Department designated by that Minister for that purpose. R.S., c. 260, s. 26; 2001, c. 4, s. 29; 2014, c. 34, s. 27.

Money paid to General Revenue Fund

30 Every sum of money collected by the Corporation, that the Minister of Finance and Treasury Board considers available, must, on demand, be handed over to that Minister, and every such sum of money, after it is so handed over, forms part of the General Revenue Fund. R.S., c. 260, s. 27; 2001, c. 4, s. 29; 2010, c. 2, s. 113; 2014, c. 34, s. 28.

Authority to administer oath

31 Every store manager and every official authorized by the Corporation to issue permits under this Act may administer any oath and take and receive any evidence or declaration required under this Act or the regulations. R.S., c. 260, s. 28; 2001, c. 4, s. 29.

Consent of Attorney General required

32 (1) Except with the consent of the Attorney General, no action or proceeding may be taken against any member or members or against any official or store manager of the Corporation or against any other officer for anything done or omitted to be done in or arising out of the performance of the person's duties under this Act.

(2) Every action, order or decision of the Corporation as to any matter or thing in respect of which any power, authority or discretion is conferred on the Corporation under this Act is final and may not be questioned, reviewed or restrained by injunction, prohibition or *mandamus* or other process or proceeding in any court or be removed by *certiorari* or otherwise in any court. R.S., c. 260, s. 29; 2001, c. 4, ss. 16, 29.

Proceedings by or against Corporation

33 The Corporation may, with the consent of the Attorney General, be sued and may institute or defend proceedings in any court of law or otherwise in the name of the Nova Scotia Liquor Corporation as fully and effectively to all intents and purposes as though the Corporation were incorporated under such name or title and no proceedings may be taken against or in the names of the members of the Corporation, and no proceedings may abate by reason of any change in the membership of the Corporation by death, resignation or otherwise, but the proceedings may be continued as though the changes had not been made. R.S., c. 260, s. 30; 2001, c. 4, s. 29.

Appointment of inspectors and employees

34 The inspectors and employees, other than employees of the Corporation, necessary for the administration of this Act must be appointed in accordance with the *Civil Service Act*. 2000, c. 28, s. 73; 2001, c. 4, s. 17.

No action lies

35 (1) No action or other proceeding for damages lies or may be instituted against any inspector or employee appointed pursuant to Section 34, or against the Executive Director or a delegate of the Minister, for an act or omission done in good faith in the execution or intended execution of any power or duty pursuant to this Act or the regulations.

(2) Subsection (1) does not relieve the Crown in right of the Province of liability in respect of a wrongful act committed by an inspector or employee, the Executive Director or a delegate of the Minister to which it otherwise would be subject. 2011, c. 21, s. 3.

Payment to Minister of Finance and Treasury Board

36 All money collected by the Review Board pursuant to this Act or the regulations must be handed over to the Minister of Finance and Treasury Board and, after it is handed over, forms part of the General Revenue Fund. 2000, c. 28, s. 73; 2010, c. 2, s. 114; 2014, c. 34, s. 29.

Security from holder of licence or permit

37 Subject to the regulations, the Corporation or the Minister of Service Nova Scotia may require the holder of any licence or permit for the sale, supply, delivery, carriage or conveyance of liquor to give such security and to comply with such other provisions as the Corporation or that Minister consider necessary or desirable in order to secure the due observance of this Act. R.S., c. 260, s. 40; 2000, c. 28, s. 74; 2001, c. 4, s. 29; 2011, c. 21, s. 4; 2014, c. 18, s. 9; 2022, c. 18, s. 3.

PART II

SALES OF LIQUOR

Sale of liquor

38 (1) Subject to this Act, liquor may be sold in such manner and at such prices as the Corporation may by the regulations prescribe.

(2) Subject to this Act, the Corporation may establish, maintain and operate at such places throughout the Province as it considers advisable, stores for the sale of liquor in accordance with this Act.

(3) Subject to the approval of the Governor in Council, the Corporation may establish, maintain and operate at such places throughout the Province as it considers advisable, duty-free liquor stores for the purpose of selling liquor for consumption outside Canada to persons who are leaving Canada directly from a place in the Province and are eligible to purchase liquor under this Act.

(4) The Corporation may by bylaw, subject to the approval of the Governor in Council, permit the operation of agency stores at such places throughout the Province and on such terms as it considers advisable, by private operators, for the sale of liquor in accordance with this Act. R.S., c. 260, s. 42; 2001, c. 4, ss. 18, 29.

Executive Director

39 (1) The Minister of Service Nova Scotia shall appoint an Executive Director to perform the duties and functions and exercise the powers and authorities imposed or conferred upon the Executive Director by this Act or the regulations or as otherwise prescribed by the Minister.

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

(3) The Executive Director may delegate in writing to any person or class of persons any of the powers, duties and functions of the Executive Director pursuant to this Act and shall, when so delegating, specify the powers, duties and functions to be exercised by the person or class of persons and any conditions imposed on the exercise of the powers or performance of the duties or functions. 2011, c. 21, s. 5; 2014, c. 18, s. 9; 2022, c. 18, s. 4.

Liquor licences

40 (1) Subject to this Act, but otherwise in the Executive Director's discretion, the Executive Director may

(a) grant, renew and transfer licences in accordance with the terms and conditions of the licences and of this Act and the regulations;

(b) impose terms and conditions on any licence or rescind or amend existing terms and conditions on a licence in accordance with this Act and the regulations;

(c) suspend all or any part of a licence for such time that the Executive Director considers appropriate;

(d) cancel all or any part of a licence.

(2) The holder of a licence granted pursuant to this Act and that is in force may, when authorized by the licence,

(a) have and sell liquor on the premises in respect of which such licence is in effect for consumption on those premises and, where authorized by the regulations, away from those premises;

(b) operate a ferment-on-premises facility; or

(c) perform or participate in an activity authorized by a class of licence prescribed by the regulations,

subject to this Act and the regulations and to the terms and conditions of the licence.

(3) Notwithstanding subsection (2), a person may hold separate licences to have and sell liquor in accordance with clause (2)(a) and to operate a ferment-on-premises facility, if the licences are not granted in relation to the same premises.

(4) No person shall operate a ferment-on-premises facility except under the authority of a licence to operate such a facility.

(5) The Executive Director may refer any matter respecting licensing pursuant to subsection (1) to the Review Board for determination and for the purpose of this subsection, all references to the Executive Director in subsection (1) shall be read as references to the Review Board. R.S., c. 260, s. 47; 2000, c. 28, s. 77; 2011, c. 21, s. 6; 2014, c. 18, s. 3; 2015, c. 43, s. 2; 2022, c. 18, s. 5.

Appeal to Review Board

41 A licensee or applicant who is dissatisfied with a decision of the Executive Director made pursuant to this Act or the regulations, respecting the granting, refusal, suspension or cancelling of or the imposition of conditions on a licence, may appeal the decision to the Review Board in accordance with the appeal process prescribed in the regulations. 2011, c. 21, s. 7.

Authority of Executive Director

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

- (a) take any action set out in clauses 40(1)(b), (c) and (d);
- or
- (b) refer the matter to the Review Board.

(2) A licensee may appeal a decision made pursuant to clause (1)(a) to the Review Board in accordance with the appeal process prescribed in the regulations.

(3) Where the Executive Director has, in the course of performing the powers, duties or functions conferred upon the Executive Director pursuant to this Act, received information regarding the licensee or communicates with the licensee or with another person concerning the licence, the Executive Director is not disqualified from taking any action pursuant to clause (1)(a). 2011, c. 21, s. 7.

Rescission of decision of Executive Director

43 The Executive Director may, pursuant to the process prescribed in the regulations, rescind a decision that would otherwise be appealable pursuant to Section 41 or subsection 42(2). 2011, c. 21, s. 7.

Hearing by Review Board

44 The Review Board may hold a hearing to determine a matter in accordance with the process prescribed in the regulations upon receipt of

- (a) an appeal pursuant to Section 41 or subsection 42(2); or
- (b) a referral made by the Executive Director pursuant to subsection 40(5) or clause 42(1)(b). 2011, c. 21, s. 7.

Authority of Review Board

45 (1) On an appeal, the Review Board may confirm, vary or revoke a decision of the Executive Director.

- Director by
- (2) The Review Board may vary the decision of the Executive
- (a) imposing conditions on a licence;
 - (b) rescinding or amending existing conditions on a licence;
 - (c) suspending all or any part of a licence for such time as the Review Board considers appropriate;
 - (d) cancelling all or any part of a licence; or
 - (e) ordering in accordance with this Act and the regulations such other remedy as the Review Board considers appropriate.
- (3) Where the Executive Director refers a matter to the Review Board pursuant to clause 42(1)(b), the Review Board may apply any remedy available pursuant to subsection (2). 2011, c. 21, s. 7.

Classes of licence

- 46 (1) Subject to the regulations, a licence may be one of the following classes:
- (a) club licence — that permits the licensee to have, sell and dispense liquor;
 - (b) beverage room licence — that permits the sale of beer and wine by the glass, open bottle or other container;
 - (c) eating establishment licence — that permits the sale of liquor by the glass and beer and wine by the glass, open bottle or other container with meals or otherwise as specified in the licence;
 - (d) lounge licence — that permits the sale of liquor by the glass and beer and wine by the open bottle, glass or other container;
 - (e) cabaret licence — that permits the sale of liquor by the glass and beer and wine by the glass, open bottle or other container;
 - (f) special premise licence — that permits the sale of liquor by the glass and beer and wine by the glass, open bottle or other container, or any of them as specified in the licence for a specific period of time or at specific times;
 - (g) special occasion licence — that may permit the sale or other disposition of liquor by the glass and beer and wine by the glass, open bottle or other container, for a specific period of time or at specific times;
 - (h) ferment-on-premises licence — that permits the licensee to operate a ferment-on-premises facility to provide goods, equipment, facilities and services to individuals manufacturing beer or wine on the premises, subject to the terms and conditions specified in the licence;
 - (i) other classes of licence prescribed by the regulations.
- (2) Subject to this Act and the regulations, any one or more of the several classes of licence may be issued to any person.

- (3) Subject to the regulations, a licence may be granted only to
- (a) a person who is 19 or more years of age and, in the opinion of the Executive Director, of good character and reputation;
 - (b) a partnership, each of the members of which is qualified as provided in clause (a);
 - (c) a corporation authorized to carry on business in the Province whose officer, agent or manager in charge of the premises for which the licence is issued is personally qualified as provided in clause (a);
 - (d) a club or association whose officers, agents, stewards or other persons at any time in charge of the premises for which the licence is issued are personally qualified as provided in clause (a);
 - (e) a railway company operating in the Province and providing meals on its passenger train service;
 - (f) a company operating an airline and providing regularly scheduled passenger service.

(4) The Executive Director may make inquiries or request documentation for the purpose of assessing the good character and reputation of an applicant pursuant to clause (3)(a).

(5) The Minister of Service Nova Scotia may prescribe for any type of licence ratios of food and liquor for consumption on the licensed premises or at any other authorized location.

(6) Subject to subsection (7), a beverage room licence, eating establishment licence or cabaret licence may be issued only to an applicant who has had one year of experience in the successful operation of a restaurant, in the Province or elsewhere, or who has or will arrange to hire for the premises proposed to be licensed a manager or assistant with one year of experience in the successful operation of a restaurant in the Province or elsewhere.

(7) An eating establishment licence may be issued to a railway company that provides meals on its passenger-train service.

(8) A lounge licence may be issued only to the holder of an eating establishment licence. R.S., c. 260, s. 48; 2000, c. 28, s. 78; 2011, c. 21, s. 8; 2014, c. 18, s. 4; 2022, c. 18, s. 6.

Designation of licensing area

47 (1) The Executive Director may not grant a beverage room licence, lounge licence or cabaret licence unless public consultation has taken place in the form and manner prescribed by the regulations.

(2) Subsection (1) does not apply to an application for or the granting of a licence to a railway company, or a company operating an airline, or to a restaurant or hotel that is designated by the Minister of Service Nova Scotia as a resort or to an application for a special premise licence, an application for an eating establishment licence or an application for a ferment-on-premises licence.

(3) The Minister of Service Nova Scotia may not designate a restaurant or hotel as a resort unless

- (a) it maintains a high standard of appointments and services;
- (b) it operates on a seasonal basis or promotes convention business or obtains a minor part of its business from the locality in which it is situated or its operation is of such a nature that, in the opinion of that Minister, it should be so designated; and
- (c) it complies with the regulations respecting resorts.

(4) The Executive Director may renew a club licence to a club that, or an official of which, was on May 15, 1961, the holder of a permit pursuant to the regulations in effect immediately before that day, and may vary, add to or subtract from the terms and conditions on which such licence is held or issued and must require the holder to comply with such regulations as the Governor in Council may prescribe respecting club licences.

(5) The Executive Director may grant a club licence to an official of a club, or to a club that was not the holder of a permit on May 15, 1961, but subsection (1) applies in the same manner and to the same extent as it applies to any of the types of licence mentioned in that subsection and no licence may be granted to or in respect of a club that has not been in active operation for a period of not less than three years immediately preceding the application for a licence. R.S., c. 260, s. 49; 2000, c. 28, s. 79; 2001, c. 4, s. 29; 2011, c. 21, s. 9; 2014, c. 18, s. 5; 2018, c. 37, s. 2; 2022, c. 18, s. 7.

Regulations by Governor in Council

48 The Governor in Council may make regulations

- (a) providing for one or more classes of club licences, beverage room licences, eating establishment licences, lounge licences, special occasion licences, cabaret licences, special premises licences and ferment-on-premises licences, and fixing the expiry dates thereof and the fees therefor;
- (b) prescribing one or more classes of licence under clause 46(1)(i), and fixing the expiry dates thereof and the fees therefor;
- (c) providing for the cancellation or suspension of licences;
- (d) prescribing terms, conditions or limitations in respect of licences or any class thereof or of any licence;
- (e) authorizing, in respect of a licence or class of licences, the sale, delivery, carriage or conveyance of liquor, or any particular quantity or kind of liquor, for consumption away from the premises where the liquor is sold if the holder of the licence also holds a permit to manufacture that liquor;
- (f) prescribing the standards for premises or the part thereof used in connection with the sale of liquor by the holders of licences and the accommodation, equipment and facilities therein, and prescribing or prohibiting methods and practices in connection with the purchase, licensed sale, service or disposal of liquor;
- (g) prescribing the standards for vehicles or equipment used in connection with the delivery, carriage or conveyance of liquor and prescrib-

ing or prohibiting methods and practices in connection with the delivery, carriage or conveyance of liquor;

- (h) respecting the powers of an inspector;
- (i) authorizing the Executive Director to make inquiries and request documentation or other information in order to assess the character and reputation of applicants or licensees;
- (j) prescribing information or records, including personal identifying information, that is required to be provided to the Executive Director when requested by persons who participate in an activity that requires a licence, including by employing, coordinating or otherwise facilitating persons undertaking licensed activities;
- (k) providing for the issuance of licences and for renewals and transfers of licences;
- (l) governing and providing for the issuance of licences for special occasions and prescribing the special occasions for which licences may be issued;
- (m) prescribing the form and manner of application for a licence;
- (n) prescribing the form, manner and duration of posting a notice respecting an application for a licence;
- (o) prescribing the form of a notice of appeal;
- (p) prescribing the form and manner for the holding of a public consultation by the Executive Director for the granting of certain types of licences;
- (q) prescribing information and returns respecting the operation of a ferment-on-premises facility that a licensee operating a facility is required to provide to the Executive Director;
- (r) respecting the advertisement of goods and services provided in connection with the making of beer and wine at a ferment-on-premises facility and requiring that advertisements meet any conditions imposed by the Executive Director;
- (s) prescribing the qualifications and duties of persons who work in ferment-on-premises facilities;
- (t) prescribing standards for ferment-on-premises facilities;
- (u) prescribing, restricting or prohibiting methods and practices in connection with the making of beer or wine at ferment-on-premises facilities;
- (v) respecting the sampling or tasting of beer or wine on the premises of a ferment-on-premises facility;
- (w) respecting the possession, storage, removal and consumption of beer or wine at a ferment-on-premises facility;
- (x) prohibiting operators of ferment-on-premises facilities and their employees and agents from offering or giving inducements or engaging in prescribed practices with respect to the provision of any service provided at such a facility, and prescribing such practices;

- (y) prescribing the days and hours during which ferment-on-premises facilities may operate;
- (z) respecting the possession, storage, removal, delivery, carriage or conveyance of liquor by a licensee or by any person acting for a licensee;
- (aa) requiring the payment of fees in respect of applications for the issuance, renewal or transfer of licences;
- (ab) requiring the holders of licences to provide the Executive Director with such information and returns respecting sales and respecting the premises, methods and practices connected therewith as may be prescribed and requiring any information provided to be verified by oath;
- (ac) prescribing a code of conduct for members of the Board of Directors, employees of the Corporation, employees of the Government or spouses of such members or employees for the purpose of subsection 82(3);
- (ad) respecting rules for proceedings before the Review Board;
- (ae) respecting the advertising of liquor and requiring the form of advertisement or public notice to be subject to the approval of the Minister of Service Nova Scotia;
- (af) prescribing the days and hours during which liquor may be sold or dispensed on licensed premises or any of them;
- (ag) prescribing a process for the Executive Director to rescind a decision;
- (ah) prescribing a process or processes for appeal, or referral, of a matter to the Review Board;
- (ai) prescribing a process for action taken against a licensee by the Executive Director;
- (aj) authorizing certain persons or class of persons to act on behalf of the Executive Director as may be necessary for the administration of this Act or the regulations;
- (ak) respecting the service of documents;
- (al) providing for the importation of alcoholic beverages by an individual for the individual's personal consumption and not for resale or other commercial use, and any terms, conditions or limitations in respect of such importation, including which types of alcoholic beverages may be imported;
- (am) respecting the establishment and administration of a system of administrative penalties applicable to holders of a licence or classes of licence, including
 - (i) how administrative penalties may be imposed,
 - (ii) the content of notices of administrative penalties,
 - (iii) the dollar amount of administrative penalties,
 - (iv) how an administrative penalty may be revoked, and
 - (v) the appeal of administrative penalties;
- (an) respecting the unsold, undelivered or other return of liquor to a licensee by a licensee or class thereof, or by any other person, including

- (i) respecting the compensation to be received or paid to a licensee or any other person in circumstances where liquor cannot be provided or delivered to the intended recipient,
- (ii) respecting the charging or refunding of money to a purchaser in relation to the return of liquor,
- (iii) requiring a contract or agreement respecting the return of liquor and prescribing the form and content of any contract or agreement,
- (iv) prescribing the form and content of any notice, statement or document required to be provided to any person respecting the return of liquor, and
- (v) respecting the disposition of any liquor returned to a licensee;
- (ao) defining any word or expression used but not defined in this Act;
- (ap) in respect of any other matter or thing in order to give full effect to the terms, intent and purpose of this Act and to carry out the functions and duties and exercise the powers of the Executive Director, the Minister of Service Nova Scotia and the Review Board. R.S., c. 260, s. 50; 2000, c. 28, s. 80; 2007, c. 42, s. 1; 2011, c. 21, s. 10; 2012, c. 43, s. 2; 2014, c. 18, s. 6; 2015, c. 43, s. 3; 2022, c. 18, s. 8.

Deemed licence fees

49 Any fees paid before or after April 13, 2007, under the authority of this Act or the regulations for applications for a licence or the issuance, transfer or renewal of a licence are deemed to be licence fees for the purpose of raising a revenue for the Province as authorized by subsection 92(9) of the *Constitution Act, 1867*. 2007, c. 9, s. 28.

Deemed charge, fee and levy

50 Any retail sales markup allocation or similar charge, fee or levy paid to the Corporation in connection with the sale of liquor before or after April 12, 2019, is deemed to be for the purpose of the raising of a revenue for the Province as authorized by subsection 92(9) of the *Constitution Act, 1867*. 2019, c. 4, s. 28.

Store manager

51 The sale of liquor at each Government store must be conducted by a person appointed under this Act to be known as a “store manager” who shall, under the directions of the Corporation, be responsible for the carrying out of this Act and the regulations, so far as they relate to the conduct of the store and the sale of liquor thereat. R.S., c. 260, s. 51; 2001, c. 4, s. 29.

Sale permitted

52 A store manager may sell to any person such liquor as that person is entitled to purchase in conformity with this Act and the regulations. R.S., c. 260, s. 52.

Consumption of liquor prohibited

53 (1) No officer, clerk or servant of the Corporation employed in the Government store may allow any liquor to be consumed on the premises of a Government store nor may any person consume any liquor on such premises, except as otherwise provided in this Act or the regulations.

(2) No operator or employee of an agency store may allow any liquor to be consumed on the premises of an agency store nor may any person consume any liquor on such premises, except as otherwise provided in this Act or the regulations. R.S., c. 260, s. 53; 2001, c. 4, ss. 21, 29.

Transportation of liquor

54 (1) It is lawful to carry or convey liquor to a liquor store and to and from a warehouse or depot established, maintained or operated by the Corporation or controlled or regulated by the Corporation for the purpose of this Act.

(2) A common carrier, licence holder or other person may, when permitted to do so by this Act, the regulations or a licence and in accordance therewith, carry or convey liquor

- (a) sold at a Government store or warehouse;
- (b) ordered or purchased by the Corporation; and
- (c) to or from premises where the liquor may be lawfully kept and sold,

to a place to which it may be lawfully delivered under this Act, the regulations or a licence.

(3) No common carrier, licence holder or any other person shall open or break or allow the opening or breaking of a package or vessel containing liquor, or drink or use or allow the drinking or use of any liquor therefrom while the liquor is being carried or conveyed.

(4) Subject to this Act and the regulations, whether or not the package or vessel containing liquor has been opened or the seal on the package or vessel is broken, a person who is permitted by law to possess and consume liquor within the Province and who for a lawful purpose

- (a) purchased the liquor lawfully within the Province;
- (b) brought the liquor, not exceeding a quantity determined by the regulations, lawfully into the Province; or
- (c) received the liquor as a bona fide gift,

may carry or convey that liquor to any place in which the person is permitted to possess, have or consume the liquor or from that place to another place in which the person is permitted to possess, have or consume the liquor if the person does not open the package or vessel or consume the liquor while carrying or conveying it.

(5) In subsections (6) and (7), “motor vehicle” means a motor vehicle within the meaning of the *Motor Vehicle Act* or an off-highway vehicle within the meaning of the *Off-highway Vehicles Act*.

(6) No person shall drive or otherwise exercise care or control of a motor vehicle, whether or not it is in motion, while that person is in possession of liquor or there is liquor in the motor vehicle unless

(a) the liquor is being transported or used in accordance with a licence or permit issued under this Act;

(b) the liquor is in a bottle, can or other vessel that has not been opened;

(c) the liquor is in the trunk or another part of the motor vehicle designed for the carriage of baggage or goods, or in any other location that is not readily accessible to any person in the vehicle; or

(d) the motor vehicle is

(i) a station wagon, passenger van, sport-utility vehicle, hatchback or another type of passenger vehicle that does not have a trunk and the liquor is behind the rearmost seat,

(ii) a pickup truck and the liquor is in an exterior compartment or in a space designed for the carriage of baggage or goods, or in any other location that is not readily accessible to any person in the truck,

(iii) a motorcycle within the meaning of the *Motor Vehicle Act* or an off-highway vehicle within the meaning of the *Off-highway Vehicles Act* and the liquor is in a baggage compartment, or is otherwise not readily accessible to the driver while the vehicle is being driven, or

(iv) a recreational vehicle within the meaning of the former *Tourist Accommodations Act* and either

(A) the liquor is kept in a location that is not readily accessible to a person occupying the driver's seat, or

(B) the vehicle is being used as a temporary residence while parked on land maintained as grounds for camping or for overnight parking of recreational vehicles or other land that is not part of a public highway.

(7) No person shall, while in or on a motor vehicle other than a motor vehicle parked as provided in paragraph (6)(d)(iv)(B), open any bottle, can or other vessel containing liquor or consume any liquor. R.S., c. 260, s. 54; 2001, c. 4, ss. 22, 29; 2005, c. 21, s. 1; 2022, c. 18, s. 9.

Gift

55 A person may make or receive a bona fide gift of liquor if

(a) the donor is in lawful possession of the liquor;

(b) the gift is not for the promotion of a brand of liquor unless such a gift for promotional purposes is made in accordance with methods and procedures authorized by this Act;

(c) the donee is not a person who is prohibited from possessing or consuming liquor under this Act; and

(d) it does not exceed the quantity determined by the regulations. R.S., c. 260, s. 55.

Special permit

56 (1) Notwithstanding anything contained in this Act, the Corporation may issue special permits respecting the manufacture, purchase, conveyance, consumption or sale of liquor.

(2) Upon application in the prescribed form being made to the Corporation or to any official authorized by the Corporation to issue permits accompanied by payment of the prescribed fee, and upon the Corporation or the official being satisfied that the applicant is entitled to a permit for the purchase of liquor under this Act, the Corporation or the official may issue to the applicant a permit of the class applied for, as follows:

(a) a special permit in the prescribed form may be granted to a druggist or to a person engaged within the Province in mechanical or manufacturing business, or in scientific pursuits, requiring liquor for use therein, entitling the applicant to purchase liquor for the purpose named in such special permit and in accordance with the terms and provisions of the special permit and in accordance with this Act and the regulations;

(b) a special permit in the prescribed form may be granted when authorized by the regulations, entitling the applicant to purchase liquor for the purpose named in the permit and in accordance with the terms and provisions of the permit, and of this Act and the regulations. R.S., c. 260, s. 56; 2001, c. 4, ss. 23, 29.

Expiration of permit

57 Unless sooner cancelled, every permit expires at midnight on December 31st following the date on which the permit is issued except in the case of

(a) special permits issued under clause 56(2)(b), which expire in accordance with the terms contained therein;

(b) a permit which, according to its terms, sooner expires. R.S., c. 260, s. 57.

Permit not transferable

58 Every permit must be issued in the name of the applicant therefor and no permit is transferable nor shall the holder of any permit allow any other person to use the permit. R.S., c. 260, s. 58.

Defacing permit prohibited

59 (1) No person shall deface any permit issued by the Corporation or erase, obliterate, remove or alter any writing, stamp or other mark of whatsoever nature placed on any permit by the Corporation or by any of its store managers, officers, officials or agents.

(2) No person shall have in the person's possession a permit that has been defaced or a permit from or on which any writing, stamp or other mark placed thereon by the Corporation or by any of its store managers, officers, officials or agents has been erased, obliterated, removed or altered. R.S., c. 260, s. 59; 2001, c. 4, s. 29.

Manner of issuing permit

60 No permit may be delivered to the applicant until the applicant has, if requested by the person issuing the permit, in the presence of some person duly authorized by the Corporation, or in the presence of the official to whom the application is made, written the applicant's signature thereon in the manner prescribed by the regulations for the purpose of the applicant's future identification as the holder thereof, and the signature has been attested by a member of the Corporation, or other official authorized to issue the same. R.S., c. 260, s. 60; 2001, c. 4, s. 29.

Special licence for service personnel

- 61 (1) In this Section, "service personnel" means members of
- (a) the Canadian Armed Forces;
 - (b) the Royal Canadian Mounted Police;
 - (c) the Canadian Coast Guard; and
 - (d) the merchant marine of Canada.

(2) Notwithstanding any other provision of this Act, the Executive Director may, in the Executive Director's absolute discretion, issue a special licence to any person who keeps or operates premises for the benefit of service personnel or for any class or classes of service personnel authorizing the person or the person's servant or agent to purchase beer from the Corporation and to sell by the glass or by the bottle the beer so purchased for consumption by service personnel on the premises kept or maintained by the licensee and specified in the licence and the beer may be consumed on the premises by any such service personnel.

(3) The Executive Director may attach to any licence such terms, conditions or restrictions as the Executive Director considers expedient and the Executive Director may, from time to time, by notice in writing vary, add or omit any such terms, conditions or restrictions.

(4) The Executive Director may cause to be made an inspection of any premises in respect of which a licence has been issued or applied for and may inquire into all matters whatsoever in connection with the operation of the premises.

(5) The Executive Director may, in the Executive Director's absolute discretion, at any time revoke or suspend any licence so issued.

- (6) The Governor in Council may make regulations prescribing
- (a) the form and manner of application for a special licence;
 - (b) the fee to be paid for such licence;
 - (c) the price or prices at which beer may be sold pursuant to such licence;

(d) the terms and conditions on which any such licence may be issued. R.S., c. 260, s. 61; 2000, c. 28, s. 81; 2001, c. 4, s. 29; 2011, c. 21, s. 11.

Possession of liquor permitted

62 (1) Except as otherwise provided by this Act or the regulations, liquor lawfully purchased from the Corporation by any person may and is authorized to be kept, had, given and consumed in the person's residence.

(2) Where the occupant of a residence or of any part thereof, including the rooms of any lodgers, boarders or tenants therein, or any member of the family of the occupant is convicted of keeping a disorderly house or of an offence against any of the provisions of this Act committed in or in respect of such residence or rooms, or in respect of any liquor kept therein or removed therefrom, the judge of the Provincial Court making the conviction may in and by the conviction, declare the residence or the rooms of the lodgers, boarders or tenants therein, or both, to be a public place for the purpose of this Act and the residence or rooms, or both, cease to be a residence within the meaning of this Act for a period of one year after the date of the conviction.

(3) Notwithstanding subsection (2), the Corporation may, when satisfied of a bona fide change of ownership or occupation of the residence or rooms, or both, or when it is desirable to do so, declare the residence or rooms, or both, to be a residence within the meaning of this Act and may grant a certificate to that effect to the new owner or occupant of the residence or rooms, or both, and the residence or rooms, or both, is, from the date of the granting of the certificate signed by the President of the Corporation, a residence and ceases to be a public place within the meaning of this Act. R.S., c. 260, s. 62; 2001, c. 4, s. 29.

Permit for brewer, distiller or vintner

63 (1) The Corporation may, with the approval of the Minister and subject to this Act and the regulations, grant a permit to a brewer, distiller or vintner authorizing the distiller, brewer or vintner to keep for sale and sell liquor to the Corporation.

(2) Subject to this Act and the regulations, the Corporation may include terms and conditions in a permit issued pursuant to this Section.

(3) The Corporation, with the approval of the Governor in Council, may make regulations respecting the transportation, delivery and storage of liquor by a permit holder. R.S., c. 260, s. 63; 2001, c. 4, s. 29.

Cancellation or suspension of permit

64 The Corporation may, for any cause that it considers sufficient with or without any hearing, cancel or suspend, in the manner prescribed by the regulations, any permit granted to a brewer, distiller or vintner, and the right of the brewer, distiller or vintner to sell or deliver liquor, beer or wine thereunder is suspended or determined as the case may be. R.S., c. 260, s. 64; 2001, c. 4, s. 29.

Appeal

65 (1) A person who is dissatisfied with a decision of the Corporation made pursuant to Section 64 may appeal the decision to the Minister within 30 days after it is made.

(2) The Minister shall consider the matter appealed to the Minister and may affirm, vary or reverse the decision of the Corporation.

(3) The decision of the Minister is final. R.S., c. 260, s. 65; 2001, c. 4, s. 29.

LIQUOR KEPT AND SOLD UNDER SPECIAL PERMITS**Special permit for druggist**

66 (1) Any druggist may have in the druggist's possession alcohol purchased by the druggist from a store manager under a special permit pursuant to this Act, the alcohol to be used solely in connection with the business of the druggist in compounding medicines or as a solvent or preservative, but no fee may be charged to a druggist by the Corporation for the special permit and that alcohol so purchased must be sold to a druggist at cost.

(2) No druggist may be appointed a store manager or be authorized or permitted to have or keep for sale or by the druggist or the druggist's clerk, servant or agent to sell liquor.

(3) Nothing in this Act interferes with or prevents the storing or the use by druggists of alcohol in bond solely for the purpose of manufacture of chemical substances or medicinal preparations, and alcohol for such use may be purchased in bond from any distiller or wholesale liquor dealer in Canada.

(4) Any druggist may sell rubbing alcohol compound supplied by and sold under the regulations of the Government of Canada. R.S., c. 260, s. 66; 2001, c. 4, s. 24.

Use of liquor by physician

67 (1) Any physician who is lawfully and regularly engaged in the practice of the physician's profession in the Province and who considers liquor necessary for the health of a patient of the physician whom the physician has seen or visited professionally may give to the patient a prescription therefor in the prescribed form, signed by the physician and addressed to a store manager for liquor not exceeding 26 ounces, but no prescription may be given except to a bona fide patient in cases of actual need and, when in the judgement of the physician the use of liquor as medicine in the quantity prescribed is necessary, or the physician may administer or supply the liquor to the patient, for which purpose the physician shall administer or supply only such liquor as was purchased by the physician under a special permit pursuant to this Act, and may charge for the liquor so administered or supplied.

(2) Every physician who gives any prescription or administers or supplies any liquor in evasion or violation of this Act, or who gives to or writes for any person a prescription for or including liquor for the purpose of enabling or assisting any person to evade any of the provisions of this Act, or for the purpose of enabling or assisting any person to obtain liquor to be used as a beverage, or to be

sold or disposed of in any manner in violation of this Act, is guilty of an offence against this Act.

(3) A store manager may, upon the prescription of a physician, sell and supply for strictly medicinal purposes

(a) distilled liquor not exceeding one quart at any one time;

(b) alcohol for rubbing or other necessary purposes not exceeding 16 ounces at any one time.

(4) No more than one sale and one delivery may be made on any one prescription.

(5) Any dentist who considers it necessary that any patient being then under treatment by the dentist should be supplied with liquor as a stimulant or restorative may administer to the patient the liquor so needed, and for that purpose the dentist shall administer liquor purchased by the dentist under special permit pursuant to this Act, and may charge for the liquor so administered, but no liquor may be administered by a dentist except to a bona fide patient in case of actual need, and every dentist who administers liquor in evasion or violation of this Act is guilty of an offence against this Act.

(6) Any veterinarian who considers it necessary may, in the course of the veterinarian's practice, administer or cause to be administered liquor to any dumb animal, and for that purpose the veterinarian shall administer or cause to be administered liquor purchased by the veterinarian under special permit pursuant to this Act, and may charge for the liquor so administered or caused to be administered, but no veterinarian shall consume nor shall the veterinarian give to or permit any person to consume as a beverage any liquor so purchased, and every veterinarian who evades or violates or suffers or permits any evasion of this Section is guilty of an offence against this Act.

(7) Any violation of this Section is an offence against this Act. R.S., c. 260, s. 67; 2000, c. 28, s. 82.

Use of liquor in approved institution

68 (1) Any person in charge of an institution regularly conducted as a hospital or sanatorium for the care of persons in ill-health, or as a home devoted exclusively to the care of aged people, may, where the person holds a special permit under this Act for that purpose, administer liquor purchased by the person under the person's special permit to any patient or inmate of the institution who is in need of the same, on the prescription of a physician, either by way of external application or otherwise for emergency medicinal purposes, and may charge for the liquor so administered, but no liquor may be administered by any person under this Section except on the prescription of a physician and to bona fide patients or inmates of the institution of which the person is in charge and in cases of actual need.

(2) Every person in charge of an institution or employed therein, who administers liquor in evasion or violation of this Act, is guilty of an offence against this Act. R.S., c. 260, s. 68.

APPLICATION OF ACT

Sale of liquor outside the Province

69 (1) Nothing in this Act prevents any brewer, distiller or vintner or other person duly licensed under any statute of the Parliament of Canada for the manufacture of liquor, from having or keeping liquor in a place and in the manner authorized by or under any such statute or from selling liquor therefrom to a person in another province of Canada or in a foreign country.

- (2)** Nothing in this Act prevents
- (a) the sale of liquor by any person to the Corporation;
 - (b) the purchase, importation and sale of liquor by the Corporation. R.S., c. 260, s. 69; 2001, c. 4, s. 29.

Sale of medicine permitted

70 Except as otherwise provided by this Act, the regulations or the *Pharmacy Act*, a druggist or manufacturer of or dealer in patent or proprietary medicines may sell such medicine if the medicine contains sufficient medication to prevent its use as an alcoholic beverage. R.S., c. 260, s. 70.

Sale of preparations permitted

71 (1) Except as otherwise expressly provided in this Act or as provided by the regulations or the *Pharmacy Act*, nothing in this Act prevents the sale

- (a) by a druggist or by a manufacturer of
 - (i) any tincture, fluid, extract, essence or medicated spirit containing alcohol prepared according to a formula of the British Pharmacopoeia or other recognized standard work on pharmacy,
 - (ii) medicine or other similar official or pharmaceutical compound or preparation,
 - (iii) a perfume, lotion, essence, tonic, tincture, or a compound or preparation commonly known as flavouring extract,
 - (iv) for purely medicinal purposes, any mixture so prepared containing alcohol and other drugs or medicine; or
- (b) by a merchant or dealer who deals in drugs or medicines, of such compounds, mixtures and preparations as are in this Section hereinbefore mentioned and are made or put up by a druggist or manufacturer.

(2) Where in any prosecution for selling any of the products mentioned in Section 70 or this Section, the judge of the Provincial Court hearing the complaint is of the opinion that an unreasonable quantity of any such product, having regard to the purposes for which the same was legitimately manufactured, was sold or otherwise disposed of to any person either at one time or at intervals, and proof is also given that the product was used for beverage purposes, the person selling or otherwise disposing of the same may be convicted of an offence under subsection 78(1).

(3) Any person who sells for beverage purposes any of the products mentioned in Section 70 or this Section is guilty of an offence.

(4) Any person who obtains or consumes for beverage purposes any of the products mentioned in Section 70 or this Section is guilty of an offence. R.S., c. 260, s. 71.

Order prohibiting sale of product

72 (1) Notwithstanding any other provision of this Act, the Corporation, where satisfied that any patent or proprietary medicine or any extract, lotion, essence, tonic, tincture, compound or preparation contains alcohol and is being kept for sale or sold for use as a beverage by any person, may, in the exercise of its discretion and with or without notice to the person affected, make an order prohibiting such person from having or selling any such product described therein.

(2) No person specified in any such order shall, after the making thereof, have or sell such product.

(3) Service of any such order upon the person therein specified may be proved by affidavit.

(4) The Corporation may in like manner revoke any such order. R.S., c. 260, s. 72; 2000, c. 28, s. 83; 2001, c. 4, s. 29.

Order prohibiting possession of product

73 (1) Notwithstanding any other provision of this Act, the Corporation, where satisfied that any patent or proprietary medicine, or any extract, lotion, essence, tonic, tincture, compound or preparation contains alcohol and is being used or may be used for beverage purposes, may from time to time in the exercise of its discretion and with or without notice to any person affected, with the approval of the Governor in Council, by notice signed by the President published in the Royal Gazette prohibit the possession and sale in the Province or any part thereof of the possession and sale in the Province or any part thereof except by a Government store or by a person thereunto licensed by the Corporation of any such medicine, extract, lotion, essence, tonic, tincture, compound or preparation prepared or manufactured by any particular person, or designated by any particular name or brand or otherwise.

(2) After publication of any such notice no person shall, in the Province or in that part of the Province to which such prohibition applies, as the case may be, have in possession or sell any medicine, extract, lotion, essence, tonic, tincture, compound or preparation the possession and sale of which is prohibited in the notice.

(3) The publication of notice of the prohibition in the Royal Gazette is conclusive proof of the making thereof by the Corporation and the approval thereof by the Governor in Council.

(4) The Corporation may in like manner revoke any such prohibition. R.S., c. 260, s. 73; 2001, c. 4, s. 29.

Information may be required on label

74 (1) Every brewer, distiller or vintner shall, on all beer, liquor or wine manufactured and bottled for sale or consumption within the Province, place such information as to the contents or otherwise as the Corporation may from time to time require and shall also cause the same information to be placed on any package or container in which the beer, liquor or wine is sold.

(2) Any brewer, distiller or vintner violating this Section is guilty of an offence and liable upon summary conviction to a penalty of not more than \$2,000. R.S., c. 260, s. 74; 2001, c. 4, s. 29.

Licence to sell or distribute

75 Subject to this Act and the regulations, the Corporation may license a person to engage in the sale and distribution of liquor and a person so licensed may act as agent for suppliers and manufacturers of liquor located outside the Province. R.S., c. 260, s. 75; 2001, c. 4, s. 29.

Beer or wine making for personal use

76 Subject to this Act and the regulations, any person may engage in the process of beer or wine making for personal use. R.S., c. 260, s. 76.

Liquor, beer and wine societies

77 Subject to this Act and the regulations, liquor, beer and wine societies may consume liquor, beer and wine and may order liquor, beer and wine in such places and in such quantities as the Corporation may prescribe by regulation. R.S., c. 260, s. 77; 2001, c. 4, s. 29.

PART III

PROHIBITIONS, PENALTIES AND PROCEDURE
IN PROSECUTIONS AND ON APPEAL**Unlawful sale of liquor**

78 (1) Except as provided by this Act or the regulations, no person shall, within the Province, nor by the person's clerk, servant or agent, directly or indirectly, upon any pretence or upon any device expose or keep for sale, sell or barter, or offer to sell liquor or in consideration of the purchase or transfer of any property, or for any other consideration, or at the time of the transfer of any property, give liquor to any other person.

(2) Except as authorized by this Act or the regulations, no liquor may be manufactured, transported, kept or had by any person.

(3) Except as authorized by this Act or the regulations, no liquor may be given or consumed by any person who is 19 years of age or older.

(4) Except as authorized by this Act or the regulations, no liquor may be given or consumed by any person under the age of 19 years.

(5) Every person who violates subsection (1) is guilty of an offence and liable upon summary conviction to a fine of not more than \$10,000 or to imprisonment for not more than six months, or to both.

(6) Every person who violates subsection (2) or (3) is guilty of an offence and liable upon summary conviction to a fine of not less than \$300 and not more than \$1,000 or, in default, to imprisonment for not less than one nor more than two months for a first offence, and to a fine of not less than \$750 and not more than \$1,500 or, in default, to imprisonment for not less than one and not more than four months for a second or subsequent offence.

(7) Every person who violates subsection (4) is guilty of an offence and liable upon summary conviction to a fine of not more than \$150. R.S., c. 260, s. 78; 2018, c. 3, s. 41; 2022, c. 18, s. 10.

Offence

- 79** (1) No person shall
- (a) contravene this Act or the regulations;
 - (b) fail to comply with a requirement or limitation imposed by the Executive Director under subsection 40(1);
 - (c) fail to comply with a term, condition or restriction to which the person's licence is subject; or
 - (d) knowingly furnish false information in any application, statement, report, information or other document required to be provided or submitted under this Act or the regulations.

(2) Every person who violates clause (1)(a) is guilty of an offence and, where no other penalty is provided in this Act, is liable upon summary conviction to a fine of not more than \$10,000 or to imprisonment for not more than six months, or to both.

(3) Every person who violates clause (1)(b), (c) or (d) is guilty of an offence and liable upon summary conviction to a fine of not more than \$10,000 or to imprisonment for not more than six months, or to both. 2022, c. 18, c. 11.

Gift prohibited

80 No brewer, distiller, vintner or manufacturer of liquor shall, within the Province nor by the person's clerk, servant or agent, give to any person any liquor except as may be permitted by and in accordance with the regulations. R.S., c. 260, s. 79.

Selling at prohibited place or time

81 (1) No store manager, and no person acting as the clerk or servant of, or in any capacity for any store manager, and no other person, shall sell liquor in any other place or at any other time or otherwise than as authorized by this Act and the regulations.

(2) No store manager, and no person acting as the clerk or servant of, or in any capacity for any store manager, shall furnish or sell liquor to any permit

holder or licence holder whose permit or licence has not been acquired in accordance with this Act and the regulations. R.S., c. 260, s. 80.

Commission, remuneration, profit or gift prohibited

82 (1) No member or employee of the Corporation or any employee of the Government, or spouse of the member or employee, shall solicit or receive directly or indirectly any commission, remuneration or gift whatsoever from any person or corporation having sold, selling or offering liquor for sale to the Government or Corporation in pursuance of this Act.

(2) No person selling or offering for sale, to, or purchasing liquor from, the Government or the Corporation, shall either directly or indirectly offer to pay any commission, profit or remuneration, or make any gift to any member or employee of the Corporation or to any employee of the Government, or spouse of the member or employee, or to anyone on behalf of such member or employee or spouse.

(3) Notwithstanding subsections (1) and (2),

(a) a member of the Board of Directors, an employee of the Corporation or employee of the Government or a spouse of a member or employee may receive a gift from a person having sold, selling or offering liquor for sale to the Government or the Corporation; and

(b) a person selling or offering for sale to, or purchasing liquor from, the Government or the Corporation may directly or indirectly offer to make a gift to a member of the Board of Directors, an employee of the Corporation, employee of the Government or a spouse of the member or employee, or to anyone on behalf of such member, employee or spouse,

only if the gift would be acceptable pursuant to subsections 16(2) and (3) of the *Conflict of Interest Act* or a more restrictive code of conduct prescribed by the regulations. R.S., c. 260, s. 81; 2001, c. 4, s. 29; 2007, c. 42, s. 2; 2010, c. 35, s. 39.

Business association prohibited

83 (1) No member or employee of the Review Board or employee of the Department having any responsibilities under this Act, or spouse of the member or employee, shall be directly or indirectly interested or engaged in any other business or undertaking dealing in liquor, whether as owner, part-owner, partner, member of a syndicate, shareholder, agent or employee and whether for the member's, employee's or spouse's own benefit or in a fiduciary capacity for some other person.

(2) No member or employee of the Review Board or employee of the Department having any responsibilities under this Act, or spouse of the member or employee, shall solicit or receive directly or indirectly any commission, remuneration or gift whatsoever from any person seeking or holding a licence granted pursuant to this Act.

(3) No person seeking or holding a licence granted pursuant to this Act shall either directly or indirectly offer to pay any commission, profit or remuneration, or make a gift to any member or employee of the Review Board or employee of the Department having any responsibilities under this Act, or to the

spouse of the member or employee, or to anyone on behalf of the member or employee. R.S., c. 260, s. 82; 2000, c. 28, s. 84.

Liquor not to be consideration

84 Except as provided in this Act, no person shall, within the Province, nor by the person's clerk, servant or agent attempt to purchase, or directly or indirectly or upon any pretence or upon any device, purchase or in consideration of the sale or transfer of any property, or for any other consideration, or at the time of the transfer of any property, take or accept from any other person any liquor. R.S., c. 260, s. 83.

Prohibited premises

85 Except as provided by this Act or the regulations, no person shall consume any liquor on any premises where liquor is kept for sale. R.S., c. 260, s. 84.

Religious use permitted

86 Liquor lawfully purchased may be consumed and is authorized to be consumed in an appropriate place when used for sacramental purposes or in any religious ceremony. R.S., c. 260, s. 85.

Seizure and forfeiture of liquor

87 Any Provincial Police constable or officer appointed by the Corporation who finds liquor that, in the constable's or officer's opinion, is had or kept by any person in violation of this Act may, without laying any information or obtaining any warrant, forthwith seize and remove the same and the package in which the liquor is kept, and upon conviction of the person for a violation of this Section the liquor and all packages containing the same are, in addition to any other penalty prescribed by this Act, *ipso facto* forfeited to the Crown in right of the Province. R.S., c. 260, s. 86; 2001, c. 4, s. 29.

Public intoxication prohibited

88 (1) No person shall be in an intoxicated condition in a public place.

(2) Where an officer has reasonable and probable grounds to believe a person is in an intoxicated condition in a public place, the officer may, instead of charging the person under this Act, take the person into custody to be dealt with in accordance with this Section.

(3) A person taken into custody pursuant to this Section may be taken by the officer to any available treatment service, hostel or facility for care.

(4) A person arrested or taken into custody pursuant to this Section may not be held in custody in a jail or lock-up for more than 24 hours after being arrested or taken into custody.

(5) A person taken by an officer to any treatment service, hostel or facility for care may not be detained there for more than 24 hours after the person was taken into custody unless the person consents to remain for a longer period.

(6) A person taken into custody pursuant to this Section may be released from custody at any time if

(a) the person in custody has recovered sufficient capacity that, if released, the person is unlikely to cause injury to the person's self or be a danger, nuisance or a disturbance to others; or

(b) a person capable of doing so undertakes to take care of the person in custody upon the release of the person in custody. R.S., c. 260, s. 87.

Sale to impaired person

89 No employee of the Corporation may sell or supply liquor or permit liquor to be sold or supplied to any person under, or apparently under, the influence of liquor. R.S., c. 260, s. 88; 2001, c. 4, s. 29.

Use of liquor by minor

90 (1) Liquor may not be sold, supplied, delivered or given to or procured for or by any person under the age of 19 years, except for medicinal purposes only as provided for by this Act.

(2) Every person who knowingly sells, delivers or supplies liquor to any person under the age of 19 years or knowingly gives liquor to or procures liquor for any person under the age of 19 years, except for medicinal purposes only as provided by this Act, is guilty of an offence and liable upon summary conviction to a fine of not more than \$10,000.

(3) Every person who, while under the age of 19 years, knowingly procures liquor, except for medicinal purposes only as provided by this Act, is guilty of an offence and liable upon summary conviction to a fine of not more than \$150.

(4) Except as authorized by the regulations, no person who is under the age of 19 years shall enter or be in a beverage room, lounge, cabaret or other licensed premises in respect of which a beverage room licence, lounge licence, cabaret licence or other licence is in effect.

(5) Every person who violates subsection (4) is guilty of an offence and liable upon summary conviction to a fine of not more than \$150.

(6) Except as authorized by the regulations, the holder of a beverage room licence, lounge licence, cabaret licence or other licence shall not permit a person who is under the age of 19 years to be or remain in the beverage room, lounge, cabaret or other licensed premises.

(7) No licensee of a ferment-on-premises facility or employee or agent of such a licensee shall permit a person under the age of 19 years to use the facility for the making of beer or wine.

(8) Subsection (7) does not preclude a person under the age of 19 years from entering or being in a ferment-on-premises facility if the person is in the company of a parent or guardian. R.S., c. 260, s. 89; 1990, c. 33, s. 1; 2014, c. 18, s. 7; 2018, c. 3, s. 42; 2022, c. 18, s. 12.

Unlawful purchase of liquor

91 Except as provided by this Act or the regulations, no person shall purchase liquor from any person other than a store manager or the Corporation. R.S., c. 260, s. 90; 2001, c. 4, s. 29.

Restoration of permit or licence

92 No person whose permit or licence to purchase liquor has been cancelled shall, within a period of 12 months after the date of the cancellation, make application for another permit or licence under this Act. R.S., c. 260, s. 91.

Unlawful use of permit or licence

93 (1) No person shall purchase or attempt to purchase liquor under a permit or licence that is suspended, has been cancelled or of which the person is not the holder.

(2) No person shall apply in any name except the person's own for the issue to the person of a permit or licence authorizing the purchase of liquor.

(3) No person shall furnish a wrong or fictitious address or age in applying for the issue to the person of a permit authorizing the purchase of liquor. R.S., c. 260, s. 92.

Offence by Corporation personnel

94 No store manager or assistant, clerk or other employee of a store, shall

(a) purchase liquor except from the Corporation;

(b) have on the premises of the Government store or agency store under the store manager's, assistant's, clerk's or employee's control any liquor that has not been supplied by the Corporation;

(c) sell or offer for sale any liquor other than such as has been supplied by the Corporation;

(d) adulterate or cause to be adulterated any liquor kept for sale under this Act, by mixing with the same colouring matter or any drugs or ingredients whatever;

(e) mix the same with other liquor of whatever kind or quality or with water;

(f) sell or expose for sale liquor so adulterated. R.S., c. 260, s. 93; 2001, c. 4, s. 29.

Bribery

95 No person shall offer or give money or any other consideration to a store manager or other employee of a Government store or agency store as an inducement to violate this Act, or as an inducement for such store manager or employee to promote the sale of any particular class or brand of liquor. R.S., c. 260, s. 94; 2001, c. 4, s. 26.

Duty to prevent drunkenness

96 No person shall

- (a) permit drunkenness to take place in any house or on any premises of which the person is the owner, tenant or occupant;
- (b) permit or suffer any person apparently under the influence of liquor to consume any liquor in any house or on any premises of which the first named person is the owner, tenant or occupant; or
- (c) give any liquor to any person apparently under the influence of liquor. R.S., c. 260, s. 95.

Promotion of liquor prohibited

97 Except as permitted by this Act or the regulations, no person shall, within the Province, advertise or promote in any manner any liquor, beer or wine. R.S., c. 260, s. 96.

Regulations respecting alcohol and pregnancy

98 The Governor in Council shall make regulations requiring the Corporation to post signs and otherwise publicize, in such manner as the regulations provide, the potential negative effects of the consumption of alcohol during pregnancy. 2004, c. 39, s. 1

Promotion payment prohibited

99 Except as provided by this Act or the regulations, no person on the person's own behalf or on behalf of any other person shall, for the purpose of promoting the sale of or advertising or creating goodwill for any liquor, offer, give or dispose of by way of sale or otherwise, anything whatsoever, and no person shall accept or receive anything whatsoever offered, given or otherwise disposed of for such purposes or any of them. R.S., c. 260, s. 97.

Storage of liquor prohibited

100 Except as otherwise provided in this Act or the regulations, no person may lease or permit the use of any building or premises owned or occupied by the person for the storage of liquor. R.S., c. 260, s. 98.

Sale or supply of liquor prohibited

101 Every person who unlawfully sells, carries, conveys, delivers or supplies liquor to a person, other than a person who is under the age of 19 years, is guilty of an offence and liable upon summary conviction to a fine of not less than \$3,000 and not more than \$10,000 or to imprisonment for not more than six months, or to both. 2022, c. 18, s. 13.

Prohibited sale by manufacturer

102 A manufacturer of liquor convicted of selling liquor in violation of this Act or the regulations is guilty of an offence and upon summary conviction shall pay a fine of \$10,000. R.S., c. 260, s. 100.

Prohibited purchase

103 Every person who purchases, acquires, receives or attempts to purchase, acquire or receive liquor from a person who is not authorized by enactment to sell, supply or deliver liquor is guilty of an offence and liable upon summary conviction to a fine of not less than \$500 and not more than \$10,000. 2022, c. 18, s. 14.

False proof of age

104 Every person who presents false proof of age in order to obtain an identification card or to purchase liquor is guilty of an offence and liable upon summary conviction to a fine of not more than \$150. R.S., c. 260, s. 102; 2018, c. 3, s. 44.

Penalty for corporation

105 Notwithstanding any other provision of this Act, where a corporation is convicted of a violation of this Act or the regulations for which no greater penalty is provided, the corporation is liable to a fine of not more than \$25,000 for a first offence and not more than \$50,000 for a second or subsequent offence. R.S., c. 260, s. 103; 2001, c. 4, s. 28.

Limitation period

106 The limitation period for the prosecution of an offence under this Act is two years from the date of the commission of the alleged offence. 2022, c. 18, s. 15.

Liquor to be forfeited

107 In all cases where a conviction under this Act is made in respect of any liquor, the judge of the Provincial Court making the conviction shall declare the liquor to be forfeited to the Crown in right of the Province. R.S., c. 260, s. 105.

Officer of corporation personally liable

108 Where an offence against this Act is committed by a corporation, the officer or agent of the corporation in charge of the premises in which the offence is committed is prima facie deemed to be a party to the offence so committed, and is personally liable to the penalties prescribed for the offence as a principal offender, but nothing in this Section relieves the corporation or the person who actually committed the offence from liability therefor. R.S., c. 260, s. 106.

Occupant liable

109 Upon proof of the fact that an offence against this Act has been committed by any person in the employ of the occupant of any house, shop, room or other premises in which the offence is committed, or by any person who is suffered by the occupant to be or remain in or upon such house, shop, room or premises, or to act in any way for the occupant, the occupant is prima facie deemed to be a party to the offence so committed, and is liable to the penalties prescribed for the offence as a principal offender, notwithstanding the fact that the offence was committed by a person who is not proved to have committed it under or by the direction of the occupant, but nothing in this Section relieves the person actually committing the offence from liability therefor. R.S., c. 260, s. 107.

Warrant to enter and search

110 (1) Upon information on oath by any Provincial Police constable or other officer, that the constable or officer suspects or believes that liquor is unlawfully kept or had, or kept or had for unlawful purposes, in any residence, building or premises, it is lawful for any justice of the peace, by warrant under the justice's hand, to authorize and empower the inspector or constable, or any other person named therein, to enter and search the residence, building or premises and every part thereof at any time in the day or night and for that purpose to break open any door, lock or fastening of the residence, building or premises or any part

thereof, or any closet, cupboard, box, or other receptacle therein that might contain liquor, and to seize such liquor if found.

(2) It is not necessary for the inspector, constable or other officer to set out in the information any reason or grounds for their suspicion or belief. R.S., c. 260, s. 108.

Blanket search warrant

111 (1) Any Provincial Police constable or other officer, who is authorized in writing for the purpose by the Minister, where the constable or officer believes or suspects that liquor is unlawfully kept or had, or kept or had for unlawful purposes, in any residence, building or premises, may, without warrant, whether alone or accompanied by other officers, at any time in the day or night, enter and search the residence, building or premises, and every part thereof, and for that purpose may break open any door, lock or fastening of the residence, building or premises or any part thereof, or any closet, cupboard, box or other receptacle therein that might contain liquor and seize such liquor if found, and such authority is a general one and is effective until revoked, and such authority in writing is prima facie proof before any court.

(2) Every person being in the residence, building or premises or having charge thereof who refuses or fails to admit any inspector, constable or other officer demanding to enter in pursuance of this Section or Section 110 in the execution of the inspector's, constable's or other officer's duty, or who obstructs or attempts to obstruct the entry of the inspector, constable or other officer or any search by the inspector, constable or other officer, is guilty of an offence against this Act. R.S., c. 260, s. 109.

Presumption that liquor for sale

112 (1) Where on any such search as mentioned in Sections 110 and 111, any liquor is found on the premises, the occupant of the premises is, until the contrary is proved, deemed to have kept the liquor for sale contrary to this Act, and may be arrested by any of the officers having the search warrant or the authority of the Minister aforesaid or their assistants.

(2) Upon arrest, the person must be brought before the justice of the peace who issued the search warrant or in the case of a search under Section 111 before any judge of the Provincial Court having jurisdiction, and the person must then stand charged before the judge or justice of the peace with having unlawfully kept liquor for sale on the day of the seizure, at the place where the seizure was made, contrary to this Act, in all respects and to the same effect as if an information had been duly laid for the offence and the person had been brought before the judge or justice of the peace under a warrant issued thereon.

(3) The judge or justice of the peace shall thereupon remand to jail the person for trial upon the charge at such time as the judge appoints unless the person enters into sufficient recognizance with or without sureties for the person's appearance for trial at such appointed time.

(4) Further proceedings in such case must be as provided in and for an ordinary prosecution for keeping for sale liquor contrary to this Act. R.S., c. 260, s. 110.

Power to arrest

113 (1) Any inspector, constable or other officer may arrest without warrant any person whom the inspector, constable or other officer finds committing an offence against this Act.

(2) Every inspector appointed under this Act has all the authority conferred by any statute of this Province on constables, special constables, police officers or other peace officers and may execute a summons or warrant issued upon an information laid by the inspector. R.S., c. 260, s. 111.

Right to determine name and address

114 Any Provincial Police constable or other officer, having in pursuance of the authority conferred by this Act, entered any licensed or unlicensed premises may demand the name and address of any person found therein, and where such person refuses to give the person's name and address, or where the inspector, constable or other officer has reasonable grounds to believe that the name or address given is false, the inspector, constable or other officer may examine the person further as to the correctness of the name or address, and where the person fails upon demand to give the person's name or address, or to answer satisfactorily the questions put to the person, the person is deemed guilty of a violation of this Act and the inspector, constable or other officer may arrest the person without warrant and prosecute the person for such violation of this Act. R.S., c. 260, s. 112.

Power to search

115 Any Provincial Police constable or other officer who believes or suspects that liquor is unlawfully kept or had, or kept or had for unlawful purposes, and is contained in any vehicle, motor car, automobile, vessel, boat, canoe or conveyance of any description, or is unlawfully kept or had, or kept or had for unlawful purposes, on the lands or persons of any person, has power without warrant to search for such liquor wherever the constable or other officer may suspect it to be and where need be, by force, and may search the person personally, and may seize and remove any liquor found and the packages in which the same is kept. R.S., c. 260, s. 113.

Search of female

116 Where the person to be searched is a female suspected of unlawfully having liquor concealed upon her person or among her personal effects or in any place over which she has control, the Provincial Police constable or other officer may, where the constable or other officer judges it advisable, employ any woman to act in the capacity of a police matron for the purpose of assisting the constable or other officer in conducting a search for such liquor and the person so employed has, for such purpose and in any other matter or thing pertaining thereto or arising thereout, all the powers, privileges and immunities belonging to the Provincial Police constable or other officer. R.S., c. 260, s. 114.

Liquor unlawfully kept in building

117 (1) Where the Provincial Police constable or other officer, in making or attempting to make any search under or in pursuance of the authority conferred by Section 110, 111 or 115 finds in any building or place any liquor that, in the constable's or other officer's opinion, is unlawfully kept or had, or kept or had for unlawful purposes, contrary to this Act, the constable or other officer may forth-

with seize and remove the same and the packages in which the same is kept, and may seize and remove any book, paper or thing found in the building or place that, in the constable's or other officer's opinion, will afford evidence as to the commission of any offence against this Act.

(2) Upon the conviction of the occupant of the building or place or any other person for keeping the liquor contrary to this Act in such building or place, the judge of the Provincial Court making the conviction shall in and by the conviction declare the liquor and packages or any part thereof to be forfeited to the Crown in right of the Province. R.S., c. 260, s. 115.

Liquor unlawfully kept in vehicle

118 Where the Provincial Police constable or other officer, in making or attempting to make any search under or in pursuance of the authority conferred by Section 115 finds in any vehicle, motor car, automobile, vessel, boat, canoe or conveyance of any description, liquor that, in the constable's or other officer's opinion, is unlawfully kept or had, or kept or had for unlawful purposes contrary to this Act, the constable or other officer may forthwith seize the liquor and the packages in which the same is contained, and the vehicle, motor car, automobile, vessel, boat, canoe or conveyance in which the said liquor is so found.

(2) Upon the conviction of the occupant or person in charge of the vehicle, motor car, automobile, vessel, boat, canoe or conveyance or of any other person, for having or keeping the said liquor contrary to this Act in the vehicle, motor car, automobile, vessel, boat, canoe or conveyance, the judge of the Provincial Court making the conviction may in and by the conviction declare the liquor or any part thereof so seized and the packages in which the same is contained to be forfeited to the Crown in right of the Province, and the judge of the Provincial Court may in and by the conviction further declare the vehicle, motor car, automobile, vessel, boat, canoe or conveyance so seized to be forfeited to the Crown. R.S., c. 260, s. 116.

Liquor found by peace officer

119 (1) Where liquor is found by any Provincial Police constable or other officer on any premises or in any place or in any vehicle, motor car, automobile, vessel, boat, canoe or conveyance of any description and in such quantities as to satisfy the constable or officer that the liquor is being had or kept contrary to this Act, it is lawful for the constable or other officer to forthwith seize and remove by force, if necessary, any liquor so found and the packages in which the liquor was had or kept, together with any vehicle, motor car, automobile, vessel, boat, canoe or conveyance containing the liquor, and subsections (2), (3) and (4) apply.

(2) Where liquor and any vehicle, motor car, automobile, vessel, boat, canoe or other conveyance containing liquor has been seized by a constable or other officer under this Act, under such circumstances that the constable or officer is satisfied that the liquor was had or kept contrary to this Act, the constable or other officer shall, under this Section, retain the liquor and the packages in which the same was had or kept, together with the vehicle, motor car, automobile, vessel, boat, canoe or other conveyance.

(3) Where, within 30 days from the date of the seizure, no person by notice in writing filed with the Corporation claims to be the owner of the liquor and the vehicle, motor car, automobile, vessel, boat, canoe or other conveyance con-

taining the liquor, the liquor and all packages containing the same, together with the vehicle, motor car, automobile, vessel, boat, canoe or other conveyance containing such liquor is *ipso facto* forfeited to the Crown in right of the Province and must forthwith be delivered to the Corporation.

(4) Where within the said time any claimant appears, it is incumbent upon the claimant within that time, after three days notice in writing filed with the Corporation, and in accordance with the regulations, to prove the claimant's claim and the claimant's right under this Act to the possession of the liquor and packages or of the vehicle, motor car, automobile, vessel, boat, canoe or other conveyance containing the liquor and packages to the satisfaction of the Corporation, and on failure within that time to prove and establish the claimant's claim and right, the liquor and packages, and the vehicle, motor car, automobile, vessel, boat, canoe or other conveyance in which the liquor was found is *ipso facto* forfeited to the Crown in right of the Province.

(5) Any Provincial Police constable or other officer may seize any liquor that the constable or other officer has reason to believe has been kept or had in possession in violation of subsection 78(1), and may arrest without warrant any person whom the constable or other officer finds so offending and, upon the conviction of the person keeping or having such liquor in violation of said subsection, the liquor seized is *ipso facto* forfeited to the Crown in right of the Province. R.S., c. 260, s. 117; 2001, c. 4, s. 29.

Forfeited liquor to Corporation

120 (1) In every case in which a judge of the Provincial Court makes any order for the forfeiture of liquor under this Act, and in every case in which any claimant to liquor under Section 119 fails to establish the claimant's claim and right thereto, the liquor in question and the packages in which the liquor is kept must forthwith be delivered to the Corporation.

(2) The Corporation shall thereupon determine the market value of all forfeited liquor that is found to be suitable for sale in the Government stores, and the Corporation shall pay the amount so determined to the Minister of Finance and Treasury Board, after deducting therefrom the expenses necessarily incurred by the Corporation for transporting the forfeited liquor to the Government warehouses, and the liquor suitable for sale must be taken into stock by the Corporation and sold under this Act.

(3) All forfeited liquor that is found to be unsuitable for sale in Government stores must be destroyed under competent supervision as may from time to time be directed by the Corporation.

(4) In every case in which liquor is seized by a Provincial Police constable or other officer it is the constable's or other officer's duty forthwith to make or cause to be made to the Corporation a report in writing of the particulars of the seizure.

(5) Every motor car, automobile, vessel, boat, canoe or other vehicle or conveyance, or any package, receptacle, material or other matter or thing, other than liquor, forfeited to the Crown in right of the Province under this Act, must, in accordance with the regulations, be sold by public auction or public tender by the Corporation, but the Governor in Council may direct that any such motor car,

automobile, vessel, boat, canoe or other vehicle or conveyance, or any such package, receptacle, material or other matter or thing must be destroyed or reserved for the public service and the proceeds of every such sale are subject to the control of the Corporation, who shall first pay thereout all necessary costs and expenses of custody and sale, and shall then pay over the remainder of the proceeds to the Minister of Finance and Treasury Board to form part of the General Revenue Fund. R.S., c. 260, s. 118; 2001, c. 4, s. 29; 2010, c. 2, s. 115; 2014, c. 34, s. 30.

Informant to be confidential

121 Where any information is given to any Provincial Police constable or other officer that there is cause to suspect that some person is contravening this Act, it is the constable's or other officer's duty to make diligent inquiry into the truth of such information and to enter complaint of the contravention before the proper court, without communicating the name of the person giving the information. R.S., c. 260, s. 119.

Inspection of commercial paper

122 (1) For the purpose of obtaining information concerning any matter relating to the administration or enforcement of this Act, any inspector or officer appointed by the Corporation in writing for the purpose or any Provincial Police constable may inspect the freight and express books and records, and all waybills, bills of lading, receipts and documents in the possession of any railway company, express company or other common carrier doing business within the Province, any information on record relating to any goods shipped or carried or consigned or received for shipment or carriage within the Province.

(2) Every railway company, express company or common carrier, and every officer or employee of any such company or common carrier, who neglects or refuses to produce and submit for inspection any book, record or document referred to in subsection (1) when requested to do so by the Corporation or by such inspector or officer or Provincial Police constable, is guilty of an offence against this Act. R.S., c. 260, s. 120; 2001, c. 4, s. 29.

Disposition of pecuniary penalty

123 Any pecuniary penalty imposed for the violation of this Act must, when recovered, be appropriated as follows:

(a) in any case where the prosecutor is a police officer, constable or other officer of a regional municipality or town the penalty must be paid over by the judge of the Provincial Court or officer receiving the same to the treasurer of the regional municipality or town;

(b) in all other cases the penalty belongs to the Corporation and must be paid over by the judge of the Provincial Court or justice receiving the same to the inspector, constable or other officer who instituted the prosecution to be by the inspector, constable or other officer paid over or remitted to the Corporation. R.S., c. 260, s. 121; 2001, c. 4, s. 29.

Peace officer exempt from prosecution

124 (1) Where it is made to appear to the judge of the Provincial Court before whom any complaint under this Act is heard that the person charged was acting as a Provincial Police inspector, constable or other officer whose duty it

was to enforce this Act, or was acting under the instructions or authority of the Attorney General, the Corporation, or the chief of a police force, for the purpose of enforcing any of the provisions of this Act, and of obtaining evidence upon which any person might be brought to justice, the defendant may not be convicted.

(2) Where, upon any prosecution under this Act or under any regulation, it appears from the evidence of any witness that such witness was present at the time or place at which the offence was committed, or did unlawfully procure or attempt to procure liquor at such time and place, the judge of the Provincial Court before whom the prosecution is brought may, having regard to the demeanour of the witness and the witness's mode of giving evidence, by certificate in that behalf, exempt the witness from prosecution for such unlawful act, but no such exemption may be granted to any person charged with the unlawful keeping for sale or other disposal of liquor, nor to the keeper or occupant of premises upon which the offence in respect of which the prosecution is brought, is alleged to have been committed.

(3) No witness examined in any proceeding under this Act may be compelled to state that the witness is an informer in the proceeding, nor may any question be put to the witness with the object of showing whether the action was taken on a complaint by an informer or of revealing the name of the informer.

(4) The law in force immediately before the enactment of Chapter 37 of the Acts of 1913 with respect to a witness being excused from answering a question upon the ground that the answer to such question may tend to criminate the witness or may tend to establish the witness's liability to a civil proceeding at the instance of the Crown or of any person, applies to any witness in any prosecution or proceeding under this Act. R.S., c. 260, s. 122; 2001, c. 4, s. 29.

Particulars unnecessary

125 In any prosecution under this Act for the sale or keeping for sale or other disposal of liquor or the having, keeping, giving, purchasing or consuming of liquor, it is not necessary that any witness should depose to the precise description or quantity of the liquor sold, disposed of, kept, had, given, purchased or consumed, or the precise consideration, if any, received therefor, or to the fact of the sale or other disposal having taken place with the witness's participation or to the witness's own personal or certain knowledge, but the judge of the Provincial Court trying the case, so soon as it appears to the judge that the circumstances in evidence sufficiently establish the offence complained of, shall put the defendant on the defendant's defence, and, in default of the defendant's rebuttal of such evidence to the satisfaction of the judge, convict the defendant accordingly. R.S., c. 260, s. 123.

Proof of unlawful transfer of liquor

126 In proving the sale, disposal, gift or purchase, gratuitous or otherwise, or consumption of liquor, it is not necessary in any prosecution to show that any money actually passed or any liquor was actually consumed, if the judge of the Provincial Court hearing the case is satisfied that a transaction in the nature of a sale, disposal, gift or purchase actually took place, or that any consumption of liquor was about to take place and proof of consumption or intended consumption of liquor on premises on which consumption is prohibited, by some person not authorized to consume liquor thereon, is evidence that such liquor was sold or given to or purchased by the person consuming, or being about to consume, or carrying away the same, as against the occupant of the premises. R.S., c. 260, s. 124.

Certificate as evidence

127 (1) In any prosecution under this Act or the regulations, production by an inspector, a police officer, constable, Provincial Police inspector, peace officer or other officer, of a certificate or report signed or purporting to be signed by a Dominion or Provincial analyst or by a member of the Corporation as to the analysis or ingredients of any liquor or other fluid or any preparation, compound or substance, or that any liquor is or is not liquor sold by the Corporation, is conclusive evidence of the facts stated in the certificate or report and of the authority of the person giving or making the same without any proof of appointment or signature.

(2) The Governor in Council may appoint such persons as the Governor in Council thinks fit to be Provincial analysts for the purpose of this Act. R.S., c. 260, s. 125; 2001, c. 4, s. 29.

Inference from description

128 (1) The judge of the Provincial Court trying a case shall, in the absence of proof to the contrary, infer that the liquor in question is intoxicating from the fact that a witness describes it as intoxicating, as rum, whisky, gin, wine, ale or beer or by any other name that is commonly applied to an intoxicating liquor.

(2) Any liquor that contains more than one half of one per cent by volume at 60 degrees Fahrenheit of absolute alcohol is conclusively deemed to be intoxicating, but no inference may be drawn that liquor that contains less than such one half of one per cent of absolute alcohol is not intoxicating. R.S., c. 260, s. 126.

Inference from circumstance

129 Upon the hearing of any charge of selling or purchasing liquor, or of unlawfully having or keeping liquor contrary to this Act, the judge of the Provincial Court trying the case has the right to draw inferences of fact from the kind and quantity of liquor found in the possession of the person accused, or in any building, premises, vehicle, motor car, automobile, vessel, boat, canoe, conveyance or place occupied or controlled by the person, and from the frequency with which the liquor is received thereat or therein or is removed therefrom, and from the circumstances under which it is kept or dealt with. R.S., c. 260, s. 127.

Burden on accused

130 Where, on the prosecution of any person charged with committing an offence against this Act, in selling or keeping for sale or giving or keeping or having or purchasing or receiving of liquor, prima facie proof is given that the person had in the person's possession or charge or control any liquor in respect of or concerning which the person is being prosecuted, then, unless the person proves that the person did not commit the offence the person is charged with, the person may be convicted of the offence. R.S., c. 260, s. 128.

Obstruction is prima facie evidence

131 (1) In any prosecution for an offence alleged to have been committed under this Act, it is prima facie evidence that liquor is being unlawfully kept for sale in any building, house, room, shop or other place in which an offence has been committed against this Act within the period of six months next preceding the date of the laying of the information in such prosecution and a conviction has been obtained therefor against any person if any inspector, constable or other officer

authorized under this Act to enter the building, house, room, shop or other place and search for liquor is in any manner wilfully prevented from entering or is obstructed or delayed in entering the same or any part thereof and the fact in particular that entrance to the building, house, room, shop or other place is had by any door or doors more strongly guarded by locks, bolts, bars or other defences than is reasonably necessary for purposes of security is prima facie evidence of an intention to prevent, obstruct or delay the inspector, constable or other officer in their attempt to enter the building, house, room, shop or other place for the purpose aforesaid and the occupant of the building, house, room, shop or other place is, until the contrary is proved, deemed guilty of having kept liquor for sale.

(2) Subsection (1) also applies if in the building, house, room, shop or other place devices or contrivances are found for giving notice or warning of the approach or attempted entrance of any inspector, constable or officer, or if bottles or other vessels containing liquor are broken or destroyed or thrown out, or if liquor is spilled on the premises. R.S., c. 260, s. 129.

Burden respecting right to have liquor

132 (1) The burden of proving the right to have, keep, sell, give, purchase or consume liquor is on the person accused of improperly or unlawfully having, keeping, selling, giving, purchasing or consuming the liquor, notwithstanding that the prosecution has given any evidence whatsoever in addition to the prima facie proof referred to in Section 130.

(2) The burden of proving that any prescription or administration of liquor is bona fide and for medical purposes only is upon the person who prescribes or administers the liquor, or causes the liquor to be administered, and a judge of the Provincial Court trying a case has the right to draw inferences of fact from the frequency with which similar prescriptions are given and from the amount of liquor prescribed or administered, and from the circumstances under which it is prescribed or administered. R.S., c. 260, c. 130.

Restriction on right to claim liquor

133 Notwithstanding anything hereinbefore contained, no person who, or whose partner or agent, or one of whose relations living with the person, is convicted of a violation of this Act is permitted to set up or shall set up any claim or right of property in any of the liquor or vessels seized or to dispute the legality of any such seizure. R.S., c. 260, s. 131.

Concealment is evidence

134 Where it appears to the judge of the Provincial Court that any liquor seized under this Act or any part thereof was consigned to some person in a fictitious name, or was shipped as other goods, or was covered or concealed in such a manner as would probably render discovery of the nature of the contents of the vessel, cask or package in which the same was contained more difficult, it is prima facie evidence that the liquor was intended to be sold or kept for sale or to be kept in contravention of this Act, or was bought or obtained in contravention of this Act. R.S., c. 260, s. 132.

Presence of appliances or preparations

135 Any house, shop, room or other place in which it is proved that there exist beer pumps or any other appliances or preparations similar to those usually found in hotels and shops where liquor is accustomed to be sold or trafficked in, other than those of common use in private houses, is prima facie evidence that it is a place in which liquor is unlawfully had or kept or had or kept for an unlawful purpose and in contravention of this Act, and the occupant of the house, shop, room or other place is taken to be the person who has or keeps therein the liquor for sale, traffic or barter therein. R.S., c. 260, s. 133.

Appearance of premises

136 The fact of any person keeping up any sign, writing, printing or other work in or near to the person's house or premises, or having the house fitted up with a bar or other place containing bottles or casks displayed so as to induce a reasonable belief that the house or premises is or are licensed for the sale of any liquor or that liquor is sold or served therein, or that there is on such premises more liquor than is reasonably required for the persons residing therein, is deemed prima facie evidence of the unlawful sale and keeping for sale and having and keeping of liquor by the person. R.S., c. 260, s. 134.

Order closing premises

137 (1) Upon a conviction of any person for a violation of this Act, a judge of the Provincial Court in writing may order a chief of police or any constable to close, and the chief of police or constable shall close by means of seals, padlocks or otherwise any hotel, restaurant, house, residence, apartment, suite, building or premises in which or in respect of which, during the 12 months immediately preceding the making of such order, two other violations of this Act have been committed for which the same or any other person or persons were convicted.

(2) The previous convictions may be proved prima facie by the production of a certificate or certificates purporting to be under the hand of a member of the Corporation without any further or other proof or any proof that the certificate was signed by the member of the Corporation or that the person is or was on the date of the certificate a member of the Corporation or that the certificate was granted or given in accordance with law and it is not necessary to state in the certificate that the offence for which the person was so previously convicted was committed in any particular place if proof is given by oral evidence before the judge that all of the offences in question were committed in the same place.

(3) Such closing is for such period, not exceeding 12 months, as the judge of the Provincial Court may fix in the order and the Corporation may, in its discretion, order the determination of the closing on the report of the chief of police or constable as the case may be, or when it is satisfied by the report or evidence of any person that there has been a bona fide change in the ownership or occupancy of the hotel, restaurant, house, residence, apartment, suite, building or premises, as the case may be, or that the owner or occupant of or any other person having any interest in the hotel, restaurant, house, residence, apartment, suite, building or premises, as the case may be, had no notice of the proceeding or no opportunity of being heard before the judge, and that the owner, occupant or person was not a party or privy to the commission of the offence.

(4) The chief of police or constable has power to set a guard both outside and inside of any premises so closed as it may to the chief or constable seem proper or necessary in order to render the closing effective.

(5) Any person who enters or attempts to enter any such premises after the closing or interferes with any constable in the discharge of the constable's duties under the order may be arrested without warrant and is guilty of an offence against this Act and liable to a fine of not less than \$50 and not more than \$200 or to imprisonment for a term of not more than 60 days or both.

(6) When a tenant in any premises or part thereof is convicted of an offence against this Act, or an order has been made under subsection (1) because of one or more violations of this Act on the part of a tenant of any premises referred to in said subsection, the landlord may, within one month after the conviction or order by written notice to the tenant posted on the premises affected, declare the lease of the tenant to be forfeited and the same is null and void and "landlord" in this subsection is to be construed to include a mortgagee in possession.

(7) A tenant has the like power as is provided in subsection (6) in cases where the landlord, resident in the premises, is convicted or is the cause of any such order being made, and may vacate the premises upon the posting of such notice and the payment of rent then owing or proportionate to the time of the vacating, and a tenant may recover from the landlord any rent paid by the tenant in advance of the forfeiture of the tenant's lease on the tenant vacating the premises as aforesaid and there must be no contracting out of the provisions of this subsection or subsection (6).

(8) For the purpose of this Section, all internally connected parts of the premises on which such violations of this Act have taken place are regarded as a unit and this Section does not apply to other portions of the same building that are structurally separate and distinct therefrom and to which access is had by a separate door or doors leading either into a main or common hall or directly to the street.

(9) The motion for such order may be made by any Provincial Police constable or other officer without laying an information or complaint at any time within 30 days immediately following the date of the last conviction had for an offence committed in or in respect of the premises sought to be closed and the motion may be made either before the judge of the Provincial Court making the last conviction or before any other judge of the Provincial Court having jurisdiction in the place in which the premises are situate.

(10) Notice of the motion stating the name of the judge of the Provincial Court before whom it is to be made and the time and place fixed for the hearing must be given by delivering the same to the reputed occupant of the premises or by leaving it with any person apparently over the age of 16 years found on the premises or by posting it on the main entrance to the premises at least two clear days before the time fixed for the hearing and a true copy of the notice must be filed with the judge of the Provincial Court named therein before it is served as aforesaid.
R.S., c. 260, s. 135; 2001, c. 4, s. 29.

Proof of incorporation

138 In any prosecution, action or proceeding under this Act in which it is alleged that a corporation is or has been guilty of an offence against this Act, the fact of the incorporation of that corporation is presumed without it being proved by the prosecutor, unless satisfactory proof is produced to the contrary. R.S., c. 260, s. 136.

PART IV

GENERAL

Purpose and intent of Act

139 (1) The purpose and intent of this Act are to prohibit transactions in liquor that take place wholly within the Province except under Government control, and every Section and provision of this Act and of the regulations dealing with the importation, sale and disposition of liquor within the Province through the instrumentality of a Corporation, and otherwise, provide the means by which such Government control is made effective.

(2) Nothing in this Act

(a) is to be construed as forbidding, affecting or regulating any transaction that is not subject to the legislative authority of the Province;

(b) applies

(i) to the keeping or having of any liquor by the Corporation or to the keeping or having of any proprietary or patent medicines or of any extracts, essences, tinctures or preparations, if such having or keeping is authorized by this Act,

(ii) to the possession by a sheriff or the sheriff's bailiff of liquor seized under execution or other judicial or extra-judicial process, or

(iii) to sales under executions or extra-judicial process to the Corporation. R.S., c. 260, s. 137; 2001, c. 4, s. 29.

Payment respecting incarceration

140 In the case of a person in custody or committed to jail in respect of an offence against this Act, there must be paid by the Corporation to the treasurer of the municipality wherein such person is in custody or which maintains such jail the sum of four dollars for each day such person remains in custody or is in jail under such committal. R.S., c. 260, s. 138; 2001, c. 4, s. 29.

Doctrine of mens rea

141 The doctrine of *mens rea* is not applicable to offences under this Act. R.S., c. 260, s. 139.

Civil liability

142 (1) Whenever any person has drunk liquor to excess and, while in a state of intoxication from such drinking, dies by suicide or drowns, or perishes

from cold or other accident caused by such intoxication, the person or persons who furnished or gave the liquor to such person when in a state of intoxication, or on whose premises it was obtained by the intoxicated person while intoxicated, are liable to an action for a wrongful act and as a personal wrong and, subject to the provisions of subsection (2), the action may be brought under the *Fatal Injuries Act*, and the amount that may be recovered as damages must not be less than \$100 nor more than \$1,500.

(2) Any such action must be brought within six months from the date of the death of the intoxicated person and not afterwards. R.S., c. 260, s. 140.

Prohibition proclamation

143 (1) In any case of emergency, the Governor in Council may issue a proclamation forbidding any person to have liquor in the person's possession within the area mentioned in the proclamation, unless the person has been authorized in writing by the Corporation and given special permission thereby to have liquor within that area, and the proclamation may also authorize, within the area, the seizure without other warrant or authority and detention for such time as may be authorized of any liquor not had or kept with the permission of the Corporation within the area.

(2) The proclamation may remain in force for such period as may be therein determined. R.S., c. 260, s. 141; 2001, c. 4, s. 29.

CHAPTER L-18

**An Act Respecting
Livestock Health Services**

Table of Contents

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

	Section
Short title.....	1
Interpretation.....	2
Supervision and management of Act	3
Administrator	4
Power to make agreements	5
Livestock Health Services Board.....	6
Quorum	7
Vacancy on Board	8
Chair and Secretary.....	9
Rules of procedure.....	10
Duties of Board.....	11
Review of claims.....	12
Powers of Minister.....	13
Auditor	14
Reimbursement of veterinarians	15
Regulations by Minister.....	16
Regulations by Governor in Council	17
Existing boards.....	18

Short title

1 This Act may be cited as the *Livestock Health Services Act*. 2001, c. 8, s. 1.

Interpretation

2 In this Act,

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

“agreement” means a funding and service agreement made between the Minister and the Veterinary Association for the provision of livestock health services by veterinarians;

“Board” means the Livestock Health Services Board;

“enrolled practice centre” means a veterinary practice accredited as a large-animal facility by the Veterinary Association and enrolled by the Minister to participate in the provision of livestock health services to eligible livestock owners;

“former Act” means Chapter 262 of the Revised Statutes, 1989, the *Livestock Health Services Act*;

“livestock” means livestock for farming purposes as designated by the Minister for the purpose of this Act and the regulations;

“livestock for farming purposes” means an animal used for the production of

- (a) human or animal food; or
- (b) feed, fibre, skin or hide;

“livestock health services” means the professional services of veterinarians to livestock owners;

“livestock owner” means a person who is the owner of or has the responsibility for livestock for farming purposes;

“Minister” means the Minister of Agriculture;

“practice zone” means an area approved by the Minister in which veterinarians operating from an enrolled practice centre provide livestock health services to livestock owners in respect to the terms and conditions for which payments are made to the veterinarians;

“veterinarian” means a person, partnership or corporation licensed as a veterinarian under the *Veterinary Medicine Act*;

“Veterinary Association” means the Nova Scotia Veterinary Medical Association. 2001, c. 8, s. 2; 2007, c. 19, s. 1.

Supervision and management of Act

3 The Minister has the general supervision and management of this Act and the regulations. 2001, c. 8, s. 3.

Administrator

4 The Minister shall appoint, from the public service of the Province, a person to be the Administrator who shall, under the supervision of the Minister, administer the program of livestock health services provided pursuant to this Act and the regulations. 2001, c. 8, s. 4.

Power to make agreements

5 The Minister may enter into a funding and service agreement with the Veterinary Association for the purpose of providing livestock health services by veterinarians to eligible livestock owners through enrolled practice centres to ensure adequate services are provided to eligible livestock owners. 2001, c. 8, s. 5.

Livestock Health Services Board

6 (1) The Minister may appoint a Livestock Health Services Board consisting of

- (a) three members who are livestock owners recommended by the Nova Scotia Federation of Agriculture;
- (b) two members recommended by the Veterinary Association; and
- (c) two public servants.

(2) Each member of the Board holds office for a term of up to five years, unless the appointment is revoked, and is eligible for reappointment.

(3) Each member appointed pursuant to clause (1)(a) or (b) may serve a maximum of two consecutive terms.

(4) Each member of the Board must be paid such remuneration as is determined by the Minister.

(5) Each member of the Board must be reimbursed as determined by the Minister for reasonable travel and other expenses necessarily incurred by that member in carrying out the duties of a member of the Board. 2001, c. 8, s. 6.

Quorum

7 A majority of the members of the Board constitutes a quorum. 2001, c. 8, s. 7.

Vacancy on Board

8 A vacancy on the Board does not impair the ability of the Board to act. 2001, c. 8, s. 8.

Chair and Secretary

9 The Board shall appoint

(a) one member to be the Chair for a term of one year, who may be reappointed; and

(b) one member appointed pursuant to clause 6(1)(c) to be the Secretary. 2001, c. 8, s. 9; 2007, c. 19, s. 2.

Rules of procedure

10 The Board may make rules of procedure for the conduct and management of its affairs. 2001, c. 8, s. 10.

Duties of Board

11 The Board shall

(a) periodically review the functioning of livestock health services in the Province;

(b) make recommendations to the Minister respecting terms and conditions of the agreement;

(c) make recommendations to the Minister respecting criteria for practice zones and enrolled practice centres;

(d) make recommendations to the Minister respecting the amount of payments to veterinarians;

(e) prepare a report on livestock health services to be made available on an annual basis to the Minister;

(f) approve any form to be completed by veterinarians for making claims respecting the provision of livestock services;

(g) make recommendations to the Minister respecting the removal and disposal of dead stock; and

(h) carry out such further or other duties as may be assigned to it by this Act or the regulations. 2001, c. 8, s. 11.

Review of claims

12 (1) The Board may appoint a person to periodically monitor and review claims made by a veterinarian.

(2) The person appointed pursuant to subsection (1) may be paid such remuneration as the Minister may determine.

(3) The person appointed pursuant to subsection (1) shall

(a) for the purpose of carrying out the duties under this Section, have access to the claim information submitted by the veterinarian; and

(b) identify any discrepancies to the Administrator. 2001, c. 8, s. 12.

Powers of Minister

13 For the purpose of this Act and the regulations, the Minister may

(a) designate a type of livestock that constitutes livestock for farming purposes;

(b) determine eligibility requirements of a livestock owner;

(c) enroll a practice centre;

(d) approve a practice zone. 2001, c. 8, s. 13.

Auditor

14 The Minister may appoint an auditor to investigate the records of activities relating to the funding and provision of livestock health services of an approved practice centre. 2001, c. 8, s. 14.

Reimbursement of veterinarians

15 With the approval of the Minister, the Administrator may request and reimburse veterinarians for the provision of veterinary services, including

(a) inspection duties pursuant to the *Meat Inspection Act* and *Animal Health Act*; and

(b) assistance in the investigation of cruel, inhumane or neglectful treatment of livestock. 2001, c. 8, s. 15.

Regulations by Minister

16 (1) The Minister may make regulations

(a) prescribing the minimum or maximum fees that may be charged to livestock owners by any veterinarian in receipt of assistance under an agreement;

(b) prescribing the maximum amount that may be paid to veterinarians.

(2) The exercise by the Minister of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2007, c. 19, s. 3.

Regulations by Governor in Council

- 17 (1) The Governor in Council may make regulations
- (a) respecting the terms and conditions for payments to veterinarians;
 - (b) prescribing the records to be completed by an enrolled practice centre or veterinarian;
 - (c) providing for the exemption of any person or class of livestock;
 - (d) prescribing eligibility requirements;
 - (e) prescribing the criteria for approving practice zones;
 - (f) prescribing the criteria for enrolling a practice centre;
 - (g) respecting the provision of veterinary services pursuant to Section 5 or 15;
 - (h) defining any word or expression used but not defined in this Act;
 - (i) 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*. 2001, c. 8, s. 16; 2007, c. 19, s. 4.

Existing boards

18 (1) Livestock health services boards continued by or established under the former Act are dissolved.

- (2) Upon payment of any liabilities,
- (a) the assets of a livestock health services board provided directly by a municipality are transferred to the municipality in which the board was established; and
 - (b) all other assets of a livestock health services board are transferred to the Crown in right of the Province.

(3) The records of the livestock health services boards are deemed to be records of the Crown in right of the Province. 2001, c. 8, s. 17.

CHAPTER L-19

**An Act to Provide for
the Registration of Lobbyists**

Table of Contents

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

	Section
Short title.....	1
Interpretation.....	2
Act does not apply.....	3
Designation of Registrar.....	4
Consultant lobbyists.....	5
Contingent payment to consultant lobbyist prohibited.....	6
In-house lobbyists.....	7
In-house lobbyists for organizations.....	8
Certification of returns or documents.....	9
Filing of returns, information or documents.....	10
Form of storage of returns and documents.....	11
Registry.....	12
Verification of information.....	13
Registrar may refuse.....	14
Registrar may remove return.....	15
Advisory opinions and interpretation bulletins.....	16
Delegation of Registrar's powers and duties.....	17
Recovery of fees.....	18
Offences and penalties.....	19
Regulations.....	20

WHEREAS free and open access to government is an important matter of public interest;

AND WHEREAS lobbying public-office holders is a legitimate activity;

AND WHEREAS it is desirable that public-office holders and the public be able to know who is engaged in lobbying activities;

AND WHEREAS a system for the registration of paid lobbyists should not impede free and open access to government:

Short title

1 This Act may be cited as the *Lobbyists Registration Act*. 2001, c. 34, s. 1.

Interpretation

2 (1) In this Act,
“Crown” means the Crown in right of the Province;
“grass-roots communication” means appeals to members of the public through the mass media or by direct communication that

seek to persuade members of the public to communicate directly with a public-office holder in an attempt to place pressure on the public-office holder to endorse a particular opinion, but does not include communication between an organization and its members, officers or employees or between a person or partnership and its shareholders, officers or employees;

“lobby” means to communicate with a public-office holder, directly or through grass-roots communication, in an attempt to influence

(a) the development of any legislative proposal by the Government or by a member of the House of Assembly;

(b) the introduction of any bill or resolution in the House of Assembly or the passage, defeat or amendment of any bill or resolution that is before the House of Assembly;

(c) the making or amendment of any regulation as defined in the *Regulations Act*;

(d) the development or amendment of any policy or program of the Government or the termination of any program of the Government;

(e) a decision by the Executive Council to transfer from the Crown for consideration all or part of, or any interest in or asset of, any business, enterprise or institution that provides goods or services to the Crown or to the public;

(f) a decision by the Executive Council, a committee of the Executive Council or a minister of the Crown to have the private sector instead of the Crown provide goods or services to the Crown; or

(g) the awarding of any grant, contribution or other financial benefit by or on behalf of the Crown,

and, in relation to a consultant lobbyist referred to in Section 5,

(h) to communicate with a public-office holder in an attempt to influence the awarding of any contract by or on behalf of the Crown; or

(i) to arrange a meeting between a public-office holder and any other person;

“organization” means

(a) a business, trade, industry, professional or voluntary organization;

(b) a trade union or labour organization;

(c) a chamber of commerce or board of trade;

(d) an association, a charitable organization, a coalition or an interest group;

(e) a government, other than the Government of the Province; or

(f) a corporation without share capital incorporated to pursue, without financial gain to its members, objects of a national, provincial, territorial, patriotic, religious, philanthropic, charitable, educational, agricultural, scientific, artistic, social, professional, fraternal, sporting or athletic character or other similar objects;

“prescribed” means prescribed by the regulations;

“public-office holder” means

(a) a member, officer or servant of the House of Assembly or any person on the staff of a member;

(b) a person who is appointed to any office or body by or with the approval of the Governor in Council or a minister of the Crown, other than

(i) a judge or a justice of the peace,

(ii) an adjudicator of the Small Claims Court,

(iii) a member of an administrative tribunal exercising a judicial function,

(iv) the Ombudsman, or

(v) a review officer appointed pursuant to the *Freedom of Information and Protection of Privacy Act*;

(c) an officer, director or employee of a government agency within the meaning of the *Auditor General Act*; or

(d) any officer or employee of the Crown, or any employee of an officer or minister, not otherwise referred to in clause (b) or (c);

“Registrar” means the Registrar referred to in Section 4;

“regulations” means the regulations made pursuant to this Act unless otherwise specified.

(2) For the purpose of this Act, a corporation is a subsidiary of another corporation if

(a) securities of the corporation, to which are attached more than 50% of the votes that may be cast to elect directors of the corporation, are held, otherwise than by way of security only, directly or indirectly, whether through one or more subsidiaries or otherwise, by or for the benefit of the other corporation; and

(b) the votes attached to those securities are sufficient, where exercised, to elect a majority of the directors of the corporation.

(3) Nothing in this Act is to be construed as requiring the disclosure of the name or identity of any individual if that disclosure could reasonably be expected to threaten the safety of that individual.

(4) For greater certainty, “contributed” in clauses 7(3)(h) and 8(4)(f) includes a contribution in kind and does not include a membership fee payment. 2001, c. 34, s. 2; 2002, c. 30, s. 11; 2010, c. 33, s. 29; 2010, c. 57, s. 2.

Act does not apply

3 (1) This Act does not apply to any of the following persons when acting in their official capacity:

(a) members, officers and servants of the House of Assembly or persons on the staff of those members;

(b) members, officers or servants of the Senate or House of Commons of Canada, the legislative assembly of another province of Canada or persons on the staff of those members;

(c) employees in the public service of the Province;

(d) employees of the Government of Canada or of the government of another province of Canada;

(e) members of a council or other statutory body charged with the administration of the civil or municipal affairs of a regional municipality, town or municipality of a county or district, including the Conseil scolaire acadien provincial, and persons employed by such members or officers or employees of a regional municipality, town or municipality of a county or district, including the Conseil scolaire acadien provincial;

(f) an officer, director or employee of the Nova Scotia Federation of Municipalities;

(g) members of the council of a band as defined in subsection 2(1) of the *Indian Act* (Canada) or of the council of an Indian band established by an Act of the Parliament of Canada, persons on the staff of those members or employees of the council;

(h) diplomatic agents, consular officers or official representatives in Canada of a foreign government;

(i) officials of a specialized agency of the United Nations in Canada or officials of any other international organization to whom there are granted, by or under any Act of the Parliament of Canada, privileges and immunities; and

(j) such other classes of employees of government agencies, within the meaning of the *Auditor General Act*, as may be prescribed.

(2) This Act does not apply in respect of

(a) any oral or written submission made in proceedings that are a matter of public record to a committee of the House of Assembly or to any body or person having jurisdiction or powers conferred by or under an Act;

(b) any oral or written submission made to a public-office holder by an individual on behalf of a person, partnership or organization with respect to

(i) the enforcement, interpretation or application of any Act or regulation made under any Act by that public-office holder with respect to that person, partnership or organization, or

(ii) the implementation or administration of any policy, program, directive or guideline by that public-office holder with respect to that person, partnership or organization;

(c) any oral or written submission made to a public-office holder by an individual on behalf of a person, partnership or organization, in direct response to an oral or written request from a public-office holder for advice or comment in respect of any matter referred to in clauses (a) to (h) of the definition of “lobby” in subsection 2(1);

(d) any oral or written submission made to a member of the House of Assembly by an individual on behalf of a constituent of the member with respect to any personal matter of that constituent unless the submission is made in respect of a matter referred to in clause (h) or (i) of the definition of “lobby” in subsection 2(1) concerning a private bill for the special benefit of that constituent; or

(e) any communication made to a public-office holder by a trade union with respect to the administration or negotiation of a collective agreement or matters related to the representation of a member or former member of a bargaining unit who is or was employed in the public service as defined in the *Public Service Act*.

(3) This Act does not apply to a barrister of the Supreme Court of Nova Scotia in respect of the drafting of any legislative proposal for introduction in the House of Assembly or any consequential consultation. 2001, c. 34, s. 3; 2010, c. 33, s. 30; 2018, c. 1, Sch. A, s. 122.

Designation of Registrar

4 The Governor in Council shall appoint or designate a person as the Registrar for the purpose of this Act. 2001, c. 34, s. 4.

Consultant lobbyists

5 (1) In this Section and Section 6,

“client” means a person, partnership or organization on whose behalf a consultant lobbyist undertakes to lobby;

“consultant lobbyist” means an individual who, for payment, undertakes to lobby on behalf of a client;

“payment” means money or anything of value and includes a contract, promise or agreement to pay money or anything of value;

“undertaking” means an undertaking by a consultant lobbyist to lobby on behalf of a client.

(2) A consultant lobbyist shall file a return with the Registrar

(a) within 10 days after commencing performance of an undertaking; and

(b) within 30 days after the expiration of each six-month period after the date of filing the previous return.

(3) Where, immediately before October 1, 2002, a consultant lobbyist is performing an undertaking, the consultant lobbyist shall file a return with the Registrar not later than 10 days after October 1, 2002.

(4) A consultant lobbyist shall set out in the return the following information with respect to the undertaking:

(a) the name and business address of the consultant lobbyist and, where applicable, the name and business address of the firm where the consultant lobbyist is engaged in business;

(b) the name and business address of the client and the name and business address of any person, partnership or organization that, to the knowledge of the consultant lobbyist, controls or directs the activities of the client and has a direct interest in the outcome of the consultant lobbyist's activities on behalf of the client;

(c) where the client is a corporation, the name and business address of each subsidiary of the corporation that, to the knowledge of the consultant lobbyist, has a direct interest in the outcome of the consultant lobbyist's activities on behalf of the client;

(d) where the client is a corporation that is a subsidiary of any other corporation, the name and business address of that other corporation;

(e) where the client is a coalition, the name and business address of each partnership, corporation or organization that is a member of the coalition;

(f) where the client is funded, in whole or in part, by a government or a government agency, the name of the government or government agency, as the case may be, and the amount of funding received by the client from that government or government agency;

(g) the name and business address of any entity or organization, other than a government or a government agency, that, to the knowledge of the consultant lobbyist, contributed, during the entity's or organization's fiscal year that precedes the filing of the return, \$750 or more towards the consultant lobbyist's activities on behalf of the client;

(h) the name and business address of any individual who, to the knowledge of the consultant lobbyist, made a contribution described in clause (g) on behalf of an entity or organization described in that clause;

(i) the subject-matter in respect of which the consultant lobbyist has undertaken to lobby and any other prescribed information respecting the subject-matter;

(j) in the case of an agreement entered into before May 1, 2012, and within 24 months after May 1, 2012, whether the payment to the consultant lobbyist is, in whole or in part, contingent on the consultant lobbyist's degree of success in lobbying as described in clauses (a) to (h) of the definition of "lobby" in subsection 2(1);

(k) particulars to identify any relevant legislative proposal, bill, resolution, regulation, policy, program, decision, grant, contribution, financial benefit or contract;

(l) the name of any department of the Government of the Province or a government agency, within the meaning of the *Auditor General Act*, in which any public-office holder is employed or serves whom the consultant lobbyist has lobbied or expects to lobby;

(m) whether the consultant lobbyist has lobbied or expects to lobby a member of the House of Assembly in the member's capacity as a member or a person on the staff of a member of the House of Assembly;

(n) where the consultant lobbyist has undertaken to lobby as described in clauses (a) to (h) of the definition of "lobby" in subsection 2(1), the techniques of communication, including grass-roots communication, that the consultant lobbyist has used or expects to use to lobby; and

(o) such additional information as may be prescribed with respect to the identity of a person or entity described in this Section.

(5) A consultant lobbyist shall provide the Registrar with any change to the information in the return of the consultant lobbyist and any information required to be provided under subsection (4), the knowledge of which the consultant lobbyist acquired only after the return was filed, not later than 30 days after the change occurs or the knowledge is acquired.

(6) A consultant lobbyist shall advise the Registrar that the consultant lobbyist has completed an undertaking in respect of which the consultant lobbyist has filed a return or that the undertaking has been terminated not later than 30 days after the completion or termination of the undertaking.

(7) A consultant lobbyist shall provide the Registrar with any information that the Registrar may request to clarify any information that the consultant lobbyist has provided to the Registrar under this Section not later than 30 days after the Registrar makes the request.

(8) This Section does not apply in respect of anything that an employee undertakes to do on the sole behalf of the employee's employer or, where the employer is a corporation, in respect of anything that the employee, at the direction of the employer, undertakes to do on behalf of any subsidiary of the employer or any corporation of which the employer is a subsidiary. 2001, c. 34, s. 5; 2002, c. 30, s. 12; 2010, c. 33, s. 31; 2010, c. 57, s. 3.

Contingent payment to consultant lobbyist prohibited

6 (1) A consultant lobbyist shall not receive any payment that is, in whole or in part, contingent on the consultant lobbyist's degree of success in lobbying as described in clauses (a) to (h) of the definition of "lobby" in subsection 2(1).

(2) A client of a consultant lobbyist shall not make any payment to a consultant lobbyist that is, in whole or in part, contingent on the consultant lobbyist's degree of success in lobbying as described in clauses (a) to (h) of the definition of "lobby" in subsection 2(1). 2010, c. 57, s. 4.

In-house lobbyists

7 (1) In this Section,

“employee” includes an officer who is compensated for the performance of the officer’s duties;

“in-house lobbyist” means an individual who is employed by a person or partnership other than an organization

(a) a significant part of whose duties as an employee, as determined in accordance with the regulations, is to lobby on behalf of the person or partnership or, where the person is a corporation, on behalf of any subsidiary of the corporation or any corporation of which the corporation is a subsidiary; or

(b) a part of whose duties as an employee is to lobby on behalf of the person or partnership or, where the person is a corporation, on behalf of any subsidiary of the corporation or any corporation of which the corporation is a subsidiary, if the employee’s duties to lobby together with the duties of other employees to lobby would constitute a significant part of the duties of one employee, as determined in accordance with the regulations, were those duties to lobby to be performed by only one employee.

(2) An in-house lobbyist shall file a return with the Registrar

(a) within two months after the day on which the individual becomes an in-house lobbyist; and

(b) within 30 days after the expiration of each six-month period after the date of filing the previous return.

information: (3) An in-house lobbyist shall set out in the return the following

(a) the name and business address of the in-house lobbyist;

(b) the name and business address of the employer;

(c) where the employer is a corporation, the name and business address of each subsidiary of the corporation that, to the knowledge of the in-house lobbyist, has a direct interest in the outcome of the in-house lobbyist’s activities on behalf of the employer;

(d) where the employer is a corporation that is a subsidiary of any other corporation, the name and business address of that other corporation;

(e) where applicable, the fiscal year of the employer;

(f) a general description of the employer’s business or activities;

(g) where the employer is funded, in whole or in part, by a government or government agency, the name of the government or government agency, as the case may be, and the amount of funding received by the employer from that government or government agency;

(h) the name and business address of any entity or organization, other than a government or government agency, that, to the knowledge of the in-house lobbyist, contributed, during the entity's or organization's fiscal year that precedes the filing of the return, \$750 or more towards the in-house lobbyist's activities on behalf of the employer;

(i) the name and business address of any individual who, to the knowledge of the in-house lobbyist, made a contribution described in clause (h) on behalf of an entity or organization described in that clause;

(j) where the in-house lobbyist is lobbying at the time the return is filed, the subject-matter in respect of which the in-house lobbyist is lobbying and any other prescribed information respecting the subject-matter;

(k) the subject-matters in respect of which the in-house lobbyist has lobbied or expects to lobby during the fiscal year of the employer in which the return is filed or, where the employer does not have a fiscal year, during the calendar year in which the return is filed, and any other prescribed information respecting those subject-matters;

(l) particulars to identify any relevant legislative proposal, bill, resolution, regulation, policy, program, decision, grant, contribution or financial benefit;

(m) the name of any department of the Government or a government agency, within the meaning of the *Auditor General Act*, in which any public office holder is employed or serves whom the in-house lobbyist has lobbied or expects to lobby during the fiscal year of the employer in which the return is filed or, where the employer does not have a fiscal year, during the calendar year in which the return is filed;

(n) whether the in-house lobbyist has lobbied or expects to lobby a member of the House of Assembly in the member's capacity as a member or a person on the staff of a member of the House of Assembly during the fiscal year of the employer in which the return is filed or, where the employer does not have a fiscal year, during the calendar year in which the return is filed;

(o) the techniques of communication, including grass-roots communication, that the in-house lobbyist has used or expects to use to lobby during the fiscal year of the employer in which the return is filed or, where the employer does not have a fiscal year, during the calendar year in which the return is filed; and

(p) such additional information as may be prescribed with respect to the identity of a person or entity described in this Section.

(4) An in-house lobbyist shall provide the Registrar with any change to the information in the return of the in-house lobbyist and any information required to be provided under subsection (4), the knowledge of which the in-house lobbyist acquired only after the return was filed, not later than 30 days after the change occurs or the knowledge is acquired.

(5) An in-house lobbyist who ceases to be an in-house lobbyist or to be employed by the employer of the in-house lobbyist shall advise the Registrar of that not later than 30 days after the in-house lobbyist ceases to be an in-house lobbyist or ceases to be employed by the employer.

(6) An in-house lobbyist shall provide the Registrar with any information that the Registrar may request to clarify any information that the in-house lobbyist has provided to the Registrar under this Section not later than 30 days after the Registrar makes the request. 2001, c. 34, s. 6; 2010, c. 33, s. 32.

In-house lobbyists for organizations

8 (1) In this Section,

“employee” includes an officer who is compensated for the performance of the officer’s duties;

“in-house lobbyist” means an individual who is employed by an organization

(a) a significant part of whose duties as an employee, as determined in accordance with the regulations, is to lobby on behalf of the organization; or

(b) a part of whose duties as an employee is to lobby on behalf of the organization if the employee’s duties to lobby together with the duties of other employees to lobby would constitute a significant part of the duties of one employee, as determined in accordance with the regulations, were those duties to lobby to be performed by only one employee;

“senior officer” means the most senior officer of an organization who is compensated for the performance of the senior officer’s duties.

(2) The senior officer of an organization that employs an in-house lobbyist shall file a return with the Registrar

(a) within two months after the day on which that person becomes an in-house lobbyist; and

(b) within 30 days after the expiration of each six-month period after the date of filing the previous return.

(3) Where, immediately before October 1, 2002, the organization employs an in-house lobbyist, the senior officer of the organization shall file a return with the Registrar within two months after October 1, 2002, and after that in accordance with clause (2)(b).

(4) The senior officer of an organization shall set out in the return the following information:

(a) the name and business address of the senior officer;

(b) the name and business address of the organization;

(c) a description in summary form of the organization's business or activities and any other prescribed information to identify its business or activities;

(d) a general description of the membership of the organization, including the names of the directors and officers of the organization;

(e) where the organization is funded, in whole or in part, by a government or government agency, the name of the government or government agency, as the case may be, and the amount of funding received by the organization from that government or government agency;

(f) the name and business address of any entity or other organization, other than a government or government agency, that, to the knowledge of the senior officer, contributed, during the entity's or organization's fiscal year that precedes the filing of the return, \$750 or more towards the lobbying activities of the organization's in-house lobbyists;

(g) the name and business address of any individual who, to the knowledge of the senior officer, made a contribution described in clause (f) on behalf of an entity or organization described in that clause;

(h) the name of each in-house lobbyist employed by the organization;

(i) where any in-house lobbyist is lobbying at the time the return is filed, the subject-matter in respect of which the in-house lobbyist is lobbying and any other prescribed information respecting the subject-matter;

(j) the subject-matters and any other prescribed information respecting those subject-matters in respect of which any in-house lobbyist

(i) has lobbied during the period for which the return is filed, and

(ii) expects to lobby during the next following six-month period;

(k) particulars to identify any relevant legislative proposal, bill, resolution, regulation, policy, program, decision, grant, contribution or financial benefit;

(l) the name of any department of the Government of the Province or a government agency, within the meaning of the *Auditor General Act*, in which any public office holder is employed or services whom any in-house lobbyist

(i) has lobbied during the period for which the return is filed, and

(ii) expects to lobby during the next following six-month period;

(m) whether any in-house lobbyist

- (i) has lobbied a member of the House of Assembly in the member's capacity as a member or a person on the staff of a member of the House of Assembly during the period for which the return is filed, and
- (ii) expects to lobby a member of the House of Assembly in the member's capacity as a member or a person on the staff of a member of the House of Assembly during the next following six-month period;
- (n) the techniques of communication, including grass-roots communication, that any in-house lobbyist
 - (i) has used to lobby during the period for which the return is filed, and
 - (ii) expects to use to lobby during the next following six-month period;
- (o) any other prescribed information relating to the identity of the senior officer, the organization, any in-house lobbyist or any department, agency, board or commission referred to in clause (l); and
- (p) the name of any in-house lobbyist who has been identified in the last return filed and has ceased to be an in-house lobbyist or to be employed by the organization.

(5) The senior officer shall provide the Registrar with any information that the Registrar may request to clarify any information that the senior officer has provided in the return of the senior officer not later than 30 days after the Registrar makes the request. 2001, c. 34, s. 7; 2010, c. 33, s. 33.

Certification of returns or documents

9 Every individual who submits a return or other document to the Registrar under this Act shall certify that the information contained in it is true to the best of the individual's knowledge and belief on the return or other document or, where it is submitted in electronic or other form in accordance with subsection 10(1), in the manner that is specified by the Registrar. 2001, c. 34, s. 8.

Filing of returns, information or documents

10 (1) Returns to be filed with the Registrar and information and other documents to be given to the Registrar under this Act must be in a form approved by the Registrar.

(2) Returns, information and other documents must be submitted to the Registrar in a manner permitted by the Registrar.

(3) Subject to subsection (5), the date on which the Registrar receives a return is the date on which the return is considered to have been filed for the purpose of this Act.

(4) Subject to subsection (5), the date on which the Registrar received information or a document other than a return is the date on which the

information or document is considered to have been provided to the Registrar for the purpose of this Act.

(5) In the prescribed circumstances, a return, information or another document is deemed to have been received by the Registrar on the date determined in accordance with the regulations. 2001, c. 34, s. 9.

Form of storage of returns and documents

11 (1) Subject to the regulations, any return or other document that is received by the Registrar may be entered or recorded by any information storage device, including any system of mechanical or electronic data processing, that is capable of reproducing the stored return or other document in intelligible form within a reasonable time.

(2) In any prosecution for an offence under this Act, a copy of a return or other document that is reproduced from an information storage device referred to in subsection (1) and certified under the Registrar's signature as a true copy is admissible in evidence without proof of the signature or official character of the person appearing to have signed the copy. 2001, c. 34, s. 10.

Registry

12 (1) The Registrar shall establish and maintain a Registry in which are kept all returns filed under this Act as revised by other documents submitted to the Registrar under this Act.

(2) The Registry shall be organized in the manner and kept in the form that the Registrar determines.

(3) The Registry must be available for public inspection in the manner and during the time that the Registrar determines.

(4) For greater certainty, the Registrar may make the Registry available electronically online, including through the Internet. 2001, c. 34, s. 11.

Verification of information

13 The Registrar may verify the information contained in any return or other document submitted to the Registrar under this Act. 2001, c. 34, s. 12.

Registrar may refuse

14 (1) The Registrar may refuse to accept any return or other document submitted to the Registrar under this Act that does not comply with this Act or the regulations or that contains information or statements not requested in the return or other documents.

(2) Where the Registrar refuses to accept a return or other documents under subsection (1), the Registrar shall inform the individual who submitted it of the refusal and the reason for the refusal in the manner that the Registrar determines.

(3) Notwithstanding the provisions of this Act respecting times for filing a return or submitting another document, where a return or other docu-

ment is refused by the Registrar under subsection (1) and the individual cannot reasonably submit another by the time set out in this Act for filing or submitting it, the Registrar shall provide the individual with a reasonable extension of time to file another return or submit another document.

(4) Where the Registrar accepts another return or document within the extension of time referred to in subsection (3), the return is deemed to have been filed or the other document is deemed to have been submitted on the day on which the return or the other document that was refused was received by the Registrar. 2001, c. 34, s. 13.

Registrar may remove return

15 (1) The Registrar may remove a return from the Registry if the individual who filed the return

(a) fails to advise the Registrar of the matters required by subsection 5(6) or 7(5) within the period required by the subsection; or

(b) fails to give the Registrar any requested information relating to the return within the period specified by this Act.

(2) The Registrar may remove a return without giving notice to the individual who filed the return and without holding a hearing.

(3) When a return is removed from the Registry, the individual who filed it is deemed, for the purpose of the individual's existing and future obligations under this Act, not to have filed the return. 2001, c. 34, s. 14.

Advisory opinions and interpretation bulletins

16 (1) The Registrar may issue advisory opinions and interpretation bulletins with respect to the enforcement, interpretation or application of this Act or the regulations.

(2) Advisory opinions and interpretation bulletins issued pursuant to subsection (1) are not binding. 2001, c. 34, s. 15.

Delegation of Registrar's powers and duties

17 (1) The Registrar may delegate, in writing, any of the Registrar's powers or duties under this Act to a person employed in the Registrar's office and may authorize that person to delegate any of those powers or duties to another person employed in that office.

(2) A delegation may be made subject to such conditions and restrictions as the person making the delegation considers appropriate. 2001, c. 34, s. 16.

Recovery of fees

18 Any fee required by the regulations to be paid may be recovered in any court of competent jurisdiction as a debt due to the Crown. 2001, c. 34, s. 17.

Offences and penalties

19 (1) Every individual who fails to comply with subsection 5(2), (3), (4), (5) or (7), Section 6 or subsection 7(2), (3), (4) or (6) or 8(2), (3), (4) or (5) is guilty of an offence.

(2) Every individual who knowingly makes a false or misleading statement in a return or other document submitted to the Registrar under this Act is guilty of an offence.

(3) Every

(a) consultant lobbyist within the meaning of subsection 5(1); or

(b) in-house lobbyist within the meaning of subsection 7(1) or 8(1),

is guilty of an offence if, in the course of lobbying a public-office holder, the consultant lobbyist or in-house lobbyist knowingly places the public-office holder in a position of real or potential conflict of interest.

(4) An individual who is guilty of an offence under this Section is liable on summary conviction, for a first offence, to a fine of not more than \$25,000 and, for a second or subsequent offence, to a fine of not more than \$100,000.

(5) No proceeding in respect of an offence under this Section may be commenced more than two years after the time when the subject-matter of the proceeding arose. 2001, c. 34, s. 18; 2010, c. 57, s. 5.

Regulations

20 (1) The Governor in Council may make regulations

(a) respecting the determination of when the duties of an employee to lobby on behalf of an employer constitute a significant part of the employee's duties as an employee for the purpose of the definition of "in-house lobbyist" in subsections 7(1) and 8(1);

(b) requiring a fee to be paid on the filing of a return or a class of returns under Section 5, 7 or 8, or for any service performed or the use of any facility provided by the Registrar;

(c) prescribing the fee referred to in clause (b) or the manner of determining it, and providing for a difference in or the waiver of the fee for filing a return based on the manner in which the return is submitted to the Registrar or inability to pay the fee;

(d) respecting the entering or recording of any return or other document pursuant to subsection 11(1);

(e) prescribing additional information with respect to the identities of persons or entities referred to in clauses 5(4)(o) and 7(3)(p), so long as the regulations do not require the setting out in the return of the names of individuals or other information that might identify individuals, if their names or the other information are not otherwise required pursuant to Section 5 or 7;

(f) prescribing any matter or thing that by this Act is to be or may be prescribed;

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

(h) considered necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2001, c. 34, s. 19; 2002, c. 30, s. 13.
