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Revised Statutes of Nova Scotia

2023

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CHAPTER M-1

**An Act to Provide for
the Enforcement of Payments
under Maintenance Orders**

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Short title

1 This Act may be cited as the *Maintenance Enforcement Act*. 1994-95, c. 6, s. 1.

Interpretation

2 In this Act,

“court” means the Family Court unless otherwise stated or required by law;

“Director” means the Director of Maintenance Enforcement appointed pursuant to Section 5;

“garnishment” means an execution order in the nature of garnishee;

“income source” includes an individual, a corporation or entity that owes or makes payment to a payor of

(a) wages, salary or other remuneration;

(b) a commission, bonus, piece-work allowance or other amount if the payment is not recoverable by the income source from the payor should the payor fail to earn the commission or bonus or fail to meet any production target;

(c) a benefit under an accident, disability or sickness plan;

- (d) a disability, retirement or other pension;
- (e) an annuity;
- (f) a fee for service;
- (g) rental income;
- (h) a shareholder's loan or dividends on shares;
- (i) money from a trust in which the payor holds a beneficial interest;
- (j) income of a type prescribed by regulation;

“maintenance order” means an order of a court in or outside the Province enforceable in the Province for the payment of maintenance or support, including

- (a) the payment of an amount periodically, whether annually or otherwise and whether for an indefinite or limited period or until the happening of a specified event;
- (b) a lump sum to be paid or held in trust;
- (c) a requirement for a spouse to pay for the repair and maintenance of a matrimonial home or to pay other liabilities arising in respect of it;
- (d) part or all of the money payable under the order to be paid into court or to another appropriate person or agency for the benefit of a recipient or a beneficiary;
- (e) payment of support or maintenance in respect of a period before the date of the order;
- (f) payment of expenses in respect of a child's prenatal care and birth;
- (g) the securing of payment under the order, by a charge on property or otherwise;
- (h) the payment of interest or the payment of legal fees or other expenses arising in relation to support or maintenance; or
- (i) a requirement to establish or maintain an interest in a benefit plan of the other spouse or a child as the beneficiary,

and includes such a requirement, in a pre-nuptial agreement, marriage contract, cohabitation agreement, paternity agreement, minutes of settlement or separation agreement that is registered with the court pursuant to the *Parenting and Support Act* and a support order as defined in the *Interjurisdictional Support Orders Act*, but does not include a provisional order that has not been confirmed pursuant to the *Interjurisdictional Support Orders Act*;

“Minister of Community Services” includes a person assisting the Minister of Community Services in the administration of the *Employment Support and Income Assistance Act* designated by the Minister of Community Services for the purpose of this Act;

“payor” means a person required under a maintenance order to pay maintenance;

“persistent arrears” means arrears resulting from the payor’s failure to make, in full, all payments required under a maintenance order for the number of times prescribed by the regulations or in the total accumulated amount prescribed by the regulations;

“provisional order” means an order of a court that has no effect in the jurisdiction where it was made until confirmed by a court in a reciprocating jurisdiction pursuant to the *Interjurisdictional Support Orders Act* or similar reciprocal enforcement legislation;

“recipient” means a person entitled under a maintenance order to receive maintenance on behalf of the recipient or on behalf of another person. 1994-95, c. 6, s. 2; 1995-96, c. 28, s. 1; 2002, c. 9, s. 58; 2004, c. 40, ss. 1, 16; 2015, c. 44, s. 53; 2016, c. 24, s. 1.

Act binds Provincial and federal Crown

3 This Act binds the Crown in right of the Province and in right of Canada. 1994-95, c. 6, s. 3.

Proceedings in Family Court

4 All court proceedings pursuant to this Act must be in the Family Court unless otherwise stated or required by law. 1994-95, c. 6, s. 4.

Director of Maintenance Enforcement

5 A Director of Maintenance Enforcement must be appointed in accordance with the *Civil Service Act*, in accordance with the hiring practices, including public advertisement of the position, of the Public Service Commission and must receive remuneration as determined by the Public Service Commission. 1994-95, c. 6, s. 5.

Duties and powers of Director

6 (1) The Director shall take all measures that the Director determines to be advisable to enforce maintenance orders that are enforceable by the Director pursuant to this Act.

(2) Where the Director decides to enforce a maintenance order, the Director shall take measures to enforce the order in the Director’s name as if the Director were a recipient under the order, including commencing, continuing or discontinuing proceedings to enforce a maintenance order and signing all documents in respect to the enforcement of a maintenance order.

(3) The Director may appear and give evidence at any hearing in any court in respect to the enforcement of an order or agreement filed with the Director.

(4) The Director may prescribe forms and may establish practices and procedures necessary for effectively carrying out the Director’s functions pursuant to this Act. 1994-95, c. 6, s. 6.

Enforcement of maintenance orders

7 (1) No person, other than the Director, may enforce a maintenance order during the time it is filed with the Director, unless that person is enforcing an order in a reciprocating jurisdiction on behalf of the Director.

(2) Subsection (1) does not apply where the parties have opted out of the enforcement program pursuant to subsection 11(1).

(3) Notwithstanding subsection (1), during the time the Director is enforcing part or all of a maintenance order, a recipient may, with the Director's consent, take additional enforcement measures for the same provisions of the maintenance order being enforced by the Director. 1994-95, c. 6, s. 7; 2016, c. 24, s. 2.

Enforcement officers, investigators and personnel

8 (1) There may be appointed in accordance with the *Civil Service Act* such enforcement officers, investigators and other persons as are necessary to carry out this Act.

(2) An enforcement officer may act for and in the name of the Director with the same powers, duties or functions conferred or imposed on the Director pursuant to this Act, and is subject to the direction of the Director.

(3) Subject to subsection 44(2), an investigator has the authority to obtain, on behalf of the Director, and in accordance with the direction of the Director, all information necessary for the enforcement of a maintenance order.

(4) The authority of an investigator pursuant to subsection (3) includes the conduct of video surveillance. 1994-95, c. 6, s. 8; 2016, c. 24, s. 3.

Filing of orders and right to financial information

9 (1) Every maintenance order made by the Family Court or the Supreme Court of Nova Scotia, other than a provisional order, must be filed with the Director pursuant to this Act.

(2) The prothonotary or officer of the court that makes a maintenance order shall file it with the Director within five working days after it is issued and shall provide the current contact information for the parties to the order.

(3) During the time a maintenance order is filed with the Director, the Director may request any financial information with respect to the parties to the order from the prothonotary or officer of the court.

(4) Upon receiving a request pursuant to subsection (3), the prothonotary or officer of the court shall provide the requested financial information. 1994-95, c. 6, s. 9; 2016, c. 24, s. 4.

Assignment of maintenance rights agreement

10 The Director may accept for enforcement an assignment of maintenance rights agreement as entered into between the recipient and a representative of the Department of Community Services. 1998, c. 30, s. 1.

Opting out and further provisions respecting filing

11 (1) Subject to subsection 16(1), the Director shall enforce a maintenance order filed with the Director unless the recipient files with the Director, within the time prescribed by the Director, a written consent signed by the recipient and the payor stating that they are opting out of the enforcement program.

(2) A payor or recipient may, at any time after having opted out of the enforcement program pursuant to subsection (1), opt back into the enforcement program by giving written notice to the Director stating that the payor or the recipient is opting into the enforcement program and the Director shall enforce the maintenance order unless the Director exercises the discretion referred to in subsection 16(1).

(3) Where a maintenance order has been assigned by the recipient to the Department of Community Services, the parties may not opt out of the enforcement program pursuant to subsection (1) unless the Minister of Community Services consents, in writing, to the opting out.

(4) A judge may, at the time of making or varying a maintenance order, provide in the order that the parties may not opt out of the enforcement program pursuant to subsection (1) if the judge believes it is in the best interests of those affected by the order.

(5) A provision in an order made pursuant to subsection (4) may be reviewed by a judge at any time upon application by a party to the maintenance order. 1994-95, c. 6, s. 10; 2004, c. 40, s. 17.

Maintenance order

12 (1) A maintenance order may be filed with the Director by either a recipient or payor.

(2) A maintenance order may be filed with the Director by

(a) the Minister of Community Services where the recipient has assigned the maintenance order to the Department of Community Services; or

(b) a person or representative of a government department or agency, a city, an incorporated town, a municipality of a county or district or a regional municipality providing maintenance to a recipient entitled to make an application or variation in respect of a maintenance order pursuant to Section 29 of the *Parenting and Support Act*. 1994-95, c. 6, s. 10; 2004, c. 40, ss. 16, 17; 2015, c. 44, s. 54.

Support order made outside Province

13 Every support order made outside the Province that is received pursuant to the *Interjurisdictional Support Orders Act* for enforcement in the Province must be filed with the Director unless the recipient files with the Director a written consent signed by the recipient and the payor stating that they do not want the order enforced by the Director. 1994-95, c. 6, s. 10; 2002, c. 9, s. 59; 2016, c. 24, s. 5.

Application of Act

14 This Act applies to a support order filed with the Director pursuant to Section 13. 1994-95, c. 6, s. 10; 2016, c. 24, s. 5.

Previous orders

15 (1) All maintenance orders that were being paid to or through the Family Court or that were being enforced by the Family Court immediately prior to January 1, 1996, are deemed to be filed with the Director.

(2) All maintenance orders made prior to January 1, 1996, that were not being paid to or through the Family Court or that are not being enforced by the Family Court as of that date may be filed with the Director pursuant to this Section. 1994-95, c. 6, s. 10.

Decision by Director not to enforce order

16 (1) The Director may decide not to enforce a maintenance order or a part of a maintenance order if

(a) it appears to the Director that the recipient is taking measures to enforce the maintenance order, without the Director's consent;

(b) the order is for an amount less than an amount prescribed by the Director;

(c) the recipient accepts payments directly from the payor in relation to the maintenance order;

(d) the recipient fails or refuses to provide information to the Director that the Director requires in order to enforce the order;

(e) the amount of the support or maintenance cannot be determined from the face of the maintenance order or it is dependent on another variable that does not appear on the maintenance order;

(f) the Director determines that it is not advisable to enforce the maintenance order; or

(g) there is doubt or ambiguity on the part of the Director concerning the force, effect or meaning of the order.

(2) Where, pursuant to subsection (1), the Director decides not to enforce a maintenance order or a part of a maintenance order, any person may enforce the maintenance order or the part of the maintenance order not being enforced by the Director. 1994-95, c. 6, s. 11; 1998, c. 30, s. 2; 2016, c. 24, s. 6.

Withdrawal of order from enforcement

17 (1) A recipient or payor may apply, in writing, to the Director to have a maintenance order withdrawn from enforcement by the Director.

(2) Where a maintenance order has been assigned by the recipient to the Department of Community Services, the recipient or the payor may not apply to have a maintenance order withdrawn from enforcement pursuant to subsection (1) unless the Minister of Community Services consents, in writing, to the withdrawal.

(3) The Director, in determining whether to grant an application pursuant to subsection (1), shall make the determination on the basis of what is an effective method to ensure compliance with the order and having regard to the best interests of the parties and any beneficiaries under the order. 1994-95, c. 6, s. 12; 2004, c. 40, s. 17.

Resuming enforcement of withdrawn order

18 Where a maintenance order has been withdrawn from enforcement pursuant to Section 17, a recipient or payor may apply to the Director to have the enforcement of the order resumed and the Director shall resume enforcement of the order unless the Director exercises the discretion referred to in subsection 16(1). 1994-95, c. 6, s. 13.

Notice to parties

19 The Director may give notice, by ordinary mail, to the parties to the order of the withdrawal of a maintenance order pursuant to Section 17 or the resumption of enforcement of a maintenance order pursuant to Section 18. 1994-95, c. 6, s. 14.

Enforcement of arrears

20 (1) The Director may enforce arrears of maintenance under a maintenance order even though the arrears were incurred before the order was enforceable by the Director pursuant to this Act or before January 1, 1996.

(2) The Director may refuse to enforce arrears incurred before the order was filed or before January 1, 1996, if there is insufficient or unreliable evidence to substantiate the arrears, to locate the payor or to identify and locate the assets of the payor.

(3) Where the Director refuses to enforce arrears, a recipient may apply to the court for an order respecting the enforcement of arrears.

(4) Where the payor or recipient disputes the amount of the arrears, the payor or recipient may apply to the court for an order determining the amount of the arrears.

(5) The court, in determining whether to grant an application pursuant to subsection (3), shall make the determination on the basis of whether the decision of the Director pursuant to subsection (2) was in conformity with that subsection and the court may remit the matter to the Director with such direction as the court considers appropriate as to the amount of the arrears, the location of the payor or the assets of the payor. 1994-95, c. 6, s. 15.

Application for approval of payment plan

21 (1) A payor may, at any time, apply, in writing, to the Director for approval of an arrangement with the Director, on terms satisfactory to the Director, that establishes a method of making the payments required by the maintenance order or providing security for those payments.

(2) Notwithstanding any approved arrangement made pursuant to subsection (1) or revised arrangement negotiated pursuant to subsection (3), the Director may, at any time, take any action that the Director is authorized to take to

enforce the maintenance order that is the subject of the approved or revised arrangement.

(3) Where the Director is satisfied that the payor is not complying with the arrangement made with the Director pursuant to subsection (1), the Director may take any action the Director is authorized to take pursuant to this Act to enforce the maintenance order, including negotiation with the payor of a revised arrangement. 1994-95, c. 6, s. 17; 2016, c. 24, s. 7.

Payments made to or through Director

22 (1) Notwithstanding the requirements of the maintenance order, where a maintenance order is being enforced by the Director, the payor shall, subject to subsection (3), make all required payments to or through the Director.

(2) Money paid to or through the Director in respect of a maintenance order is not attachable pursuant to any other enactment.

(3) Notwithstanding the requirements of the maintenance order, where a maintenance order is being enforced by the Director, the payor shall make all required payments at the time and in the manner prescribed by the Director.

(4) Money received by the Director may be paid to

(a) the recipient or to the beneficiaries under the order to the extent of the recipient's or the beneficiaries' entitlement or otherwise pursuant to the maintenance order; or

(b) the Department of Community Services if money is owed to that Department pursuant to an assignment of maintenance rights agreement entered into between the recipient and a representative of the Department.

(5) Where funds remain after the payment of money pursuant to subsection (4), the Director may pay from those funds the costs and fees of the Director and in the event funds remain after such payment, the balance then remaining may be paid to the payor by the Director.

(6) Where a payor is in persistent arrears and funds remain after the payment of money pursuant to subsection (4), the Director may set aside and hold a portion or all of the remaining funds to pay future maintenance obligations arising from the maintenance order.

(7) Upon the satisfaction of all future obligations arising from the maintenance order referred to in subsection (6) and where the Director continues to hold funds the Director may pay from those funds the costs and fees of the Director and the balance then remaining, if any, may be paid to the payor by the Director.

(8) The Director shall keep a record of all payments that, while a maintenance order is filed with the Director, become due to the recipient and that are received and forwarded by the Director on account of a maintenance order filed with the Director.

(9) Where the Director forwards to the recipient an amount to which the recipient is not entitled under the maintenance order, the Director may deduct that amount from subsequent payments received on behalf of the recipient.

(10) The Director may, on the request of the recipient, payor, court, prothonotary or officer of the court and upon payment of any fees prescribed by the Director, provide a statement showing the current status of payments under a maintenance order being enforced by the Director.

(11) The Director shall, on the request of the proper officer of a reciprocating jurisdiction or a court of a reciprocating jurisdiction, provide a sworn or affirmed itemized statement with respect to a maintenance order, showing all amounts that have become due and owing by the payor before the date of the statement and all payments made to or through the Director by or on behalf of the payor during the same period.

(12) For greater certainty, where payments are being made to or through the Director, the maintenance order is deemed as being enforced by the Director for the purpose of this Act, notwithstanding that the Director may not be taking any other action in relation to that maintenance order. 1994-95, c. 6, s. 18; 1998, c. 30, s. 4; 2016, c. 24, s. 8.

Garnishment

23 (1) Notwithstanding any enactment, an obligation to pay money under a maintenance order may be enforced by a garnishment issued by the Director requiring that one or more income sources of the payor deduct the amount as specified in the garnishment from any money payable to the payor at the time the order is served on the income source or thereafter due, or accruing due.

(2) A garnishment binds every income source served by the Director with the order, whether or not the income source is named in the order.

(3) The Director may include in the amount required to be deducted and paid to the Director pursuant to subsection (1)

- (a) any amount in arrears under a maintenance order;
- (b) where the payor is in persistent arrears, any amount for the payor's future maintenance obligations; and
- (c) any costs and any fees of the Director prescribed pursuant to this Act.

(4) The Director may serve a garnishment by ordinary mail addressed to each income source from whom payment is sought.

(5) The Director shall send a copy of the garnishment to the payor by ordinary mail at the last address of the payor as shown on the records of the Director.

(6) Failure to comply with subsections (4) and (5) does not render the garnishment ineffective. 1994-95, c. 6, s. 19; 2004, c. 40, s. 2; 2016, c. 24, s. 9.

Further provisions respecting garnishment

24 (1) Upon service on an income source, a garnishment binds all money then due and from time to time accruing due from the income source to the payor, in the amount specified in subsection (2).

(2) On service of a garnishment, the garnishee shall

(a) hold the money then due and from time to time accruing due to the payor in an amount equal to

(i) the amount specified in the garnishment with respect to money accruing due during the 30 days immediately preceding the date of service, and

(ii) the amount specified in the garnishment, as each payment becomes due under the maintenance order; and

(b) provide the Director with such information as may be required in order to determine if the garnishee is making bona fide efforts to comply with the order.

(3) The garnishee shall forthwith pay to the Director, in accordance with the garnishment, the amount held pursuant to subsection (2).

(4) Where the amount of money paid pursuant to subsection (3) is insufficient to cover the amount then required to fulfill the amount specified in the garnishment, an amount equal to the difference between the amount that should have been paid and the amount that was actually paid is, for the purpose of this Section, to be added to and is considered to be part of the next payment due under the maintenance order.

(5) Where a maintenance order that is the subject of garnishment is varied after service of the garnishment and the Director has been served by the court with the variation order,

(a) a notice of variation in the form prescribed by the Director must be served on the garnishee by the Director; and

(b) the garnishee shall, on service pursuant to clause (a), hold money due to the payor and pay to the Director in accordance with the notice of variation and in accordance with subsection (3).
1994-95, c. 6, s. 20.

Payment discharges garnishee

25 Payment made by the garnishee, pursuant to a garnishment, is a valid discharge to the garnishee against the payor to the amount paid or levied, notwithstanding that the judgment or order in respect of which the payment was made is later reversed. 1994-95, c. 6, s. 21.

Payments to Director

26 Until the income source begins deducting maintenance payments or where payments by an income source are interrupted or terminated, the payor shall pay the amounts owing under the maintenance order to the Director. 1994-95, c. 6, s. 22.

Notice to Director

27 Where an individual, corporation or entity served with a garnishment is not an income source of the payor, the individual, corporation or entity shall give written notice to the Director within 10 days following receipt of the order. 1994-95, c. 6, s. 23.

Applications respecting income source

28 (1) The Director, the payor or the income source, individual, corporation or entity may bring an application to court to determine whether

- (a) the income source has failed to comply with the order;
- (b) the individual, corporation or other entity is an income source;
- (c) money owed under the maintenance order has been paid.

(2) In an application pursuant to subsection (1), the court shall determine the issue and make such order as it considers appropriate in the circumstances, including an order for contempt. 1994-95, c. 6, s. 24; 1995-96, c. 28, s. 2.

Failure of corporate income source to comply

29 Where the court determines under Section 28 that a corporation that is an income source has failed to comply with a garnishment order, the court may order that the directors of the corporation are jointly and severally liable for payment of the money that the corporation failed to hold and pay to the Director. 2004, c. 40, s. 3.

Notice of termination or interruption

30 (1) Within 10 days of the termination or beginning of an interruption of payments by an income source to a payor, both the income source and payor shall give written notice to the Director of the termination or interruption, together with such other information as may be required by the Director.

(2) Where notice has been given or should have been given pursuant to subsection (1),

- (a) the payor and the income source, within 10 days of the resumption of payments that have been interrupted, shall give written notice to the Director of the resumption; and
- (b) the payor, within 10 days of beginning employment with another income source or of becoming entitled to payments from another income source, shall give written notice to the Director of the new employment or the entitlement and of the name and address of the income source. 1994-95, c. 6, s. 25.

Employee protection

31 (1) A person shall not refuse to hire a person and may not dismiss, suspend, lay off, penalize, discipline or discriminate against an employee for a reason relating to the issuing of a garnishment pursuant to this Act.

(2) Upon the application of an individual who alleges to have been the subject of a violation of subsection (1), the Supreme Court of Nova Scotia may, where it finds the allegation to be true, make any order in favour of the individual that it considers just, including an order for reinstatement and an award of damages.

(3) A person who refuses to hire a person or dismisses, suspends, lays off, penalizes, disciplines or discriminates against an employee in respect of whom a garnishment has been issued pursuant to this Act while the garnishment is in effect or within six months after it has ceased to have effect is, where an application is made pursuant to subsection (2), required to show cause for such action, in default of which the action is deemed to be in violation of subsection (1). 1994-95, c. 6, s. 26.

Garnishment order issued outside Province

32 (1) On the filing with the Director of a garnishment or a document of similar effect that

- (a) is issued outside the Province and is directed to an income source in the Province;
- (b) states that it is issued in respect of support or maintenance;
- (c) states the amount of the support or maintenance due to the recipient; and
- (d) is written in or accompanied by a sworn, affirmed or certified translation into English or French,

the Director may serve the filed document on any income source of the payor to enforce the support or maintenance obligation.

(2) Where a garnishment or a document of similar effect is served pursuant to subsection (1), the document is enforceable in the same manner as a garnishment issued pursuant to Section 23.

(3) A garnishment may be issued in respect of an income source that is outside the Province and must

- (a) be signed by the Director;
- (b) state that it is issued in respect of support or maintenance;
- (c) state the amount of the support or maintenance due to the recipient; and
- (d) be written in or accompanied by a sworn, affirmed or certified translation into English or French. 1994-95, c. 6, s. 27; 2016, c. 24, s. 10.

Interpretation of Sections 33 to 38

33 (1) In this Section and in Sections 34 to 38,

“administrator” means a person charged with the administration of a pension plan, and includes a financial or other institution that uses, underwrites or is a depository of

(a) benefits;

(b) money that has been transferred to another plan, to a prescribed registered retirement savings plan or to any other prescribed retirement plan that is registered pursuant to the *Income Tax Act* (Canada), including money transferred before January 1, 1993; and

(c) money earned by the transferred money referred to in clause (b);

“pension entitlement” means

(a) the amount of money in a pension plan of a payor that is available for attachment pursuant to this Act; or

(b) the funds in a pooled registered pension plan account that are available for attachment pursuant to this Act;

“pension plan” means a pension plan governed by an Act and includes

(a) benefits;

(b) funds in a pooled registered pension plan account of a payor that are available for attachment pursuant to this Act;

(c) money that has been transferred to another plan, to a prescribed registered retirement savings plan or to any other prescribed retirement plan that is registered pursuant to the *Income Tax Act* (Canada), including money transferred before January 1, 1993; and

(d) money earned by the transferred money referred to in clause (b).

(2) With respect to pooled registered pension plans, words or phrases used in the definitions in subsection (1) or in Sections 34 to 38 that have been defined in the *Pooled Registered Pension Plans Act* have the same meaning as in that Act. 1998, c. 30, s. 5; 2014, c. 37, s. 22.

Right to attach pension

34 Notwithstanding any enactment, the Director may enforce a maintenance order by attaching the pension entitlement of a payor pursuant to Section 38 if

(a) the payor is in arrears in an amount not less than three months' payment respecting an obligation under a maintenance order that is filed in the office of the Director;

(b) in the opinion of the Director all reasonable steps have been taken to enforce the maintenance order;

(c) the Director has served the administrator and the payor with a notice of the Director's intention referred to in Section 35; and

(d) the payor has not, before the service of a notice of attachment on the administrator pursuant to Section 38, made arrangements satisfactory to the Director to fulfill the obligation under the maintenance order. 1998, c. 30, s. 5.

Contents of notice

35 (1) The notice of the Director's intention to attach the payor's pension entitlement must be in the prescribed form and must

(a) direct the administrator to provide the Director and the payor, within 30 days, with prescribed information respecting the payor's pension entitlement;

(b) notify the payor, in accordance with the regulations, that the payor may apply to the court pursuant to Section 37 within 30 days of receipt of the information referred to in clause (a) for an order that the payor's pension entitlement is not to be attached; and

(c) notify the payor, in accordance with the regulations, of the costs, income tax implications and pension reductions that would result from the attachment of the payor's pension entitlement.

(2) The administrator may provide the information referred to in clause (1)(a) to the payor at the most recent address for the payor in the administrator's records.

(3) Failure of the administrator to provide the information referred to in clause (1)(a) to the payor does not render the attachment ineffective. 1998, c. 30, s. 5.

Restriction on right to enforce

36 (1) The Director shall not enforce a maintenance order by attaching the pension entitlement of a payor if

(a) the payor is a member of a pension plan and

(i) the payor is required to make contributions to the plan that the Director proposes to attach, or

(ii) the payor's employer is required by the plan to make contributions on the payor's behalf to the plan that the Director proposes to attach; or

(b) the payor is receiving a pension benefit pursuant to the pension plan that the Director proposes to attach.

(2) Where an administrator is served with a notice of the Director's intention, the administrator may not pay out any of the payor's pension entitlement at the direction of the payor until 60 days have elapsed from

(a) where no application is made to the court, the date that the Director received the information referred to in clause 35(1)(a); or

(b) where an application is made to the court, the date that the court orders that the payor's pension entitlement may be attached. 1998, c. 30, s. 5.

Powers of court

37 (1) The court, on application by the payor, may order that the payor's pension entitlement is not to be attached if the court is satisfied that

(a) the payor is not in arrears in an amount not less than three months' payments respecting an obligation under a maintenance order that is filed in the office of the Director;

(b) the payor is a member of a pension plan and

(i) is required to make contributions to the plan that the Director proposes to attach, or

(ii) the payor's employer is required by the plan to make contributions on the payor's behalf to the plan that the Director proposes to attach; or

(c) the payor is receiving a pension benefit pursuant to the pension plan that the Director proposes to attach.

(2) A payor applying to the court shall serve the Director and the administrator with notice of the application. 1998, c. 30, s. 5.

Notice to administrator

38 (1) The Director may serve the administrator with a notice of attachment of the payor's pension entitlement in the prescribed form if

(a) an application pursuant to Section 37

(i) has not been made to the court by the payor, or

(ii) has been made to the court by the payor but the court has not ordered that the payor's pension entitlement is not to be attached; and

(b) not more than 60 days have elapsed from

(i) where no application is made to the court, the date that the Director received the information referred to in clause 35(1)(a), or

(ii) where an application is made to the court pursuant to Section 37, the date that the court orders that the payor's pension entitlement may be attached.

(2) Where the Director serves a notice of attachment, the administrator shall

(a) immediately deliver, personally or by ordinary mail, a copy of the notice to the payor; and

(b) comply with the notice of attachment within 45 days of receiving the notice.

(3) The administrator may deliver the notice of attachment to the payor at the most recent address for the payor in the administrator's records.

(4) Failure of the administrator to comply with clause (2)(a) does not render the attachment ineffective. 1998, c. 30, s. 5.

Seizure and sale of money and property

39 (1) The Director may seize money in a deposit account of a payor to

(a) enforce an obligation to pay money under a maintenance order, including arrears; and

(b) where the payor is in persistent arrears, pay the payor's future maintenance obligations.

(2) Subject to subsection (3), where a deposit account in the name of the payor and one or more other persons is seized pursuant to subsection (1), the money to the credit of that account is deemed to be money of the payor.

(3) Any person in whose name a deposit account is maintained along with the name of the payor, may make application, within 60 days of the seizure of the money, to the Supreme Court of Nova Scotia for an order declaring that some or all of the money in the said deposit account is in fact the property of that person and not the payor and not subject to seizure by the Director.

(4) The Director may issue an order for the seizure and sale of real or personal property of the payor to

(a) enforce an obligation to pay money under a maintenance order, including arrears; and

(b) where the payor is in persistent arrears, pay the payor's future maintenance obligations.

(5) An order issued by the Director pursuant to subsection (4) must be filed by the Director with the Supreme Court of Nova Scotia and, upon being filed with the Court, becomes an order of the Court and may be enforced as an order of the Court.

(6) Costs and fees associated with the carrying out of the provisions of this Section by public officers are not recoverable from the Director, but may be recovered from any surplus of funds remaining after the satisfaction of the maintenance order and the payment of the costs and fees of the Director. 1994-95, c. 6, s. 28; 1995-96, c. 28, s. 3; 2016, c. 24, s. 11.

Lien against real property

40 (1) Where a payor, under a maintenance order being enforced by the Director pursuant to this Act, owns real property situate in the Province, the Director may file a lien with respect to the maintenance order and any costs and fees owed to the Director by the payor pursuant to this Act against the real property in the registry of deeds for the registration district in which the property is situate.

(2) A lien filed by the Director pursuant to subsection (1) binds the real property of the payor from the date the lien is registered until the maintenance order is discharged and all costs and fees owed to the Director by the payor pursuant to this Act have been paid and the lien has the same priority as a mortgage registered against the property.

(3) Notwithstanding subsection (2), a payor may apply to the Director or the court to have the lien released or vacated, as the case may be, and

where the Director or the court, as the case may be, is satisfied that it is reasonable to do so, the Director or the court may release or vacate the lien. 1994-95, c. 6, s. 29; 2004, c. 40, s. 4.

Notice of maintenance obligation

41 (1) In this Section and Section 42,

“notice of maintenance obligation” means the data authorized by the regulations made pursuant to the *Personal Property Security Act* to be registered in the Personal Property Registry to effect a registration pursuant to this Act and, where the context permits, includes the data authorized to be registered to effect an amendment, renewal or discharge of a registration;

“personal property” means personal property as defined in the *Personal Property Security Act*.

(2) Where a payor is in default under a maintenance order being enforced by the Director, the Director may register a notice of maintenance obligation in the name of the Director on behalf of the recipient in the form prescribed by the Director in the Personal Property Registry in accordance with the regulations made pursuant to the *Personal Property Security Act*.

(3) The registration of the notice of maintenance obligation creates in favour of the Director a security interest in the personal property of the payor that is deemed to have attached to all the personal property of the payor and to have been perfected when the notice is registered in the Personal Property Registry.

(4) The security interest referred to in subsection (3) is a lien for the total of

(a) the amount that the payor is in default of payment under the maintenance order that accrued before the registration of the notice of maintenance obligation;

(b) the amount of any arrears of maintenance that accrues while the notice of maintenance obligation is registered; and

(c) all costs and fees owed to the Director by the payor pursuant to this Act.

(5) The security interest referred to in subsection (3) has the same priority as any other security interest that is perfected or registered for the total amount determined under subsection (4).

(6) Notwithstanding subsection (5), the security interest created by registration of a notice of maintenance obligation ranks in equal priority to any other security interest created by the registration of a notice of maintenance obligation, regardless of which was registered first, and the Director may prorate any money received in respect of any enforcement of the security interest among all the recipients or beneficiaries under each, unless the court orders otherwise on the application of the Director or a recipient or a payor.

(7) The security interest referred to in subsection (3) continues until it is discharged or the total amount determined under subsection (4) is paid, whichever happens first.

(8) Registration of the notice of maintenance obligation entitles the Director to all the rights of a secured party under the *Personal Property Security Act* and, upon registration of a notice of maintenance obligation under subsection (2), the Director is deemed to be a secured party under the *Personal Property Security Act*, the payor is deemed to be a debtor under that Act and the Director or a person designated by the Director may seize and dispose of the personal property of the payor in the same manner as a secured party may seize and dispose of collateral under that Act. 2004, c. 40, s. 5.

Effective period and discharge of notice

42 (1) Registration of a notice of maintenance obligation is effective for the period of years specified in the registration.

(2) A registration may be amended or renewed by registering an amendment or renewal of the notice of maintenance obligation at any time before the registration expires.

(3) The Director shall discharge the registration of a notice of obligation within 30 days after the total determined under subsection 41(4) has been satisfied.

(4) Where the Director fails or refuses to comply with subsection (3), the payor or any other person with an interest in the personal property of the payor may make a written demand to the Director to discharge the registration within 15 days after the demand is made.

(5) Where the Director fails to comply with a demand made pursuant to subsection (4) within 15 days after it is made or fails to give to the person making the demand an order of the Supreme Court of Nova Scotia confirming that the registration need not be discharged, the person making the demand may register the discharge.

(6) On application by the Director or payor or any other person with an interest in the personal property of the payor, the Supreme Court of Nova Scotia may order that a registration of a notice of maintenance obligation be maintained on any condition and for any period of time or may order that the registration be discharged. 2004, c. 40, s. 5.

Suspension of driving privileges

43 (1) Where a payor is in arrears under a maintenance order being enforced by the Director, the Director may request the Registrar of Motor Vehicles to

(a) suspend or revoke the payor's driver's licence, owner's permit, registration of a vehicle or permit or right to operate a motor vehicle or any other licence issued to the payor;

(b) suspend or revoke the payor's privilege of obtaining a driver's licence;

(c) refuse to issue or renew a payor's driver's licence or owner's permit;

(d) refuse to transfer or register the payor's vehicle; and

(e) refuse to issue a document or provide any other service to the payor pursuant to the *Motor Vehicle Act*.

(2) Before making a request pursuant to clause (1)(a), the Director shall send a notice to the payor by mail informing the payor that, where the payor does not, within the time prescribed by the regulations, make an arrangement satisfactory to the Director for complying with the maintenance order, the Director may request the Registrar of Motor Vehicles to suspend or revoke the payor's driver's licence, owner's permit, registration of a vehicle or permit or right to operate a motor vehicle and any other licence issued to the payor.

(3) Upon receiving a request from the Director pursuant to clause (1)(a), (b), (c) or (d), the Registrar of Motor Vehicles shall, as the case may be,

(a) suspend or revoke the payor's driver's licence, owner's permit, registration of a vehicle or permit or right to operate a motor vehicle or any other licence issued to the payor;

(b) suspend or revoke the payor's privilege of obtaining a driver's licence;

(c) refuse to issue or renew a payor's driver's licence or owner's permit; or

(d) refuse to transfer or register the payor's vehicle,

and the suspension, revocation or refusal remains in place until the Director advises the Registrar that the arrears have been paid or the payor has made an arrangement satisfactory to the Director for complying with the maintenance order, at which time the Registrar shall rescind the suspension, revocation or refusal.

(4) Where a payor fails to comply with any term of an arrangement made with the Director and referred to in subsections (2) and (3), the Director may make a new request pursuant to subsection (1).

(5) The Registrar may grant the Director's request made pursuant to clause (1)(e).

(6) Where the Registrar grants the requested refusal referred to in subsection (5), the Registrar's refusal continues until the Director advises the Registrar that the arrears have been paid or the payor has made an arrangement satisfactory to the Director for complying with the maintenance order, at which time the Registrar shall rescind the refusal.

(7) For the purpose of subsections (3) and (6), the Director shall advise the Registrar immediately when the arrears have been paid or the payor has made a satisfactory arrangement with the Director. 2016, c. 24, s. 13.

Order to provide information

44 (1) For the purpose of enforcing a maintenance order or of obtaining information for a person performing a similar function in another jurisdiction, the Director may order a person, including the payor, a recipient, a corporation or a public body (including the Crown and a law enforcement agency), to provide any information, including personal information, that, in the opinion of the Director, may assist in the enforcement of the maintenance order or obtaining of information

and that is within the knowledge of, or shown on a record in the possession or control of, the person, including

- (a) the payor's or the payor's spouse's
 - (i) wages, salary or other remuneration,
 - (ii) sources of income,
 - (iii) assets and liabilities,
 - (iv) financial status,
 - (v) income tax returns,
 - (vi) location, address and place of employment,
 - (vii) location, address and place of residence,
 - (viii) social insurance number,
 - (ix) date of birth,
 - (x) photograph,
 - (xi) name, including any alias spelling of it, and
 - (xii) different name, including any alias spelling of it;
- (b) any change in the payor's or the payor's spouse's circumstances that may affect the amount of maintenance paid under the order; and
- (c) the payor's mother's maiden name.

(2) An investigator may request any information referenced in subsection (1) but does not have the authority to order the production of the information.

(3) A person, including the payor or a recipient, a corporation or public body, including the Crown, that receives a request for information shall provide it within 14 days of the day on which the request is received.

- (4) Where, on application to a court, it appears that
- (a) the Director has been refused information after making a request pursuant to subsection (1); or
 - (b) a person needs information to enforce a maintenance order that is not filed with the Director,

the court may order a person, including the payor or a recipient, a corporation or public body, including the Crown, to provide the Director or the person named by the court with any of the information prescribed in subsection (1).

(5) Where the Director obtains an order pursuant to subsection (4), the court shall award the costs of the application to the Director.

(6) This Section applies notwithstanding any other Act or regulation and notwithstanding any common law rule of confidentiality, except solicitor-client privilege.

(7) No action lies against a person who provides information in accordance with this Section.

(8) Any person, including the payor or a recipient, a corporation or public body, including a servant or agent of the Crown, who knowingly withholds, misleads or gives false information to the Director or in response to an order of the court pursuant to this Section is guilty of an offence and liable on summary conviction to a fine of not more than \$2,000 or to imprisonment for not more than six months, or to both fine and imprisonment. 1994-95, c. 6, s. 31; 2004, c. 40, s. 7; 2016, c. 24, s. 14.

Information from court

45 Upon the request of the Director, a court, a prothonotary or an officer of the court shall provide to the Director, for the purpose of enforcing a maintenance order or of obtaining information for a person performing similar functions in another jurisdiction, such information in the possession of the court as, in the opinion of the Director, may assist in the enforcement of the maintenance order or obtaining of information. 2007, c. 43, s. 1; 2016, c. 24, s. 15.

Exceptions to Sections 44 and 45

46 The following records are not required to be provided to the Director under Section 44 or 45:

- (a) a record of a person acting in a judicial or quasi-judicial capacity, such as a note, communication or draft decision;
- (b) any record sealed by court order or judicial direction;
- (c) a “judicial administration record” as defined in the *Freedom of Information and Protection of Privacy Act*. 2007, c. 43, s. 1.

Confidentiality of information

47 (1) Information received by the Director pursuant to this Act is confidential and must not be disclosed except

- (a) for the purpose of this Act or enforcing a maintenance order filed with the Director;
- (b) where the payor is in arrears, the Director may report that to any consumer reporting agency registered pursuant to the *Consumer Reporting Act*;
- (c) on request, to a person performing similar functions in another jurisdiction;
- (d) for the purpose of the administration of the *Employment Support and Income Assistance Act*, the *Social Assistance Act* or any other income assistance program administered by the Department of Community Services;
- (e) as authorized by the Minister of Justice;
- (f) by an order of the court;
- (g) for the purpose of an audit of the Maintenance Enforcement Program;

(h) for the purpose of assessing a liability claim or potential claim against the Crown in right of the Province or the Maintenance Enforcement Program;

(i) for research purposes, including statistical research projects;

(j) if the Director believes the information is required for the protection of a person's health or safety;

(k) on request, to a court, a prothonotary or an officer of the court, if relevant to a proceeding before the court or the Supreme Court of Nova Scotia;

(l) on request, to a recalculation clerk appointed pursuant to Section 6 of the *Administrative Recalculation of Child Support Regulations*, for the purpose of an administrative recalculation;

(m) on request, to a designated authority as defined in the *Interjurisdictional Support Orders Act*, for a purpose relating to that Act;

(n) on request, to a department or office established pursuant to the *Public Service Act*, if the information is required to carry out the mandate of the department or office;

(o) where authorized by the recipient, to a third party, if the information would otherwise be released by the Director to the recipient;

(p) where authorized by the payor, to a third party, if the information would otherwise be released by the Director to the payor;

(q) to inform a recipient that a payor is in receipt of income assistance benefits or other income that is excluded from garnishment;

(r) to the Ombudsman upon the Ombudsman's request; or

(s) if otherwise prescribed by the regulations.

(2) Any person who obtains information pursuant to subsection (1) must comply with the conditions established by the Director regarding the disclosure of the information.

(3) The conditions referred to in subsection (2) may include, without limiting the generality of the foregoing,

(a) the implementation of security measures to prevent unauthorized disclosure of the information; and

(b) the use and destruction of the information.

(4) Where an order is made pursuant to subsection 44(4) or pursuant to a similar provision in another Act or an Act of the Parliament of Canada, the court may make an order with respect to the confidentiality to be maintained in connection with the information released.

(5) Notwithstanding subsection (1), the Director may disclose to a consumer reporting agency registered pursuant to the *Consumer Reporting Act*

- (a) the name of a payor who is in default on a maintenance order filed in the office of the Director;
- (b) the date of the maintenance order;
- (c) the amount and frequency of the payor's obligation under the maintenance order;
- (d) the amount of the arrears owing under the maintenance order at the time of the disclosure; and
- (e) such other information as may be prescribed. 1994-95, c. 6, s. 32; 1998, c. 30, s. 6; 2004, c. 40, s. 8; 2005, c. 53, s. 1; 2016, c. 24, s. 16.

Offence and penalty

48 Every person who releases information in contravention of this Act or fails to comply with the conditions referred to in subsection 47(2), is liable on summary conviction to a fine of not more than \$2,000 or to imprisonment for not more than six months, or to both fine and imprisonment. 1994-95, c. 6, s. 33; 2016, c. 24, s. 17.

Information to be filed when in default

49 (1) Where the payor is in default under a maintenance order being enforced by the Director, the Director may require that the payor

- (a) file a statement of financial information with the Director in the form prescribed by the Director within 14 days of the day that the payor receives the request; and
- (b) appear before the Director in person, or by telephone, video conference or other electronic means acceptable to the Director, to be examined in relation to employment income, assets and financial circumstances generally.

(2) The Director may provide the recipient with copies of information obtained pursuant to subsection (1).

(3) The Director may extend the period within which the financial statement is required to be filed by the payor with the Director if the Director considers that appropriate in the circumstances.

(4) Where the payor fails to appear before the Director as required by clause (1)(b), the Director may apply *ex parte* to a court for a warrant for the arrest of the payor for the purpose of bringing the payor before the Director or the court.

(5) A payor who

- (a) does not file a statement of financial information in accordance with this Section; or
- (b) knowingly withholds, misleads or gives false information to the Director or the court pursuant to this Section or Section 50,

is guilty of an offence and liable on summary conviction to a fine of not more than \$2,000 or to imprisonment for not more than six months, or to both fine and imprisonment. 1994-95, c. 6, s. 34; 1995-96, c. 28, s. 4; 2016, c. 24, s. 18.

Examination of payor by Director or court

50 (1) Where a payor appears before the Director or before the court pursuant to Section 49, the payor may be examined on

- (a) the means or ability the payor has of complying with the maintenance order;
- (b) the disposal the payor has made of property since the date on which the proceedings were started in which the maintenance order was made;
- (c) the debts that are owing to or by the payor; and
- (d) the payor's assets, employment income and financial circumstances generally.

(2) At the examination proceedings pursuant to subsection (1), unless the contrary is shown,

- (a) the payor is presumed to have the ability to pay the arrears owing and to make subsequent payments under the maintenance order; and
- (b) a statement of arrears prepared and served by the Director is presumed to be correct as to the arrears owing.

(3) At the conclusion of an examination conducted by the court pursuant to subsection (1), the court may make any order that it would make pursuant to subsection 52(3), or may refer the matter to the Director along with any information obtained by the court as a result of its examination of the payor. 1994-95, c. 6, s. 35.

Actions by Director after examination

51 (1) At the conclusion of an examination conducted by the Director pursuant to subsection 50(1), the Director shall take one or more of the following actions:

- (a) proceed to obtain an execution order;
- (b) require the payor to pay all or part of the arrears in such manner as the Director considers just;
- (c) proceed to obtain the appointment of a receiver pursuant to Section 55;
- (d) require the payor to post a bond or sureties;
- (e) require the payor to deposit a specified amount with the Director to be held as security for payments to the recipient if the Director is satisfied that there has been a default;
- (f) refer the matter to the appropriate officials to consider instituting proceedings with respect to a violation of this Act;
- (g) require the payor to report periodically to the Director;
- (h) require the payor to file with the Director such financial information as the Director may require and at such times as the Director may require;
- (i) apply for a judgment pursuant to Section 53;

(j) issue a garnishment;

(k) require the payor to apply to court pursuant to the *Parenting and Support Act* or the *Divorce Act* (Canada) by a specified date for a hearing before a judge in respect of the payor's ability to pay the arrears or to make subsequent payments.

(2) Where a payor received a notice to appear and failed to appear before the Director to be examined pursuant to clause 49(1)(b), the Director may take one or more of the actions referred to in subsection (1). 1994-95, c. 6, s. 36; 1995-96, c. 28, s. 5; 2004, c. 40, s. 16; 2015, c. 44, s. 55; 2016, c. 24, s. 19.

Court hearings

52 (1) Where a payor defaults in the payment of maintenance under a maintenance order or fails to comply with a requirement of the Director pursuant to clause 51(1)(k), the Director, in the case of a maintenance order being enforced by the Director, or the recipient may apply to the court for a hearing of the matter.

(2) At a hearing pursuant to this Section, unless the contrary is shown,

(a) the payor is presumed to have the ability to pay the arrears owing and to make subsequent payments under the maintenance order; and

(b) a statement of arrears prepared by the Director is presumed to be correct as to the arrears owing.

(3) At a hearing pursuant to this Section, the court, unless it is satisfied that the payor is unable for valid reasons to pay the arrears or to make subsequent payments under the maintenance order, may order that

(a) the payor pay all or part of the arrears in such manner as the court considers just;

(b) the payor pay the arrears in full by a specified date;

(c) the payor comply with the order to the extent of the payor's ability to pay;

(d) upon failure to make any payment by a date specified in the order, the payor be fined in an amount not exceeding \$3,000 for each default;

(e) the payor deposit a specified amount in court, or with such person as the judge considers fit, to be held as security for payment to the recipient in the event of default;

(f) the payor enter into a bond in a specified amount, with or without sureties;

(g) the payor provide some other security for payment of any amount required to be paid under the order;

(h) the payor report periodically to the court, the Director or a person specified in the order;

(i) the payor forthwith provide to the Director any information with respect to real and personal property that is legally owned or otherwise held by a corporation or another person and that

- (i) the payor, or another person on behalf of the payor, is using or otherwise dealing with or is in a position to use or otherwise deal with in a manner similar to that of a person who legally owns or otherwise holds the property, or
 - (ii) the payor, or another person on behalf of the payor, is in a position to compel or otherwise influence the corporation or other person to
 - (A) use or deal with as directed by the payor, or other person on behalf of the payor, or
 - (B) permit the payor, or other person on behalf of the payor, to use or otherwise deal with in a manner similar to that of a person who legally owns or otherwise holds the property;
 - (j) where the court has reason to believe that, with respect to real and personal property that is legally owned or otherwise held by a corporation or another person, the payor or another person on behalf of the payor is exercising or has exercised authority over that corporation or person within the meaning of Section 68, the corporation or that other person forthwith provide to the Director any information concerning that property and the relationship of the corporation or that other person to the payor;
 - (k) the payor provide to the court, the Director or a person specified in the order particulars of any future change of address or employment as soon as they occur;
 - (l) the payor be imprisoned continuously or intermittently for not more than six months unless the arrears are sooner paid;
 - (m) the payor be imprisoned continuously or intermittently for not more than 90 days on default in any payment ordered pursuant to this subsection;
 - (n) the matter be referred to the Director for consideration pursuant to Section 43;
 - (o) proceedings be commenced in the Supreme Court of Nova Scotia for the appointment of a receiver pursuant to Section 55;
 - (p) a judgment be entered pursuant to Section 53;
 - (q) a garnishment be issued by the Director pursuant to Section 23 or, where the maintenance order is not being enforced by the Director, issue a garnishment, in which case the provisions of this Act respecting garnishment apply with necessary changes;
 - (r) the payor pay any costs that the court considers just, including fees of the Director;
 - (s) the payor be fined an amount not exceeding \$3,000;
 - (t) an execution order be issued.
- (4)** An order for partial payment pursuant to clause (3)(a) does not discharge any unpaid arrears.

(5) An order pursuant to clause (3)(e) does not affect the accruing arrears.

(6) Imprisonment of a payor pursuant to clause (3)(l) or (m) does not discharge arrears under a maintenance order and does not preclude a subsequent imprisonment pursuant to subsection (3) for the same arrears.

(7) An order for security pursuant to subsection (3) or a subsequent order of the court may provide for the realization of the security by seizure, sale or other means, as the court directs or for the release of all or part of the security. 1994-95, c. 6, s. 37; 2004, c. 40, s. 9.

Judgment entered by court

53 (1) Notwithstanding any general or special Act, where, upon *ex parte* application by the Director or a recipient in respect of a maintenance order not being enforced by the Director, a judge is satisfied that there has been a failure to comply with a provision of a maintenance order for the payment of maintenance, the judge may enter a judgment for the outstanding amount, together with the amount of any costs and fees owed to the Director by the payor pursuant to this Act, against the person who has failed to pay as provided in the rules of court or pursuant to the *Civil Procedure Rules*.

(2) Once a judgment has been entered pursuant to this Section, the court may not excuse the payment of the debt in subsequent proceedings respecting the variation or enforcement of the maintenance order.

(3) Where a judgment for the payment of an outstanding sum has been entered pursuant to this Section, the judgment bears interest from the date of the judgment at the rate provided by the *Interest on Judgments Act*.

(4) Where a judgment for the payment of an outstanding sum has been entered pursuant to this Section, any party is entitled to have, for registration in the registry of deeds, a certificate of judgment in the form prescribed by the regulations.

(5) The certificate must be registered by every registrar of deeds with whom it is placed for registration.

(6) Where a certificate of judgment has been recorded pursuant to the *Land Registration Act*, any party may record a certificate of renewal of the judgment pursuant to that Act.

(7) A certificate of the discharge of a judgment must be in the form prescribed by the regulations. 1994-95, c. 6, s. 38; 1995-96, c. 28, s. 6; 2004, c. 40, s. 10.

Variation of maintenance orders and filing of reports

54 (1) An application to vary a maintenance order being enforced by the Director pursuant to this Act must be made pursuant to the *Parenting and Support Act* or the *Divorce Act* (Canada), whichever is applicable, and the application to vary does not stay any enforcement proceedings that have been commenced pursuant to this Act or prevent further enforcement proceedings pursuant to this Act.

(2) A hearing pursuant to Section 52 and a hearing of an application for variation of a maintenance order in default may be held together or separately.

(3) Where, pursuant to subsection (2), a hearing of an application to vary is held at the same time as a default hearing, the default hearing must be held first.

(4) Where a maintenance order that is filed with the Director is varied, the prothonotary or officer of the court shall, within five working days, file with the Director the order of the court that varies the maintenance order.

(5) Unless it is varied, rescinded or suspended, a judgment order or decree registered pursuant to subsection 52(2) of the *Parenting and Support Act* may be enforced pursuant to this Act.

(6) Where the court, that is asked to enforce a judgment, order or decree of the Supreme Court of Nova Scotia, is satisfied that

(a) the circumstances have changed; and

(b) the judgment, order or decree should be varied, rescinded or suspended,

the court may file a report with the prothonotary or officer of the court that issued the judgment, order or decree or with such other person as the rules of the Court may provide.

(7) A court filing a report pursuant to subsection (6) must advise the parties by providing to them a copy of the report and such other documents as the rules of the Supreme Court of Nova Scotia may require.

(8) The court that receives the report may deal with the report in the same manner as it would deal with the report of a referee made pursuant to the *Civil Procedure Rules*. 1994-95, c. 6, s. 39; 1995-96, c. 28, s. 7; 2004, c. 40, s. 16; 2015, c. 44, s. 56.

Receivers

55 (1) On an application to the Supreme Court of Nova Scotia by the Director or a recipient, a judge may, where the judge considers it just to enforce obligations under a maintenance order, with the consent of a person, make an order appointing that person as the receiver, either conditionally or unconditionally, of money due, owing or payable or to become due to, owing or payable to, or earned or to be earned by, the payor.

(2) Where a person is before a judge of the Supreme Court of Nova Scotia for any purpose pursuant to this Act, other than pursuant to subsection (1), the judge, where satisfied that the person is in default under a maintenance order, may appoint a receiver pursuant to subsection (1), without prior application.

(3) Where a receiver realizes money under an order made pursuant to subsection (1), the receiver shall, after deducting the costs of the receiver, pay the money to the Director or the recipient to satisfy the payor's obligation under the

maintenance order, costs and fees, if any, and pay the balance, if any, to the payor. 1994-95, c. 6, s. 40.

Notice to Director of termination of order

56 Each of the parties to a maintenance order filed with the Director shall give the Director notice of the termination of a maintenance obligation under the order, in the manner and at such time as the Director may prescribe. 1994-95, c. 6, s. 41.

Notice of change of address or employment

57 (1) A payor and a recipient under a maintenance order being enforced by the Director shall advise the Director of each change of address and of each change of electronic contact address within 10 days of the date of the change.

(2) A payor under a maintenance order being enforced by the Director shall advise the Director of a change in location, address and place of employment, including the commencement or cessation of employment, within 10 days of the date of the change. 1994-95, c. 6, s. 42; 2016, c. 24, s. 20.

Deemed receipt of documents

58 (1) Where the Director sends a document by mail to a payor or to a recipient or where the Director is required to

- (a) give notice, by ordinary mail, pursuant to Section 19;
- (b) send a copy of a garnishment, by ordinary mail, pursuant to subsection 23(5);
- (c) give notice, by mail, pursuant to subsection 43(2); or
- (d) send a copy of a maintenance order, by regular mail, pursuant to Section 73,

the Director shall mail the document to the payor or recipient at the most recent address in the Director's records, and the document is deemed to have been received 10 days after the date of mailing.

(2) The Director may make use of electronic transmission, including facsimile or electronic mail, to send the document referred to in subsection (1) to the payor or recipient at the most recent electronic contact address in the Director's records, and the document is deemed to have been received 10 days after the electronic transmission was completed.

(3) Deemed receipt of a document within 10 days of mailing or 10 days after the completion of the electronic transmission referenced in subsections (1) and (2) does not apply to

- (a) the receipt of the Director's written request that the payor file a statement of financial information pursuant to clause 49(1)(a);
- (b) the receipt of the Director's notice that the payor appear for examination pursuant to clause 49(1)(b);
- (c) the service of a notice pursuant to Section 34; and

(d) the service of a notice of a court application under this Act. 2016, c. 24, s. 21.

Appeal

59 (1) An appeal lies to the Nova Scotia Court of Appeal from an order made pursuant to this Act by the court or the Supreme Court of Nova Scotia, including its Family Division, within 30 days of the date of the order appealed from.

(2) An order under appeal remains in force pending the determination of the appeal, unless the court appealed to otherwise orders. 1994-95, c. 6, s. 43; 1998, c. 12, s. 11; 2016, c. 24, s. 22.

Application of money paid to Director

60 Money paid to the Director in respect of a maintenance order must be credited

- (a) first to the periodic payment most recently due;
- (b) then to any balance of arrears outstanding;
- (c) then to any other amount payable and outstanding in respect of the maintenance order; and
- (d) lastly to costs and fees charged by the Director. 1994-95, c. 6, s. 44.

Where unable to locate recipient

61 (1) Where the Director is unable to locate the person entitled to the money received by the Director, the Director shall hold the money for the benefit of that person and shall maintain a record of the money.

(2) The Director shall make all reasonable efforts to locate the person entitled to the money during the time the money is held pursuant to subsection (1).

(3) Where the Director is unable to locate the person entitled to the money held by the Director for the benefit of that person for a period of two years after receiving the money, the Director shall pay the money to the Minister of Finance and Treasury Board and the money may be used for the purposes of the Province, except that the Minister shall account for the money.

(4) A person claiming entitlement to any money held by the Minister of Finance and Treasury Board under this Act may make an application to the Supreme Court of Nova Scotia or a judge thereof requiring payment of money by the Minister of Finance and Treasury Board.

(5) The Director shall provide and the person making an application pursuant to subsection (4) shall file an affidavit in support of the application confirming the payment made by the Director to the Minister of Finance and Treasury Board and any payments made from the fund by the Director.

- (6)** The application referred to in subsection (4) must be made
- (a) within 10 years after the money was paid to the Minister of Finance and Treasury Board by the Director; or

(b) where the person claiming entitlement to the money is under the age of 19 years or of unsound mind or out of Province, within 10 years after the person becomes of full age or of sound mind or returns to the Province, and in any event within 40 years after the money was paid to the Minister of Finance and Treasury Board by the Director. 2016, c. 24, s. 23.

Priorities

62 (1) Notwithstanding any enactment, a maintenance order, whether filed with the Director or not, takes priority over any other unsecured judgment debt of the payor regardless of when an enforcement process is issued or served.

(2) The priority pursuant to subsection (1) does not apply to arrears of maintenance owing under a maintenance order that were owing more than five years before the date on which the recipient or the Director first initiated the proceedings to enforce the maintenance order.

(3) Maintenance orders and execution orders in respect thereof and garnishments rank equally with one another, regardless of when an enforcement process is issued or served.

(4) Where two or more maintenance orders in respect of the same payor are filed with the Director, the Director may prorate any money received in respect of any one of the maintenance orders among all the recipients or beneficiaries under the maintenance orders unless specified or required to be applied in respect of a particular order. 1994-95, c. 6, s. 45.

Recovery of payments

63 (1) Subject to subsection (4), there is no limitation as to time on a recovery of periodic payments or a lump sum payment in default under a maintenance order.

(2) Where a payor dies and at the time of death payments under a maintenance order being enforced pursuant to this Act are in default, the amount in default is, subject to subsection (4), a debt of the estate and recoverable by the person entitled to the payments in the same manner as any other debt recoverable from the estate.

(3) Where a recipient dies, the personal representative of the recipient may, subject to subsection (4), recover for the estate of the recipient any payments under a maintenance order in default at the time of the death.

(4) Where payment under a maintenance order is in default, a judge of the court that made the order may, on application, relieve the payor or the estate of the payor of the obligation to pay the whole or part of the amount in default if the judge is satisfied that

(a) having regard to the interests of the payor or the estate of the payor, it would be grossly unfair and inequitable not to do so; and

(b) having regard to the interests of the person entitled to the payments or the estate of that person, it is justified. 1994-95, c. 6, s. 46.

Fees and costs of Director

64 (1) The Director may charge fees for services under this Act or recover costs incurred by the Director in the amount and to the persons prescribed in the regulations and the fees and costs are a debt due to the Crown in right of the Province and may be recovered in the same manner as a debt due to the Crown.

(2) The Director may not charge a fee to a recipient for services provided to the recipient pursuant to this Act.

(3) The fees and costs referred to in subsection (1) and any costs ordered by the court to be paid to the Director by a payor may be collected by the Director in the same manner as a maintenance order may be enforced under this Act and the enforcement provisions available to the Director under this Act where a payor is in default under a maintenance order being enforced by the Director apply with necessary changes notwithstanding that the payor may not be in default under the order. 1994-95, c. 6, s. 47; 2004, c. 40, s. 11; 2016, c. 24, s. 24.

Admissible in evidence

65 (1) A statement of arrears signed by the Director is admissible in evidence, in the absence of evidence to the contrary, as proof of the arrears without prior notice to the other party.

(2) A statement signed by the Director that a maintenance order is filed in the office of the Director is admissible in evidence as conclusive proof of the facts contained in the statement.

(3) A document signed by the Director with respect to the enforcement of a maintenance order is admissible in evidence without proof of the signature or official character of the Director.

(4) Where the signature of the Director is required for the purpose of this Act, the signature may be written, engraved, lithographed or reproduced by another mode of reproducing words in visible form.

(5) In any proceeding pursuant to this Act, a computer printout

(a) showing, as of the date of the printout, the state of the account, as between the parties to the proceeding, in respect of the payments required to be made by one party to the other pursuant to an order; and

(b) certified by the Director as being a true copy of the record in respect of the state of that account as of that date,

is admissible in evidence, on behalf of either party, as proof of the state of the account, without prior notice to the other party of the intention to submit the printout in evidence. 1994-95, c. 6, s. 48.

Guardian ad litem not required

66 A person under the age of majority may commence, conduct and defend a proceeding and initiate and complete steps for enforcement of a maintenance order without the intervention of a guardian *ad litem*. 1994-95, c. 6, s. 49.

Further powers of court

67 (1) Where the court is satisfied, upon *ex parte* application by the Director or a recipient, that the payor is hindering or defeating or is attempting to hinder or defeat the enforcement of a maintenance order by dissipation, gift or transfer of assets, funds or benefits, a court may make an order restraining or setting aside a dealing with, or gift or transfer of, the assets or make an order for the appointment of a receiver pursuant to Section 55.

(2) Where a court is satisfied, upon *ex parte* application by the Director or a recipient, that the payor is attempting to hinder or defeat the enforcement of arrears under a maintenance order by leaving the Province, the court may issue a warrant for the arrest of the payor for the purpose of bringing the payor before the court to be examined with respect to the payor's ability to meet the obligations under the maintenance order and may make any order that a court could make pursuant to Section 52. 1994-95, c. 6, s. 50.

Where payor exercising authority over corporation or person

68 (1) In this Section, a reference to a payor, or another person on the payor's behalf, "exercising authority over a corporation or other person" is a reference to a situation in which, with respect to any real and personal property that is legally owned or otherwise held by that corporation or other person,

(a) the payor, or another person on the payor's behalf, is using or otherwise dealing with or is in a position to use or otherwise deal with the property in a manner similar to that of a person who legally owns or otherwise holds the property; or

(b) the payor, or another person on the payor's behalf, is in a position to compel or otherwise influence the corporation or other person

(i) to use or deal with the property as directed by the payor or another person on the payor's behalf, or

(ii) to permit the payor, or another person on the payor's behalf, to use or otherwise deal with the property in a manner similar to that of a person who legally owns or otherwise holds the property.

(2) Where

(a) a payor has defaulted with respect to a payment under a maintenance order filed with the Director; and

(b) with respect to property legally owned or otherwise held by a corporation or other person, the Director is of the opinion that the payor, or another person on the payor's behalf, is exercising authority over the corporation or other person,

the Director may apply to the court for an order directing that the property is subject to garnishment or seizure and sale, as the case may be, for the purpose of paying the

amount in default under the maintenance order and any costs and fees owed to the Director by the payor pursuant to this Act.

(3) An application made under subsection (2) may be made without notice.

(4) Where, on hearing an application, the judge finds that

(a) a payor has defaulted in a payment under a maintenance order filed with the Director; and

(b) with respect to the property that is legally owned or otherwise held by a corporation or other person, the payor, or another person on the payor's behalf, is exercising or has exercised authority over the corporation or other person as defined in subsection (1),

the judge may by order

(c) declare that the property legally owned or otherwise held by a corporation or other person is property of the payor and direct that the property or any specific portion of the property is subject to garnishment, an order for seizure and sale or an order of receivership, including an order of receivership under subsection 55(1), as the case may be, for the purpose of paying the amounts in default under the maintenance order and any costs and fees owed to the Director by the payor pursuant to this Act;

(d) give such other direction or make such other order as the judge considers appropriate in the circumstances;

(e) award costs. 2004, c. 40, s. 12; 2016, c. 24, s. 25.

Hearing respecting late payments

69 Whether or not any other enforcement proceedings have been taken or could be taken, where a person has made payments under an order after the due date thereof, the Director may issue a summons for that person to appear before a judge for a hearing to determine the cause of the late payments and, after the hearing, the judge may make any of the orders pursuant to Section 52. 1994-95, c. 6, s. 51.

Certain provisions of agreement not enforceable

70 A provision in an agreement or maintenance order by which a recipient agrees to, or that requires a recipient to,

(a) withdraw a maintenance order that is filed with the Director pursuant to this Act; or

(b) file with the court that made the maintenance order or the Director a notice stating that the recipient wishes to opt out of the enforcement program or does not wish to have a maintenance order enforced by the Director,

is not enforceable. 1994-95, c. 6, s. 52.

Enforcement of extra-Provincial order

71 (1) Where a person in another jurisdiction who is performing functions similar to the Director requests that the Director enforce a maintenance

order on behalf of that person, the Director may enforce the order in accordance with this Act and has all the powers and privileges under this Act in respect of the enforcement of such an order.

(2) The Director may request such information as the Director reasonably requires from the person making the request pursuant to subsection (1) in order to enforce the order.

(3) The Director may refuse a request pursuant to subsection (1) if none of the parties are in the Province, there are no assets in the Province or for such other reasons as the Director may determine. 1994-95, c. 6, s. 53.

Proof of default

72 In an action brought on default of an obligation under a maintenance order, proof of the default or arrears may be made either by oral or affidavit evidence or by other evidence that the judge may allow. 1994-95, c. 6, s. 54.

Proof of service not required

73 Where a proceeding is brought to enforce a maintenance order, it is not necessary to prove the payor was served with the maintenance order provided a copy of such maintenance order has been sent by regular mail, addressed to the payor, at the payor's last known address. 1994-95, c. 6, s. 55.

Spouses competent and compellable witnesses

74 Notwithstanding the *Evidence Act*, spouses are competent and compellable witnesses against each other in a proceeding to enforce a maintenance order. 1994-95, c. 6, s. 56.

Offence and penalty

75 An individual, corporation or entity that fails to comply with a provision of this Act or that fails to comply with an order or direction of the Director or a court is guilty of an offence and liable on summary conviction to a fine of not more than \$2,000 or to imprisonment for not more than six months, or to both fine and imprisonment. 1994-95, c. 6, s. 57.

Offence by corporation

76 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 on summary conviction to the punishment for the offence, whether or not the corporation has been prosecuted. 2004, c. 40, s. 13.

Offences prosecuted in Family Court

77 All offences prescribed in this Act must be prosecuted in the Family Court. 1994-95, c. 6, s. 58.

Cheque not honoured by bank

78 Payment of a maintenance order, costs or fees by a payor with a cheque that is not honoured by the bank on which it is drawn because of insufficient

funds constitutes a default notwithstanding the fact that the Director has made a payment to the recipient. 1994-95, c. 6, s. 59.

Existing rights not affected

79 The rights given pursuant to this Act are in addition to, and not in substitution for, any rights given pursuant to any other enactment. 1994-95, c. 6, s. 60.

Immunity from action

80 No action lies or may be instituted against a person who is acting pursuant to the authority contained in this Act or the regulations for any loss or damage suffered by a person by reason of anything done in good faith or caused, permitted or authorized to be done by a person pursuant to any power conferred by this Act or the regulations or in carrying out any duty imposed by this Act or the regulations. 1998, c. 30, s. 7.

Wildlife Act

81 (1) The Minister of Fisheries and Aquaculture and the Minister of Natural Resources and Renewables shall, no later than December 31, 2008, implement a system under which

(a) issuance of a licence or permit pursuant to the *Wildlife Act* may be refused to a payor who is in default under a maintenance order; and

(b) a licence or permit issued pursuant to the *Wildlife Act* to a payor who is in default under a maintenance order may be cancelled.

(2) The Governor in Council may make regulations implementing the system referred to in subsection (1).

(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*. 2006, c. 33, s. 1.

Atlantic Lottery Corporation

82 (1) The Minister of Finance and Treasury Board shall enter negotiations with the Atlantic Lottery Corporation to implement a system under which

(a) screening of lottery winners who have won prizes of greater than \$1,000 will take place to determine if those winners are payors in default of maintenance orders;

(b) a prize, referred to in clause (a) that is won by a payor who is in default under a maintenance order, is to be held by the Atlantic Lottery Corporation until it is dealt with in accordance with the regulations; and

(c) the Atlantic Lottery Corporation may be treated as an income source for the purpose of this Act.

(2) The Minister of Finance and Treasury Board shall, no later than December 31, 2007, report to the Assembly on the outcome of the negotiations referred to in subsection (1). 2006, c. 33, s. 1.

Regulations

- 83 (1)** The Governor in Council may make regulations
- (a) respecting the time and manner in which anything referred to be done pursuant to this Act, may be done;
 - (b) respecting fees for services pursuant to this Act;
 - (c) respecting fees to be charged by the Director or the Registrar of Motor Vehicles for actions taken or costs arising pursuant to Section 43;
 - (d) respecting the disclosure of financial information;
 - (e) respecting types of income for the purpose of clause (j) of the definition of “income source” in Section 2;
 - (f) respecting pooled registered pension plans;
 - (g) providing for the withholding, suspension or revocation of licences, permits or certificates if a payor is in default under a maintenance order;
 - (h) requiring an employer to report to the Director the names and addresses of persons hired by the employer;
 - (i) respecting the publication of the names of defaulting payors, including the publication of pictures of those payors;
 - (j) providing for the withholding, suspension or termination of a service, grant or loan provided by any government department, board, commission or agency;
 - (k) respecting the charging of interest on arrears of maintenance owing under maintenance orders filed with the Director, and penalties for default under maintenance orders filed with the Director and the manner in which amounts of money collected by the Director are to be paid to recipients;
 - (l) respecting the manner in which prizes won from the Atlantic Lottery Corporation by payors who are in default under maintenance orders are to be held by the Atlantic Lottery Corporation and are to be dealt with by the Director for the purpose of any system to be implemented pursuant to Section 82;
 - (m) respecting any matter or thing that by this Act is to be prescribed by regulation;
 - (n) defining any word or expression used but not defined in this Act; and
 - (o) respecting any matter or thing the Governor in Council considers necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 1994-95, c. 6, s. 61; 2004, c. 40, s. 14; 2006, c. 33, s. 2; 2014, c. 37, s. 23.

Collection of interest on arrears of maintenance

84 (1) Any amounts owing by a payor under regulations made pursuant to clause 83(1)(k) may be collected by the Director in the same manner as a maintenance order may be enforced under this Act and the enforcement provisions available to the Director under this Act, where a payor is in default under a maintenance order being enforced by the Director, apply with necessary changes notwithstanding that the payor may not be in default under the order.

(2) Any amounts collected by the Director pursuant to subsection (1) must be paid to recipients to whom the payor owes money pursuant to maintenance orders as provided for in this Act and in the manner set out in the regulations made pursuant to clause 83(1)(k). 2004, c. 40, s. 15.

CHAPTER M-2

**An Act Respecting Mandatory Testing
and Disclosure to Protect Victims of
Crime, Emergency Service Workers
and Other Persons**

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

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Short title

1 This Act may be cited as the *Mandatory Testing of Bodily Substances Act*. 2004, c. 29, s. 1.

Interpretation

2 In this Act,

“applicant” means an individual who applies for a testing order pursuant to Section 3;

“Chief Medical Officer” means the Chief Medical Officer of Health appointed pursuant to the *Health Protection Act*;

“court” means the Supreme Court of Nova Scotia;

“Department” means the Department of Health and Wellness;

“guardian”, in relation to an individual, includes a person who stands *in loco parentis* to the individual;

“health authority” has the same meaning as in the *Health Authorities Act*;

“medical officer” means a medical officer of health appointed pursuant to the *Health Protection Act*, and includes the Chief Medical Officer and the Deputy Chief Medical Officer;

“Minister” means the Minister of Health and Wellness;

“minor” means an individual who

(a) is less than 14 years of age; or

(b) is 14 years of age or more but less than 19 years of age and, in the opinion of the court, is unable to understand the nature and effect of a testing order;

“physician report” means a report described in Section 4;

“prescribed” means prescribed by the regulations;

“public health inspector” means a public health inspector designated pursuant to the *Health Protection Act*;

“public health nurse” means a public health nurse designated pursuant to the *Health Protection Act*;

“qualified analyst” means, with respect to the conduct of any analysis required by a testing order, a person who

(a) holds the prescribed qualifications for conducting that type of analysis; and

(b) in the case of any type of analysis that must, by law, be carried out by a licensed professional, holds a valid licence to practise that profession in the Province;

“qualified health professional” means a member of a prescribed health profession who holds a valid licence to practise that profession in the Province;

“source individual” means an individual from whom a sample of a bodily substance is sought for the purpose of testing;

“testing order” means an order described in subsection 5(2). 2004, c. 29, s. 2; 2014, c. 32, s. 138.

Application for testing order

3 (1) An individual may apply to the court for a testing order if the individual

(a) has come into contact with a bodily substance of another individual

(i) as a result of being a victim of crime,

(ii) while providing emergency healthcare services or emergency first aid to that individual,

(iii) while performing duties as

- (A) a firefighter,
- (B) a peace officer,
- (C) a police officer, or
- (D) a person employed to provide correctional services, or

(iv) while performing any prescribed function in relation to that individual; and

(b) as a result of that contact might be infected with a micro-organism or pathogen that causes a prescribed communicable disease.

(2) Subject to subsection (3), an application must be made on three days' notice to the source individual.

(3) An applicant may apply for a testing order without notice to the source individual if the applicant satisfies the court that, in the circumstances of the case, giving notice to the source individual within a reasonable time is impossible or impracticable.

(4) An application must

(a) set out the circumstances in which the applicant came into contact with a bodily substance of the source individual;

(b) be accompanied by a physician report; and

(c) meet any other requirements set out in the regulations.

2004, c. 29, s. 3.

Requirements of physician report

4 A physician report required for the purpose of Section 3 must

(a) be made by a physician who possesses the prescribed qualifications;

(b) assess the risk to the health of the applicant as a result of the applicant's contact with a bodily substance of the source individual;

(c) include information regarding examination, testing, counseling or treatment of the applicant, including the use of active and passive immunizing agents; and

(d) meet any other requirements set out in the regulations. 2004, c. 29, s. 4.

Testing orders

5 (1) On an application pursuant to Section 3, the court may make a testing order if the court is satisfied that

(a) the applicant has come into contact with a bodily substance of the source individual in one of the circumstances described in clause 3(1)(a);

(b) there are reasonable grounds to believe that the applicant might have become infected with a micro-organism or pathogen

that causes a prescribed communicable disease as a result of the contact;

(c) having regard to the incubation periods for the prescribed communicable disease and the methods available for ascertaining the presence of the micro-organisms or pathogens in the human body, an analysis of the applicant's bodily substances would not accurately determine in a timely manner whether, as a result of the contact, the applicant has become infected with a micro-organism or pathogen that causes a prescribed communicable disease;

(d) taking a sample of a bodily substance from the source individual would not endanger the source individual's life or health;

(e) the information to be obtained by the proposed testing cannot reasonably be obtained in any other manner; and

(f) having regard to the physician report submitted by the applicant, the testing order is necessary to decrease or eliminate the risk to the health of the applicant resulting from the contact.

(2) A testing order requires the source individual

(a) within the time specified in the order, to allow a qualified health professional to take from the source individual a sample of any bodily substance specified in the order for the purpose of determining whether the source individual is infected with a micro-organism or pathogen that causes a prescribed communicable disease; and

(b) for the purpose of fulfilling the requirement described in clause (a), to comply with any directions of a medical officer pursuant to subclause 6(1)(d)(ii).

(3) Where the source individual named in a testing order is a minor, the testing order requires a parent or guardian of the source individual to take all reasonable steps to ensure that the source individual complies with the testing order.

(4) A testing order may contain any additional directions that the court considers necessary.

(5) Where the court makes a testing order, the local registrar shall immediately forward a copy of the order and all documents relating to the application to

(a) the medical officer of the health region in which the source individual resides; or

(b) where the place of residence of the source individual is not known, the Chief Medical Officer. 2004, c. 29, s. 5.

Duties of medical officer under testing order

6 (1) On receiving a testing order pursuant to clause 5(5)(a), a medical officer shall

(a) designate a qualified health professional to take from the source individual a sample of any bodily substance specified in the testing order;

(b) designate one or more qualified analysts to conduct tests on the sample obtained from the source individual and specify the tests to be conducted;

(c) provide directions to the persons designated pursuant to clauses (a) and (b); and

(d) subject to subsection (2), serve the source individual with a copy of the testing order and a notice that

(i) sets out the name and address of the qualified health professional designated by the medical officer, and

(ii) gives directions to the source individual respecting the manner in which the source individual must comply with the testing order.

(2) Where a source individual is a minor, a medical officer shall serve a parent or guardian of the source individual with a copy of the testing order and the notice described in clause (1)(d). 2004, c. 29, s. 6.

Carrying out of testing order

7 (1) On receiving a testing order pursuant to clause 5(5)(b), the Chief Medical Officer may require any medical officer to carry out the responsibilities of a medical officer pursuant to Section 6 with respect to that order.

(2) Where a medical officer who receives a testing order pursuant to clause 5(5)(a) is unable to serve the source individual in accordance with clause 6(1)(d) or the parent or guardian of a source individual who is a minor in accordance with subsection 6(2),

(a) the medical officer shall advise the Chief Medical Officer of that fact; and

(b) the Chief Medical Officer may require any other medical officer to carry out the responsibilities of a medical officer pursuant to Section 6 with respect to that order.

(3) A medical officer acting pursuant to subsection (1) or (2) may exercise the powers of a medical officer anywhere in the Province. 2004, c. 29, s. 7.

Duties of qualified health professional

8 (1) A qualified health professional designated by a medical officer pursuant to clause 6(1)(a) shall

(a) take from the source individual a sample of any bodily substance specified in the testing order and deal with the sample in the manner directed by the medical officer; and

(b) deliver the sample to a qualified analyst designated by the medical officer for the purpose of having the sample analysed.

(2) A qualified health professional who takes a sample of a bodily substance from any individual pursuant to a testing order shall not use the sample in any manner other than the manner specified in the order or for any purpose other than the purposes of the order. 2004, c. 29, s. 8.

Duties of qualified analyst

9 (1) A qualified analyst designated by a medical officer pursuant to clause 6(1)(b) shall

(a) in accordance with any directions of the medical officer, conduct an analysis of the sample delivered by a qualified health professional pursuant to clause 8(1)(b); and

(b) promptly provide a written record of the results of the analysis to the medical officer.

8(1)(b) shall (2) A qualified analyst who receives a sample pursuant to clause

(a) ensure that the sample is not used for any purpose other than the analysis required by the testing order;

(b) not release the sample to any person unless

(i) the sample is released to a person who is acting on behalf of the analyst for the purposes of

(A) carrying out the analysis required by the testing order, or

(B) retention of the sample, and

(ii) the qualified analyst ensures that no other person has access to the sample while it is in the custody of that person; and

(c) not disclose the results of the analysis except in accordance with this Act. 2004, c. 29, s. 9.

Results of analysis

10 (1) As soon as possible after receiving the results of an analysis, a medical officer shall make reasonable efforts to furnish a copy of the results to

(a) the applicant;

(b) the applicant's physician; and

(c) at the request of the source individual,

(i) the source individual or, in the case of a source individual who is a minor, a parent or guardian of the source individual, and

(ii) the source individual's physician.

(2) The results of an analysis are not admissible in evidence in any criminal or civil proceeding other than in accordance with this Act. 2004, c. 29, s. 10.

Public health inspectors or nurses

11 (1) In carrying out the medical officer's responsibilities pursuant to this Act, a medical officer may require the assistance of a public health inspector or public health nurse.

(2) A public health inspector or public health nurse who is providing assistance for the purpose of this Act may exercise any of the powers of a public health inspector or public health nurse, as the case may be, anywhere in the Province. 2014, c. 32, s. 139.

Power to call for assistance

12 (1) A medical officer, a public health inspector or a public health nurse may call for the assistance of a peace officer in carrying out any of the officer's, inspector's or nurse's responsibilities pursuant to this Act.

(2) A peace officer who is called on pursuant to subsection (1) may render the assistance requested. 2004, c. 29, s. 12.

Costs of testing borne by Department

13 The costs of any medical reports necessary to obtain a testing order, the costs of taking and analyzing a sample as required by a testing order and any costs incurred by a medical officer in serving or attempting to serve any documents as required by this Act must be borne by the Department. 2004, c. 29, s. 13.

Appeal

14 (1) An appeal lies to the Nova Scotia Court of Appeal on a question of law from a decision of the court respecting an application for a testing order.

(2) Where a testing order was granted pursuant to the application that is the subject of an appeal, the appellant shall serve a copy of the notice of appeal on the medical officer who performed the activities described in Section 6 in relation to the testing order. 2004, c. 29, s. 14.

Stay of testing order

15 (1) An appellant pursuant to Section 14 may apply to a judge of the Nova Scotia Court of Appeal for an order staying a testing order until the appeal is determined.

(2) The appellant shall serve the medical officer who performed the activities described in Section 6 in relation to the testing order with a copy of the notice of application. 2004, c. 29, s. 15.

Service of documents

16 (1) Any document that is required to be served pursuant to this Act or the regulations must be served on the person to whom it is directed.

(2) A document may be served personally or mailed by registered mail to the last known address of the person being served.

(3) A document served by registered mail is deemed to have been received on the seventh day following the day of its mailing unless the person to whom it was mailed establishes that, through no fault of that person, the person did not receive the document or received it at a later date. 2004, c. 29, s. 16.

Disclosure of information

17 (1) Subject to subsections (2) and (3), no person shall disclose any information concerning an applicant or a source individual that comes to the person's knowledge in the course of carrying out responsibilities pursuant to this Act or the regulations or as a result of obtaining a testing order.

(2) A person may disclose information described in subsection (1) if the disclosure

- (a) is required to administer this Act or the regulations;
- (b) is required to carry out a responsibility imposed or to exercise a power conferred by this Act or the regulations;
- (c) is required by law;
- (d) is requested or approved by the individual who is the subject of the information;
- (e) is ordered by the Minister for the purpose of protecting the public health; or
- (f) is made
 - (i) to a member of a health profession who holds a valid licence to practise that profession in the Province in the course of a professional consultation,
 - (ii) between solicitor and client,
 - (iii) in the case of information pertaining to a minor, to a parent or guardian of the individual, or
 - (iv) in prescribed circumstances.

(3) An applicant may disclose the information obtained pursuant to a testing order to the applicant's physician and other healthcare providers as and when necessary to obtain appropriate medical advice and treatment. 2004, c. 29, s. 17.

Judge to determine disclosure of confidential information

18 (1) No person who is subpoenaed or otherwise compelled to give evidence in a legal proceeding is required or allowed to answer any question or to produce any document that reveals information that is made confidential by this Act unless the judge or other person presiding over the proceeding first examines the information, with the public excluded, to determine whether the information should be disclosed.

(2) In making a ruling pursuant to subsection (1), the judge or other person presiding over the proceeding shall consider the relevance to the proceeding and the probative value of the information to be disclosed and the invasion of privacy of the person who is the subject of the information. 2004, c. 29, s. 18.

No action lies

19 (1) No action or proceeding lies or may be commenced against the Crown, the Minister, the Department, an officer, employee or agent of the Department, a health authority, an officer, employee or agent of a health authority or a peace officer for anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done by that person or by any of those persons pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the regulations or in the carrying out or supposed carrying out of any order or direction made pursuant to this Act or any duty imposed by this Act or the regulations.

- (2)** No action or proceeding lies or may be commenced against
- (a) a physician who in good faith makes a physician report;
 - (b) a qualified health professional who in good faith takes a sample of a bodily substance from an individual pursuant to this Act; or
 - (c) a qualified analyst who in good faith performs an analysis of a sample of a bodily substance delivered by a qualified health professional pursuant to this Act. 2004, c. 29, s. 19; 2014, c. 32, s. 140.

Offence

20 (1) Any person who contravenes this Act is guilty of an offence and liable on summary conviction to the penalties set out in the *Summary Proceedings Act*.

(2) Every day on which an offence continues is a separate offence. 2004, c. 29, s. 20.

Limitation period

21 No prosecution for an alleged contravention of this Act or the regulations may be commenced more than two years after the date of commission of the alleged contravention. 2004, c. 29, s. 21.

Act prevails

22 (1) Where there is a conflict between this Act and any other Act, this Act prevails.

(2) Subsection (1) applies notwithstanding any provision in another Act that states that the provision is to apply notwithstanding any other Act. 2004, c. 29, s. 22.

Regulations

- 23 (1)** The Governor in Council may make regulations
- (a) prescribing diseases as communicable diseases for the purpose of this Act;
 - (b) for the purpose of the definition of “qualified analyst”, prescribing the qualifications for conducting types of analysis;

(c) for the purpose of the definition of “qualified health professionals”, prescribing the health professions whose members are eligible to be qualified health professionals;

(d) for the purpose of subclause 3(1)(a)(iv), prescribing functions that, if performed in relation to an individual, give rise to grounds for an application for a testing order if the individual performing the function comes into contact with a bodily substance of the individual in relation to whom the function is performed;

(e) governing applications for testing orders;

(f) prescribing the qualifications of physicians who may make a physician report;

(g) for the purpose of clause 4(d)

(i) governing the information to be furnished in a physician report, and

(ii) prescribing a form for a physician report and requiring that a physician report be made in the prescribed form;

(h) for the purpose of subclause 17(2)(f)(iv), prescribing circumstances in which confidential information may be disclosed;

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

(j) further defining any word or expression defined in this Act;

(k) considered necessary or advisable by the Governor in Council to carry out effectively the intent and purpose of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*, 2004, c. 29, s. 23.

CHAPTER M-3

An Act Respecting Margarine

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

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Short title

1 This Act may be cited as the *Margarine Act*. R.S., c. 269, s. 1.

Interpretation

2 In this Act,

“inspector” means a person appointed or designated by the Minister to carry out this Act and the regulations;

“margarine” means margarine, oleomargarine, butterine or any food substance other than butter, of whatever origin, source or composition, that is prepared for substantially the same uses as butter, but does not include a product designated as an imitation dairy product under the *Imitation Dairy Products Act*;

“Minister” means the Minister of Agriculture;

“package” includes a wrapper, carton, box, tub, crock, crate or other covering or container;

“public eating place” means any place where food or drink is offered for sale to the public for consumption on the premises, and includes a hotel, inn, restaurant, public conveyance, victualling house or lunch counter. R.S., c. 269, s. 2.

Notice in public eating place

3 Every keeper of a public eating place where margarine is served shall

(a) where a menu is used, display thereon in a conspicuous manner the words “margarine is served here”;

(b) where a menu is not used, display in a conspicuous manner in each room or place where food is served a sign or placard bearing the words

“margarine is served here” in letters large enough to be distinctly seen from all parts of each room or place. R.S., c. 269, s. 3.

No mixing with butter

4 No person shall mix margarine with butter for purposes of sale or for use in any public eating place. R.S., c. 269, s. 4.

No preservative

5 No person shall manufacture, sell, offer for sale or serve in any public eating place any margarine that contains any preservative, except common salt, of a kind or in a quantity forbidden by the regulations. R.S., c. 269, s. 5.

Requirements of package

6 No person shall sell or offer for sale any margarine except in a package having legibly marked thereon, in addition to anything required under any Act of the Parliament of Canada or of the Legislature,

- (a) the word “margarine” or the trade name of the contents;
- (b) a list of the ingredients and the percentage of each ingredient;
- (c) the name and address of the manufacturer. R.S., c. 269, s. 6.

Regulations

7 The Governor in Council may make regulations

- (a) prescribing standards of quality for margarine;
- (b) prohibiting or limiting the kinds and quantity of preservatives;
- (c) respecting any other matter necessary or advisable for carrying out effectively the intent and purpose of this Act.

Prohibition

8 No person shall serve in any public eating place, nor shall any person sell or offer for sale, any margarine that does not conform to the standards prescribed by the regulations. R.S., c. 269, s. 8; 1998, c. 8, s. 58.

Inspectors

9 (1) The Minister may appoint such inspectors as may be required for carrying into effect the provisions of this Act and of the regulations made thereunder.

(2) Any inspector appointed under this Act may at any time, for the purpose of enforcing this Act or the regulations,

- (a) enter any place, premises, warehouse, factory, store, boat, car, truck or other vehicle used for the storage or carriage of margarine or that the inspector believes is being so used;
- (b) require to be produced, for inspection or for the purpose of obtaining copies thereof or extracts therefrom, any books, shipping bills, bills of lading, sale records or other records or papers respecting margarine;

(c) detain any margarine for the time necessary to complete an inspection and, at the expense of the owner, manufacturer, wholesaler or retailer, take samples of margarine wherever or whenever the inspector considers necessary. R.S., c. 269, s. 9.

Penalty

10 Every person who contravenes this Act or any regulation is, upon summary conviction, liable to a penalty of not more than \$100 or to imprisonment for not more than 30 days, or to both fine and imprisonment. R.S., c. 269, s. 10.

CHAPTER M-4

**An Act Respecting
the Generation of Electricity
from Marine Renewable-energy Resources**

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

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Short title

1 This Act may be cited as the *Marine Renewable-energy Act*. 2015, c. 32, s. 1.

Purpose

2 The purpose of this Act is to provide for the responsible, efficient and effective development of marine renewable-energy resources through

- (a) a regulatory system that
 - (i) is staged, collaborative, consultative and adaptive, and
 - (ii) integrates technical, environmental and socio-economic factors; and
 - (b) programs and initiatives that promote the sustainable growth and management of the marine renewable-energy sector in the Province.
- 2015, c. 32, s. 2.

Interpretation

3 (1) In this Act,

“application window” means a period of time, as prescribed by the regulations or as determined by the Minister, for receiving applications for demonstration permits under clause 37(1)(c);

“area of marine renewable-energy priority” means an area established by or under Section 11 as an area of marine renewable-energy priority;

“baseline data” means data, collected in relation to the licence area of a licence or the permit area of a permit, respecting the conditions within the area before the installation within the area of a generator authorized to be installed under the licence or permit;

“business day” means a day other than a Saturday or a holiday as defined in the *Interpretation Act*;

“calendar day” means any day, including a Saturday or a holiday as defined in the *Interpretation Act*;

“call for applications” means a call issued under subsection 27(1) for applications for licences;

“connected generator” means a generator

(a) used to produce marine renewable electricity for use or consumption onshore; or

(b) prescribed by the regulations as being a connected generator,

but does not include any generator prescribed by the regulations as not being a connected generator;

“demonstration permit” means a permit to undertake the activity referred to in clause 38(1)(c);

“Director” means the Director of Surveys appointed under the *Crown Lands Act*;

“environmental effects monitoring data” means data, collected in relation to a generator, respecting the effect of the generator on, and the interaction of the generator with, the marine environment;

“environmental monitoring plan” means an environmental monitoring plan required to be submitted to the Minister for approval under clause 33(2)(a) or 40(2)(a);

“generator” means any device or technology, or any collectively operated arrangement of devices or technologies,

(a) used to produce marine renewable electricity for use or consumption onshore; or

(b) being tested for the purpose of assessing its potential or capability for producing marine renewable electricity,

but does not include any structure or anchor used to maintain the device or technology in place, and does not include any device or technology prescribed by the regulations as not being a generator;

“government agency” means

(a) a person who is an agent of the Government; or

(b) an agency, commission, board or other body, some or all of whose members are appointed by an Act of the Legislature, the Governor in Council or a member of the Executive Council, or any combination thereof;

“in-stream tidal-energy converter” means a device used to convert the kinetic energy of a tidal stream into electricity;

“licence” means a licence issued under subsection 31(1) or 32(1);

“licence area” means the area specified in a licence under subsection 31(1) or 32(1);

“marine renewable energy” means the energy available from marine renewable-energy resources;

“marine renewable-energy resources” means

(a) ocean waves, tides and currents and winds blowing over marine waters; and

(b) any other source prescribed by the regulations;

“marine renewable electricity” means electricity produced from marine renewable energy but, in respect of electricity produced from winds blowing over marine waters, includes only electricity produced from a marine wind turbine;

“marine renewable-electricity area” means an area established by this Act or the regulations as a marine renewable-electricity area;

“marine wind turbine” means a wind turbine affixed to the sea bed or situated on a platform that is completely surrounded by marine waters;

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

“nameplate capacity” means the maximum rated output of a generator under the conditions specified by the manufacturer of the generator;

“order” means an order issued under subsection 63(1) or (3), 64(1) or 65(1);

“permit” means a permit issued under subsection 38(1) or 39(1);

“permit area” means the area specified in a permit under subsection 38(2) or 39(2);

“Procurement Administrator” means a person appointed under subsection 23(1) of the *Electricity Act*;

“Record Centre” means the Crown Land Information Management Centre or such other land-record facility as is maintained under the *Crown Lands Act* by the Registrar;

“Registrar” means the Registrar of Crown Lands appointed under the *Crown Lands Act*;

“statutory marine renewable-electricity area” means a marine renewable-electricity area established by Section 14, 15, 16 or 17;

“unconnected generator” means a generator that is not a connected generator.

(2) The regulations establishing a marine renewable-electricity area are materially modified if the regulations are amended to

(a) alter the boundaries of the marine renewable-electricity area to include any area that, immediately before the alteration, was not included within the boundaries;

(b) add to the types of connected generators specified in the regulations that may be licensed to operate within the marine renewable-electricity area; or

(c) increase the limit on the aggregate nameplate capacity of the licensed generators that may be constructed, installed or operated within the marine renewable-electricity area. 2015, c. 32, s. 3; 2017, c. 12, s. 1; 2022, c. 19, s. 1.

Annapolis Tidal Station

4 This Act does not apply to the generation of marine renewable electricity at the Annapolis Tidal Station unless the Station is modified with the result that its nameplate capacity exceeds 20 megawatts. 2015, c. 32, s. 4.

MINISTER'S DUTIES AND POWERS

Conflict with Electricity Act

5 Where there is a conflict between

- (a) the provisions of this Act respecting calls for applications and the regulations respecting calls for applications; and
- (b) Sections 23 to 25 of the *Electricity Act* and the regulations made under that Section,

the provisions of this Act respecting calls for applications and the regulations respecting calls for applications prevail. 2017, c. 12, s. 2.

Duties

6 (1) The Minister is responsible for the general supervision and management of this Act.

(2) The Minister shall

- (a) promote the sustainable development of marine renewable-energy resources;
- (b) establish and administer policies, programs, guidelines, objectives and licensing and permitting processes pertaining to the development and management of marine renewable-energy resources;
- (c) establish programs and mechanisms for providing access to information respecting the development and management of marine renewable-energy resources;
- (d) consult with and co-ordinate activities with other departments, government agencies, municipalities, governments and other persons;
- (e) establish criteria to be applied by a person to whom responsibility is delegated under this Act when making any decision under this Act or the regulations;
- (f) promote and support research and development respecting marine renewable-energy resources, including the development of resources for the voluntary public sharing of information relating to research activities; and
- (g) measure and analyze the socio-economic and environmental effects of marine renewable-energy activities and develop programs to enhance any benefits and mitigate any concerns associated with these activities. 2015, c. 32, s. 5.

Advisors

7 (1) The Minister may appoint any person, establish advisory committees and retain experts to advise the Minister with respect to

- (a) the content and administration of this Act;
- (b) any policy, program or other matter under the administration of the Minister under this Act; or

(c) any other matter referred by the Minister to the person, advisory committee or expert, as the case may be.

(2) Where the Minister appoints a person, establishes an advisory committee or retains an expert under subsection (1), the Minister may provide for the remuneration of and payment of reasonable expenses to the person, the members of the advisory committee established or the expert. 2015, c. 32, s. 6.

Delegation of powers and duties

8 (1) The Minister may, in writing, delegate to

- (a) any employee of the Government or a government agency;
- (b) any employee of the Government of Canada or an agency of that government;
- (c) any employee of a municipality; or
- (d) any other person,

who, in the Minister's opinion, has the requisite qualifications and experience, any power or duty conferred or imposed on the Minister under this Act.

(2) Where the Minister delegates a power or duty under subsection (1), the Minister may

- (a) prescribe how the power or duty is to be exercised or performed and impose any requirements in relation to or restrictions on the exercise or performance of the power or duty that the Minister considers appropriate; and
- (b) provide that the delegate be paid for, or reimbursed for the cost of, exercising or performing the delegated power or duty.

(3) Before making a delegation to a person under subsection (1), the Minister shall consult with and obtain the consent of the person and, where applicable, the employer of the person.

(4) The Minister may revoke a delegation made under subsection (1). 2015, c. 32, s. 7.

Transfer of administration

9 (1) The Minister may, with the approval of the Governor in Council, transfer the administration of a provision of this Act to

- (a) another minister of the Government or a government agency;
- (b) an agency of the Government of Canada;
- (c) a municipality; or
- (d) any other person,

and may specify the terms and conditions under which and subject to which the transfer is made.

(2) Where the Minister transfers the administration of a provision of this Act under subsection (1), the Minister may

- (a) prescribe how the provision is to be administered and impose any requirements in relation to or restrictions on the administration of the provision that the Minister considers appropriate; and
- (b) provide that the transferee be paid for, or reimbursed for the cost of, administering the transferred provision.

(3) The Minister may, with the approval of the Governor in Council, revoke a transfer of administration made under subsection (1). 2015, c. 32, s. 8.

Agreements

10 The Minister may, on behalf of the Crown in right of the Province, enter into an agreement with the Government of Canada, the government of a province of Canada, the government of a foreign country, or a state thereof, or an agency of any of the foregoing, or with a municipality or any person, for

- (a) the sustainable development and management of marine renewable-energy resources;
- (b) the co-ordination of regulatory activities relating to the development of marine renewable-energy resources;
- (c) the identification and establishment of economic development opportunities relating to marine renewable energy;
- (d) marine renewable-energy research and development; or
- (e) the undertaking and sharing of research and knowledge relating to the development and management of marine renewable-energy resources and to any socio-economic or environmental impacts of marine renewable-energy activities. 2015, c. 32, s. 9.

AREAS OF MARINE RENEWABLE-ENERGY PRIORITY

Establishment

11 (1) The following are established as areas of marine renewable-energy priority:

- (a) the Bras d'Or Area of Marine Renewable-energy Priority, an area described, subject to the regulations, in Schedule A; and
- (b) the Fundy Area of Marine Renewable-energy Priority, an area described, subject to the regulations, in Schedule B.

(2) An area of marine renewable-energy priority may be established by the regulations upon the report and recommendation of the Minister. 2015, c. 32, s. 10; 2022, c. 19, s. 2.

Deposit of plan

12 (1) Where an area of marine renewable-energy priority is established, the Registrar shall deposit in the Record Centre a plan signed by the Director showing the boundaries of the area of marine renewable-energy priority.

(2) Where the boundaries of an area of marine renewable-energy priority are altered, the Registrar shall deposit in the Record Centre a plan signed by the Director showing the altered boundaries of the area of marine renewable-energy priority, in substitution for the previous plan deposited under this subsection or subsection (1). 2015, c. 32, s. 11.

Prohibition without licence or permit

13 (1) Except in accordance with a licence or permit, no person shall construct, install or operate within an area of marine renewable-energy priority

- (a) a generator; or
- (b) a cable, an anchor or any other equipment or structure used or intended to be used with a generator.

(2) Notwithstanding subsection (1), a contractor or subcontractor of the holder of a licence or permit may, in accordance with the licence or permit, construct, install or operate within an area of marine renewable-energy priority

- (a) a generator; or
- (b) a cable, an anchor or any other equipment or structure used or intended to be used with a generator.

(3) Where a contractor or subcontractor of the holder of a licence or permit constructs, installs or operates within an area of marine renewable-energy priority

- (a) a generator; or
- (b) a cable, an anchor or any other equipment or structure used or intended to be used with a generator,

the holder of the licence or permit shall ensure that the contractor or subcontractor is advised of and adheres to any terms or conditions in the licence or permit that relate to the work of the contractor or subcontractor. 2015, c. 32, s. 12; 2022, c. 19, s. 3.

MARINE RENEWABLE-ELECTRICITY AREAS

FORCE Marine Renewable-electricity Area

14 (1) Subject to subsection (4), the FORCE Marine Renewable-electricity Area, an area described in Schedule C, is established as a marine renewable-electricity area.

(2) Subject to subsection (4), the only type of connected generator that may be licensed to operate within the FORCE Marine Renewable-electricity Area is an in-stream tidal-energy converter.

(3) Subject to subsection (4), the aggregate nameplate capacity of the licensed generators that may be constructed, installed or operated within the FORCE Marine Renewable-electricity Area is 64 megawatts.

(4) The regulations may disestablish the FORCE Marine Renewable-electricity Area or may

(a) alter the boundaries of, or prescribe different boundaries for, the area that constitutes the FORCE Marine Renewable-electricity Area;

(b) specify any type of connected generator that, in addition to an in-stream tidal-energy converter, may be licensed to operate within the FORCE Marine Renewable-electricity Area; and

(c) vary the aggregate nameplate capacity of the licensed generators that may be constructed, installed or operated within the FORCE Marine Renewable-electricity Area.

(5) Subsection 18(2) applies to the making of regulations respecting the FORCE Marine Renewable-electricity Area in the same manner as it applies to the amendment or revocation of regulations establishing a marine renewable-electricity area and Sections 19 to 21 apply with necessary changes.

(6) Notwithstanding clause 3(2)(a), the alteration by regulation of the boundaries of, or the prescription by regulation of different boundaries for, the area that constitutes the FORCE Marine Renewable-electricity Area is deemed not to be a material modification if the alteration of the boundaries or the prescription of new boundaries is necessary to accommodate the existence of submarine cables in existence immediately prior to January 23, 2018. 2015, c. 32, s. 13.

Digby Gut Marine Renewable-electricity Area

15 (1) Subject to subsection (4), the Digby Gut Marine Renewable-electricity Area, an area described in Schedule D, is established as a marine renewable-electricity area.

(2) Subject to subsection (4), the only type of connected generator that may be licensed to operate within the Digby Gut Marine Renewable-electricity Area is an in-stream tidal-energy converter.

(3) Subject to subsection (4), the aggregate nameplate capacity of the licensed generators that may be constructed, installed or operated within the Digby Gut Marine Renewable-electricity Area is 1,999 kilowatts.

(4) The regulations may disestablish the Digby Gut Marine Renewable-electricity Area or may

(a) alter the boundaries of, or prescribe different boundaries for, the area that constitutes the Digby Gut Marine Renewable-electricity Area;

(b) specify any type of connected generator that, in addition to an in-stream tidal-energy converter, may be licensed to operate within the Digby Gut Marine Renewable-electricity Area; and

(c) vary the aggregate nameplate capacity of the licensed generators that may be constructed, installed or operated within the Digby Gut Marine Renewable-electricity Area.

(5) Subsection 18(2) applies to the making of regulations respecting the Digby Gut Marine Renewable-electricity Area in the same manner as it applies

to the amendment or revocation of regulations establishing a marine renewable-electricity area and Sections 19 to 21 apply with necessary changes. 2015, c. 32, s. 14.

Grand Passage Marine Renewable-electricity Area

16 (1) Subject to subsection (4), the Grand Passage Marine Renewable-electricity Area, an area described in Schedule E, is established as a marine renewable-electricity area.

(2) Subject to subsection (4), the only type of connected generator that may be licensed to operate within the Grand Passage Marine Renewable-electricity Area is an in-stream tidal-energy converter.

(3) Subject to subsection (4), the aggregate nameplate capacity of the licensed generators that may be constructed, installed or operated within the Grand Passage Marine Renewable-electricity Area is 1,999 kilowatts.

(4) The regulations may disestablish the Grand Passage Marine Renewable-electricity Area or may

(a) alter the boundaries of, or prescribe different boundaries for, the area that constitutes the Grand Passage Marine Renewable-electricity Area;

(b) specify any type of connected generator that, in addition to an in-stream tidal-energy converter, may be licensed to operate within the Grand Passage Marine Renewable-electricity Area; and

(c) vary the aggregate nameplate capacity of the licensed generators that may be constructed, installed or operated within the Grand Passage Marine Renewable-electricity Area.

(5) Subsection 18(2) applies to the making of regulations respecting the Grand Passage Marine Renewable-electricity Area in the same manner as it applies to the amendment or revocation of regulations establishing a marine renewable-electricity area and Sections 19 to 21 apply with necessary changes. 2015, c. 32, s. 15.

Petit Passage Marine Renewable-electricity Area

17 (1) Subject to subsection (4), the Petit Passage Marine Renewable-electricity Area, an area described in Schedule F, is established as a marine renewable-electricity area.

(2) Subject to subsection (4), the only type of connected generator that may be licensed to operate within the Petit Passage Marine Renewable-electricity Area is an in-stream tidal-energy converter.

(3) Subject to subsection (4), the aggregate nameplate capacity of the licensed generators that may be constructed, installed or operated within the Petit Passage Marine Renewable-electricity Area is 1,999 kilowatts.

(4) The regulations may disestablish the Petit Passage Marine Renewable-electricity Area or may

(a) alter the boundaries of, or prescribe different boundaries for, the area that constitutes the Petit Passage Marine Renewable-electricity Area;

(b) specify any type of connected generator that, in addition to an in-stream tidal-energy converter, may be licensed to operate within the Petit Passage Marine Renewable-electricity Area; and

(c) vary the aggregate nameplate capacity of the licensed generators that may be constructed, installed or operated within the Petit Passage Marine Renewable-electricity Area.

(5) Subsection 18(2) applies to the making of regulations respecting the Petit Passage Marine Renewable-electricity Area in the same manner as it applies to the amendment or revocation of regulations establishing a marine renewable-electricity area and Sections 19 to 21 apply with necessary changes. 2015, c. 32, s. 16.

Establishment or alteration of new marine renewable-electricity area

18 (1) Subject to Sections 19, 21 and 22, the Minister may report and recommend to the Governor in Council that an area within an area of marine renewable-energy priority be established by the regulations as a marine renewable-electricity area.

(2) Subject to Sections 19, 21 and 22, the Minister may report and recommend to the Governor in Council that the regulations establishing a marine renewable-electricity area be amended or revoked unless

(a) the intended amendment would alter the boundaries of the marine renewable-electricity area such that any part of the licence area of a licence, that has been issued in respect of the marine renewable-electricity area and has not expired or been revoked, would be outside of the amended boundaries; or

(b) the intended revocation would disestablish a marine renewable-electricity area in respect of which a licence has been issued and has not expired or been revoked. 2015, c. 32, s. 17; 2022, c. 19, s. 4.

Public consultation

19 (1) Before a marine renewable-electricity area may be established or the regulations establishing a marine renewable-electricity area may be materially modified, the Minister shall, in respect of the establishment or the material modification,

(a) in consultation with the Minister of Fisheries and Aquaculture, establish a public consultation process that complies with Section 20; and

(b) conduct a public consultation in accordance with the process established under clause (a).

(2) Before the regulations establishing a marine renewable-electricity area may be amended, other than by being materially modified, the Minister may, in respect of the amendment,

(a) in consultation with the Minister of Fisheries and Aquaculture, establish a public consultation process that complies with Section 20; and

(b) conduct a public consultation in accordance with the process established under clause (a). 2015, c. 32, s. 18; 2022, c. 19, s. 5.

Public consultation process

20 (1) The Minister shall, at the time and in the manner prescribed by the regulations, issue a notice to the public containing the details of a public consultation process established under Section 19.

(2) A notice issued under subsection (1) must include

(a) where the public consultation is in respect of a proposal to establish a marine renewable-electricity area, the proposed boundaries of the marine renewable-electricity area, including a plan or chart displaying the proposed marine renewable-electricity area;

(b) where the public consultation is in respect of a proposal to amend the regulations establishing a marine renewable-electricity area, which proposed amendment alters the boundaries of the marine renewable-electricity area, the proposed altered boundaries of the marine renewable-electricity area, including a plan or chart displaying the marine renewable-electricity area as altered;

(c) where the public consultation is in respect of a proposal to amend the regulations establishing a marine renewable-electricity area, which proposed amendment does not alter the boundaries of the marine renewable-electricity area, the existing boundaries of the marine renewable-electricity area, including a plan or chart displaying the marine renewable-electricity area as it exists;

(d) an explanation of how to obtain information on the proposal to establish a marine renewable-electricity area or to amend the regulations establishing a marine renewable-electricity area;

(e) an explanation of how to provide input to the Minister for the purpose of the Minister's decision whether to recommend the establishment of a marine renewable-electricity area or the amendment of the regulations establishing a marine renewable-electricity area;

(f) any periods within which information may be accessed or input provided under the public consultation process;

(g) any dates established for any specific events that are to take place as part of the public consultation process; and

(h) any other information that the Minister considers necessary or advisable or that is prescribed by the regulations.

(3) Before consulting with the public, the Minister shall prepare and release to the public a report that includes a summary of baseline information on the resource potential of, and any socio-economic or environmental factors associated with, the proposed or existing marine renewable-electricity area that is the subject of the public consultation process.

(4) After consulting with the public, the Minister shall prepare and release to the public a report summarizing the information obtained when consulting with the public and including the following information:

(a) the information described by clause (2)(a), (b) or (c), as applicable, modified, to the extent the Minister considers necessary or advisable, as a result of the public consultation;

(b) the types of connected generators that it is proposed may be licensed in the proposed or existing marine renewable-electricity area, including whether the generators are to be floating, surface-piercing or completely subsurface structures;

(c) the proposed limit of the aggregate nameplate capacity of the connected generators that may be constructed, installed and operated in the proposed or existing marine renewable-electricity area;

(d) any significant impacts that the proposed establishment of a marine renewable-electricity area or amendment of the regulations establishing a marine renewable-electricity area, and the installation, construction and operation of generators within the marine renewable-electricity area, are reasonably expected to have on activities being undertaken or that may be undertaken in the marine renewable-electricity area; and

(e) any other information that the Minister considers necessary or advisable or that is prescribed by the regulations.

(5) After releasing a report under subsection (4), the Minister shall provide the public with an opportunity to comment on the report.

(6) For greater certainty,

(a) a public consultation process established in compliance with this Section may include any requirements that the Minister considers necessary or advisable in addition to those prescribed by this Section; and

(b) different public consultation processes may be established in respect of

(i) different areas of marine renewable-energy priority, and

(ii) different proposed or existing marine renewable-electricity areas. 2015, c. 32, s. 19; 2022, c. 19, s. 6.

Requirements for establishment or material modification

21 (1) Before a marine renewable-electricity area may be established or the regulations establishing a marine renewable-electricity area may be materially modified, the Minister shall

(a) conduct or cause to be conducted a strategic environmental assessment in respect of the proposed marine renewable-electricity area and the activities to be allowed in the proposed marine renewable-electricity area;

(b) determine whether, in respect of the proposed marine renewable-electricity area,

(i) there are in existence any rights or interests granted or issued to any person under the authority of the *Crown Lands Act*, the *Beaches Act* or the *Beaches and Foreshores Act*, or

(ii) any subaquatic lands have been set aside under Section 24 of the *Crown Lands Act*;

(c) consult with the Minister of Fisheries and Aquaculture to determine whether, in respect of the proposed marine renewable-electricity area, there are in existence

(i) any aquaculture leases or other leases entered into,

(ii) any aquaculture licences or other licences, permits or authorizations issued, or

(iii) any subaquatic lands designated as aquaculture development areas,

under the *Fisheries and Coastal Resources Act*; and

(d) satisfy any other requirement and follow any other procedure or process prescribed by the regulations.

(2) Before January 1, 2024, clause (1)(a) does not apply if

(a) a strategic environmental-assessment document respecting the proposed marine renewable-electricity area is in existence on January 23, 2018; and

(b) the document is identified by the regulations.

(3) A strategic environmental assessment of a proposed marine renewable-electricity area required under clause (1)(a) must be

(a) conducted in accordance with any requirements prescribed by the regulations; and

(b) completed within such period before the establishment of the marine renewable-electricity area as is prescribed by the regulations. 2015, c. 32, s. 20; 2022, c. 19, s. 7.

Geographic restriction

22 A marine renewable-electricity area may not comprise any area in respect of which

(a) there are in existence any rights or interests granted or issued to any person under the authority of the *Crown Lands Act*, the *Beaches Act* or the *Beaches and Foreshores Act*;

(b) any subaquatic lands have been set aside under Section 24 of the *Crown Lands Act*; or

(c) there are in existence

(i) any aquaculture leases or other leases entered into,

(ii) any aquaculture licences or other licences, permits or authorizations issued, or

(iii) any subaquatic lands designated as an aquaculture development area,

under the *Fisheries and Coastal Resources Act*. 2015, c. 32, s. 21.

Deposit of plan

23 (1) Where a marine renewable-electricity area is established, the Registrar shall deposit in the Record Centre a plan signed by the Director showing the boundaries of the marine renewable-electricity area.

(2) Where the boundaries of a marine renewable-electricity area are altered, the Registrar shall deposit in the Record Centre a plan signed by the Director showing the altered boundaries of the marine renewable-electricity area, in substitution for the previous plan deposited under this subsection or subsection (1). 2015, c. 32, s. 22.

Review of establishment

24 (1) Within 20 years of the establishment of a marine renewable-electricity area, the Minister shall review the decision to establish the marine renewable-electricity area to ensure that its establishment continues to meet the objectives of this Act and that any impact of its establishment on the conduct of other activities in the marine renewable-electricity area is, in the Minister's opinion, minimal.

(2) In reviewing the decision to establish the marine renewable-electricity area, the Minister

(a) shall ensure the decision considers the impact of the establishment of the marine renewable-electricity area on the conduct of other activities in the marine renewable-electricity area when determining whether its establishment continues to meet the objectives of this Act; and

(b) may consult with the public and may adapt and apply the requirements of Section 20 for that purpose. 2015, c. 32, s. 23; 2022, c. 19, s. 8.

Prohibition on interconnection

25 (1) No person shall interconnect a generator situated in marine waters outside of a marine renewable-electricity area with

(a) the electrical grid of a public utility in the Province; or

(b) an onshore electricity consumer in the Province.

(2) Subsection (1) does not apply to the interconnection of a generator in accordance with a demonstration permit.

(3) Where a demonstration permit issued in respect of a connected generator expires or is revoked and no new licence or permit is issued in respect of the generator, the person who held the permit immediately before it

expired or was revoked shall forthwith disconnect the generator from all of the following to which it is connected:

- (a) the electrical grid of a public utility in the Province;
- (b) an onshore electricity consumer in the Province. 2015, c. 32, s. 24; 2017, c. 12, s. 3.

LICENCES AND PERMITS

When person may apply for licence

26 A person may apply for a licence only in response to and in accordance with a call for applications. 2015, c. 32, s. 25.

Call for applications

- 27** (1) The Minister may issue a call for applications.
- (2) The area to which a call for applications relates must be within a marine renewable-electricity area.
- (3) A call for applications must be consistent with
- (a) the regulations establishing the marine renewable-electricity area to which the call for applications relates;
 - (b) any terms, conditions or requirements specified by the Minister that, in the Minister's opinion,
 - (i) support the achievement of the public-policy goals and objectives of the Government, and
 - (ii) are consistent with any policies, plans and strategies of the Government relating to the development of marine renewable-energy resources; and
 - (c) any requirements for a call for applications prescribed by the regulations. 2015, c. 32, s. 26.

Delegation to Procurement Administrator

28 Where, under subsection 8(1), the Minister delegates the authority to issue a call for applications to a Procurement Administrator,

- (a) the Procurement Administrator may establish one process for both the call for applications and the procurement; and
- (b) for the purpose of fixing fees and expenses under subsection 23(5) of the *Electricity Act*, the functions and duties referred to in that subsection include the functions and duties of the Procurement Administrator in conducting the call for applications. 2017, c. 12, s. 4.

Where authority to issue call for applications delegated

29 (1) Where, under subsection 8(1), the Minister delegates the authority to issue a call for applications but not the authority to issue a licence, the person to whom the authority to issue a call for applications is delegated shall

- (a) report to the Minister on the call for applications process;
- (b) recommend whether the Minister issue any licences; and
- (c) where the person recommends that the Minister issue one or more licences, recommend to whom the Minister issue each licence.

(2) For greater certainty, the Minister is not bound by a recommendation made under clause (1)(b) or (c).

(3) Where the person to whom the authority to issue a call for applications but not the authority to issue a licence is delegated is a Procurement Administrator, the Procurement Administrator

(a) may not award a contract for the procurement of marine renewable electricity to a bidder unless the bidder is issued a licence by the Minister; and

(b) shall award a contract for the procurement of marine renewable electricity to any bidder who is issued a licence by the Minister. 2015, c. 32, s. 27; 2017, c. 12, s. 5.

Decision to issue licence

30 The Minister shall decide whether to issue any licence and, where the Minister decides to issue one or more licences, to whom each licence is to be issued, no later than six months after the close of a call for applications. 2015, c. 32, s. 28.

Licence

31 (1) The Minister may, after the close of a call for applications, issue to an applicant a licence to, within the area specified by the licence, construct, install and operate one or more connected generators, including any cable or other equipment or structure owned by the licence holder and used or intended to be used with the generators.

(2) The licence area of a licence issued after a call for applications must be within the area in relation to which the call for applications was issued. 2015, c. 32, s. 29; 2017, c. 12, s. 6.

Issuance of licence to holder of feed-in tariff approval

32 (1) The Minister may issue to the holder of a feed-in tariff approval issued under Section 28 of the *Renewable Electricity Regulations* a licence to, within the area specified by the licence, construct, install and operate a connected generator, if the approval was issued

(a) before January 23, 2018; and

(b) in respect of an electricity-generation facility situated or to be situated within a statutory marine renewable-electricity area.

(2) In addition to any other term or condition prescribed under Section 33, the Minister may require the holder of a licence issued under subsection (1) to neither be in breach of nor let expire

- (a) any agreement with the Crown in right of the Province entered into before January 23, 2018, respecting the electricity-generation facility;
- (b) any lease or sublease, licence, easement, approval, permit or authorization entered into or issued before January 23, 2018, in respect of Crown lands upon which the electricity-generation facility is or is to be situated; and
- (c) the feed-in tariff approval. 2015, c. 32, s. 30.

Terms and conditions of licence

- 33 (1)** A licence is subject to any terms and conditions
- (a) prescribed by the Minister upon the issuance of the licence, including terms and conditions
 - (i) respecting the period during which the licence remains valid,
 - (ii) establishing performance or other requirements that must be satisfied by the licence holder within a specific period,
 - (iii) requiring the licence holder to produce reports and data in relation to the activities to be carried on under the licence and specifying the timing, format and content of such productions,
 - (iv) restricting the technology that may be used in relation to the activities to be carried on under the licence,
 - (v) limiting
 - (A) the nameplate capacity of or the amount of electricity to be produced by a generator operating under the licence, or
 - (B) the aggregate nameplate capacity of, or the aggregate amount of electricity to be produced by, all of the generators operating under the licence, and
 - (vi) requiring the development of and adherence to plans relating to the activities to be carried on under the licence, including plans relating to public consultation and engagement, environmental protection, research, monitoring, risk-management, generator decommissioning and site restoration;
 - (b) prescribed by the Minister upon the issuance of the licence or at any time thereafter
 - (i) requiring the licence holder to collect baseline data and environmental effects data and specifying the baseline data and environmental effects data to be collected, and
 - (ii) requiring the licence holder to disclose to the Minister the baseline data and environmental effects data and reports in relation thereto and specifying the timing, format and content of such disclosures and reports; and

- (c) prescribed by the regulations.
- (2) It is a condition of every licence that the licence holder shall
 - (a) not install any connected generator, including any cable or any other equipment or structure owned by the licence holder and used or intended to be used with the generator, before submitting an environmental monitoring plan to the Minister and obtaining the Minister's approval of the environmental monitoring plan; and
 - (b) comply with the requirements prescribed by the environmental monitoring plan. 2015, c. 32, s. 31.

Additional lease, licence or authorization not required

34 Notwithstanding the *Crown Lands Act*, the *Beaches Act* and the *Beaches and Foreshores Act*, a licence holder is not required to enter into any lease or obtain any licence or other authorization under that Act in respect of any activity authorized by the licence and undertaken within the licence area. 2015, c. 32, s. 32.

Deposit of plan

35 (1) When the licence area of a licence is established, the Registrar shall deposit in the Record Centre a plan signed by the Director showing the licence area and a copy of the licence.

(2) Where the licence area of a licence is altered, the Registrar shall deposit in the Record Centre a plan signed by the Director showing the altered licence area, in substitution for the previous plan deposited under this subsection or subsection (1). 2015, c. 32, s. 33.

Notification of public re licensing process

36 The Minister shall, in the form and manner prescribed by the regulations, notify the public about the licensing process, including

- (a) the issuance of a call for applications;
- (b) upon the closing of a call for applications, the identity of the applicants who responded to the call for applications; and
- (c) upon the issuance of a licence,
 - (i) the identity and address of the licence holder,
 - (ii) the licence area, and
 - (iii) any performance or other requirements that must be satisfied by the licence holder within a specific period. 2015, c. 32, s. 34.

Application for permit

37 (1) A person may apply to the Minister for a permit to construct, install and operate

- (a) an unconnected generator, including any cable or other equipment or structure owned by the permit holder and used or intended to be used with the generator;

- (b) any cable, anchor or other equipment or structure owned by the permit holder and used or intended to be used with a generator; or
- (c) one or more connected generators, including any cable, anchor or other equipment or structure owned by the permit holder and used or intended to be used with the generators, to demonstrate to the Minister the generators' potential or capacity to produce marine renewable electricity.
- (2) An application for a permit must be made in the manner and contain the information specified in this Act or prescribed by the regulations.
- (3) The Minister may require an applicant for a permit to provide any additional information the Minister considers necessary.
- (4) Where the Minister considers an application for a permit to be incomplete,
- (a) the application may not be processed until the applicant provides the information required to complete the application;
- (b) the Minister shall, within 90 business days of receiving the application, advise the applicant in writing that the application is incomplete and that the application requires additional information to be completed;
- (c) where the Minister advises the applicant in writing that the application is incomplete, the Minister may, no sooner than 90 business days after so advising the applicant, reject the application if it has not been completed; and
- (d) any application for a demonstration permit made under clause (1)(c) must be submitted prior to the close of the application window.
- (5) Where an application under clause (1)(c) is incomplete, the Minister shall reject the application and notify the applicant of the rejection within 30 business days of the close of the application window.
- (6) Subject to subsection (8), where an application for a permit under clause (1)(a) or (b) is received, the Minister shall, within 90 business days, approve or deny the application unless there are exceptional circumstances, as prescribed in the regulations.
- (7) Subject to subsection (8), where an application for a permit under clause (1)(c) is received, the Minister shall, within 90 business days after the close of the application window, approve or deny the application unless there are exceptional circumstances, as prescribed in the regulations.
- (8) Where exceptional circumstances exist, the Minister may extend the period of time to approve or deny an application in accordance with the regulations.
- (9) The Minister may not approve an application for a demonstration permit unless

- (a) the generator is to be located wholly or partially within an area of marine renewable-energy priority;
- (b) the aggregate nameplate capacity of all of the generators operating under the demonstration permit will not exceed five megawatts;
- (c) the issuance of the demonstration permit will not result in the aggregate nameplate capacity of all generators operating in accordance with demonstration permits exceeding 10 megawatts; and
- (d) the Minister is satisfied that the issuance of the demonstration permit is in the public interest, having taken into account
 - (i) the nature of the generator,
 - (ii) the extent to which the generator
 - (A) differs from other generators in respect of which licences or permits have been issued under this Act, and
 - (B) is based on an innovative technology or design,
 - (iii) the extent to which the approval of the permit
 - (A) supports the achievement of the public-policy goals and objectives of the Government, and
 - (B) is consistent with any policies, plans or strategies of the Government respecting the development of marine renewable-energy resources,
 - (iv) any effect on electricity rates in the Province and ratepayers,
 - (v) any risk to public safety or the environment, and
 - (vi) any other factors the Minister considers relevant.

(10) The Minister may issue zero or one or more than one demonstration permits after an application window closes.

- (11)** The Minister may, with respect to an application window,
- (a) establish an application window, including specifying opening and closing dates, notice requirements and public consultation requirements, if any;
 - (b) establish eligibility requirements for applicants;
 - (c) establish a rate cap, specify allowed technology and maximum capacity for each generator and specify the maximum available megawatts;
 - (d) identify the geographic area to which the application window relates; and
 - (e) make regulations respecting any item or thing mentioned in clauses (a) to (d).

(12) The exercise by the Minister of the authority contained in clause (11)(e) is a regulation within the meaning of the *Regulations Act*. 2015, c. 32, s. 35; 2017, c. 12, s. 7; 2022, c. 19, s. 9.

Permit

38 (1) The Minister may, upon approving an application, issue to the applicant a permit to construct, install and operate

(a) an unconnected generator, including any cable or other equipment or structure owned by the permit holder and used or intended to be used with the generator;

(b) any cable, anchor or other equipment or structure owned by the permit holder and used or intended to be used with a generator; or

(c) one or more connected generators, including any cable, anchor or other equipment or structure owned by the permit holder and used or intended to be used with the generators, to demonstrate to the Minister the generators' potential or capacity to produce marine renewable electricity.

(2) The exercise by a permit holder of the authority to undertake any activity referred to in subsection (1) is restricted to the area specified in the permit. 2015, c. 32, s. 36; 2017, c. 12, s. 8; 2022, c. 19, s. 10.

Issuance of permit to Fundy Ocean Research Centre for Energy Ltd.

39 (1) The Minister may, without any application being made, issue a permit to the Fundy Ocean Research Centre for Energy Limited in respect of any cable or other equipment or structure that is used or intended to be used with a generator and that

(a) is situated within the FORCE Marine Renewable-electricity Area; and

(b) was constructed or installed before January 23, 2018.

(2) The exercise by the holder of a permit issued under subsection (1) of the authority to undertake any activity referred to in that subsection may be restricted to an area specified by the permit.

(3) In addition to any other term or condition prescribed under Section 40, the Minister may require Fundy Ocean Research Centre for Energy Limited to neither be in breach of nor let expire

(a) any agreement with the Crown in right of the Province entered into before January 23, 2018, respecting any cable or other equipment or structure used or intended to be used with a generator situated within the Fundy Area of Marine Renewable-energy Priority; and

(b) any lease or sublease, licence, easement, approval, permit or authorization entered into or issued before January 23, 2018, in respect of Crown lands situated within the FORCE Marine Renewable-electricity Area. 2015, c. 32, s. 37.

Terms and conditions of permit

40 (1) A permit is subject to any terms and conditions

(a) prescribed by the Minister upon the issuance of the permit, including terms and conditions

(i) respecting the period during which the permit remains valid,

(ii) establishing performance or other requirements that must be satisfied by the permit holder within a specific period,

(iii) requiring the permit holder to produce reports and data in relation to the activities to be carried on under the permit and specifying the timing, format and content of such productions,

(iv) restricting the technology that may be used in relation to the activities to be carried on under the permit,

(v) in the case of a demonstration permit, limiting

(A) the nameplate capacity of or the amount of electricity to be produced by a generator operating under the permit, or

(B) the aggregate nameplate capacity of, or the aggregate amount of electricity to be produced by, all of the generators operating under the permit, and

(vi) requiring the development of and adherence to plans relating to the activities to be carried on under the permit, including plans relating to public consultation and engagement, environmental protection, research, monitoring, risk-management, generator decommissioning and site restoration;

(b) prescribed by the Minister upon the issuance of the permit or at any time thereafter

(i) requiring the permit holder to collect baseline data and environmental effects data and specifying the baseline data and environmental effects data to be collected, and

(ii) requiring the permit holder to disclose to the Minister the baseline data and environmental effects data and reports in relation thereto and specifying the timing, format and content of such disclosures and reports; and

(c) prescribed by the regulations.

(2) It is a condition of every permit to undertake an activity referred to in clause 38(1)(a) or (c) that the permit holder shall

(a) not install any generator, including any cable, anchor or any other equipment or structure owned by the permit holder and used or intended to be used with the generator, before submitting an environmental monitoring plan to the Minister and obtaining the Minister's approval of the environmental monitoring plan; and

(b) comply with the requirements prescribed by the environmental monitoring plan.

(3) The term of a demonstration permit may not exceed five years. 2015, c. 32, s. 38; 2017, c. 12, s. 9; 2022, c. 19, s. 11.

Performance targets under demonstration permit

41 When issuing or renewing a demonstration permit, the Minister shall establish performance targets for every generator to be constructed, installed or operated under the demonstration permit. 2017, c. 12, s. 10.

Additional lease, licence or authorization not required

42 Notwithstanding the *Crown Lands Act*, the *Beaches Act* and the *Beaches and Foreshores Act*, a permit holder is not required to enter into any lease or obtain any licence or other authorization under that Act in respect of any activity authorized by the permit within an area of marine renewable-energy priority. 2015, c. 32, s. 39; 2017, c. 12, s. 11.

Deposit of plan

43 (1) When the permit area of a permit is established, the Registrar shall deposit in the Record Centre a plan signed by the Director showing the permit area and a copy of the permit.

(2) Where the permit area of a permit is altered, the Registrar shall deposit in the Record Centre a plan signed by the Director showing the altered permit area, in substitution for the previous plan deposited under this subsection or subsection (1). 2015, c. 32, s. 40; 2017, c. 12, s. 12.

Notification of public re permitting process

44 The Minister shall, in the form and manner prescribed by the regulations, notify the public about the permitting process, including, upon the issuance of a permit,

- (a) the identity and address of the permit holder;
- (b) the permit area; and
- (c) any performance or other requirements that must be satisfied by the permit holder within a specific period. 2015, c. 32, s. 41; 2017, c. 12, s. 13.

Extension or renewal of licence or permit

45 (1) Subject to this Section, the Minister may extend or renew a licence or permit.

(2) A demonstration permit may not be extended.

(3) A demonstration permit may be renewed for one or more terms not exceeding five years each.

(4) The aggregate of the initial term of a demonstration permit and any renewals of the demonstration permit may not exceed 18 years.

(5) The process and requirements for extending or renewing a licence or permit may be prescribed by the regulations. 2015, c. 32, s. 42; 2017, c. 12, s. 14.

Security and insurance

46 (1) A licence holder or permit holder shall, in respect of the activity authorized by the licence or permit, provide financial or other security or carry insurance, or do both, as may be required by the Minister.

(2) The Minister may determine the manner in which, and the conditions under which, any security that is provided under subsection (1) may be forfeited or returned, in whole or in part.

(3) Subsection (1) does not apply to the Government or a government agency. 2015, c. 32, s. 43; 2017, c. 12, s. 15.

Decommissioning and site rehabilitation

47 (1) A licence holder or permit holder shall, upon the completion of the activity authorized by the licence or permit, undertake any steps prescribed by the regulations or the terms or conditions of the licence or permit to

(a) decommission any generator, cable, anchor or other equipment or structure that was operated under the authority of the licence or permit; and

(b) rehabilitate any subaquatic lands that compose the licence area or permit area.

(2) Where required to do so by the regulations, a licence holder or permit holder shall, in accordance with the regulations, in respect of the activity authorized by the licence or permit,

(a) provide the Minister with a decommissioning, abandonment and rehabilitation plan; and

(b) obtain the Minister's approval of the decommissioning, abandonment and rehabilitation plan.

(3) The Minister may approve the decommissioning, abandonment and rehabilitation plan, subject to any terms or conditions that the Minister considers appropriate. 2015, c. 32, s. 44; 2022, c. 19, s. 12.

Disposition of licence or permit

48 (1) No person may transfer, sell, lease, assign or otherwise dispose of a licence or permit without the written consent of the Minister.

(2) The Minister may impose any terms or conditions that the Minister considers appropriate in respect of a transfer, sale, lease, assignment or other disposition of a licence or permit.

(3) Where a person requests that the Minister consent to a transfer, sale, lease, assignment or other disposition of a licence or permit, the Minister shall provide a decision in writing within 60 business days of receipt of the request. 2015, c. 32, s. 45; 2022, c. 19, s. 13.

Change to licence or permit

49 (1) The Minister may amend a term or condition of, add a term or condition to or delete a term or condition from a licence or permit only

- (a) upon the request of the licence holder or permit holder, as the case may be, if the Minister considers it appropriate to do so;
- (b) if an adverse effect or an unacceptable environmental effect, as defined in the *Environment Act*, has occurred or may occur;
- (c) if the term or condition relates to a monitoring or reporting requirement; or
- (d) to correct a typographical error.

(2) The Minister shall give notice in writing, together with reasons, to the licence holder or permit holder at least 30 business days in advance of making an amendment under clauses (1)(b) to (d). 2022, c. 19, s. 14.

Certificate of variance

50 (1) The holder of a licence or permit may apply to the Minister for a certificate of variance to vary a term or condition of the licence or permit or a requirement of the regulations.

- (2)** The Minister may issue a certificate of variance and may
- (a) impose any term or condition that the Minister considers appropriate in respect of the certificate; or
 - (b) amend a term or condition of, add a term or condition to, or delete a term or condition from, a certificate.

(3) A certificate of variance is in effect only during the period specified by the Minister and, notwithstanding anything in this Act or the regulations, during that period the terms and conditions of the licence or permit or the requirements of the regulations that are not varied by the certificate continue to apply.

- (4)** While a certificate of variation is in effect in respect of a term or condition of a licence or permit or a requirement of the regulations,
- (a) the term or condition; or
 - (b) the requirement, as it applies to an activity authorized to be carried on under the licence or permit,

is deemed to be varied in accordance with the certificate. 2015, c. 32, s. 47; 2022, c. 19, s. 15.

Suspension or revocation of licence or permit

51 (1) The Minister may suspend or revoke a licence or permit

- (a) for contravention of
 - (i) this Act or the regulations,
 - (ii) the licence or permit, or
 - (iii) an order;

(b) if, in the course of applying for the licence or permit, the applicant

(i) supplied information to the Minister that was false or misleading, or

(ii) failed to supply information that the applicant might reasonably have been expected to supply,

and the Minister determines that, had the correct information been supplied, the licence or permit would have either been refused or issued on different terms and conditions; or

(c) if the licence or permit is no longer required under this Act or the regulations.

(2) Where the Minister suspends or revokes a licence or permit under subsection (1), the Minister shall forthwith give notice in writing, together with reasons, of the suspension or revocation to the holder of the licence or permit. 2015, c. 32, s. 48.

Revocation for failure to supply information

52 Where a licence or permit is revoked because, in the course of applying for the licence or permit, the applicant failed to supply information that the applicant might reasonably have been expected to supply, the Minister may issue a new licence or permit on different terms and conditions. 2015, c. 32, s. 49.

POWER PURCHASE AGREEMENTS

Power purchase agreement for generators under demonstration permits

53 (1) Where a demonstration permit is issued in respect of a generator, the permit holder and the public utility that owns the electrical grid to which the generator is to be interconnected are deemed to have entered a power purchase agreement in the form prescribed under subsection (2).

(2) When issuing a demonstration permit, the Minister shall prescribe the form of the power purchase agreement applicable in respect of the permit holder and the public utility referred to in subsection (1).

(3) The term of the power purchase agreement ends on the earlier of

(a) the date on which the demonstration permit expires or is revoked; and

(b) 15 years after the commercial operation date, as defined in the agreement, of the generator.

(4) The public utility shall procure all electricity under the power purchase agreement at a price to be determined by the Minister and set out in the demonstration permit.

(5) The holder of the demonstration permit and the public utility may, by mutual consent, amend the power purchase agreement and, where they do so, shall provide a copy of the amended agreement to the Minister.

(6) The Nova Scotia Utility and Review Board shall allow a public utility to recover the costs in connection with any power purchase agreement the public utility is deemed to have entered under subsection (1) through the public utility's rates approved by the Board under the *Public Utilities Act*. 2017, c. 12, s. 16.

Power purchase agreement for generators under feed-in tariff approvals

54 (1) Where a licence is, or has been, issued under subsection 32(1) in respect of a generator, the licence holder and the public utility that owns the electrical grid to which the generator is to be interconnected are deemed to have entered into one or more power purchase agreements, as determined by the Minister, in the form prescribed under subsection (2).

(2) The Minister shall prescribe the form of the power purchase agreement or agreements, as the case may be, applicable in respect of the licence holder and the public utility referred to in subsection (1).

(3) The aggregate nameplate capacity allowable under the cumulative power purchase agreements deemed to be entered into by a licence holder under subsection (1) must not exceed the aggregate nameplate capacity assigned under all of the licence holder's feed-in tariff approvals issued under Section 28 of the *Renewable Electricity Regulations*.

(4) The public utility shall procure all electricity under the power purchase agreement or agreements, as the case may be, at a price to be determined by the Minister and set out in the agreement or agreements.

(5) Subject to subsection (7), the licence holder and the public utility may, by mutual consent, amend the power purchase agreement or agreements, as the case may be, and, where they do so, shall provide a copy of the amended agreement or agreements to the Minister.

(6) The Nova Scotia Utility and Review Board shall allow a public utility to recover the costs in connection with any power purchase agreement the public utility is deemed to have entered into under subsection (1) through the public utility's rates approved by the Board under the *Public Utilities Act*.

(7) The term of a power purchase agreement referred to in subsection (1) ends 15 years after the commercial operation date, as defined in the agreement, of the generator and may not be extended.

(8) No power purchase agreement may be entered into pursuant to this Section on and after December 31, 2021. 2019, c. 34, s. 2.

CONSULTATION WITH OTHER GOVERNMENT
DEPARTMENTS AND AGENCIES

When Minister may consult

55 (1) When establishing or reviewing a marine renewable-electricity area, the Minister may consult with any department of the public service of the Province or of Canada, government agency or agency of the Government of Canada, that exercises regulatory authority over any aspect of the activities to be carried on in the marine renewable-electricity area.

(2) When considering an application for a licence or permit, the Minister may consult with any department of the public service of the Province or of Canada, government agency or agency of the Government of Canada, that exercises regulatory authority over any aspect of the activities to be carried on under the licence or permit. 2015, c. 32, s. 50.

Disclosure of information or data

56 (1) In this Section and clauses 79(1)(o) and (q), “personal information” has the same meaning as in the *Freedom of Information and Protection of Privacy Act*.

(2) The Minister may, in accordance with the regulations, disclose any information, including personal information,

- (a) contained in an application for a licence or permit;
- (b) disclosed to the Minister as required by a term or condition of a licence or permit; or
- (c) disclosed to the Minister as required by an order,

to any department of the public service of the Province or of Canada, government agency or agency of the Government of Canada, that exercises regulatory authority over any aspect of the activities to be carried on under the licence or permit.

(3) The Minister may, in accordance with the regulations, disclose any environmental effects monitoring data or baseline data

- (a) disclosed to the Minister as required by a term or condition of a licence or permit; or
- (b) disclosed to the Minister as required by an order,

to the Department of Environment and Climate Change, the Department of Environment and Climate Change (Canada) or the Department of Fisheries and Oceans (Canada).

(4) A department of the public service of the Province or a government agency to which information, including personal information, or data is disclosed under subsection (2) or (3) may, in accordance with any requirements prescribed by the regulations, collect, use and disclose the information or data. 2015, c. 32, s. 51; 2022, c. 19, s. 16.

Concerns expressed re application

57 (1) The Minister shall, in respect of an application for a licence or permit, take into account any concerns expressed about the application by a department of the public service of the Province or of Canada, a government agency or an agency of the Government of Canada, when deciding whether to approve or deny the application and when prescribing any terms or conditions of the licence or permit.

(2) Before taking into account any concerns expressed about an application by a department of the public service of the Province or of Canada, a government agency or an agency of the Government of Canada, the Minister shall

- (a) inform the applicant of the concerns expressed; and

(b) provide the applicant with an opportunity to respond to the concerns expressed. 2015, c. 32, s. 52.

COLLECTION, USE AND DISCLOSURE OF DATA AND INFORMATION

Collection of data by holder of licence or permit

58 (1) The holder of a licence or permit shall, in accordance with the regulations, collect data about the activities that the holder of the licence or permit is authorized to carry on under the licence or permit.

(2) The holder and any former holder of a licence or permit shall, in accordance with the regulations, maintain a record of any data about the activities that the holder or former holder of the licence or permit is or was, as the case may be, authorized to carry on under the licence or permit. 2015, c. 32, s. 53.

Disclosure of data or information

59 (1) Subject to subsection 60(3), the holder or any former holder of a licence or permit shall, upon and in accordance with a direction by the Minister to do so, disclose to a person, for research purposes, any data or information about the activities that the holder or former holder is or was, as the case may be, authorized to carry on under the licence or permit.

(2) Subject to subsection 60(3), where the licence area of the licence once held by a former licence holder coincides partially or entirely with the licence area of a licence held by a current licence holder, the former licence holder shall, upon and in accordance with a direction by the Minister to do so, disclose to the current licence holder any data or information about the activities that the former licence holder was authorized to carry on under the licence of the former licence holder. 2015, c. 32, s. 54.

Confidentiality or non-disclosure agreement

60 (1) Within 10 calendar days of receiving a direction from the Minister under Section 59, or within such further time as the Minister allows, the holder or former holder of the licence or permit may request that the person to whom data or information is to be disclosed under Section 59 execute a confidentiality or non-disclosure agreement and provide to the Minister a copy of the agreement for the Minister's approval.

(2) The Minister may approve a confidentiality or non-disclosure agreement provided to the Minister under subsection (1) and, before doing so, may make any amendments to the agreement that the Minister considers necessary or advisable.

(3) Where the Minister has approved a confidentiality or non-disclosure agreement under subsection (2), the person to whom data or information is to be disclosed under Section 61 is not entitled to the disclosure until the person executes the agreement. 2015, c. 32, s. 55; 2022, c. 19, s. 17.

Disclosure by Minister

61 (1) Where the holder or former holder of a licence or permit fails to disclose data or information in accordance with Section 59,

(a) the Minister may disclose to the person to whom data or information is to be disclosed; and

(b) the person to whom data or information is to be disclosed may collect and use,

any data or information in the Minister's possession about the activities that the holder or former holder is or was, as the case may be, authorized to carry on under the licence or permit.

(2) No action lies against the Crown in right of the Province, the Minister, the person to whom any data or information is disclosed under subsection (1) or any agent, servant or employee of the Crown in right of the Province or the person to whom data or information is disclosed under subsection (1) in respect of the collection, use and disclosure of the data or information. 2015, c. 32, s. 56.

Restriction on disclosure by Minister

62 Notwithstanding anything in this Act, the Minister may not disclose, in respect of a generator,

(a) any data relating to when and how much electricity is produced by the generator; or

(b) any other data or information prescribed by the regulations,

without the written consent of the holder of the licence or permit under which the generator is operated. 2015, c. 32, s. 57.

MINISTERIAL ORDERS
AND ADMINISTRATIVE PENALTIES

Issuance of order

63 (1) The Minister may, regardless of whether a person has contravened this Act or the regulations or has been charged or convicted in respect of any contravention of this Act or the regulations, issue an order requiring a person, at the person's own expense, to

(a) where the Minister believes on reasonable and probable grounds that the person has contravened or will contravene this Act or the regulations, cease or take any action in respect of the person's contravention or anticipated contravention of this Act and the regulations;

(b) where the Minister believes on reasonable and probable grounds that the person has contravened or will contravene a term or condition of a licence or permit, cease or take any action in respect of the person's contravention or anticipated contravention of the term or condition; or

(c) where the Minister believes that an emergency exists or is imminent in respect of a matter authorized or governed by this Act or the regulations, cease or take any action necessary to abate or prevent the emergency.

- (2) An order issued under subsection (1) may
- (a) require a person, at the person's own expense, to
 - (i) maintain records on any relevant matter and report periodically to the Minister or a person specified by the Minister,
 - (ii) hire an expert to prepare a report for submission to the Minister or a person specified by the Minister,
 - (iii) submit to the Minister or a person specified by the Minister, in accordance with the order, any information, proposal or plan setting out any action to be taken by the person with respect to the subject-matter of the order,
 - (iv) prepare and submit a contingency plan,
 - (v) undertake any test, investigation, survey or other action specified by the Minister and report the results to the Minister, or
 - (vi) take any other measure that the Minister considers necessary to facilitate compliance with the order;
 - (b) fix the manner or method of, or the procedures to be used in, carrying out any measure required by the order; and
 - (c) fix the time within which any measure required by the order is to be commenced and the time within which the order or any portion of the order is to be complied with.
- (3) Where the Minister believes on reasonable and probable grounds that a person has contravened or will contravene this Act, the regulations or a term or condition of a licence or permit, the Minister may issue an order
- (a) prohibiting a public utility from interconnecting a generator, line, plant, equipment or work owned or operated by the person to any line, plant, equipment or work of the public utility; or
 - (b) directing a public utility to disconnect a generator, line, plant, equipment or work owned or operated by the person from any line, plant, equipment or work of the public utility.
- (4) The reasonable costs incurred by a public utility when complying with an order issued under subsection (3) are a debt due to the public utility by the person who owns or operates the generator, line, plant, equipment or work that is the subject of the order.
- (5) An order issued under subsection (1) or (3) is not a regulation within the meaning of the *Regulations Act*. 2015, c. 32, s. 58.

Recovery of costs

- 64 (1) Any reasonable costs, expenses or charges incurred by the Minister when investigating and responding to
- (a) any matter to which an order issued under subsection 63(1) or (3) relates; or

(b) the failure to comply with an order issued under subsection 63(1) or (3),

are recoverable by order of the Minister against the person to whom the order issued under subsection 63(1) or (3) was directed.

(2) An order issued under subsection (1) is not a regulation within the meaning of the *Regulations Act*. 2015, c. 32, s. 59; 2017, c. 12, s. 18.

Administrative penalty

65 (1) Where the Minister determines that a person has contravened this Act or the regulations, a term or condition of a licence or permit, or an order issued under subsection 63(1), the Minister may, in accordance with the regulations, issue an order requiring the person to pay an administrative penalty.

(2) The purpose of an administrative penalty is to promote compliance with

- (a) this Act and the regulations;
- (b) the terms and conditions of licences and permits; and
- (c) orders issued under subsection 63(1).

(3) An order issued under subsection (1) is not a regulation within the meaning of the *Regulations Act*. 2017, c. 12, s. 19.

Service of order

66 (1) An order issued by the Minister under subsection 63(1) or (3), 64(1) or 65(1) must be served in accordance with subsection (2).

(2) An order is served

- (a) upon a copy being personally served on the person to whom it is directed;
- (b) upon a copy being sent, by electronic mail, facsimile or other electronic means, to the person to whom it is directed and an acknowledgement of receipt being received; or
- (c) five calendar days after a copy is sent by mail addressed to the person to whom it is directed at the last address for that person known to the Minister, if any.

(3) Where the person to be served is a corporation, service on a director, officer or recognized agent of the corporation in accordance with subsection (2), or service in accordance with the *Corporations Registration Act*, is deemed to be service on the corporation for the purpose of subsection (1).

(4) Where it is unpractical for any reason to serve a document in the manner prescribed by subsection (2) or (3), an *ex parte* application may be made to a judge of the Supreme Court of Nova Scotia, who may make an order for substituted service providing for the steps to be taken to bring the matter to the attention of the person to be served. 2015, c. 32, s. 60; 2017, c. 12, s. 20; 2022, c. 19, s. 18.

Compliance with order

67 (1) Where an order is served on a person to whom it is directed, the person shall comply with the order forthwith or, where a period for compliance is specified in the order, within the period specified.

(2) Where the person to whom an order is directed does not comply with the order or any part thereof, the Minister may take whatever action the Minister considers necessary to carry out the terms of the order. 2015, c. 32, s. 61.

Amendment or revocation of order

68 (1) The Minister may, by order,

- (a) amend a term or condition of, add a term or condition to, or delete a term or condition from, an order;
- (b) revoke an order; or
- (c) amend a typographical error in an order.

(2) A copy of an order issued pursuant to subsection (1) must be served in accordance with Section 66 on the person to whom the original order was directed. 2015, c. 32, s. 62; 2017, c. 12, s. 21.

Enforceability of order

69 (1) An order issued under subsection 64(1) or 65(1) may be filed with the Supreme Court of Nova Scotia in accordance with the *Civil Procedure Rules* and, upon being filed, is enforceable in the same manner as a judgment of that Court.

(2) An amendment to or revocation of an order filed with the Supreme Court of Nova Scotia under subsection (1) may be filed with that Court in accordance with the *Civil Procedure Rules* and, upon being filed,

- (a) in the case of an amendment, the order as amended is enforceable in the same manner as a judgment of that Court; or
- (b) in the case of a revocation, the order ceases to be enforceable. 2017, c. 12, s. 22.

GENERAL

Fees, rents and royalties

70 A licence holder or permit holder is liable for and shall pay any fees, rents or royalties prescribed by the regulations in respect of the licence or permit or the use of any Crown lands or marine renewable-energy resources under the licence or permit. 2017, c. 12, s. 23.

Minister's decisions not reviewable

71 A decision of the Minister under this Act or the regulations is final and may not be questioned or reviewed in any court or tribunal. 2015, c. 32, s. 64.

No action lies

72 No action lies against

- (a) the Crown in right of the Province or an agent, servant or employee thereof;
- (b) the Minister;
- (c) any person appointed or expert retained under Section 7 to advise the Minister or any person appointed to an advisory committee established under Section 7 to advise the Minister;
- (d) any person to whom the Minister has, under subsection 8(1), delegated a power or duty conferred or imposed on the Minister under this Act, or the employer of the person; or
- (e) any minister of the Government, government agency, agency of the Government of Canada, municipality or other person to whom the Minister has, under subsection 9(1), transferred the administration and control of a provision of this Act, or any agent, servant or employee thereof,

if the action arises out of any act or omission of the person that occurs while the person is carrying out duties or exercising powers under this Act or the regulations in good faith. 2015, c. 32, s. 65.

OFFENCES**Offences and penalties**

73 (1) A person who contravenes

- (a) this Act or the regulations;
- (b) a term or condition of a licence or permit; or
- (c) an order,

is guilty of an offence and liable on summary conviction, in the case of a first offence, to a fine of not more than \$100,000, and, in the case of a second or subsequent offence, to a fine of not more than \$500,000.

(2) In a prosecution of an offence, it is sufficient proof of the offence to establish that the offence was committed by an employee or agent of the accused, whether or not the employee or agent is identified or has been prosecuted for the offence, unless the accused establishes that the offence was committed without the knowledge or consent of the accused.

(3) Where an offence is committed or continued on more than one calendar day, the person who committed the offence is liable to be convicted for a separate offence for each calendar day on which the offence is committed or continued.

(4) No person may be convicted of an offence if the person establishes that the person

- (a) exercised all due diligence to prevent the commission of the offence; or

(b) reasonably and honestly believed in the existence of facts that, if true, would have rendered the conduct of that person innocent. 2015, c. 32, s. 66; 2022, c. 19, s. 19.

Offence by corporation

74 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. 2022, c. 19, s. 20.

Conditions imposed by court

75 (1) Where a person is convicted of an offence, in addition to any other punishment that may be imposed under this Act, the court may, having regard to the nature of the offence and the circumstances surrounding its commission, make an order requiring the offender to comply with such conditions as the court considers appropriate and just in the circumstances for securing the offender's good conduct and for preventing the offender from repeating the same offence or committing other offences.

(2) An order made under subsection (1) comes into force on the day on which it is made or on such other day as the court may order and may not continue in force for more than three years after that day. 2015, c. 32, s. 67.

Limitation period for prosecution

76 A prosecution of an offence pursuant to this Act may not be commenced more than two years after the later of

- (a) the date on which the offence was committed; and
- (b) the date on which evidence of the offence first came to the attention of the Minister. 2015, c. 32, s. 68.

REGULATIONS

Regulations re statutory marine renewable-electricity area

77 (1) On the report and recommendation of the Minister, the Governor in Council may make regulations respecting a statutory marine renewable-electricity area, including regulations

- (a) altering the boundaries of, or prescribing different boundaries for, a statutory marine renewable-electricity area;
- (b) specifying the types of connected generators that, in addition to an in-stream tidal-energy converter, may be licensed to operate within a statutory marine renewable-electricity area;
- (c) varying the limit on the aggregate nameplate capacity of the licensed generators that may be constructed, installed and operated within a statutory marine renewable-electricity area;
- (d) restricting the application or operation of an enactment within a statutory marine renewable-electricity area;

(e) requiring the approval of the Minister before a licence, permit, approval, authorization or permission may, in respect of a statutory marine renewable-electricity area or an activity to be conducted within a statutory marine renewable-electricity area, be issued under an enactment and respecting any such requirement;

(f) subject to subsection (3), imposing conditions or restrictions on, or prohibiting the conduct of, an activity that is occurring or is to occur within a statutory marine renewable-electricity area;

(g) respecting the disestablishment of a statutory marine renewable-electricity area;

(h) respecting any matter or thing the Governor in Council considers necessary or advisable for the effective administration of a statutory marine renewable-electricity area.

(2) Where there is a conflict between a regulation made under clause (1)(d) or (e) and any other enactment, the regulation made under clause (1)(d) or (e) prevails.

(3) In respect of the FORCE Marine Renewable-electricity Area, the Governor in Council may exercise the authority contained in clause (1)(f) only

(a) when altering the boundaries of the FORCE Marine Renewable-electricity Area to include any area that, immediately before the alteration, was not included within the boundaries;

(b) when adding to the types of connected generators that may be licensed to operate within the FORCE Marine Renewable-electricity Area;

(c) when increasing the limit on the aggregate nameplate capacity of the licensed generators that may be constructed, installed or operated within the FORCE Marine Renewable-electricity Area; or

(d) if the Governor in Council considers it necessary for the safety of persons or property.

(4) A regulation made under subsection (1) may be of general application or may apply to such class or classes of statutory marine renewable-electricity areas or classes of matters or things as the Governor in Council determines and there may be different regulations with respect to different classes of statutory marine renewable-electricity areas and different classes of matters or things.

(5) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*, 2015, c. 32, s. 69; 2022, c. 19, s. 21.

Regulations establishing marine renewable-electricity area

78 (1) On the report and recommendation of the Minister, the Governor in Council may make regulations establishing a marine renewable-electricity area, including regulations

(a) establishing the boundaries of the marine renewable-electricity area;

(b) specifying the types of connected generators that may be licensed to operate within the marine renewable-electricity area;

(c) establishing a limit on the aggregate nameplate capacity of the licensed generators that may be constructed, installed and operated within the marine renewable-electricity area;

(d) restricting the application or operation of an enactment within the marine renewable-electricity area;

(e) requiring the approval of the Minister before a licence, permit, approval, authorization or permission may, in respect of the marine renewable-electricity area or an activity to be conducted within the marine renewable-electricity area, be issued under an enactment and respecting any such requirement;

(f) subject to subsection (4), imposing conditions or restrictions on, or prohibiting the conduct of, an activity that is occurring or is to occur within the marine renewable-electricity area;

(g) respecting any matter or thing the Governor in Council considers necessary or advisable for the effective establishment and administration of the marine renewable-electricity area.

(2) A regulation establishing a marine renewable-electricity area must

(a) establish the boundaries of the marine renewable-electricity area;

(b) specify the types of connected generators that may be licensed to operate within the marine renewable-electricity area; and

(c) establish a limit on the aggregate nameplate capacity of the licensed generators that may be constructed, installed and operated within the marine renewable-electricity area.

(3) Where there is a conflict between a regulation made under clause (1)(d) or (e) and any other enactment, the regulation made under clause (1)(d) or (e) prevails.

(4) The Governor in Council may exercise the authority contained in clause (1)(f) in respect of a marine renewable-electricity area only

(a) when the marine renewable-electricity area is being established or materially modified; or

(b) if the Governor in Council considers it necessary for the safety of persons or property.

(5) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*, 2015, c. 32, s. 70; 2022, c. 19, s. 22.

Governor in Council regulations

79 (1) The Governor in Council may make regulations

(a) prescribing generators

- (i) as being connected generators, or
 - (ii) as not being connected generators;
- (b) prescribing devices or technologies
 - (i) as being generators, or
 - (ii) as not being generators;
- (c) prescribing sources for the purpose of the definition of “marine renewable-energy resources”;
- (d) respecting the timing and manner by which a notice to the public containing the details of a public consultation process must be issued by the Minister;
- (e) prescribing information that is to be included in a notice to the public containing the details of a public consultation process;
- (f) prescribing information that is to be included in a report summarizing the information obtained when consulting with the public in accordance with a public consultation process;
- (g) prescribing the period before the establishment of a marine renewable-electricity area within which a strategic environmental assessment of the proposed marine renewable-electricity area must be completed;
- (h) respecting calls for applications;
- (i) respecting applications for a licence;
- (j) establishing different types of licences and different requirements applicable to each type of licence;
- (k) prescribing terms and conditions of licences;
- (l) respecting the collection of baseline data and environmental effects data and the production of such data and reports in relation thereto in accordance with the terms and conditions of a licence;
- (m) prescribing the form and manner by which the Minister is to notify the public of the licensing process, including the matters referred to in Section 36;
- (n) respecting the extension or renewal of licences;
- (o) respecting the disclosure by the Minister to a department of the public service of the Province or of Canada, a government agency or an agency of the Government of Canada of information, including personal information, under subsection 56(2);
- (p) respecting the disclosure by the Minister to the Department of Environment and Climate Change, the Department of Environment and Climate Change (Canada) or the Department of Fisheries and Oceans (Canada) of environmental effects monitoring data or baseline data under subsection 56(3);
- (q) respecting the collection, use and disclosure by a department of the public service of the Province or a government

agency of information, including personal information, or data under subsection 56(4);

(r) respecting the collection of data by the holder of a licence about the activities that the holder is authorized to carry on under the licence, including the types of data that are to be collected;

(s) respecting the maintenance of records of data by the holder or former holder of a licence or permit about the activities that the holder is, or former holder was, authorized to carry on under the licence or permit, including the length of time during which the records must be maintained;

(t) prescribing data or information about a generator that the Minister is not allowed to disclose without the written consent of the holder of the licence or permit under which the generator is operated;

(u) respecting the establishment and administration of a system of administrative penalties, including, without limiting the generality of the foregoing,

(i) respecting how administrative penalties may be imposed,

(ii) respecting the content of a notice of administrative penalty or administrative penalty order,

(iii) prescribing the dollar amount of administrative penalties or the manner by which the Minister may determine such an amount,

(iv) providing for increased administrative penalties for repeated contraventions and specifying the period within which a contravention is to be considered a repeat contravention of an earlier contravention,

(v) respecting the payment of administrative penalties,

(vi) respecting the revocation of administrative penalties,

(vii) respecting appeals of administrative penalties,

(viii) prescribing the remedies available on an appeal of an administrative penalty, and

(ix) respecting the use to be made of any funds collected through the imposition of administrative penalties, including where such funds are to be deposited or held;

(v) respecting royalties referred to in Section 70;

(w) 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) On the report and recommendation of the Minister, the Governor in Council may make regulations

- (a) altering or replacing the description of the area that constitutes the Bras d'Or Area of Marine Renewable-energy Priority;
- (b) altering or replacing the description of the area that constitutes the Fundy Area of Marine Renewable-energy Priority;
- (c) respecting areas of marine renewable-energy priority;
- (d) prescribing requirements to be satisfied and procedures and processes to be followed by the Minister before a marine renewable-electricity area may be established;
- (e) identifying strategic environmental assessment documents respecting proposed marine renewable-electricity areas for the purpose of subsection 21(2);
- (f) respecting the conduct of strategic environmental assessments;
- (g) prescribing the manner in which an application for a permit is to be made and the information that an application for a permit is to contain;
- (h) establishing different types of permits and different requirements applicable to each type of permit;
- (i) prescribing terms and conditions of permits;
- (j) prescribing exceptional circumstances for extending the period for review and decision on permit applications;
- (k) prescribing how long the Minister may extend the period for review and decision on permit applications;
- (l) respecting the opening and closing dates of an application window;
- (m) respecting notice provisions and public consultation requirements, if any, for an application window;
- (n) respecting the eligibility requirements for an application window;
- (o) respecting application criteria for an application window, including setting a geographical area, a rate cap, a project cap and a maximum megawatt cap;
- (p) respecting the collection of baseline data and environmental effects data and the production of such data and reports in relation thereto in accordance with the terms and conditions of a permit;
- (q) prescribing the form and manner by which the Minister is to notify the public of the permitting process, including the matters referred to in Section 44;
- (r) respecting the extension or renewal of permits;
- (s) respecting the steps to be undertaken by a licence holder
 - (i) to decommission a generator that was operated under the authority of the licence, and

- (ii) to reclaim, restore or rehabilitate any sub-aquatic lands that compose the licence area;
- (t) respecting when a licence holder is required to provide the Minister with a decommissioning, abandonment and reclamation plan and obtain the Minister's approval of such a plan;
- (u) respecting decommissioning, abandonment and reclamation plans to be provided by licence holders;
- (v) respecting the steps to be undertaken by a permit holder
 - (i) to decommission a generator, cable, anchor or other equipment or structure that was operated under the authority of the permit, and
 - (ii) to reclaim, restore or rehabilitate any sub-aquatic lands that compose the permit area;
- (w) respecting when a permit holder is required to provide the Minister with a decommissioning, abandonment and reclamation plan and obtain the Minister's approval of such a plan;
- (x) respecting decommissioning, abandonment and reclamation plans to be provided by permit holders;
- (y) respecting fees or rents referred to in Section 70;
- (z) defining any word or expression used but not defined in this Act;

(3) A regulation made under subsection (1) or (2) may be of general application or may apply to such class or classes of licences or permits, such class or classes of licence holders or permit holders or to such class or classes of matters or things as the Governor in Council determines and there may be different regulations with respect to different classes of licences or permits, different classes of licence holders or permit holders and different classes of matters or things.

(4) The exercise by the Governor in Council of the authority contained in subsection (1) or (2) is a regulation within the meaning of the *Regulations Act*. 2015, c. 32, s. 71; 2017, c. 12, s. 24; 2022, c. 19, s. 23.

Regulations re fees

80 (1) The Minister may make regulations prescribing fees in relation to anything done or required to be done under this Act or the regulations, and the manner of payment of such fees.

(2) The exercise by the Minister of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2015, c. 32, s. 72

SCHEDULE A

BRAS D'OR AREA OF MARINE RENEWABLE-ENERGY PRIORITY

All and singular that certain lot, piece or parcel of land covered by water, lying and being in the vicinity of the Bras d'Or Lake, Province of Nova Scotia, said land being more particularly described as follows:

ALL those lands and lands covered by water known as the Bras d'Or Lake, said land is bounded by the ordinary high-water mark of said lake and three division lines;

BOUNDED on the north by a straight line from the most northerly point on the ordinary high-water mark at Cape Dauphin to the most easterly point on the ordinary high-water mark at Table Head;

BOUNDED on the northeast by a straight line from the most easterly point on the ordinary high-water mark at High Cape to the most northerly point on the ordinary high-water mark at Alder Point;

BOUNDED on the south by a straight line from the most easterly point on the ordinary high-water mark at Pointe du Loup to the most westerly point on the ordinary high-water mark at Jerome Point;

Saving and excepting any private or federal lands or Provincial islands within said parcel of land.

The above-described parcel of land and land covered by water contains approximately 110,900 hectares.

2015, c. 32, Sch. A.

SCHEDULE B

FUNDY AREA OF MARINE RENEWABLE-ENERGY PRIORITY

All and singular that certain lot, piece or parcel of land covered by water, lying and being in the vicinity of the Bay of Fundy, Province of Nova Scotia, said lot being more particularly described as follows:

BEGINNING at the mouth of the Missaguash River;

THENCE southwesterly in a straight line to that point at latitude 45° 49' 39" North and longitude 64° 17' 25" West;

THENCE northwesterly in a straight line to that point at latitude 45° 50' 21" North and longitude 64° 18' 31" West;

THENCE northwesterly in a straight line to that point at latitude 45° 50' 40" North and longitude 64° 19' 15" West;

THENCE southwesterly in a straight line to that point at latitude 45° 50' 36" North and longitude 64° 19' 59" West;

THENCE southwesterly in a straight line to that point at latitude 45° 49' 36" North and longitude 64° 21' 29" West;

THENCE southwesterly in a straight line to that point at latitude 45° 48' 20" North and longitude 64° 23' 41" West;

THENCE southwesterly in a straight line to that point at latitude 45° 47' 36" North and longitude 64° 24' 17" West;

THENCE southwesterly in a straight line to that point at latitude 45° 45' 52" North and longitude 64° 26' 25" West;

THENCE southwesterly in a straight line to that point at latitude 45° 44' 18" North and longitude 64° 27' 57" West;

THENCE southwesterly in a straight line to that point at latitude 45° 42' 44" North and longitude 64° 28' 28" West;

THENCE southwesterly in a straight line to that point at latitude 45° 35' 14" North and longitude 64° 42' 55" West;

THENCE southwesterly in a straight line to that point at latitude 45° 30' 26" North and longitude 64° 56' 25" West;

THENCE southwesterly in a straight line to that point at latitude 45° 29' 09" North and longitude 64° 58' 07" West;

THENCE southwesterly in a straight line to that point at latitude 45° 22' 19" North and longitude 65° 05' 31" West, being approximately the midpoint between Isle Haute (Nova Scotia) and Martin Head (New Brunswick);

THENCE southwesterly in a straight line to that point at latitude 45° 00' 14" North and longitude 65° 43' 36" West, being approximately the midpoint between the west promontory of Parkers Cove (Nova Scotia) and Cape Spencer (New Brunswick);

THENCE southwesterly in a straight line to that point at latitude 44° 50' 16" North and longitude 66° 11' 39" West, being approximately the midpoint between Gullivers Head (Nova Scotia) and Point Lepreau (New Brunswick);

THENCE southwesterly in a straight line toward that point at latitude 44° 26' 09" North and longitude 66° 32' 32" West, to a point at the intersection of longitude 66° 24' 30" West;

THENCE south in a straight line to that point at latitude 44° 13' 00" North and longitude 66° 24' 30" West;

THENCE easterly in a straight line to that point at the intersection of latitude 44° 13' 00" and the ordinary high-water mark of Nova Scotia;

THENCE along the ordinary high-water mark of Nova Scotia excluding fresh watercourses to the PLACE OF BEGINNING.

Saving and excepting any private or federal lands or Provincial islands within said parcel of land.

The above-described parcel of land and land covered by water contains approximately 726,000 hectares.

2015, c. 32, Sch. B.

SCHEDULE C

FORCE MARINE RENEWABLE-ELECTRICITY AREA

All those certain parcels of land covered by water near Black Rock, Cumberland County, Nova Scotia, Parcel "A" and Parcel "B" as shown on "Plan of Survey of Parcels 'A' & 'B' Submerged Crown Land, Minas Channel (Black Rock), Cumberland County, Nova Scotia" bearing field plot No. P-125/16, dated 22 December 2016, prepared by W.B. MacDonald NSLS for Order of Survey S-043/16 filed at the Department of Natural Resources and Renewables Office, Halifax, Nova Scotia, and particularly described as follows:

BEGINNING at a point located South 46° 08' 37" East a distance of 572.525 metres from Nova Scotia coordinate monument number 15028;

THENCE North 61° 45' 00" East a distance of 37 metres more or less to a point at ordinary high water mark as shown on the plan;

THENCE southeasterly along a portion of the shore of Minas Channel at ordinary high water mark a distance of 100 metres more or less to a point;

THENCE South 10° 30' 46" West a distance of 46 metres more or less to a point located South 55° 34' 00" East a distance of 134.544 metres from the point of beginning;

THENCE South 10° 30' 46" West a distance of 309.867 metres to a point;

THENCE South 53° 38' 38" West a distance of 699.837 metres to a point;

THENCE South 87° 26' 14" West a distance of 724.802 metres to a point;

THENCE South 00° 00' 00" West a distance of 100.721 metres to a point;

THENCE North 90° 00' 00" West a distance of 1599.579 metres to a point;

THENCE North 00° 00' 00" West a distance of 999.491 metres to a point;
 THENCE South 90° 00' 00" East a distance of 1599.579 metres to a point;
 THENCE South 00° 00' 00" West a distance of 87.741 metres to a point;
 THENCE North 83° 52' 39" East a distance of 440.788 metres to a point;
 THENCE South 75° 55' 1 1" East a distance of 598.049 metres to a point;
 THENCE North 61° 45' 00" East a distance of 243.960 metres to the PLACE OF BEGINNING.

Excepting thereout all that parcel of land and land covered by water, internal to Parcel "B" and shown on the plan as "Crown Land reserved from lease", particularly described as follows:

BEGINNING on the east boundary of Parcel "A" at a point located North 00° 00' 00" East a distance of 157.341 metres from the southwest corner of Parcel "B" as shown on the plan;

THENCE North 50° 55' 40" East a distance of 400.910 metres to a point;
 THENCE North 77° 15' 17" East a distance of 352.098 metres to a point;
 THENCE South 76° 59' 26" East a distance of 397.796 metres to a point;
 THENCE South 53° 38' 38" West a distance of 348.761 metres to a point;
 THENCE South 87° 26' 14" West a distance of 762.145 metres to the PLACE OF BEGINNING.

The lands so described, comprising Parcels "A" and "B", contain a total area of 232.060 Hectares more or less.

Bearings are referred from the modified transverse mercator grid north, central meridian 64°30' West longitude.

2017, c. 12, s. 25.

SCHEDULE D

DIGBY GUT MARINE RENEWABLE-ELECTRICITY AREA

All and singular that certain lot, piece or parcel of land covered by water situate, lying and being in the vicinity of Digby Gut, in the County of Digby, Province of Nova Scotia, being more particularly described as follows:

BEGINNING at a point DG1 having a northing of 4950223 metres and an easting of 5399391 metres;

THENCE North 73° 34' 27" East, a distance of 622.40 metres, more or less, to point DG2;
 THENCE South 23° 27' 37" East, a distance of 833.94 metres, more or less, to point DG3;
 THENCE South 21° 55' 30" West, a distance of 773.98 metres, more or less, to point DG4;
 THENCE South 18° 44' 54" East, a distance of 983.17 metres, more or less, to point DG5;
 THENCE North 89° 02' 14" West, a distance of 238.03 metres, more or less, to point DG6;
 THENCE North 18° 25' 05" West, a distance of 1079.29 metres, more or less, to point DG7;
 THENCE North 0° 22' 46" East, a distance of 453.01 metres, more or less, to point DG8;
 THENCE North 26° 39' 21" West, a distance of 847.02 metres, more or less, to point DG1 and the PLACE OF BEGINNING.

Saving and excepting any and all privately owned land and land under the administration of Canada.

Saving and excepting all leasehold estates, tenements and hereditaments.

Saving and excepting all other rights thereto and interests therein including any estate or right in, over or under the above-described land recognized under law.

Subject to any and all rights and interests including any covenants, claims, privileges, permits or licences as well as subject to any conditions or restrictions imposed by Provincial law.

The above-described lot contains an area of 96 hectares, more or less.

All bearings are grid based on the Nova Scotia 3° Modified Transverse Mercator Projection, Zone 5, Central Meridian 64° 30' West longitude, ATS77 ellipsoid, July 1, 1979 adjustment.

2015, c. 32, Sch. D.

SCHEDULE E

GRAND PASSAGE MARINE RENEWABLE-ELECTRICITY AREA

Area 1 Description

All and singular that certain lot, piece or parcel of land covered by water situate, lying and being in the vicinity of Grand Passage, in the County of Digby, Province of Nova Scotia, being more particularly described as follows:

BEGINNING at a point GP1 having a northing of 4906642 metres and an easting of 5353140 metres;

THENCE South 88° 42' 28" East, a distance of 399.10 metres, more or less, to point GP2;

THENCE South 26° 26' 39" East, a distance of 424.41 metres, more or less, to point GP3;

THENCE South 24° 14' 47" West, a distance of 840.11 metres, more or less, to point GP4;

THENCE South 83° 03' 12" West, a distance of 438.22 metres, more or less, to point GP5;

THENCE North 12° 20' 50" East, a distance of 650.04 metres, more or less, to point GP6;

THENCE North 5° 17' 04" East, a distance of 575.45 metres, more or less, to point GP1 and the PLACE OF BEGINNING.

Saving and excepting any and all privately owned land and land under the administration of Canada.

Saving and excepting all leasehold estates, tenements and hereditaments.

Saving and excepting all other rights thereto and interests therein including any estate or right in, over or under the above-described land recognized under law.

Subject to any and all rights and interests including any covenants, claims, privileges, permits or licences as well as subject to any conditions or restrictions imposed by Provincial law.

The above-described lot contains an area of 60 hectares, more or less.

All bearings are grid based on the Nova Scotia 3° Modified Transverse Mercator Projection, Zone 5, Central Meridian 64° 30' West longitude, ATS77 ellipsoid, July 1, 1979 adjustment.

Area 2 Description

All and singular that certain lot, piece or parcel of land covered by water situate, lying and being in the vicinity of Grand Passage, in the County of Digby, Province of Nova Scotia, being more particularly described as follows:

BEGINNING at a point GP10 having a northing of 4904860 metres and an easting of 5353043 metres;

THENCE North 64° 15' 12" East, a distance of 469.62 metres, more or less, to point GP7;

THENCE South 6° 23' 40" East, a distance of 583.63 metres, more or less, to point GP8;

THENCE South 68° 17' 40" West, a distance of 332.58 metres, more or less, to point GP9;

THENCE North 19° 44' 02" West, a distance of 530.13 metres, more or less, to point GP10 and the PLACE OF BEGINNING.

Saving and excepting any and all privately owned land and land under the administration of Canada.

Saving and excepting all leasehold estates, tenements and hereditaments.

Saving and excepting all other rights thereto and interests therein including any estate or right in, over or under the above-described land recognized under law.

Subject to any and all rights and interests including any covenants, claims, privileges, permits or licences as well as subject to any conditions or restrictions imposed by Provincial law.

The above-described lot contains an area of 22 hectares, more or less.

All bearings are grid based on the Nova Scotia 3° Modified Transverse Mercator Projection, Zone 5, Central Meridian 64° 30' West longitude, ATS77 ellipsoid, July 1, 1979 adjustment.

2015, c. 32, Sch. E.

SCHEDULE F

PETIT PASSAGE MARINE RENEWABLE-ELECTRICITY AREA

All and singular that certain lot, piece or parcel of land covered by water situate, lying and being in the vicinity of Petit Passage, in the County of Digby, Province of Nova Scotia, being more particularly described as follows:

BEGINNING at a point PP1 having a northing of 4919384 metres and an easting of 5363587 metres;

THENCE North 77° 36' 44" East, a distance of 396.22 metres, more or less, to point PP2;

THENCE South 13° 19' 42" East, a distance of 785.15 metres, more or less, to point PP3;

THENCE South 12° 21' 19" West, a distance of 214.98 metres, more or less, to point PP4;

THENCE South 01° 12' 28" West, a distance of 332.07 metres, more or less, to point PP5;

THENCE South 10° 47' 03" East, a distance of 277.91 metres, more or less, to point PP6;

THENCE South 02° 39' 20" West, a distance of 539.58 metres, more or less, to point PP7;

THENCE North 69° 33' 09" West, a distance of 432.23 metres, more or less, to point PP8;

THENCE North 17° 26' 15" West, a distance of 163.51 metres, more or less, to point PP9;

THENCE North 14° 40' 04" East, a distance of 154.02 metres, more or less, to point PP10;

THENCE North 22° 09' 35" East, a distance of 296.93 metres, more or less, to point PP11;

THENCE North 03° 37' 59" East, a distance of 315.63 metres, more or less, to point PP12;

THENCE North 14° 42' 13" West, a distance of 1020.42 metres, more or less, to point PP1 and the PLACE OF BEGINNING.

Saving and excepting any and all privately owned land and land under the administration of Canada.

Saving and excepting all leasehold estates, tenements and hereditaments.

Saving and excepting all other rights thereto and interests therein including any estate or right in, over or under the above-described land recognized under law.

Subject to any and all rights and interests including any covenants, claims, privileges, permits or licences as well as subject to any conditions or restrictions imposed by Provincial law.

The above-described lot contains an area of 74 hectares, more or less.

All bearings are grid based on the Nova Scotia 3° Modified Transverse Mercator Projection, Zone 5, Central Meridian 64° 30' West longitude, ATS77 ellipsoid, July 1, 1979 adjustment.

2015, c. 32, Sch. F.

CHAPTER M-5

**An Act Respecting
a Memorial Day for Mariners**

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

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WHEREAS Nova Scotia is a province with strong and long-standing connections to the sea;

AND WHEREAS the House of Assembly believes that there should be a day set aside on which to commemorate, each and every year, the many Nova Scotian mariners who have lost their lives at sea:

Short title

1 This Act may be cited as the *Mariners' Day Act*. 2013, c. 6, s. 1.

Mariners' Day

2 Throughout the Province, in each and every year, the second Sunday in August shall be kept and observed under the name of Mariners' Day. 2013, c. 6, s. 2.

CHAPTER M-6

Maritime Economic Co-operation Act

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

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Purpose of Act

1 The purpose of this Act is to set out the commitment by the governments of the Maritime Provinces to closer economic co-operation with the objective of achieving economic self-reliance for the Maritime Provinces and thereby improving the well-being and prosperity of the people living in the Maritime Provinces. 1992, c. 7, s. 1.

Interpretation

2 In this Act, “Maritime Provinces” means the Province of Nova Scotia, the Province of New Brunswick and the Province of Prince Edward Island. 1992, c. 7, s. 2.

MARITIME CO-OPERATION

Guiding principles and strategic goals

3 (1) In future actions that affect the economy of the Maritime Provinces, the governments of the Maritime Provinces are to be guided by the following principles:

- (a) maintain the authority of each government and legislature;
- (b) protect and enhance the right of all residents of the Maritime Provinces to participate fully in the Maritime economy regardless of language and geographic location and in accordance with the *Human Rights Act*;

- (c) protect and enhance the linguistic rights and cultural identities of the people of the Maritime Provinces;
- (d) meet the needs of future generations by following the principles of sustainable development; and
- (e) work together for a strong and united Canada.

(2) The governments of the Maritime Provinces are to co-operate in pursuit of the following strategic goals:

- (a) remove barriers that impede the mobility of goods, services, people and capital so as to establish a single Maritime market;
- (b) create a more competitive and entrepreneurial business environment;
- (c) increase the self-reliance of businesses and individuals;
- (d) improve transportation, communications, energy, education, health and other infrastructure;
- (e) establish or maintain high standards of occupational health, safety and labour practices;
- (f) protect and enhance the environment and ensure the wise use of natural resources; and
- (g) take any other measures to improve the prosperity of the Maritime Provinces and the well-being of the residents of those Provinces. 1992, c. 7, s. 3.

Decisions

4 Decisions may be taken pursuant to this Act by two or by three of the governments of the Maritime Provinces and where taken by only two of the governments they are only binding on those two governments. 1992, c. 7, s. 4.

Implementation of decisions

5 Decisions taken pursuant to this Act are to be implemented by the governments of the Maritime Provinces or their agencies according to agreed arrangements or, on behalf of the governments, by a regional agency. 1992, c. 7, s. 5.

How decisions to be effected

6 Decisions taken pursuant to this Act are to be effected by the governments of the Maritime Provinces either in a coordinated manner through compatible legislation or regulations, or both, or in a uniform manner by amendment to this Act. 1992, c. 7, s. 6.

GENERAL

Contrary measures

7 The Province agrees not to adopt measures that are contrary to the purpose, principles and strategic goals of this Act. 1992, c. 7, s. 7.

Bilingualism

8 Any resident of the Maritime Provinces has the right to communicate with and receive service in English and French from any institution established specifically in pursuance of the purpose, principles and strategic goals of this Act. 1992, c. 7, s. 8.

Manner of repeal

9 It is the declared intention that this Act or any part of this Act remains in force until repealed by one or more of the legislatures of the Maritime Provinces and a legislature intending to repeal this Act or a part thereof shall give at least one year's notice of the intention to repeal this Act or a part thereof. 1992, c. 7, s. 9.

CHAPTER M-7

An Act Respecting the Maritime Link

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WHEREAS there are unique advantages for the Nova Scotia economy and Nova Scotia electricity ratepayers from the delivery into Nova Scotia of hydro-electric power from Newfoundland and Labrador;

AND WHEREAS the Governments of Nova Scotia, Newfoundland and Labrador and Canada have committed to support development of the Lower Churchill Project;

AND WHEREAS there is a need to provide for a predictable, timely and transparent regulatory review process:

Short title

1 This Act may be cited as the *Maritime Link Act*. 2012, c. 9, s. 1.

Interpretation

2 In this Act,

“applicant” means a person that makes an application in respect of the Maritime Link Project and rates associated with the Project in accordance with the regulations;

“approved applicant” means an applicant that has received an approval for the Maritime Link Project pursuant to the regulations;

“Maritime Link” means a new high voltage direct current transmission system and related components, including grounding systems, and includes

(a) direct current converter stations in Newfoundland and Labrador, and in Cape Breton, Nova Scotia, together with the subsea

cables and high voltage direct current transmission lines connecting the converter stations;

(b) an alternating current transmission line connecting the converter station in Newfoundland and Labrador with the Newfoundland Island Interconnected System; and

(c) any additional transmission infrastructure required in order to interconnect with the Newfoundland Island Interconnected System and the Nova Scotia Transmission System;

“Maritime Link Project” means the design, construction, operation and maintenance of the Maritime Link, together with the related transactions involving the delivery of energy, the provision of transmission services over the Maritime Link and the enabling of transmission service through the Province, as set out in a term sheet between Emera Incorporated and Nalcor Energy dated November 18, 2010;

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

“Review Board” means the Nova Scotia Utility and Review Board established under the *Utility and Review Board Act*. 2012, c. 9, s. 2; 2013, c. 40, s. 2.

Supervision of Act

3 The Minister has the general supervision and management of this Act. 2012, c. 9, s. 3.

Review Board

4 The Review Board has the general supervision of an applicant and the Maritime Link Project, and may make all necessary examinations and inquiries and keep itself informed as to the compliance by an applicant with the provisions of law and has the right to obtain from an applicant all information necessary to enable the Review Board to fulfill its duties. 2012, c. 9, s. 4.

Powers and authority

5 The Review Board has all the powers and authority provided to it under the *Utility and Review Board Act* and the *Public Utilities Act* to carry out its duties under this Act and the regulations. 2013, c. 40, s. 3.

Compliance with Review Board decisions

6 For greater certainty, the powers and authority of the Review Board include the power and authority to ensure compliance with any term, condition or requirement set out in a decision of the Review Board made under this Act or the regulations, including those set out in the decisions made with respect to the Maritime Link Project, dated July 22, 2013, and November 29, 2013. 2013, c. 40, s. 3.

Public Utilities Act

7 (1) Notwithstanding the regulations, Section 54 of the *Public Utilities Act* does not apply with respect to construction of the Maritime Link Project by an applicant in territory already served by a public utility of like nature, as that territory existed immediately prior to October 2, 2012.

(2) For greater certainty, where an applicant has been made subject to the *Public Utilities Act* by regulation, for the purpose of that Act and in particular Section 64 of that Act, the transmission of electricity by the applicant is a service to which Section 64 of that Act applies.

(3) Section 74 of the *Public Utilities Act* does not apply to an approved applicant.

(4) Notwithstanding Section 117 of the *Public Utilities Act*, where there is a conflict between this Act or the regulations and the *Public Utilities Act* or the regulations made pursuant to that Act, this Act and the regulations prevail. 2012, c. 9, s. 5; 2013, c. 40, s. 4.

Deemed property of Nova Scotia Power Incorporated

8 For the purpose of taxation by a municipality, other than deed transfer tax, the property of an approved applicant is deemed to be the property of Nova Scotia Power Incorporated and subject to Section 18 of the *Nova Scotia Power Privatization Act*. 2013, c. 40, s. 5.

Expropriation

9 (1) An approved applicant may expropriate any land that the approved applicant considers necessary or useful for the Maritime Link Project.

(2) Upon a plan and description of the land being expropriated, signed by a person with legal capacity to sign for the approved applicant, being filed or registered in the registry of deeds for the registration district in which the land is located, the land is vested in the approved applicant.

(3) The *Expropriation Act* applies to an expropriation under this Section and the approved applicant is deemed to be the expropriating authority for the purpose of that Act.

(4) Notwithstanding the *Expropriation Act*, the Governor in Council is the approving authority for the purpose of that Act in respect of land expropriated pursuant to this Section.

(5) Notwithstanding the *Expropriation Act*, lands of an approved applicant may be expropriated by another expropriating authority only with the approval of the Governor in Council. 2013, c. 40, s. 5.

Nova Scotia Power Privatization Act and approved applicant

10 Section 22 of the *Nova Scotia Power Privatization Act* applies with necessary changes to an approved applicant with respect to the Maritime Link. 2013, c. 40, s. 5.

Nova Scotia Power Privatization Act and electricity contract

11 Section 23 of the *Nova Scotia Power Privatization Act* applies with necessary changes with respect to any contract for the supplying of electricity by an approved applicant as if the approved applicant were Nova Scotia Power Incorporated. 2013, c. 40, s. 5.

Assessment recovery

12 Nova Scotia Power Incorporated is entitled to recover through its rates an assessment against it that is approved by the Review Board for an approved applicant. 2013, c. 40, s. 5.

Regulations

13 (1) The Governor in Council shall, after consultation with the Chair of the Review Board, make regulations establishing a hearing and approval process and the criteria and conditions by which an application with respect to the Maritime Link Project is to be reviewed and considered for approval by the Review Board, which may include regulations

- (a) determining when a hearing is required;
- (b) establishing the subject-matter to be considered in a hearing;
- (c) setting out the criteria for approval or confirmation of an approval by the Board;
- (d) determining the matters to be decided in a hearing, including setting limits or parameters for which costs will be allowed or within which rates must be set;
- (e) establishing the timing of various steps of the hearing and approval process;
- (f) determining any other matter or thing relating to the hearing and approval process the Governor in Council considers necessary or advisable.

(2) The Governor in Council may make regulations

- (a) providing that the *Public Utilities Act* applies to an applicant and that the applicant is a public utility within the meaning of that Act;
- (b) defining any word or expression used but not defined in this Act;
- (c) respecting any matter or thing the Governor in Council considers necessary or advisable to effectively carry out the intent and purpose of this Act.

(3) The exercise by the Governor in Council of the authority contained in subsections (1) and (2) is a regulation within the meaning of the *Regulations Act*. 2012, c. 9, s. 6.

CHAPTER M-8

**An Act Respecting the Maritime Provinces
Higher Education Commission**

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Short title

1 This Act may be cited as the *Maritime Provinces Higher Education Commission Act*. 2004, c. 30, s. 1.

Interpretation

2 In this Act,

“Chair” means the Chair of the Commission;

“Chief Executive Officer” means the Chief Executive Officer of the Commission;

“Commission” means the Maritime Provinces Higher Education Commission;

“Council” means the Council of Maritime Premiers established pursuant to the *Council of Maritime Premiers Act*;

“institutions” means the post-secondary educational institutions prescribed by the regulations;

“minister” of a province means the minister of the Crown responsible for post-secondary education in that province;

“Ministers” means the ministers of the Crown responsible for post-secondary education in the Provinces;

“post-secondary education” means the education and training provided in or by institutions;

“Provinces” means the Province of New Brunswick, the Province of Nova Scotia and the Province of Prince Edward Island;

“region” means the area composed of the Province of New Brunswick, the Province of Nova Scotia and the Province of Prince Edward Island;

“student” means an individual registered as a student in an institution;

“universities” means the post-secondary educational institutions prescribed by the regulations. 2004, c. 30, s. 2.

Commission continued

3 (1) The body established by the Council and known as the Maritime Provinces Higher Education Commission is continued.

(2) The Commission consists of

(a) 20 members appointed by the Ministers as set out in Section 4; and

(b) the Chief Executive Officer. 2004, c. 30, s. 3.

Appointment of members

4 (1) The Ministers shall appoint members of the Commission as follows:

(a) at least six from among the nominees submitted pursuant to Section 5;

(b) at least six from among senior public officials and the executive heads of non-university institutions; and

(c) at least six from the public at large, of which at least two must be students.

(2) At least one of the members appointed pursuant to each of clauses (1)(a), (b) and (c) shall be selected from each of the Provinces.

(3) No two persons appointed pursuant to clause (1)(a) may be selected from the same university. 2004, c. 30, s. 4.

Nominating committee

5 (1) There is a nominating committee consisting of

(a) the executive heads of the universities; and

(b) one representative appointed by the Senate or equivalent academic body of each university,

and the committee shall nominate persons for appointment pursuant to clause 4(1)(a) and subsections (2) and (3).

(2) Where a vacancy occurs among the members appointed pursuant to clause 4(1)(a), the nominating committee shall submit to the minister of the province from which the member to be replaced was appointed the names of two persons selected from that minister's province and that minister shall, subject to Section 4, appoint one of such persons to fill the vacancy for the balance of the term of the member replaced.

(3) At least 60 days before the expiration of the term of a member appointed pursuant to clause 4(1)(a) or subsection (2), the nominating committee shall submit to the minister of the province from which the member to be replaced was appointed the names of two persons from that minister's province and that minister shall, subject to Section 4, appoint one of such persons to take office on the expiration of such term. 2004, c. 30, s. 5.

Vacancy

6 Where a vacancy occurs among the members appointed pursuant to clause 4(1)(b) or (c), the minister of the province from which the member to be replaced was appointed may, subject to Section 4, appoint a person to fill the vacancy for

- (a) the balance of the unexpired term of the member replaced; or
- (b) a new term where the vacancy resulted from the expiration of a term. 2004, c. 30, s. 6.

Effect of vacancy

7 A vacancy in the membership of the Commission does not impair the right of the remaining members to act so long as at least 11 members, excluding the Chief Executive Officer but including at least three members selected from each of the Provinces, hold office. 2004, c. 30, s. 7.

Terms of office

8 (1) Subject to subsection 5(2) and clause 6(a), a member of the Commission referred to in clause 3(2)(a) holds office for three years from the date of appointment or such lesser period as may be specified in the appointment.

(2) Notwithstanding subsection (1), a member of the Commission referred to in clause 3(2)(a) remains in office until the member resigns or is reappointed or replaced.

(3) A member of the Commission referred to in clause 3(2)(a), on the expiration of the member's term of office, is eligible for reappointment to the Commission. 2004, c. 30, s. 8.

Remuneration

9 Members of the Commission shall be paid such remuneration as may, with the approval of the Ministers, be determined by the Commission, and such actual and reasonable expenses as are incurred by them in the discharge of their duties. 2004, c. 30, s. 9.

Chair

10 (1) The position of Chair rotates, in turn, among the Provinces in the following order:

- (a) Province of New Brunswick;
- (b) Province of Prince Edward Island;
- (c) Province of Nova Scotia.

(2) In the order set out in subsection (1), each of the Ministers shall appoint, in turn, from among the members of the Commission selected from the minister's province, a Chair of the Commission.

(3) The Chair holds office as chair for a term of two years or until the expiry of the Chair's term as a member of the Commission, whichever occurs first.

(4) Notwithstanding subsection (3), the Chair remains in office as Chair until the Chair resigns or is replaced. 2004, c. 30, s. 10.

Chief Executive Officer

11 (1) The Ministers, on the recommendation of the Commission, shall appoint a Chief Executive Officer of the Commission.

(2) The Chief Executive Officer is, subject to the direction of the Commission, charged with the general direction, supervision and control of the business of the Commission and may exercise such other powers as may be conferred on the Chief Executive Officer by the Commission.

(3) The Chief Executive Officer shall serve as a full-time employee of the Commission.

(4) The Chief Executive Officer is a non-voting member of the Commission. 2004, c. 30, s. 11.

Duties of Commission

12 (1) The Commission shall, in carrying out its duties, give first consideration to improving and maintaining the best possible service to students as lifelong learners by

- (a) taking measures intended to ensure that programs of study are of optimum length and best quality;
- (b) stressing prior-learning assessment and recognition, and credit transfer, to implement the principle that duplication of effort is not required in order to gain credit for learning that has been successfully accomplished;
- (c) promoting smooth transitions between learning and work;
- (d) promoting equitable and adequate access to learning opportunities, including making those opportunities available at times and places convenient to the student; and

(e) taking measures intended to ensure teaching quality.

(2) The Commission's principal duties are to

(a) undertake measures intended to ensure continuous improvement in the quality of academic programs and of teaching at institutions, which, without limiting the generality of the foregoing, may include the review of institutional programs and practices for assuring such improvement and making recommendations to institutions and the Provinces;

(b) ensure that data and information is collected, maintained and made available for assuring the public accountability of institutions, and to assist institutions and the Provinces in their work, which, without limiting the generality of the foregoing, may include

(i) establishing data and system standards,

(ii) establishing public reporting requirements and producing public reports, and

(iii) carrying out studies in regard to public policy, institutional concerns and issues related to post-secondary education, and providing advice to institutions and the Provinces on these matters;

(c) take initiatives to stimulate co-operative action among institutions and the Provinces where such action is likely to improve the efficiency and effectiveness of the post-secondary education system in the Provinces, which, without limiting the generality of the foregoing, may include

(i) encouraging initiatives for institutions to offer joint, complementary and regional programs, and

(ii) encouraging administrative, financial and common service arrangements that reduce the overhead cost of programs and the overall cost to students and the Provinces;

(d) continue to develop and administer funding transfers among the Provinces for regional programs, which, without limiting the generality of the foregoing, may include developing and administering funding arrangements for programs outside the region, as required to provide additional educational opportunities for students from the region; and

(e) undertake such other duties as the Ministers may assign.

(3) The Commission may

(a) provide such services and functions as may be agreed upon by the Ministers to one or more institutions or to one or more of the Provinces;

(b) provide such advice and services, as may be agreed upon by the Ministers to one or more of the Provinces to determine their post-secondary education funding policy;

(c) recommend to the Ministers the names of post-secondary educational institutions that may be added to or deleted from those prescribed by the regulations for the purpose of the definitions of “institutions” and “universities”. 2004, c. 30, s. 12.

Powers of Commission

13 (1) The Commission has all such powers as are necessary for, and ancillary to, the proper performance of its duties, including, but not limited to, the powers to

- (a) engage staff;
- (b) establish advisory committees;
- (c) enter into contracts where and to the extent that funds have been made available for such purpose; and
- (d) require the timely provision of data and information from institutions.

(2) Subject to this Act, the Commission may make bylaws respecting its internal organization and the conduct of its business, and may include in such bylaws provision for the election or designation of a Vice-chair of the Commission to act in the absence or disability of the Chair or when the office of Chair is vacant.

(3) The *Regulations Act* does not apply to bylaws made pursuant to subsection (2). 2004, c. 30, s. 13.

Confidential information

14 (1) All data received by the Commission from institutions or any other source is confidential, and must not be disclosed, except as provided in this Section.

(2) Subject to subsection (3), the Commission may disclose, in aggregate form, data received by the Commission from institutions or any other sources.

(3) For the purpose of ensuring the protection of personal information, the Commission shall, before disclosing data received by the Commission from institutions or any other sources, remove any portion that would reveal personal information concerning any person. 2004, c. 30, s. 14.

Meetings

15 The Commission shall meet at least four times each year at the call of the Chair. 2004, c. 30, s. 15.

Quorum

16 Subject to Section 7, a majority of the members holding office, excluding the Chief Executive Officer, constitute a quorum for the purpose of conducting a meeting if at least two members appointed from each province are present at such meetings. 2004, c. 30, s. 16.

Accountability of Commission

17 The Commission is accountable to the Ministers. 2004, c. 30, s. 17.

Commission advises Ministers

18 (1) The determination of public funding levels for institutions is the sole responsibility of the Provinces.

(2) The Commission shall, when requested to do so by the Ministers, provide advice or services to the Ministers for determining post-secondary education funding policies and allocations. 2004, c. 30, s. 18.

Finances and reporting

19 (1) The fiscal year of the Commission commences on April 1st in each year and ends on March 31st in the immediately following year.

(2) The accounts of the Commission must be audited in accordance with the procedure adopted for auditing the accounts of the Council.

(3) The Commission shall, within six months after the end of each fiscal year, submit to the Ministers and the Council a report containing

(a) a review of the Commission's activities during the fiscal year;

(b) statements and recommendations regarding such matters in the field of post-secondary education in the region as the Commission considers advisable; and

(c) the audited financial statements of the Commission for the fiscal year.

(4) The annual report of the Commission must be tabled in the House of Assembly as soon as is practicable after receipt by the Ministers. 2004, c. 30, s. 19.

No action lies

20 No action or other proceeding lies against the Province, the Commission or any member or employee of the Commission, for any act done in good faith in the execution or intended execution of any duty or power under this Act or for any alleged neglect or default in the execution in good faith of any such duty or power. 2004, c. 30, s. 20.

Regulations

21 (1) The Governor in Council may make regulations

(a) prescribing post-secondary educational institutions for the purpose of the definition of "institutions";

(b) prescribing post-secondary educational institutions for the purpose of the definition of "universities".

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*, 2004, c. 30, s. 21.

CHAPTER M-9

**An Act Respecting
Marketable Title to Land**

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

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Short title

1 This Act may be cited as the *Marketable Titles Act*. 1995-96, c. 9, s. 1.

Purpose of Act

2 The purpose of this Act is to

(a) remove uncertainties respecting the determination of marketable titles to land in the interests of all present and future landowners and facilitate the development of the Province; and

(b) remove uncertainties respecting the validity of past and future tax deeds. 1995-96, c. 9, s. 2.

Interpretation

3 In this Act,

“chain of title” means a chain of title as described in subsection 4(2);

“instrument” means a conveyance or other document by which the title to land is changed or in any way affected, including a will or other testamentary instrument, a grant from the Crown, a court order, a certificate of title under the *Quieting Titles Act* or the *Land Titles Clarification Act* or a report of commissioners appointed to make partition;

“registered” means registered or filed in the registry of deeds for the registration district within which the land is situate. 1995-96, c. 9, s. 3.

Marketable title

4 (1) A person has a marketable title at common law or equity or otherwise to an interest in land if that person has a good and sufficient chain of title

during a period greater than 40 years immediately preceding the date the marketability is to be determined.

(2) A chain of title commences with the registered instrument, other than a will, that conveys or purports to convey that interest in the land and is dated most recently before the 40 years immediately preceding the date the marketability is to be determined.

(3) A chain of title may commence before, on or after July 1, 1996.

(4) Nothing in this Section extinguishes any interest in land. 1995-96, c. 9, s. 4; 2001, c. 6, s. 116.

Extinguishment of interest in land

5 Notwithstanding the *Descent of Property Act* and the *Intestate Succession Act*, but subject to Section 6, an interest in land, whether arising before, on or after July 1, 1996, that has not vested pursuant to an instrument that is registered pursuant to the *Land Registration Act* or the *Registry of Deeds Act*, is extinguished by a registered instrument other than a will that conveys or purports to convey that interest in the land and that is executed by a person with a marketable title to that interest, upon the expiry of

(a) the 20-year period immediately following the vesting of the interest;

(b) the five-year period immediately following the attainment of the age of majority by the person with the interest; or

(c) where the person with the interest is of unsound mind, the five-year period immediately following the person ceasing to be of unsound mind or the 25-year period immediately following the vesting of the interest, whichever is earlier. 2001, c. 6 s. 116.

Preservation of interests otherwise extinguished

6 (1) A person may preserve an interest in land that, but for this Section, could be extinguished by Section 5 by filing a notice of claim.

(2) A notice of claim must be in the form prescribed by the regulations.

(3) A notice of claim must include

(a) the name of the claimant;

(b) the names of the owners of all interests in the land known to the claimant;

(c) the address of the claimant;

(d) a description of the land in which the interest is claimed;

(e) the nature of the interest in the land claimed;

(f) a summary of the basis of the claim, including the recording particulars of every instrument constituting the chain of title on which the claim is based; and

(g) such other information as the regulations prescribe.

(4) A notice of claim does not validate or extend an interest that has been extinguished by subsection 4(4) or that has expired or is invalid.

(5) A new notice of claim may be registered pursuant to this Act and, for that purpose, an earlier notice of claim is the instrument on which the claim is based.

(6) For greater certainty, lack of knowledge or absence from the Province on the part of any person does not extend the period during which a notice of claim may be registered. 1995-96, c. 9, s. 5; 2001, c. 6, s. 116.

Tax deeds

7 (1) In this Section, “tax deed” means

(a) a certificate that has or purports to have the effect of vesting land that was to be sold for non-payment of taxes in a town, municipality of a county or district, regional municipality, village commissioners or service commission as defined by the *Municipal Government Act*; or

(b) a deed from a town, municipality of a county or district, regional municipality, village commissioners or service commission as defined by the *Municipal Government Act* to land sold or purportedly sold for non-payment of taxes.

(2) A tax deed may not be set aside for any reason whatsoever except during the six years following registration of the tax deed, and thereafter the tax deed is binding and conclusive upon all persons and is not liable to be attacked or impeached at law by any person, and the tax deed conveys an absolute and indefeasible title in fee simple to the land described in the tax deed and is conclusive evidence, with respect to the purchaser and every person claiming through the purchaser, that every requirement for the proper assessment and sale of the land has been met.

(3) Notwithstanding subsection (2), a court may exclude from a tax deed all or part of the lands described in the tax deed that the court finds were assessed to a person, other than the person to whom the property was assessed when the lands were sold for arrears of taxes, who has an interest in the lands or part thereof and in respect of which taxes were not in arrears for more than one year at the time of the sale.

(4) Subsection (2) does not apply where a court finds that the current owner of the land participated in a fraud or breach of trust with respect to the sale.

(5) Subsection (2) applies whether the tax deed was registered before, on or after July 1, 1996.

(6) Subsection (2) does not deprive any person of any cause of action that person may have for damages for the wrongful sale of land for taxes. 1995-96, c. 9, s. 6.

Exceptions to Act

- 8** (1) This Act does not apply to
- (a) any interest in land created or preserved by a statute;
 - (b) the interest of a municipal government in a public street, road, highway or road reserve;
 - (c) a right-of-way or easement in favour of a public utility or a municipal government;
 - (d) mineral rights; or
 - (e) an easement or right-of-way that is being used and enjoyed.
- (2) Subsections 4(1) and (2) do not apply to
- (a) land in respect of which a certificate of title has been issued under the *Quieting Titles Act*;
 - (b) land registered under the *Land Titles Clarification Act* or the former *Land Titles Act*; or
 - (c) any interest in land that a registered owner may no longer recover by reason of the *Real Property Limitations Act*.

(3) Subsection 4(4) does not apply to an adverse interest acknowledged or specifically referred to in the description of land in a deed forming part of the chain of title to the land. 1995-96, c. 9, s. 7; 2014, c. 35, s. 28.

Regulations

- 9** (1) The Governor in Council may make regulations
- (a) prescribing the form of the notice of claim authorized by this Act;
 - (b) prescribing additional information to be included in a notice of claim;
 - (c) prescribing a system of indexing notices of claims;
 - (d) defining any word or expression used in this Act and not defined in this Act;
 - (e) respecting any other matter or thing that 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*. 1995-96, c. 9, s. 8.

Crown interests preserved

10 For greater certainty, nothing in this Act affects any interest of the Crown in any land. 1995-96, c. 9, s. 9.

CHAPTER M-10

**An Act Respecting
the Solemnization of Marriage**

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Short title

1 This Act may be cited as the *Marriage Act*. R.S., c. 436, s. 1; 2017, c. 15, s. 1.

INTERPRETATION

Interpretation

2 In this Act,
 “issuer” means a person appointed to be a deputy issuer of marriage licences;
 “licence” means a marriage licence;
 “Minister” means the Minister of Service Nova Scotia;
 “Registrar” means the Registrar General, and includes the Deputy Registrar General;
 “religious body” means any church or any religious denomination, sect, congregation or society;
 “religious representative” includes a person authorized to be registered under subsection 6(2). R.S., c. 436, s. 2; 1996, c. 23, ss. 40, 43; 2017, c. 15, s. 2.

ADMINISTRATION

Administration of Act

3 The Registrar General for the Province referred to in the *Vital Statistics Act* has general supervision over the administration of this Act. R.S., c. 436, s. 3.

WHO MAY SOLEMNIZE MARRIAGE

Persons authorized to solemnize marriage

4 (1) No marriage is valid unless it is solemnized by a person authorized under this Act to solemnize marriage.

(2) Every person registered under this Act is authorized to solemnize marriage.

(3) A judge of any court in the Province is authorized to solemnize marriage.

(4) A justice of the peace may be designated by the Minister of Justice to solemnize marriage.

(5) Where a judge or other person authorized to solemnize marriage in another province is temporarily in the Province, the judge or other person may apply to the Minister of Justice to be designated to solemnize a marriage in the Province. R.S., c. 436, s. 4; 1992, c. 16, s. 129; 1996, c. 23, s. 41; 2017, c. 15, s. 3.

REGISTRATION OF MINISTERS, CLERICS
AND RELIGIOUS REPRESENTATIVES**Registration**

5 (1) Upon application in the form prescribed by the Registrar, the Registrar may register any minister, cleric or religious representative of a religious body as authorized to solemnize marriage.

(2) The application for registration may be made on behalf of the minister, cleric or religious representative by a governing authority having jurisdiction in this Province of the religious body to which the minister, cleric or religious representative belongs or may be made by the person desiring to be registered.

(3) On such registration, the Registrar shall issue a certificate of registration in respect of each person registered under this Act, or may include in one certificate the names of any number of persons who belong to the same religious body.

(4) The Registrar shall keep a register showing the name of every person so registered, the name of the religious body to which each person belongs and the date of registration. R.S., c. 436, s. 5; 1996, c. 23, s. 43; 2017, c. 15, s. 5.

Conditions for registration

6 (1) No person may be registered under this Act unless it appears to the satisfaction of the Registrar that

(a) the person is a minister, cleric or religious representative duly ordained or appointed according to the rites and usages of the religious body to which the person belongs, or is by the rules of that religious body deemed duly ordained or appointed by virtue of some prior ordination or appointment;

(b) the person is duly recognized by the religious body to which the person belongs as authorized to solemnize marriage according to its rites and usages;

(c) the religious body to which the person belongs is sufficiently well established, both as to continuity of existence and as to recognized rites and usages respecting the solemnization of marriage, to warrant, in the opinion of the Registrar, the registration of its ministers, clerics or religious representatives as authorized to solemnize marriage; and

(d) the person is resident in the Province.

(2) Notwithstanding subsection (1), where it appears to the Registrar that the doctrines of a religious body do not recognize any person as authorized to solemnize marriage, the Registrar may register a person duly designated by the governing authority having jurisdiction in the Province of the religious body to perform all the duties imposed upon a person solemnizing a marriage by this Act and the *Vital Statistics Act* in respect of marriages performed according to the rites, usages and customs of the religious body.

(3) In the case of a minister, cleric or religious representative who is in the Province temporarily and who, if resident in the Province, might be registered pursuant to subsection (1) as authorized to solemnize marriage, the Registrar may grant to that minister, cleric or religious representative temporary registration and may register that minister, cleric or religious representative as authorized to solemnize marriage during the period to be fixed by the Registrar, and the certificate of registration issued thereon must state the period so fixed during which the authority to solemnize marriage may be exercised. R.S., c. 436, s. 6; 1996, c. 23, s. 43; 2017, c. 15, s. 6.

Cancellation of registration

7 (1) Where it appears to the satisfaction of the Registrar that

(a) any person registered under this Act as authorized to solemnize marriage

(i) has ceased to or does not possess the qualifications entitling that person to be so registered,

(ii) has contravened this Act or the regulations, or

(iii) has made a material misstatement in that person's application for registration; or

(b) it is contrary to the public interest for any person to continue to be registered under this Act as authorized to solemnize marriage,

the Registrar may, with or without any hearing, cause an entry to be made in the register kept by the Registrar under this Act cancelling the registration of that person and shall cause public notice of the cancellation to be published in one issue of the

Royal Gazette and, if the Registrar thinks fit, in one or more issues of any newspaper published in the Province, and upon publication of the notice in the Royal Gazette the authority of that person to solemnize marriage in conformity with this Act ceases.

(2) The Registrar shall cause notice of the cancellation to be mailed forthwith by registered mail to the person whose registration is cancelled, addressed to that person's last known address in the Province.

(3) It is the duty of the governing authority having jurisdiction in this Province of every religious body whose ministers, clerics or religious representatives are registered under this Act as authorized to solemnize marriage to notify the Registrar of the name of every person so registered who has died, has ceased to reside in the Province or has in any other way ceased to possess the qualifications entitling that person to be so registered. R.S., c. 436, s. 7; 1996, c. 23, s. 43; 2017, c. 15, s. 7; 2018, c. 43, s. 19.

Publication of list of registered persons

8 (1) The Registrar shall cause a list of the names of all persons registered under this Act as authorized to solemnize marriage to be published at least once each year in the Royal Gazette and a copy of the list to be furnished to each issuer of marriage licences.

(2) The list must be prepared in alphabetical order of surnames and must indicate the religious body to which each person whose name appears thereon belongs.

(3) Supplementary lists may be published and distributed as directed by the Registrar. R.S., c. 436, s. 9.

SAVING AS TO CERTAIN MARRIAGES

Validation of certain marriages

9 (1) Notwithstanding any lack of legal authority to solemnize marriage in the minister, cleric or religious representative by whom the marriage was solemnized, the solemnization of every marriage solemnized in the Province before August 1, 1937, in good faith, before a minister, cleric or religious representative, between persons neither of whom was at the time under any legal disqualification to contract the marriage and who thereafter lived together and cohabited as spouses, is for all purposes deemed to be and to have been from the date of the solemnization lawful and valid, but nothing in this Section extends to make valid the solemnization of any marriage that has before August 1, 1937, been declared invalid or dissolved by any court or where the parties to the marriage, or either of them, subsequently contracted valid marriage according to law.

(2) The issue of every marriage, the solemnization of which is validated by this Section, are for all purposes deemed to be and to have been legitimate from the time of birth, but nothing in this subsection affects any right, title or interest in or to property where the right, title or interest has vested in any person prior to August 1, 1937.

(3) No marriage solemnized in the Province before, on or after April 13, 1940, by a person registered under this Act is invalid by reason of such

person not having had at the time of registration the qualifications entitling such person to be registered. R.S., c. 436, s. 10; 1996, c. 23, s. 43; 2017, c. 15, s. 8.

Validity of certain marriages

10 (1) Notwithstanding this or any other Act, no marriage solemnized in the Province before, on or after April 11, 1956, by a minister, cleric or religious representative in good faith is invalid by reason only that the person performing the ceremony was not registered, as authorized to solemnize marriage, under this Act or some other Act of the Province relating to the solemnization of marriage or that that person's registration had been cancelled if the person performing the ceremony had, at the time of performing it, the qualifications entitling that person to be registered.

(2) Nothing in this Section makes valid any marriage that has before April 11, 1956, been declared to be invalid or dissolved by any court or where subsequent to the marriage and before April 11, 1956, the parties to the marriage, or either of them, contracted another valid marriage. R.S., c. 436, s. 11; 1996, c. 23, s. 43; 2017, c. 15, s. 9.

ISSUERS OF MARRIAGE LICENCES

Deputy issuers of marriage licences

11 (1) The Registrar may appoint deputy issuers of marriage licences.

(2) Notwithstanding subsection (1), the Governor in Council may appoint throughout the Province persons to be deputy issuers of marriage licences, whose offices must be so situated that no part of the Province is at an inconvenient distance from one of them, and due publicity must be given by the Governor in Council of such appointments. R.S., c. 436, s. 14; 2010, c. 74, s. 1.

Conditions for valid marriage in Province

12 No marriage in the Province is valid unless

- (a) it is solemnized by a person authorized by this Act to solemnize marriage; and
- (b) a licence has been obtained for the solemnization of the marriage. R.S., c. 436, s. 15.

FORM OF LICENCES

Marriage licences and certificates

13 (1) Marriage licences must be in the form prescribed by the Minister.

(2) A certificate in blank that the marriage authorized by any licence was duly solemnized must be indorsed upon every licence and another certificate to the like effect attached thereto by way of counterfoil, or in such other manner as to admit of its being easily detached therefrom, and such certificates must each be in the form prescribed by the Minister.

(3) The Registrar may sign licences in blank, which are furnished to the issuers in such numbers as may be required, and every licence signed in blank as aforesaid remains valid notwithstanding that the Registrar signing the same has ceased to hold office before it is issued by an issuer to a person applying therefor.

(4) Every issuer shall give to the Registrar a receipt for all blank licences received by the issuer and shall account to the Registrar for all such licences.

(5) Marriage licences in the form in use before May 17, 1919, and signed and sealed in blank before that day by the Lieutenant Governor of the Province or any predecessors in office, remain valid, and may be issued as before that day, anything in this Act to the contrary notwithstanding.

(6) The signature of the Registrar on licences may be written, engraved, lithographed or reproduced by any other mode of reproducing words in visible form. R.S., c. 436, s. 16; 2017, c. 15, s. 11.

APPLICATION FOR LICENCES

Affidavit, certified copies and identification

14 (1) When applying for a licence, each party to the intended marriage shall make an affidavit containing the following particulars:

(a) the full name, place of residence, occupation and marital status—never married, widowed or divorced—of the person making the affidavit;

(b) that the person making the affidavit believes there is no affinity, consanguinity, prior marriage or other lawful cause or legal impediment to bar or hinder the solemnization of the marriage;

(c) the age of the person making the affidavit;

(d) where the affidavit indicates that the person making the affidavit is divorced, there must be attached to and form part of the affidavit a true copy of the certificate of divorce dissolving the last marriage of the person or such documentary evidence of dissolution as the Registrar considers satisfactory; and

(e) where the affidavit indicates that the person making the affidavit is widowed there must be attached and form part of the affidavit a true copy of the former spouse's death certificate or other documentary evidence of death unless there exists exceptional or urgent circumstances, sufficient in the issuer's discretion, to justify waiving this requirement.

(2) Where a party to the intended marriage is under the age of 19 years,

(a) the affidavit made by the party must state the facts necessary to enable the issuer to determine whether the consent required under Section 17 has been duly given or whether such consent is necessary; and

(b) the written consent required under Section 17 must be annexed to the affidavit made by the party.

(3) An affidavit must be in the form prescribed by the Minister and may be made before the issuer to whom application is made or before a notary public, a justice of the peace or a commissioner for taking affidavits.

(4) In addition to the affidavits required by this Section, the applicants shall produce to the issuer or provide

- (a) certified copies of
 - (i) a valid photo driver's licence,
 - (ii) a birth certificate,
 - (iii) a baptismal certificate,
 - (iv) a passport, or
 - (v) a Canadian citizenship card; and
- (b) one piece of signed identification,

for each party to the intended marriage unless there exists exceptional or urgent circumstances, sufficient in the issuer's discretion, to justify waiving these requirements. R.S., c. 436, s. 17; 1999, c. 4, s. 31; 2017, c. 15, s. 12.

Fee

15 The fee payable upon the issue of a marriage licence is such amount as is determined by the Governor in Council by regulation. R.S., c. 436, s. 18.

Issue of licence

16 (1) Upon the applicants paying the fee and meeting the requirements described in Section 14, the issuer shall fill up one of the blank forms of licence with

- (a) the names, residences and additions of the parties to the intended marriage; and
- (b) the exact date on which the licence is issued,

and shall subscribe the same with the issuer's own name, and the licence is then deemed to be issued.

(2) No licence may be used for any marriage other than for the particular marriage specified therein. R.S., c. 436, s. 19; 1999, c. 4, s. 32; 2013, c. 28, s. 1; 2017, c. 15, s. 13.

Consent required where minor

17 (1) Except as herein provided, where either party to an intended marriage is under the age of 19 years and is not widowed or divorced, the issuer shall not issue a licence unless there is filed with the issuer the written consent of

- (a) both parents of the party, if living, unless

(i) the custody of the party has been granted to one of the parents or to another person or the conditions in clause (d) exist,

(ii) one of the parents has been found by a competent court to be mentally incompetent or is a patient in an institution for the treatment of mental illness,

(iii) one of the parents is living separate and apart from the other parent and the party and is not maintaining them or contributing to their support, or

(iv) the father of the party is not stated on the party's registration of birth;

(b) the surviving parent where one parent is dead, the parent to whom custody of the party has been granted, the parent other than the one referred to in subclause (a)(ii) or (iii) or the mother where the father of the party is not stated on the party's registration of birth unless

(i) such parent has been found by a competent court to be mentally incompetent or is a patient in an institution for the treatment of mental illness, or

(ii) the custody of the party has been granted to another person or the conditions in clause (d) exist;

(c) the guardian of the party or the person having custody of the party under an order of a court of competent jurisdiction where both parents are dead or prevented by clause (a) or (b) from giving consent or where the surviving parent is so prevented; or

(d) an agency as defined in the *Children and Family Services Act* if the party is, under that Act, committed to the care and custody of the agency,

and the issuer is satisfied of the genuineness of the consent and the authority to give consent of the person giving it.

(2) Where the issuer is satisfied that

(a) both parents of the party are dead, absent from the Province or prevented under subsection (1) from giving consent;

(b) no guardian of the party has been appointed and no person has been granted custody of the party; and

(c) the party is not committed to the care and custody of an agency as defined in the *Children and Family Services Act*,

the issuer may issue the licence without a written consent.

(3) Where an issuer has refused to issue a licence on the ground that a necessary consent has not been given, the party in respect of whom the licence is sought may, without the intervention of a guardian *ad litem*, apply to a judge of the Supreme Court of Nova Scotia or to a judge of the Family Court for an order that the licence be issued.

(4) The judge may hear the application in a summary way and where the judge is satisfied that

- (a) consent to the proposed marriage is not required; or
- (b) the person whose consent is required has given written consent to the proposed marriage,

the judge may order the issue of the licence applied for, and upon receipt of a certified copy of the order the issuer shall issue the licence.

(5) Where a person whose consent is required under subsection (1) is unable to give consent because of illness or refuses to give consent or it is uncertain whose consent is required, the party in respect of whom the licence or permit is sought may, without the intervention of a guardian *ad litem*, apply to a judge of the Supreme Court of Nova Scotia or to a judge of the Family Court for an order dispensing with consent.

(6) The judge may hear the application in a summary manner and where the judge is of the opinion that the proposed marriage is a proper one and is satisfied that

- (a) the person whose consent is required is unable because of illness to give consent;
- (b) the consent is unreasonably or arbitrarily refused;
- (c) the person whose consent is required is not interested in the maintenance or well-being of the party in respect of whom the licence is sought; or
- (d) it is uncertain whose consent is required,

the judge may order that the consent be dispensed with.

(7) When a certified copy of the order is filed with the issuer, the issuer may issue the licence. R.S., c. 436, s. 20; 2017, c. 15, s. 14.

Marriage under age 16 prohibited

18 No marriage of any person under the age of 16 years may be solemnized nor may any licence therefor be issued or authorized to be issued. R.S., c. 436, s. 21; 2017, c. 15, s. 15.

REQUIREMENTS AT SOLEMNIZATION

Required notice and witnesses

19 (1) No person may solemnize any marriage unless that person has, not less than three days before such solemnization, received notice of the names, places of residence, occupation, age and marital status of the parties to the intended marriage, except upon the production of evidence satisfactory to that person that there exist exceptional and urgent circumstances, sufficient in that person's discretion to justify the earlier solemnization of such marriage.

(2) A marriage for which a marriage licence has been issued may not be solemnized if the marriage licence has expired.

(3) Every marriage must be solemnized in the presence of at least two witnesses, each of whom must be at least 16 years of age. R.S., c. 436, s. 22; 2017, c. 15, s. 16.

Solemnization of marriage by a judge or justice

20 (1) A judge or a justice of the peace designated by the Minister of Justice may solemnize a marriage for which a marriage licence has been issued.

(2) No particular form of ceremony is required in a marriage that is solemnized by a judge or a justice of the peace designated by the Minister of Justice except that in some part of the ceremony, in the presence of the judge or justice and witnesses, each of the parties shall declare

I do solemnly declare that I do not know of any lawful impediment why I, *A.B.*, may not be joined in matrimony to *C.D.*

and each of the parties shall say to the other

I call upon all persons present to witness that I, *A.B.*, do take thee, *C.D.*, to be my lawful wedded (wife *or* husband *or* spouse)

after which the judge or justice shall say

By virtue of the authority vested in me by the *Marriage Act*, I hereby pronounce you, *A.B.* and *C.D.*, to be (husband and wife *or* lawfully married partners *or* lawfully married spouses *or* legally wed *or* husbands of one another *or* wives of one another)

provided that, if the judge or justice adds other words to the ceremony, no expression may be used in the ceremony that means or implies that the marriage is not to the exclusion of all other spouses while both of the parties are alive.

(3) Where a judge or justice of the peace designated by the Minister of Justice solemnizes a marriage, the judge or justice shall charge a fee in the circumstances and in the amount determined by regulation.

(4) Where the parties to a marriage solemnized by a judge or a justice of the peace designated by the Minister of Justice desire a religious ceremony in addition thereto, a certificate of the judge or justice that the judge or justice has solemnized the marriage is sufficient authority to a minister, cleric or religious representative to perform a religious ceremony.

(5) Section 22 of this Act and Sections 18 and 19 of the *Vital Statistics Act* do not apply to a religious ceremony of marriage of persons that is performed after their marriage has been solemnized by a judge or a justice of the peace designated by the Minister of Justice pursuant to this Section. 1996, c. 23, s. 42; 2017, c. 15, s. 17.

Duty of person who solemnizes marriage

21 (1) Immediately after the solemnization of any marriage, the person solemnizing the same shall comply with the following requirements:

(a) complete the blanks in the form of certificate indorsed upon the licence with

- (i) the names of the parties to the marriage and the residence and additions of the parties, respectively,
- (ii) the date at which the marriage was solemnized,
- (iii) the place of solemnization,
- (iv) the religious body or denomination according to the rites of which the marriage was solemnized, if the marriage was solemnized by a minister, cleric or religious representative,
- (v) the names and addresses of two witnesses to the marriage,

and subscribe the same with the name of the person solemnizing the marriage and, if the marriage was solemnized by a minister, cleric or religious representative, the religious denomination to which that person belongs;

(b) complete the blanks in the form of certificate attached to the licence with the particulars in this Section mentioned, and also with the date and place of issue of the licence under which the marriage was solemnized, and subscribe the same with the name of the person solemnizing the marriage and, if the marriage was solemnized by a minister, cleric or religious representative, the religious denomination to which that person belongs, and when so filled up and signed detach the certificate from the licence and give it to one of the parties to the marriage; and

(c) complete a form, to be known as the marriage register, with the following particulars:

- (i) the date of the marriage,
- (ii) the place thereof,
- (iii) the names, ages, marital statuses, religious denominations, occupations, places of residence and places of birth of the parties to the marriage, and
- (iv) the names of the parents of such parties,

and, when so completed, signed by the two witnesses to the marriage, with their addresses, by the parties to the marriage and by the person who solemnized the marriage and, if that person is a minister, cleric or religious representative, stating the religious denomination to which that person belongs.

(2) Nothing in this Section interferes with the keeping by any minister, cleric or religious representative of any marriage register that the minister, cleric or religious representative is otherwise required to keep or thinks proper to keep.

(3) The marriage certificate and marriage register must each be in the form prescribed by the Minister. R.S., c. 436, s. 24; 1996, c. 23, s. 43; 2017, c. 15, s. 18.

Return of documents to issuer

22 A person who solemnizes a marriage shall within 48 hours thereafter return to the issuer, by whom the licence for the marriage was issued, the marriage register in respect of the marriage, filled up with the particulars and signed as required by Section 21, together with any certificate issued under clause 21(1)(a) and the licence for the marriage with the certificate indorsed thereon completed with the particulars and signed as required by Section 21. R.S., c. 436, s. 25.

RETURN BY ISSUERS

Record of issuer

- 23** Every issuer shall keep a record in which the issuer shall enter
- (a) the date of every licence issued by the issuer;
 - (b) the parties to the intended marriage;
 - (c) the date at which the licence was returned to the issuer;
 - (d) the particulars of the marriage as set out in the marriage register returned to the issuer. R.S., c. 436, s. 26.

Duty of issuer to ascertain marriages entered

24 Every issuer shall, so far as is within the issuer's power, ascertain the several marriages occurring in the issuer's vicinity and procure the person solemnizing them to fill up marriage registers for such marriages and return the same to such issuer. R.S., c. 436, s. 27.

Returns by issuer

- 25** Every issuer shall on Saturday of every week return to the Registrar
- (a) all the licences issued by the issuer and returned to the issuer, with the certificate of marriage indorsed thereon, during that week;
 - (b) all affidavits considered by the issuer on the issue of licences during that week;
 - (c) all orders dispensing with consent filed with the issuer during that week;
 - (d) all marriage registers returned to the issuer; and
 - (e) an exact list of the documents returned, signed by the issuer,

and shall with the return remit to the Registrar the full amount of fees on all licences issued by the issuer, retaining, in respect of each licence issued by the issuer for the issuer's own fees thereon, such amount as is determined by the Governor in Council by regulation. R.S., c. 436, s. 28.

FORMS

Preparation and distribution of blank forms

26 The Registrar shall prepare blank forms of the affidavit, marriage register and marriage certificates prescribed by the Minister and distribute the same to the issuers, who shall furnish blank forms of marriage registers and marriage cer-

tificates to ministers, clerics and religious representatives on application. R.S., c. 436, s. 30; 1996, c. 23, s. 43; 2017, c. 15, s. 20.

GENERAL PROVISIONS

Mark of person unable to write

27 Where any person, whose signature is required by any of the provisions of this Act, is unable to write, that person's mark, made in the presence of and attested by the issuer or other witness, is sufficient. R.S., c. 436, s. 31.

Error in register

28 Where any error is found to have been committed in the entry of any marriage in any marriage register, the person discovering the same shall forthwith give information thereof to the nearest issuer and such issuer is authorized and required to investigate the circumstances of the case and, if satisfied that an error has been committed in any such entry, it is lawful for such person to correct the erroneous entry according to the truth of the case by an entry on the margin of the marriage register, without any alteration of the original entry. R.S., c. 436, s. 32.

Regulations

- 29 (1)** The Governor in Council may make regulations
- (a) respecting the determination by the Registrar of whether a religious body is sufficiently well established, both as to continuity of existence and as to recognized rites and usages respecting the solemnization of marriage, to warrant the registration of its ministers, clerics or religious representatives as authorized to solemnize marriage;
 - (b) respecting the cancellation and suspension of any person's registration as authorized to solemnize marriage, including
 - (i) authorizing the Registrar to suspend any person's registration as authorized to solemnize marriage and prescribing the circumstances under which any person's registration may be suspended, and
 - (ii) authorizing the Registrar to cancel any person's registration as authorized to solemnize marriage in circumstances prescribed by the regulations and prescribing such circumstances;
 - (c) determining the fee to be paid for a marriage licence;
 - (d) determining the amount to be retained by an issuer of a marriage licence out of the fee to be collected by the issuer;
 - (e) determining the fee to be charged by a judge of the Supreme Court of Nova Scotia or the Family Court for solemnizing a marriage in the judge's chambers or office or in a courtroom;
 - (f) respecting the expiration of marriage licences;
 - (g) respecting any other matter or thing that is necessary to effectively carry out the intent and purpose of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. R.S., c. 436, s. 33; 2017, c. 15, s. 21; 2018, c. 43, s. 21.

PENALTIES

Penalty for solemnizing under improper licence

30 Every person who solemnizes a marriage, and every person who counsels or procures any person to solemnize any marriage, under a licence that has not been filled up and subscribed by an issuer in the manner prescribed by this Act, is liable to a penalty not exceeding \$200. R.S., c. 436, s. 34.

Penalty for alteration of licence after issue

31 Every person who alters or assists in altering any marriage licence after the same has been issued is liable to a penalty not exceeding \$200. R.S., c. 436, s. 35.

Penalty for solemnizing under wrong licence

32 Every person who solemnizes, or assists in solemnizing, any marriage, under a marriage licence issued for another marriage, is liable to a penalty not exceeding \$200. R.S., c. 436, s. 36.

Penalty for solemnization by unauthorized person

33 A person who solemnizes a marriage and who was not at the time of the marriage authorized by this Act to solemnize marriage is liable to a penalty not exceeding \$200. R.S., c. 436, s. 37.

Penalty for failure to return documents to issuer

34 (1) Every person who does not within 48 hours after the solemnization of a marriage by that person, or, in case of that person's absence from home or illness, then within 10 days after the return or recovery, return to the issuer by whom the licence was issued the marriage register with the particulars respecting the marriage by this Act required with the licence thereof and the certificate on the licence indorsed and filled up with the particulars by this Act required is liable to a penalty of four dollars and to a further penalty of 10¢ for each day during which the neglect continues.

(2) Penalties imposed under subsection (1) are for the use of the issuer to whom the return should have been made. R.S., c. 436, s. 38.

Penalty for neglect of duty by issuer

35 Every issuer who

(a) parts with or allows to go out of the issuer's possession any marriage licence except as in this Act is provided;

(b) loses or injures any licence, marriage register or other document in the issuer's possession under this Act;

(c) does not within the periods prescribed by this Act make any of the several returns which by this Act the issuer is required to make; or

(d) neglects or refuses to make any entry or perform any duty that the issuer is by this Act required to make or do,

is for each offence liable to a penalty of four dollars and, in case of a conviction for not making a return, to a further penalty of 10¢ for every day during which any such return is delayed after the time at which the same should be made. R.S., c. 436, s. 39.

Penalty for false return by issuer

36 An issuer who knowingly makes a false return of licences sold by the issuer is liable for each false return to a penalty not exceeding \$100. R.S., c. 436, s. 40.

Penalty for falsifying marriage register

37 Every person who, knowing the same to be false, makes or causes to be made, for the purpose of being inserted in any marriage register, any false statement touching any of the particulars in this Act required to be stated therein is liable to a penalty not exceeding \$200. R.S., c. 436, s. 41.

Sending false statement of marriage for publication

38 Every person who, knowing the same to be false, sends to any newspaper publisher or other person, for publication in any newspaper in this Province, a false statement of the marriage of any person, is liable to a penalty of \$100. R.S., c. 436, s. 42.

Disposition of penalty

39 Every penalty by this Act imposed, that is not stated to be for the use of an issuer, shall if recovered be applied one-half to the Province and one-half to the regional municipality, town or county or district municipality in which the offence, in respect of which the prosecution is instituted, took place. R.S., c. 436, s. 43.

SAVINGS AS TO FORMER MARRIAGES

Marriages before July 5, 1906

40 (1) Every marriage solemnized in this Province in good faith before any minister, cleric or religious representative of any religious denomination on or before July 4, 1906, in the presence of one or more witnesses, and the parties to which have cohabited together as spouses, is deemed and is hereby made valid, notwithstanding any want of legal authority in such minister, cleric or religious representative to solemnize such marriage and notwithstanding any want of licence or of publication of banns under with such marriage was had or any legal objection thereto, provided that nothing herein contained has the effect of confirming or rendering valid any marriage between parties who were not legally capable of entering into the marriage contract by reason of consanguinity, affinity, prior marriage or otherwise.

(2) The issue of all marriages hereby confirmed or rendered valid are declared to be and are made legitimate to all intents and purposes, and the rights of parties claiming under any such issue are the same to all intents and purposes as if the marriage hereby confirmed had been valid and legal at the time of the solemnization thereof. R.S., c. 436, s. 44; 1996, c. 23, s. 43; 2017, c. 15, s. 22.

Declaration of invalidity of marriage

41 (1) Where a form of marriage has been or is gone through between persons, either of whom is under the age of 18 years, without the consent required by Section 17, the Supreme Court of Nova Scotia, notwithstanding that a licence or permit was granted or that publication of banns was made, and that the ceremony was performed by a person authorized by law to solemnize marriage, has jurisdiction and power in an action brought by either party, who was at the time of the ceremony under the age of 18 years, to declare and adjudge that a valid marriage was not effected or entered into, provided that such persons have not after the ceremony cohabited and lived together as spouses and that the action is brought before the person bringing it has attained the age of 19 years.

(2) Nothing in this Section applies where after the ceremony there has occurred that which if a valid marriage had taken place would have been a consummation thereof.

(3) The Supreme Court of Nova Scotia is not bound to grant relief in cases provided for in this Section where carnal intercourse has taken place between the parties before the ceremony. R.S., c. 436, s. 45; 2017, s. 15, s. 23.

Requirement for trial

42 (1) No declaration or adjudication that a valid marriage was not effected or entered into may in any case be made or pronounced upon consent of parties, admissions or in default of appearance or of pleading or otherwise than after a trial.

(2) At every such trial the evidence must be taken *viva voce* in open court, but nothing in this subsection prevents the use of depositions of witnesses residing out of the Province or of witnesses examined *de bene esse* where according to practice of the Supreme Court of Nova Scotia such depositions may be read in evidence.

(3) The Supreme Court of Nova Scotia may of its own motion require both or either of the parties to be examined before the Supreme Court of Nova Scotia touching the matters in question in the action. R.S., c. 436, s. 46.

CHAPTER M-11

Massage Therapist Titles Protection Act

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Short title

1 This Act may be cited as the *Massage Therapist Titles Protection Act*. 2019, c. 24, s. 1.

Interpretation

2 In this Act,

“association” means an association of massage therapists prescribed by the regulations;

“recognized institution” means an educational institution recognized by an association. 2019, c. 24, s. 2.

Prohibition respecting use of title

3 No person shall use the title “Massage Therapist”, “Registered Massage Therapist” or a similar title, or any word, title or designation, abbreviated or otherwise, to imply that that person is a qualified massage therapist, unless that person

(a) has successfully completed a course of at least 2,200 hours from a recognized institution or has equivalent educational qualifications that are recognized by an association;

(b) has professional liability insurance or another form of malpractice insurance coverage in an amount as determined by the association to which that person belongs;

(c) is a member in good standing of an association;

(d) when applying for membership in an association, submits a criminal record check to the association; and

(e) submits an annual declaration to the association to which that person belongs, attesting to the matters prescribed by the regulations. 2019, c. 24, s. 3.

Offence and penalties

4 Every person who contravenes this Act is guilty of an offence and liable on summary conviction

- (a) for a first offence, to a fine of not more than \$15,000; and
- (b) for a second or subsequent offence, to a fine of not more than \$30,000. 2019, c. 24, s. 4.

Regulations

5 (1) The Governor in Council may make regulations

- (a) prescribing associations of massage therapists;
- (b) prescribing matters to be included in an annual declaration;
- (c) defining any word or expression used but not defined in this Act;
- (d) respecting any matter or thing the Governor in Council considers necessary or advisable to 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*. 2019, c. 24, s. 5.

CHAPTER M-12

**An Act Respecting
the Property of Married Persons**

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WHEREAS it is desirable to encourage and strengthen the role of the family in society;

AND WHEREAS for that purpose it is necessary to recognize the contribution made to a marriage by each spouse;

AND WHEREAS in support of such recognition it is necessary to provide in law for the orderly and equitable settlement of the affairs of the spouses upon the termination of a marriage relationship;

AND WHEREAS it is necessary to provide for mutual obligations in family relationships, including the responsibility of parents for their children;

AND WHEREAS it is desirable to recognize that childcare, household management and financial support are the joint responsibilities of the spouses and that there is a joint contribution by the spouses, financial and otherwise, that entitles each spouse equally to the matrimonial assets:

Short title

1 This Act may be cited as the *Matrimonial Property Act*. R.S., c. 275, s. 1.

Interpretation

2 In this Act,

“business assets” means real or personal property primarily used or held for or in connection with a commercial, business, investment or other income-producing or profit-producing purpose, but does not include money in an account with a chartered bank, savings office, loan company, credit union, trust company or similar institution where the account is ordinarily used for shelter or transportation or for household, educational, recreational, social or aesthetic purposes;

“child” means a child of both spouses born within or outside the marriage, and includes

- (a) a person adopted by both spouses; and
- (b) a person whom both spouses have demonstrated a settled intention to treat as a child of the marriage,

but does not include a person placed with them as foster parents for consideration by a person having lawful custody;

“court” means the Supreme Court of Nova Scotia unless the context otherwise requires;

“dwelling” includes a house, condominium, cottage, mobile home, trailer or boat occupied as a residence;

“marriage contract” means a marriage contract pursuant to Section 23;

“separation agreement” means an agreement in writing between spouses who are living or intend to live separate and apart;

“spouse” means either of a man and woman who

- (a) are married to each other;
- (b) are married to each other by a marriage that is voidable and has not been annulled by a declaration of nullity; or
- (c) have gone through a form of marriage with each other, in good faith, that is void and are cohabiting or have cohabited within the preceding year,

and for the purpose of an application under this Act includes a widow or widower. R.S., c. 275, s. 2.

Matrimonial home

3 (1) In this Act, “matrimonial home” means the dwelling and real property occupied by a person and that person’s spouse as their family residence and in which either or both of them have a property interest other than a leasehold interest.

(2) Where property that includes a matrimonial home is used for other than residential purpose, the matrimonial home only includes that portion of the property that can reasonably be regarded as necessary for the use and enjoyment of the family residence.

(3) The ownership of a share or an interest in a share of a corporation entitling the owner to the occupation of a dwelling owned by the corporation is deemed to be an interest in the dwelling for the purpose of this Section.

(4) A person and the person’s spouse may have more than one matrimonial home. R.S., c. 275, s. 3.

Matrimonial assets

4 (1) In this Act, “matrimonial assets” means the matrimonial home or homes and all other real and personal property acquired by either or both spouses before or during their marriage, with the exception of

(a) gifts, inheritances, trusts or settlements received by one spouse from a person other than the other spouse except to the extent to which they are used for the benefit of both spouses or their children;

(b) an award or settlement of damages in court in favour of one spouse;

(c) money paid or payable to one spouse under an insurance policy;

(d) reasonable personal effects of one spouse;

(e) business assets;

(f) property exempted under a marriage contract or separation agreement;

(g) real and personal property acquired after separation unless the spouses resume cohabitation.

(2) Notwithstanding clauses (1)(b) and (c), an award or settlement of damages in court or money being paid or payable under an insurance policy is a matrimonial asset to the extent that it is made, paid or payable in respect of a matrimonial asset.

(3) For the purpose of clause (1)(g), spouses are deemed not to have resumed cohabitation where there has been a resumption of cohabitation by the spouses during a period or periods in aggregate not exceeding more than 90 days with reconciliation as its primary purpose.

(4) Where property owned by a corporation would, if it were owned by a spouse, be a matrimonial asset, then shares in the corporation owned by

the spouse having a market value equal to the value of the benefit the spouse has in respect of that property are matrimonial assets. R.S., c. 275, s. 4.

Application of Act

5 (1) This Act applies to spouses who entered into marriage before, on or after October 1, 1980.

(2) This Act applies to real and personal property whether acquired by a spouse before, on or after October 1, 1980.

(3) This Act does not apply to persons who have received a decree absolute of divorce before October 1, 1980.

(4) This Act does not apply to spouses in relation to real and personal property provided for in an agreement entered into by those spouses before October 1, 1980. R.S., c. 275, s. 5.

Right of possession of matrimonial home

6 (1) A spouse is equally entitled to any right of possession of the other spouse in a matrimonial home.

(2) Subject to an order of the court under this or any other Act and subject to a separation agreement that provides otherwise, a right of a spouse to possession by virtue of subsection (1) ceases upon the spouse ceasing to be a spouse. R.S., c. 275, s. 6.

Designation of matrimonial home

7 (1) Spouses may designate, by instrument in writing executed by both spouses, any property as their matrimonial home and following the registration of such a designation in the registry of deeds for the registration district in which the property is located any other property that otherwise would be a matrimonial home and is not so designated ceases to be a matrimonial home.

(2) Spouses may, by instrument in writing executed by both spouses and registered in the registry of deeds, change or cancel a designation made under subsection (1).

(3) A designation, change or cancellation of a designation made under this Section must be proved as required by the *Registry of Deeds Act* or the *Land Registration Act*.

(4) A designation made under this Section is deemed to be cancelled upon the registration of

- (a) a court order cancelling the designation;
- (b) proof of death of one of the spouses; or
- (c) a conveyance disposing of the property designated as a matrimonial home.

(5) Upon the cancellation of a designation made under this Section, property rights as between spouses must be determined as if the designation had never been made. R.S., c. 275, s. 7.

Disposition of matrimonial home

8 (1) Neither spouse shall dispose of or encumber any interest in a matrimonial home unless

(a) the other spouse consents by signing the instrument of disposition or encumbrance, which consent must not be unreasonably withheld;

(b) the other spouse has released all rights to the matrimonial home by a separation agreement or marriage contract;

(c) the proposed disposition or encumbrance is authorized by court order or an order has been made releasing the property as a matrimonial home; or

(d) the property is not designated as a matrimonial home and an instrument designating another property as a matrimonial home of the spouses is registered and not cancelled.

(2) Where a spouse disposes of or encumbers an interest in a matrimonial home contrary to subsection (1), the transaction may be set aside by the other spouse upon an application to the court unless the person holding the interest or encumbrance acquired it for valuable consideration, in good faith and without notice that the property was a matrimonial home.

(3) An affidavit of the person making a disposition or encumbrance verifying that

(a) the person is not a spouse at the time of making the disposition or encumbrance;

(b) the property disposed of or encumbered has never been occupied by the person and the person's spouse as their matrimonial home; or

(c) the spouse of that person has released all rights to the matrimonial home by a separation agreement, marriage contract or designation made pursuant to this Act,

is, unless the property is designated or the person to whom the disposition or encumbrance is made had notice to the contrary, deemed to be sufficient proof that the property is not a matrimonial home. R.S., c. 275, s. 8.

Right of spouse to redeem

9 (1) Where a person is proceeding to realize upon a lien, encumbrance or execution or exercises a forfeiture against property that is a matrimonial home, the spouse who has a right of possession by virtue of this Act has the same right of redemption or relief against forfeiture as the other spouse has and is entitled to any notice respecting the claim and its enforcement or realization to which the other spouse is entitled.

(2) Any notice to which a spouse is entitled by virtue of subsection (1) is deemed to be sufficiently served if served personally or by registered mail addressed to the person, upon whom notice is to be served, at the person's usual or last known address or, where none, the address of the matrimonial home, and, where notice is served by mail, the service is deemed to have been made on the fifth day after the day of mailing.

(3) Where a spouse makes any payment by way of or on account of redemption or relief against forfeiture under the right conferred by subsection (1), the payment must be applied in satisfaction of the claim giving rise to the lien, encumbrance, execution or forfeiture.

(4) Notwithstanding any other Act, where a person who commences a proceeding to realize upon a lien, encumbrance or execution or to exercise a forfeiture does not have sufficient particulars of a spouse entitled under subsection (1) for the purpose of the proceeding and a notice given under subsection (2) is not responded to, the proceeding may continue in the absence of the spouse and without regard to the interest of the spouse and any final order in the proceeding terminates the rights of the spouse under this Section. R.S., c. 275, s. 9.

Powers of court

10 (1) The court may, by order, on the application of a spouse or any other person having an interest in property,

(a) determine if all or part of the property is a matrimonial home;

(b) authorize the disposition or encumbrance of a matrimonial home where the spouse whose consent is necessary

(i) cannot be found or is not available,

(ii) is not capable of giving consent, or

(iii) is unreasonably withholding consent,

subject to such terms and conditions as the court considers appropriate;

(c) dispense with the giving of a notice to a spouse required by this Act;

(d) direct the setting aside of any disposition or encumbrance of an interest in a matrimonial home and the reversioning of the interest or any part of the interest upon such terms and subject to such conditions as the court considers appropriate.

(2) The court may, on the application of a person subject to an order under clause (1)(b), discharge, vary or suspend any terms and conditions imposed in the order. R.S., c. 275, s. 10.

Powers of court respecting matrimonial home

11 (1) Notwithstanding the ownership of a matrimonial home and its contents, the court may by order, on the application of a spouse,

(a) direct that one spouse be given exclusive possession of a matrimonial home, or part thereof, for life or for such lesser period

as the court directs and release any other property that is a matrimonial home from the application of this Act;

(b) direct the spouse to whom exclusive possession is given under clause (a) to pay such periodic or other payments to the other spouse as is prescribed in the order;

(c) direct that the contents of a matrimonial home that are matrimonial assets, or any part thereof, remain in the home for the use of the person given possession;

(d) determine the obligation to repair and maintain the matrimonial home and to pay for other liabilities arising in respect of the matrimonial home;

(e) authorize the disposition or encumbrance of the interest of a spouse in a matrimonial home who has not been granted exclusive possession;

(f) where a false affidavit is made respecting a matrimonial home or where a matrimonial home or any interest therein is disposed of contrary to the provisions of this Act, direct

(i) the person who made the false affidavit,

(ii) any person who knew at the time the affidavit was false and thereafter conveyed the property, or

(iii) any person who improperly disposed of the matrimonial home or interest therein,

to substitute other real property for the matrimonial home or to set aside money or security to stand in place of the matrimonial home, subject to such terms and conditions as the court considers appropriate.

(2) The authority of the court under clause (1)(f) is in addition to and not in substitution for any other remedy at law.

(3) Where a surviving spouse does not reside in the matrimonial home at the time of the death of the other spouse and a child resides in that matrimonial home at that time, the court may, on the application of the child, direct that the child be given possession of the matrimonial home

(a) until the child reaches the age of majority; or

(b) while the child is attending a post-secondary educational institution, until the age of 24 years,

and the court may make such other orders under subsection (1) as it considers appropriate.

(4) The court may make an order for possession of the matrimonial home under subsection (1) or (3) only where, in the opinion of the court,

(a) other provision for shelter is not adequate in the circumstances; or

(b) it is in the best interests of a child to make such an order.

(5) Where the court is satisfied that there has been a material change in the circumstances, it may discharge, vary or suspend an order made under clause (1)(a), (b), (c) or (d) or subsection (3), upon the application of a party to the original application. R.S., c. 275, s. 11.

Application for division of matrimonial assets

12 (1) Where

- (a) a petition for divorce is filed;
- (b) an application is filed for a declaration of nullity;
- (c) the spouses have been living separate and apart and there is no reasonable prospect of the resumption of cohabitation; or
- (d) one of the spouses has died,

either spouse is entitled to apply to the court to have the matrimonial assets divided in equal shares, notwithstanding the ownership of these assets, and the court may order such a division.

(2) An application for the division of matrimonial assets must be made by a surviving spouse within six months after probate or administration of the estate of the deceased spouse is granted by a court of probate and not thereafter.

(3) Notwithstanding subsection (2), where the court is satisfied that the surviving spouse did not know of the grant of probate or administration or did not have an adequate opportunity to make such an application, the court may extend the time for making the application but such an application shall relate only to matrimonial assets remaining undistributed at the date of the application.

(4) Any right that the surviving spouse has to ownership or division of property under this Act is in addition to the rights that the surviving spouse has as a result of the death of the other spouse, whether these rights arise on intestacy or by will. R.S., c. 275, s. 12.

Factors considered on division

13 Upon an application pursuant to Section 12, the court may make a division of matrimonial assets that is not equal or may make a division of property that is not a matrimonial asset, where the court is satisfied that the division of matrimonial assets in equal shares would be unfair or unconscionable taking into account the following factors:

- (a) the unreasonable impoverishment by either spouse of the matrimonial assets;
- (b) the amount of the debts and liabilities of each spouse and the circumstances in which they were incurred;
- (c) a marriage contract or separation agreement between the spouses;
- (d) the length of time that the spouses have cohabited with each other during their marriage;
- (e) the date and manner of acquisition of the assets;

- (f) the effect of the assumption by one spouse of any housekeeping, child care or other domestic responsibilities for the family on the ability of the other spouse to acquire, manage, maintain, operate or improve a business asset;
- (g) the contribution by one spouse to the education or career potential of the other spouse;
- (h) the needs of a child who has not attained the age of majority;
- (i) the contribution made by each spouse to the marriage and to the welfare of the family, including any contribution made as a homemaker or parent;
- (j) whether the value of the assets substantially appreciated during the marriage;
- (k) the proceeds of an insurance policy, or an award of damages in tort, intended to represent compensation for physical injuries or the cost of future maintenance of the injured spouse;
- (l) the value to either spouse of any pension or other benefit that, by reason of the termination of the marriage relationship, that party will lose the chance of acquiring;
- (m) all taxation consequences of the division of matrimonial assets. R.S., c. 275, s. 13.

Statement of particulars of property

14 (1) When application is made for division of matrimonial assets, each spouse shall file with the court and serve on each other a statement, verified by affidavit, disclosing particulars of all property of that spouse.

(2) A statement pursuant to subsection (1) must be made in the manner and form required by the rules of the court.

(3) Where, in the opinion of the court, the public disclosure of any information contained in a statement filed under subsection (1) would constitute a hardship to a spouse, the court may order that the statement and any cross-examination thereon be treated as confidential and not form part of the public record. R.S., c. 275, s. 14.

Powers of court upon division

15 On an application for the division of matrimonial assets, the court may order

- (a) that the title to any specified property granted by the court to a spouse be transferred to or held in trust for that spouse for such period, or absolutely, as the court may decide;
- (b) the partition or sale of any property;
- (c) that payment be made out of the proceeds of a sale ordered under clause (b) to one or both spouses, and the amount thereof;
- (d) that any property forming part of the share of either or both spouses be transferred to or held in trust for a child to whom a spouse must provide support;

(e) that either or both spouses give such security, including a charge on property, that the court orders, for the performance of any order made under this Section;

(f) that one spouse pay to the other spouse such amount as is set out in the order for the purpose of providing for the division of the property, and make such other orders and directions as are ancillary thereto. R.S., c. 275, s. 15.

Determination of question between spouses

16 (1) Either spouse may apply to the court for the determination of any question between the spouses as to

- (a) the ownership or right to possession of any particular property;
- (b) whether property is a matrimonial asset or a business asset,

except where an application has been made and not determined or an order has been made respecting the property under this Act.

(2) Where an application is made under subsection (1), the court may

- (a) make a declaration as to the ownership or right of possession in the property;
- (b) make a declaration as to whether the property is a matrimonial asset or a business asset;
- (c) where the property has been disposed of, order that a spouse pay compensation for the interest of the other spouse;
- (d) order that the property be partitioned or sold;
- (e) order that either or both spouses give such security, including a charge on property, that the court orders, for the performance of any order under this Section,

and may make such other orders and directions as are ancillary thereto. R.S., c. 275, s. 16.

Sale of security

17 The court may, on application, direct the sale of property charged as security under this Act upon such terms and conditions as the court considers appropriate. R.S., c. 275, s. 17.

Contribution to business asset by spouse

18 Where one spouse has contributed work, money or money's worth in respect of the acquisition, management, maintenance, operation or improvement of a business asset of the other spouse, the contributing spouse may apply to the court and the court shall by order

- (a) direct the other spouse to pay such an amount on such terms and conditions as the court orders to compensate the contributing spouse therefor; or

(b) award a share of the interest of the other spouse in the business asset to the contributing spouse in accordance with the contribution, and the court shall determine and assess the contribution without regard to the relationship of husband and wife or the fact that the acts constituting the contribution are those of a reasonable spouse of that sex in the circumstances. R.S., c. 275, s. 18.

Interim order

19 The court may make such interim order as it considers necessary for the proper application of this Act, pending the bringing or disposition of an application under this Act. R.S., c. 275, s. 19.

Registration of orders

20 (1) An order made under this Act respecting real property may be registered in the registry of deeds in the registration district in which the property is located and, where it is not so registered, it does not affect the acquisition of an interest in that real property by a person in good faith without notice of the order.

(2) A notice of an order made under this Act respecting personal property in the form prescribed by regulations made pursuant to the *Personal Property Security Act* may be filed in the Personal Property Registry and, where it is not so filed, the order does not affect the acquisition of an interest in that personal property by a person in good faith without notice of the order.

(3) Where an order relates to goods that are designated by regulations made pursuant to the *Personal Property Security Act* as serial numbered goods and a notice does not describe those goods by serial number, the notice is deemed not to be filed pursuant to subsection (2) with respect to those goods. R.S., c. 275, s. 20; 1995-96, c. 13, s. 83.

Presumption respecting ownership between spouses

21 (1) The rule of law applying a presumption of advancement in questions of the ownership of property as between husband and wife is abolished and in place thereof the rule of law applying a presumption of a resulting trust must be applied in the same manner as if they were not married, except that

(a) the fact that property is placed or taken in the name of spouses as joint tenants is prima facie proof that each spouse is intended to have on a severance of the joint tenancy a one-half beneficial interest in the property; and

(b) money on deposit in a chartered bank, savings office, loan company, credit union, trust company or other similar institution in the name of both spouses is prima facie proof that the money is on deposit in the name of the spouses as joint tenants for the purpose of clause (a).

(2) Subsection (1) applies notwithstanding that the event giving rise to the presumption occurred before October 1, 1980. R.S., c. 275, s. 21.

Conflict of laws

22 (1) The division of matrimonial assets and the ownership of movable property as between spouses, wherever situated, are governed by the law of the

place where both spouses had their last common habitual residence or, where there is no such residence, by the law of the Province.

(2) The ownership of immovable property as between spouses is governed by the law of the place where that property is situated.

(3) Notwithstanding subsection (2), where the law of the Province governs the division of assets, the value of the immovable property wherever situated may be taken into consideration for the purpose of a division of assets. R.S., c. 275, s. 22.

Marriage contract

23 A man and a woman may enter into an agreement, to be known as a marriage contract, before their marriage or during their marriage while they are cohabiting, in which they agree on their respective rights and obligations

- (a) under the marriage;
- (b) upon separation;
- (c) upon the annulment or dissolution of the marriage;
- (d) upon the death of either spouse. R.S., c. 275, s. 23.

Contract or agreement in writing

24 A marriage contract or a separation agreement is void unless it is in writing and is signed by the parties and witnessed. R.S., c. 275, s. 24.

Capacity of minor

25 A minor who has capacity to contract marriage has capacity to enter into a marriage contract or a separation agreement that is approved by the court, whether the approval is given before or after the contract is entered into. R.S., c. 275, s. 25.

Best interests of child

26 The court may disregard any provision of a marriage contract or separation agreement affecting a child where, in the opinion of the court, it is in the best interests of the child to do so. R.S., c. 275, s. 26.

Agreement by executor or administrator

27 (1) An executor or administrator of a deceased spouse may enter into an agreement with a surviving spouse as to the ownership or division of property under this Act.

(2) Where an executor or administrator of a deceased spouse is the surviving spouse, the court may appoint a person to act in the place of the executor or administrator under subsection (1). R.S., c. 275, s. 27.

Enforcement on death

28 A marriage contract or a separation agreement, or a provision thereof, that has its effect on the death of one of the parties thereto may be enforced by or against the estate of the deceased. R.S., c. 275, s. 28.

Harsh or fraudulent contract or agreement

29 Upon an application by a party to a marriage contract or separation agreement, the court may, where it is satisfied that any term of the contract or agreement is unconscionable, unduly harsh on one party or fraudulent, make an order varying the terms of the contract or agreement as the court sees fit. R.S., c. 275, s. 29.

Arbitration

30 (1) Parties to a marriage contract or separation agreement may, where both persons consent, refer any question as to their rights under this Act or the contract or agreement for determination by arbitration and the *Arbitration Act* then applies.

(2) A copy of an arbitration award made pursuant to this Section, certified by the arbitrator to be a true copy, may be made an order of the court by filing it with the prothonotary of the court who shall enter the same as a record and it thereupon becomes and is an order of the court and is enforceable as such. R.S., c. 275, s. 30.

Enforcement of order or award for possession

31 It is the duty of a peace officer to enforce a court order made, or an arbitration award filed with the court, pursuant to this Act as it relates to peaceable possession of residential premises where

(a) the peace officer's assistance is requested by a person named in the order; and

(b) the peace officer is satisfied as to the existence of the court order or court record of the arbitration award. R.S., c. 275, s. 31.

Regulations respecting forms

32 (1) The Governor in Council may make regulations respecting forms to be used for the purpose of this Act.

(2) The exercise by the Governor in Council of the authority in subsection (1) is a regulation within the meaning of the *Regulations Act*. R.S., c. 275, s. 32.

Dower and courtesy

33 (1) Dower and courtesy at common law are abolished.

(2) This Section does not apply in respect of a right to dower where the husband died before October 1, 1980.

(3) Where money has been paid into court as an indemnity in respect of a right to dower and the husband is alive on the October 1, 1980, the husband of the person in respect of whose dower right the money was paid into court is entitled to be paid the money upon application to the prothonotary of the court, without order. R.S., c. 275, s. 33.

CHAPTER M-13

An Act Respecting the Inspection and Sale of Meat and Meat Products

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Short title

1 This Act may be cited as the *Meat Inspection Act*. 1996, c. 6, s. 1.

Purpose of Act

2 The purpose of this Act is to support and promote the agriculture industry in the Province through an efficient, effective and appropriate meat inspection system providing consumers with safe and wholesome Nova Scotia meat and meat products while recognizing the following principles:

- (a) the right of the consumer to purchase inspected meat;
- (b) the responsibility of producers and processors of meat products to provide a safe and wholesome product;
- (c) the right to produce and sell wholesome product direct to the consumer;
- (d) that slaughter be conducted in a humane manner;
- (e) that producers, processors and retailers of meat products, government and the consumer have a shared responsibility concerning meat for human consumption;
- (f) that government provide a responsive, effective, fair, timely and efficient administrative and regulatory system, recognizing that, whenever practical, it is essential to promote the purpose of this Act primarily through non-regulatory means such as co-operation, communication, education and partnerships. 1996, c. 6, s. 2.

Interpretation

3 In this Act,

“administrator” means a person appointed as an administrator by the Minister for the purpose of this Act;

“animal” means a domestic animal, the meat of which is intended to be used for human consumption;

“Board” means the Meat Inspection Board established by this Act;

“farmgate” means land owned, leased or used by a producer to raise animals for sale and includes an individual’s residence;

“inspector” means a person appointed as an inspector by the Minister;

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

“meat” means animal flesh that is to be or intended to be used for human consumption;

“meat plant” means an abattoir, slaughterhouse or place or premises where animals are slaughtered, processed, prepared and stored for gain;

“meat processing plant” means a place or premises where meat or meat products are received from a meat plant and meat or meat products are produced, processed, prepared and stored for gain;

“meat product” means a food processed or derived in whole or part from meat and to be, or intended to be, used for human consumption;

“Minister” means the Minister of Agriculture;

“prepare” includes cut, wrap, package, freeze, cure or smoke;

“prescribed” means prescribed by the regulations;

“producer” means a person who raises animals, the meat of which is to be, or is intended to be, used for human consumption;

“slaughter” means humane killing for the purpose of producing, processing or preparing meat or meat products. 1996, c. 6, s. 3.

Exemption from application of Act

4 (1) This Act does not apply to

(a) the slaughter of an animal owned by an individual if the meat or meat product of the animal will not be sold or exchanged for gain;

(b) the slaughter by a producer of an animal for sale at the farmgate to a consumer if the consumer does not sell or intend to sell the meat or meat product or use the meat or meat product for other commercial purposes; or

(c) the slaughter of an animal at a meat plant for a purpose referred to in clause (a) or (b).

(2) Notwithstanding clause (1)(b), no person shall sell meat that has not been inspected by an inspector from a retail shop located at the farmgate if the shop requires a retail licence to operate.

(3) Sections 10, 15 and 18 do not apply with respect to an establishment that is registered pursuant to and operated in accordance with the *Safe Food for Canadians Act* (Canada) and the regulations made pursuant to that Act. 1996, c. 6, s. 4.

ADMINISTRATION

Supervision and management of Act

5 The Minister has the general supervision and management of this Act and the regulations. 1996, c. 6, s. 5.

Meat Inspection Board

6 (1) The Minister, with the approval of the Governor in Council, may establish a Meat Inspection Board consisting of

(a) one person representing meat plant owners;

(b) one person representing livestock owners; and

(c) one person other than a person described in clause (a) or (b).

(2) The Minister shall designate one of the members of the Board to be the Chair of the Board and one of the members to be the Vice-chair.

(3) A member of the Board holds office for such term as the Governor in Council determines and may be reappointed.

(4) The members of the Board shall be paid such remuneration as the Governor in Council determines and the actual and reasonable expenses incurred by them in the discharge of their duties. 1996, c. 6, s. 6.

Secretary to Board

7 An administrator designated by the Minister is the secretary to the Board. 1996, c. 6, s. 7.

Functions of Board

8 The Board shall

(a) advise the Minister on such matters relating to meat and meat products as are referred by the Minister to the Board for consideration;

(b) bring to the attention of the Minister matters of interest and concern to the public, meat plant owners and livestock owners respecting meat and meat products; and

(c) hear appeals pursuant to this Act. 1996, c. 6, s. 8.

Personnel

9 (1) Administrators and inspectors necessary for the administration and enforcement of this Act and the regulations must be appointed in accordance with the *Civil Service Act*.

(2) Notwithstanding subsection (1), the Minister may engage, upon such terms and conditions as the Minister considers necessary, the services of such professional or technical persons to assist in the efficient carrying out of the intent and purpose of this Act and the regulations. 1996, c. 6, s. 9.

Requirement for licence

10 (1) No person shall operate a meat plant or meat processing plant without first having obtained a licence from an administrator designated by the Minister.

(2) An application for a licence in respect of a meat plant or meat processing plant must be made to the administrator in accordance with the regulations.

(3) Subject to this Act and the regulations, the administrator shall issue a licence in respect of a meat plant or meat processing plant to an applicant upon payment of the prescribed fee. 1996, c. 6, s. 10.

Grounds for refusal of licence

11 (1) An administrator shall not issue or renew a licence in respect of a meat plant or meat processing plant to an applicant if the administrator is of the opinion that

(a) the past conduct of the applicant or, where the applicant is a corporation, of its officers or directors, affords reasonable

grounds to believe that the operation of the meat plant or meat processing plant will not be carried on in accordance with this Act and the regulations;

(b) the applicant does not have or will not have available all premises, facilities and equipment necessary to operate a meat plant or meat processing plant in accordance with this Act and the regulations;

(c) the applicant is not or will not be able to comply with this Act and the regulations; or

(d) initial or continued operation of the meat plant or meat processing plant is considered by the administrator to represent a risk to human health.

(2) Any condition that is injurious to human health or, in the opinion of the administrator, is potentially injurious to human health is deemed a risk under this Act. 1996, c. 6, s. 11.

Supervision and revocation of licence

12 The administrator may suspend or revoke a licence in respect of a meat plant or meat processing plant if the administrator is of the opinion that

(a) the premises, facilities and equipment used in the operation of the meat plant or meat processing plant do not comply with the regulations;

(b) the licensee or, where the licensee is a corporation, any officer, director or servant of the corporation has contravened or permitted any person under that person's control or direction in connection with the operation of the meat plant or meat processing plant to contravene any law applying to the operation of the meat plant or meat processing plant or the conditions of the licence and the contravention warrants the suspension or revocation; or

(c) human health is at risk. 1996, c. 6, s. 12.

Communication of reasons for action on licence

13 The administrator shall, within seven days of making a decision not to renew a licence or to suspend or revoke a licence, inform the licensee of a meat plant or meat processing plant, in writing, of the reasons for the refusal to renew or the suspension or revocation. 1996, c. 6, s. 13.

APPEALS

Appeal procedure

14 (1) Where an applicant or licensee has received notification that an administrator has refused to grant or renew a licence or has suspended or revoked a licence, the licensee may appeal to the Board, by notice in writing, stating concisely the reasons for the appeal.

(2) The appeal must be conducted in the manner prescribed in the regulations.

(3) The Board may dismiss the appeal, allow the appeal or make any decision the administrator was authorized to make.

(4) The administrator and the appellant shall take such action as is necessary to implement the decision of the Board. 1996, c. 6, s. 14.

PLANT OPERATIONS

Conditions permitting slaughter

15 No person shall slaughter an animal at a meat plant unless

- (a) the animal has been inspected by an inspector prior to its slaughter; and
- (b) an inspector is present during its slaughter, except as otherwise provided in the regulations. 1996, c. 6, s. 15.

Manner of slaughter

16 All animals must be slaughtered in a humane manner. 1996, c. 6, s. 16.

Standards for plant

17 A meat plant or meat processing plant must be constructed and maintained in such a manner that no condition exists that is injurious to human health or that, in the opinion of an administrator, is potentially injurious to human health. 1996, c. 6, s. 17.

Compliance with regulations

18 No person shall engage in the production, processing, preparation, handling or storage of meat or meat products at a meat plant or meat processing plant except in accordance with the regulations. 1996, c. 6, s. 18.

SALE OF MEAT

Conditions permitting certain activities

19 No person shall sell, offer for sale, transport or deliver meat or meat products described or held out as “inspected meat”, “approved meat” or words of like import to any person unless

- (a) the animal from which the meat was obtained was inspected
 - (i) by an inspector as provided in this Act, or
 - (ii) pursuant to the *Safe Food for Canadians Act* (Canada) and the regulations made pursuant to that Act;
- (b) the slaughter of the animal took place at
 - (i) a meat plant in respect of which a licence is in force and that complies with this Act and the regulations, or
 - (ii) an establishment that is registered pursuant to and operated in accordance with the *Safe Food for Canadians Act* (Canada) and the regulations made pursuant to that Act; and

(c) the meat is stamped with an inspection legend or is labelled as prescribed, except as otherwise provided in the regulations. 1996, c. 6, s. 19.

Requirement for inspection

20 (1) No person shall sell meat that has not been inspected by an inspector or inspected pursuant to the *Safe Food for Canadians Act* (Canada) if the person knew or ought to have known that the purchaser intended to resell the meat.

(2) No person shall purchase meat that has not been inspected by an inspector or inspected pursuant to the *Safe Food for Canadians Act* (Canada) for the purpose of resale or commercial use. 1996, c. 6, s. 20.

Conditions permitting cutting and processing

21 Meat referred to in subsection 4(1) may be cut or further processed at a meat plant licensed pursuant to this Act if

- (a) the meat is kept separate from inspected meats;
- (b) after cutting or further processing, the meat is identified on the packaging as “Custom Meat - Not For Resale”. 1996, c. 6, s. 21.

Conditions permitting sale from vehicle

22 No person shall sell from a vehicle meat that has not been inspected by an inspector or inspected pursuant to the *Safe Food for Canadians Act* (Canada). 1996, c. 6, s. 22.

GENERAL

Power to enter and inspect

23 (1) An administrator or an inspector may, at any reasonable time, for the purpose of carrying out that person’s duties under this Act or the regulations, enter without a warrant any vehicle, premises or building wherein there is reasonable and probable grounds to believe that any animal, meat or meat product is being produced, processed, prepared, handled or stored or records relating thereto are to be found and inspect the vehicle, premises or building and any animal, meat or meat product therein or records relating thereto.

(2) Notwithstanding subsection (1), the administrator or an inspector shall not enter any part of a dwelling without the consent of the occupant unless pursuant to a warrant. 1996, c. 6, s. 23.

Hindering or obstructing official

- 24** No person shall
- (a) hinder or obstruct the administrator or an inspector in the course of that person’s duties;
 - (b) provide the inspector or administrator with false information;
- or
- (c) refuse to provide the inspector or administrator with information required for the purpose of this Act and the regulations. 1996, c. 6, s. 24.

Evidence of appointment

25 The production by an inspector of a certificate of appointment purporting to be signed by the Minister is admissible in evidence as proof of the appointment without further proof of the signature or authority of the Minister. 1996, c. 6, s. 25.

Proof of offence

26 (1) In a prosecution for a violation of this Act or the regulations, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused, whether or not the employee or agent is identified or has been prosecuted for the offence.

(2) Proof that meat or a meat product, or a package containing meat or a meat product, bore

(a) a name and address purporting to be the name and address of the person by whom it was produced, processed or prepared; or

(b) a registered number or brand mark purporting to be the registered number or brand mark of the establishment where it was produced, processed or prepared,

is prima facie proof that the meat or meat product was produced, processed or prepared by, and that the meat, meat product or package was marked by, the person whose name or address appeared on the meat product or package or the person operating the meat plant or meat processing plant whose registered number or brand mark appeared on the package, as the case may be. 1996, c. 6, s. 26.

Persons assisting official

27 An inspector or administrator in carrying out any duties or exercising any powers under this Act or the regulations, may be accompanied by one or more persons considered by the inspector or administrator to be necessary to enable the inspector or administrator to carry out those duties and exercise those powers. 1996, c. 6, s. 27.

Agreements by Minister

28 (1) The Minister may enter into agreements with the Government of Canada for

(a) the performance by the Government of Canada, on behalf of the Province, of functions and duties under this Act and the regulations that are the responsibility of the Province;

(b) the performance by the Province, on behalf of the Government of Canada, of functions and duties that are the responsibility of the Government of Canada under an act of the Parliament of Canada.

(2) The Minister may enter into agreements for the more efficient carrying out of the object and purpose of this Act and the regulations. 1996, c. 6, s. 28.

Compliance with construction standards

29 A meat plant licensed by the Minister must comply with all the prescribed construction standards. 1996, c. 6, s. 29.

Offences and penalties

30 (1) A person who contravenes this Act or the regulations is guilty of an offence and upon summary conviction is liable

(a) for a first offence, to a fine of not more than \$2,000 or to imprisonment for a term of not more than six months, or to both; and

(b) for a subsequent offence, to a fine of not more than \$10,000 or to imprisonment for a term of not more than one year, or to both.

(2) Notwithstanding subsection (1), a corporation that is convicted of an offence is liable for a first offence to a fine of not more than \$10,000 and for a subsequent offence to a fine of not more than \$50,000. 1996, c. 6, s. 30.

Conflict with other enactments

31 (1) Where the provisions of any Act or bylaw or regulation of a regional municipality, town, municipality of a county or district or other local body are in conflict with this Act or the regulations, the provision of this Act and the regulations prevail to the extent of the conflict.

(2) Notwithstanding subsection (1), a bylaw or regulation referred to in subsection (1) may impose or prescribe higher or more stringent standards or requirements than those provided for by this Act or the regulations if an enactment authorizes the bylaw or regulation to impose or prescribe such standards or requirements. 1996, c. 6, s. 31.

REGULATIONS

Regulations

32 (1) The Governor in Council may make regulations

(a) respecting the Board, its Chair, Vice-chair and secretary;

(b) prescribing the powers and duties of administrators and inspectors or any class of inspectors;

(c) providing for the exemption from this Act or the regulations, or any part thereof, of any person or any class of persons or of any animal, meat or meat product or class of animals, meat or meat product and prescribing the terms and conditions of the exemption;

(d) prescribing the manner of and the devices to be used in the slaughter of animals in licensed meat plants;

(e) respecting the facilities and equipment to be provided and maintained at licensed meat plants or meat processing plants and the operation of licensed plants;

- (f) respecting cleanliness and sanitation of licensed meat plants or meat processing plants;
- (g) requiring and governing the detention and disposal of any animal, meat or meat product at a licensed meat plant or meat processing plant and prescribing the procedures for the detention and disposal;
- (h) respecting the transportation and delivery of meat or meat products from a licensed meat plant or meat processing plant;
- (i) prescribing the records to be made and kept by the operator of a licensed meat plant or meat processing plant;
- (j) providing for the issue, renewal, suspension, reinstatement or revocation of or refusal to issue or renew licences and prescribing the fees payable for licences or the renewal of licences;
- (k) prescribing conditions to which licences may be subject;
- (l) governing appeals;
- (m) prescribing terms and conditions under which animals, meat and meat products may be inspected at any licensed meat plant and the fees payable for inspection;
- (n) prescribing standards for any class or variety of meat or meat products;
- (o) providing for the taking at a licensed meat plant or meat processing plant of samples of meat or any meat product at the expense of the owner for the purpose of testing;
- (p) providing for the stamping with an inspection legend at a licensed meat plant of meat that is fit for human consumption;
- (q) providing for the labelling at a licensed meat plant or meat processing plant of meat that is fit for human consumption;
- (r) providing for the labelling at a licensed meat plant or meat processing plant of meat products;
- (s) extending the period during which meat, meat products or things may be retained by an inspector;
- (t) respecting the detention of meat, meat products or things seized pursuant to this Act and for preserving or safeguarding them;
- (u) prescribing forms and providing for their use;
- (v) further defining the word “animal”;
- (w) defining any word or expression used but not defined in this Act;
- (x) respecting any matter, whether or not of the kind or type contained in this subsection, 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*, 1996, c. 6, s. 32.

CHAPTER M-14

**An Act to Establish an Award to
Recognize Bravery of Nova Scotians**

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Short title

1 This Act may be cited as the *Medal of Bravery Act*. 2007, c. 12, s. 1.

Issuance of medal

2 (1) Where, on or after January 1, 2007, a person has

- (a) assisted another person or attempted to assist another person; or
- (b) protected property of another person or attempted to protect property of another person,

and has done so at risk to the person's own life or safety or in other circumstances demonstrating bravery, including bravery beyond that expected of the person in course of the person's employment or service to the public, the Governor in Council may, on the recommendation of the Provincial Secretary, issue a Nova Scotia Medal of Bravery to that person.

(2) A Nova Scotia Medal of Bravery may be issued posthumously. 2007, c. 12, s. 2.

Advisory Committee

3 (1) The Premier shall establish an advisory committee to assist the Provincial Secretary in making recommendations to the Governor in Council respecting persons who may deserve to receive a Nova Scotia Medal of Bravery.

(2) The advisory committee referred to in subsection (1) is composed of such persons as the Premier may determine, and the Premier may designate a member of the committee to be its chair.

(3) The advisory committee referred to in subsection (1) must include but, for greater certainty, is not limited to

- (a) the Chief Executive Officer of the Emergency Management Office;
- (b) the Deputy Minister of Justice;
- (c) the Fire Marshal of the Province;
- (d) the President of the Nova Scotia Chiefs of Police Association; and
- (e) the Commander of Maritime Forces Atlantic,

or their designates. 2007, c. 12, s. 3.

Right to use designations

4 Where the Governor in Council has issued a Nova Scotia Medal of Bravery to a person, that person

- (a) may use the initials M.B.N.S. after the person's name; and
- (b) where employed in an occupation in which the person wears a uniform in relation to the person's employment, or otherwise entitled to wear a uniform, may wear upon that uniform such designation as may be prescribed by the Governor in Council to accompany the Medal or to designate a person as a recipient of the Medal. 2007, c. 12, s. 4.

Regulations

5 (1) The Governor in Council may make regulations

- (a) prescribing the form of the Nova Scotia Medal of Bravery and any designation for the purpose of clause 4(b);
- (b) respecting matters to be considered by the advisory committee referred to in subsection 3(1) and the Provincial Secretary in making recommendations to the Governor in Council for the purpose of Section 3;
- (c) respecting the forms of remuneration or the provision of out-of-pocket expenses that may be paid to the members of the advisory committee;
- (d) respecting any other matter or thing the Governor in Council considers advisable or necessary to carry out effectively the intent and purpose of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2007, c. 12, s. 5.

CHAPTER M-15

**An Act Respecting
the Practice of Medicine**

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Short title

1 This Act may be cited as the *Medical Act*. 2011, c. 38, s. 1.

Interpretation

2 In this Act,

“capacity” means the medical, physical, mental or emotional status of an applicant or member that impacts that person’s ability to practise in a competent manner;

“certificate of professional conduct” means a certificate from a medical regulatory body setting out

- (a) an applicant’s registration and licensing history, including any conditions or restrictions affecting the applicant’s practice;
- (b) any outstanding allegations or previous findings of incapacity or disciplinary matters; and
- (c) such other matters as may be determined by the medical regulatory body issuing the certificate;

“College” means the College of Physicians and Surgeons of Nova Scotia;

“competence” means the ability to integrate and apply the knowledge, skills, attitude and judgement required to practise safely, ethically and professionally in a designated role and practice setting;

“complaint” means any report or allegation in writing and signed by a person regarding the conduct, actions, competence or capacity of a member or former member, professional corporation or the employees thereof, or any similar complaint, report or allegation initiated by the Registrar or referred pursuant to this Act or the regulations;

“conduct unbecoming” means conduct outside the practice of medicine that tends to bring discredit upon the medical profession;

“continuing professional development program” means a program authorized by the Council that promotes the maintenance and enhancement of the continuing competence of medical practitioners throughout their careers;

“Council” means the Council of the College;

“Court” means the Supreme Court of Nova Scotia;

“disciplinary matter” means any matter involving allegations or findings of professional misconduct, conduct unbecoming a medical practitioner or incompetence;

“former Act” means Chapter 10 of the Acts of 1995-96, the *Medical Act*;

“health authority” has the same meaning as in the *Health Authorities Act*;

“health profession” means a health profession regulated by an Act of the Province;

“hearing committee” means a hearing committee appointed pursuant to this Act;

“Hearing Pool” means the Hearing Pool appointed pursuant to this Act;

“hospital” means a hospital as defined in the *Hospitals Act*;

“incapacity” means the status whereby a member suffers or suffered from a medical, physical, mental or emotional condition, disorder or addiction that renders or rendered the member unable to practise with competence, or that may endanger or has endangered the health or safety of individuals;

“incompetence” means the lack of competence in the respondent’s care of an individual or delivery of medical services that, having regard to all the circumstances, rendered the respondent unsafe to practise at the time of such care of the individual or delivery of medical services or that renders the respondent unsafe to continue in practice without remedial assistance;

“individual” means a patient, group of patients, community or population who is the recipient of a medical practitioner’s services;

“individual scope of practice” means the procedures, actions, processes and practices for which the member has received education or training and is competent;

“investigation committee” means an investigation committee appointed pursuant to this Act;

“Investigation Pool” means the Investigation Pool appointed pursuant to this Act;

“investigator” means a person designated by the Registrar or an investigation committee to conduct or supervise an investigation into a complaint;

“judge” means a judge of the Court;

“licence” means a valid and subsisting licence issued pursuant to this Act and in accordance with the regulations;

“licensing sanction” means

(a) the imposition of conditions or restrictions on a licence by an investigation committee or a hearing committee, or their equivalents from another jurisdiction;

(b) a consensual reprimand ordered by an investigation committee or its equivalent from another jurisdiction;

(c) a reprimand issued by a hearing committee or its equivalent from another jurisdiction;

(d) a suspension of a licence by an investigation committee or a hearing committee or their equivalent from another jurisdiction; or

(e) a revocation of registration or licence by a hearing committee or its equivalent from another jurisdiction;

“mediation” means any form of alternative dispute resolution;

“medical practitioner” means a person who holds a licence issued pursuant to this Act or the regulations entitling such person to engage in the practice of medicine, but does not include a student member;

“member”, unless the context otherwise requires, means a person who is registered on a register;

“party”, unless the context otherwise requires, means the College and the respondent;

“practice assessment program” means a program approved by the Council to achieve the objectives as set out in Section 64;

“practice of medicine” means the practices and procedures usually performed by a medical practitioner and includes

(a) the art and science of the assessment, diagnosis or treatment of an individual;

(b) the related promotion of health and prevention of illness; and

(c) such other practices and procedures as taught in universities or schools approved by the Council for licensing purposes under this Act and the regulations;

“profession”, unless the context otherwise requires, means the profession of medicine;

“professional conduct committee” means an investigation committee or a hearing committee;

“professional conduct process” means the processes described in Sections 30 to 63 and the related provisions of the regulations;

“professional misconduct” includes such conduct or acts in the practice of medicine that, having regard to all the circumstances, would reasonably be regarded as disgraceful, dishonourable or unprofessional and that, without limiting the generality of the foregoing, may include breaches of

(a) the Code of Ethics approved by the Council;

(b) the accepted standards of the practice of medicine; and

(c) this Act, the regulations and policies approved by the Council;

“public representative” means a person who is

(a) not at present or formerly a physician;

(b) able and willing to serve impartially, in the public interest; and

(c) appointed by the Council pursuant to the regulations;

“register” means one or more of the categories of registers as set out in the regulations, as the context requires;

“registered” means a person’s name has been recorded on a register in accordance with the regulations;

“Registrar” means the person holding the office of Registrar pursuant to this Act;

“Registration Committee” means the committee appointed by the Council that deals with the registration and licensing of members, student members and applicants for registration and licensing;

“respondent” means a person who is the subject of a complaint;

“student member” means a person whose name is on the list of undergraduate medical-education students pursuant to the regulations. 2011, c. 38, s. 2; 2014, c. 32, s. 143.

Interpretation of medical practitioner

3 The words “duly qualified medical practitioner”, “duly qualified practitioner”, “legally qualified medical practitioner”, “legally qualified physician”, “physician” or any like words or expressions implying a person recognized by law

as a medical practitioner or member of the medical profession in the Province, when used in any regulation, rule, order or bylaw made pursuant to an Act of the Legislature enacted or made before, on or after January 1, 2015, or when used in any public document, includes a person registered on a register pursuant to the regulations, and who holds a licence entitling such person to engage in the practice of medicine. 2011, c. 38, s. 3.

COLLEGE OF PHYSICIANS
AND SURGEONS OF NOVA SCOTIA

College continued

4 (1) The College continued by the former Act is continued by this Act.

(2) The College 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. 2011, c. 38, s. 4.

Purpose and duties of College

5 In order to

(a) serve and protect the public interest in the practice of medicine; and

(b) subject to clause (a), preserve the integrity of the medical profession and maintain the confidence of the public and the profession in the ability of the College to regulate the practice of medicine,

the College shall

(c) regulate the practice of medicine and govern its members through

(i) the registration, licensing, professional conduct and other processes set out in this Act and the regulations,

(ii) the approval and promotion of a code of ethics,

(iii) the establishment and promotion of standards for the practice of medicine, and

(iv) the establishment and promotion of a continuing professional development program; and

(d) do such other lawful acts and things as are incidental to the attainment of the purpose and objects of the College. 2011, c. 38, s. 5.

Annual meeting

6 There shall be an annual meeting of the College at such time and place as the Council determines. 2011, c. 38, s. 6.

COUNCIL

Council established

7 There is a Council of the College to be constituted as provided in Section 9. 2011, c. 38, s. 7.

Purpose and authority of Council

8 (1) The Council governs the College and may take any action consistent with this Act and the regulations as it considers necessary for the promotion, protection, interest or welfare of the College, including

- (a) the setting of fees payable by applicants and members;
- (b) approving the process for establishing, revising and monitoring its annual budget;
- (c) submitting to each annual general meeting of the College an audited financial statement of the College's operations for the past fiscal year;
- (d) appointing an auditor for the College;
- (e) approving of proposed changes to this Act, the regulations and the bylaws; and
- (f) establishing processes to permit others to engage in designated aspects of the practice of medicine, including provisions for supervision or other forms of accountability.

(2) The processes referenced in clause (1)(f) include a requirement for consultation with any affected health profession and any affected medical practitioners.

(3) In addition to any other power conferred by this or any other Act, the Council may do such things as it considers appropriate to advance the objects of the College in accordance with Section 5 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 College in the advancement of its objects and the interests of the medical profession 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 College 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 College;
- (h) borrow money for the use of the College on its credit, limit or increase the amount to be borrowed, issue bonds, debentures,

debenture stock and other securities on the credit of the College and pledge or sell such securities for such sums or at such prices as may be considered expedient;

(i) develop and promote policies and guidelines for the practice of medicine;

(j) do such things as are incidental or necessary to the exercise of these powers.

(4) The Council may take any action consistent with this Act by resolution passed by Council. 2011, c. 38, s. 8.

Members of Council

9 (1) The Council consists of

(a) at least one third of public representatives appointed pursuant to the regulations;

(b) the Dean of the medical school of Dalhousie University or the Dean's delegate as set out in the bylaws; and

(c) such number of medical practitioners as set out in the bylaws, including at least five medical practitioners in addition to the Dean of the medical school of Dalhousie University or the Dean's delegate.

(2) Members of the Council under clause (1)(c) are elected or appointed to office in such manner as set out in the bylaws.

(3) The terms of office for members of the Council are as set out in the bylaws.

(4) Notwithstanding subsection (1), the persons who, immediately before January 1, 2015, make up the Council pursuant to the former Act constitute the Council until the election or appointment of members pursuant to this Act. 2011, c. 38, s. 9.

Power to administer College

10 The Council shall, subject to this Act, govern, control and administer the affairs of the College and, without limiting the generality of the foregoing, may make bylaws

(a) providing for the management of the College;

(b) providing for the holding of meetings of the College or the Council, and the conduct of such meetings;

(c) fixing the time and place for regular meetings of the Council, determining by whom meetings may be called, regulating the conduct of meetings, providing for special meetings and regulating the notice required in respect of meetings;

(d) providing for the appointment of such committees, in addition to committees appointed pursuant to this Act or the regulations, as the Council considers expedient;

- (e) respecting the composition, powers and duties of committees appointed in accordance with clause (d), and providing for the holding and conduct of meetings of such committees;
- (f) respecting the quorum for meetings of the Council and committees if quorum requirements are not otherwise set out in this Act or the regulations;
- (g) respecting the powers, duties and qualifications of the officers of the College;
- (h) prescribing the seal of the College;
- (i) providing for the execution of documents by the College;
- (j) prescribing the number of members of the Council;
- (k) governing elections and appointments of members of the Council, other than public representatives;
- (l) prescribing a Code of Ethics;
- (m) prescribing standards of practice;
- (n) respecting the interjurisdictional practice of telemedicine, including requirements for practice and processes for dealing with complaints;
- (o) regulating, controlling and prohibiting the use of terms, titles or designations by members, or groups or associations of members, in respect of their practice;
- (p) prescribing the records and accounts to be kept by members with respect to their practice, and providing for the production, inspection and examination of such records and accounts. 2011, c. 38, s. 10.

Council regulations

11 (1) With the approval of the Governor in Council, the Council may make regulations

- (a) respecting registration and licensing;
- (b) respecting the powers, authority and processes of the Registrar, the Registration Committee and the Registration Appeal Committee relevant to registration and licensing matters;
- (c) prescribing the different registers and categories of licences;
- (d) respecting the information required to be kept on the registers and with respect to each category of licence;
- (e) respecting the review and appeal processes arising from registration and licensing decisions;
- (f) respecting the imposition of terms or conditions on a member's registration or licence;
- (g) respecting the renewal of licences;
- (h) prescribing a requirement for members to participate in a continuing professional development program;

- (i) respecting the investigation of complaints;
- (j) respecting the holding of hearings concerning complaints;
- (k) respecting all matters associated with the professional conduct processes of the College, including settlement agreements;
- (l) respecting the powers, authority and processes of the Registrar, an investigator, an investigation committee and a hearing committee relevant to the professional conduct process;
- (m) providing for the audits of members' practices;
- (n) respecting the reporting and publication of decisions in disciplinary matters and in matters concerning incapacity;
- (o) regulating the compounding, dispensing, sale of drugs and sale of appliances by members;
- (p) providing that the licence of a member be suspended without notice or investigation upon contravention of any regulation that requires the member to pay a fee, file a document or do any other act by a specified or ascertainable date, and providing for the reinstatement of a licence so suspended;
- (q) prescribing the powers, authority and processes of a reinstatement committee;
- (r) respecting the processes regarding reinstatement;
- (s) respecting the process to appoint a custodian of patient records of a member or former member when it is in the public interest to do so, and providing authority to
 - (i) direct persons to seize, remove and take into possession patient records,
 - (ii) enter premises for purposes of recovering patient records,
 - (iii) directing owners of premises or persons in possession of premises or any depository of patient records to deal with, hold, deliver or dispose of patient records as required,
 - (iv) authorize custodians to take all such necessary action as needed to ensure the patient records are dealt with in the public interest, and
 - (v) provide an immunity from liability for any custodian acting in accordance with such regulations in good faith;
- (t) prescribing legislation for the purposes of subclause 68(1)(a)(iii);
- (u) respecting a process for the appointment of public representatives to the Council;
- (v) defining any word or expression used but not defined in this Act;

(w) further defining or redefining any word or expression defined in this Act;

(x) respecting and governing such other subjects, matters and things as may be required to give effect to the objects of the College and this Act.

(2) Before forwarding proposed regulations to the Governor in Council, the Council shall forward the proposed regulations to members in sufficient time to allow members to provide comments on the proposed regulations to the Council.

(3) A certificate purporting to be signed by the Registrar stating that a certain regulation of the College was, on a specified day or during a specified period, a duly enacted regulation of the College in full force and effect constitutes prima facie evidence in any court of that fact without proof that the person who signed it is the Registrar or that it is the Registrar's signature.

(4) The exercise by the Council of the authority contained in this Section is a regulation within the meaning of the *Regulations Act*. 2011, c. 38, s. 11.

Registrar

12 (1) The Council shall appoint a Registrar of the College and the Council shall determine the term of office and the duties of the Registrar.

(2) The Registrar may delegate any functions assigned to the Registrar by this Act, the regulations or the bylaws.

(3) The Registrar is a non-voting member of the Council and all committees of the College except an investigation committee, a hearing committee, the Registration Appeal Committee and any other committees as determined by the Council. 2011, c. 38, s. 12.

REGISTRATION AND LICENSING

Keeping of registers

13 (1) The Council shall cause to be kept such registers as are required by the regulations, in which the names of those persons who qualify for registration according to this Act and the regulations are recorded.

(2) The registers must include the information required by the regulations.

(3) The Council shall also cause to be kept a record available to the public showing the information required by the regulations. 2011, c. 38, s. 13.

Registration Committee and Registration Appeal Committee

14 (1) The Council shall appoint a Registration Committee and a Registration Appeal Committee, the membership of each of which is as set out in the regulations.

(2) The Council shall appoint the Chair of the Registration Committee and the Chair of the Registration Appeal Committee.

(3) The Registrar, the Registration Committee and the Registration Appeal Committee shall perform such registration and licensing functions as are set out in this Act, the regulations and the bylaws.

(4) Subject to subsections (5) and (6) the Registrar, the Registration Committee and the Registration Appeal Committee have all the rights, powers and privileges of a commissioner appointed pursuant to the *Public Inquiries Act*.

(5) The Registrar and each person on the Registration Committee is authorized to sign documents on behalf of the Registration Committee issued under the authority of the *Public Inquiries Act*, only when the Chair of the Registration Committee has authorized the issuing of such documents.

(6) The Registrar and each person on the Registration Appeal Committee is authorized to sign documents on behalf of the Registration Appeal Committee issued pursuant to the authority of the *Public Inquiries Act*, only when the Chair of the Registration Appeal Committee has authorized the issuing of such documents. 2011, c. 38, s. 14.

Licences

15 (1) The categories of licences to be issued under each register are as set out in the regulations.

(2) The Council shall cause to be maintained a separate record for each category of licence as provided by the regulations.

(3) Notwithstanding any other provision of this Act or any provision of the regulations, the name of every person who, on January 1, 2015, is registered pursuant to the former Act, must be entered into the equivalent Register under this Act, but continues under any conditions or restrictions attached to the person's previous registration.

(4) Notwithstanding any other provision of this Act or any provision of the regulations, a licence issued pursuant to the former Act continues as an equivalent licence under this Act until the expiration of the licence or until the licence is suspended or revoked.

(5) Every licence that was subject to any conditions or restrictions pursuant to the former Act continues to be subject to such conditions or restrictions pursuant to this Act. 2011, c. 38, s. 15.

Registrar's duties

16 (1) The Registrar shall register on a register every person who meets the criteria for registration as set out in the regulations.

(2) The Registrar shall issue a licence to a person who meets the criteria for such licence as set out in the regulations.

(3) The Registrar may impose conditions or restrictions on the licence of a member with the consent of the member if the Registrar considers such conditions or restrictions to be necessary in the interest of the public.

(4) Where the Registrar imposes conditions or restrictions with the consent of the member pursuant to subsection (3), the conditions or restrictions are not licensing sanctions.

(5) Conditions or restrictions may be imposed on the licence of a member without the consent of the member in such manner as set out in the regulations. 2011, c. 38, s. 16.

Licence renewal

17 The Registrar shall renew a licence when the holder of the licence meets the criteria for renewal as set out in the regulations. 2011, c. 38, s. 17.

Certificate of professional conduct required

18 A member of the College who practises medicine outside the Province shall provide the Registrar with a certificate of professional conduct from the other jurisdictions where the member practised at such time intervals as directed by the Council. 2011, c. 38, s. 18.

Notice of review processes

19 Where an applicant

- (a) has been refused registration;
- (b) has been refused a licence; or
- (c) has terms and conditions imposed without the consent of the applicant,

the Registrar shall advise the applicant of the review processes set out in the regulations. 2011, c. 38, s. 19.

Surrender of licence and cessation of membership

20 (1) The licence of a medical practitioner may be surrendered by the medical practitioner only after notice in writing to the Registrar and with the Registrar's consent.

(2) Where a person ceases to be a member for any reason or to be registered or licensed for any reason, the person remains subject to the jurisdiction of the College in respect of any disciplinary matter or allegation of incapacity. 2011, c. 38, s. 20.

Offences with respect to practice of medicine

21 (1) A person licensed pursuant to this Act who practises medicine in violation of any condition or restriction contained in the person's licence commits an offence.

(2) A medical practitioner shall not engage in the practice of medicine that is

- (a) outside that medical practitioner's individual scope of practice;
- (b) contrary to the terms of the licence issued to the medical practitioner;
- (c) contrary to any conditions or restrictions imposed on the medical practitioner;
- (d) contrary to ethical or practice standards or other requirements imposed by law; or
- (e) contrary to this Act, the regulations or the bylaws.

(3) No person shall engage in the practice of medicine unless

- (a) that person is currently registered and licensed with the College; or
- (b) that person is otherwise authorized to engage in the practice of medicine pursuant to this Act or the regulations. 2011, c. 38, s. 21.

Certain acts prohibited

22 (1) Except as provided in this Act and the regulations, no person, other than a medical practitioner, shall

- (a) publicly or privately, for hire, gain or hope of reward, practise or offer to practise medicine;
- (b) purport in any way to be entitled to practise medicine; or
- (c) assume any title or description implying or designed to lead the public to believe that that person is entitled to practise medicine, including the titles "physician", "surgeon", "medical practitioner", "medical specialist", "surgical specialist" and "doctor" or any derivation thereof.

(2) Notwithstanding subsection (1), no person shall use the title "medical doctor" unless that person

- (a) is a medical practitioner; and
- (b) holds a doctor of medicine degree from a medical school approved by the Council for this purpose.

(3) Notwithstanding subsection (1), no person shall use the title "Doctor of Osteopathy" or abbreviations or derivations thereof or the title "Osteopathic Physician" unless that person

- (a) is a medical practitioner; and
- (b) holds an osteopathic medical degree from a school approved by the Council for this purpose.

(4) Notwithstanding subsection (1), no person shall use the title "MD" unless that person holds a doctor of medicine degree from a medical school approved by Council for this purpose.

- (5) For greater certainty, this Section does not affect the right of
- (a) a dentist, duly licensed to practise dentistry in the Province, to append the title “doctor” or “dental surgeon” to the dentist’s name;
 - (b) a veterinary surgeon, registered under the *Veterinary Medical Act*, to append the title “doctor” or “veterinary surgeon” to the veterinary surgeon’s name;
 - (c) any other health professional, authorized to use the title “doctor” pursuant to an Act of the Province, to append the title “doctor” to the professional’s name; or
 - (d) a holder of an academic degree that bestows the title “doctor” not related to the practice of medicine to append the title “doctor” to the holder’s name.

(6) For greater certainty, this Section does not affect the right of a person to use any title authorized by an Act of the Province. 2011, c. 38, s. 22.

Furnishing false information or withholding information

23 No person shall furnish false information or withhold information in any application pursuant to this Act, or in any statement required to be furnished pursuant to this Act or the regulations. 2011, c. 38, s. 23.

Medical students and post-graduate trainees

24 (1) No person enrolled as a student in any medical education program shall engage in the practice of medicine in the Province unless registered in the relevant register as set out in the regulations.

(2) No person enrolled as a post-graduate trainee in any medical education program shall engage in the practice of medicine in the Province unless registered in the relevant register and issued the relevant licence as set out in the regulations. 2011, c. 38, s. 24.

Prosecution

25 (1) A person who violates this Act or the regulations is guilty of an offence, and the *Summary Proceedings Act* applies in addition to any penalty otherwise provided for in this Act or the regulations.

(2) All fines and penalties payable under this provision as a result of a prosecution by or on behalf of the College belong to the College.

(3) An information to be laid pursuant to the *Summary Proceedings Act* may be laid by the Registrar of the College or any member of the College authorized by the Council, with the consent of the Minister of Health and Wellness.

(4) In a prosecution for practising without a licence, the onus to prove that the person has the right to practise medicine, or that the person comes within any of the exemptions provided by this Act, is on the person accused.

(5) Where a violation of this Act or the regulations by a person or employer continues for more than one day, the offender is guilty of a separate offence for each day that the violation continues.

(6) For the purpose of this Act or the regulations, proof of the performance by a non-member of one act in the practice of medicine is sufficient to establish that a person has engaged in the practice of medicine. 2011, c. 38, s. 25.

Injunction

26 (1) In the event of a threatened or continuing violation of this Act or the regulations, the College may apply to a judge 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 such an 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. 2011, c. 38, s. 26.

EXEMPTIONS

Activities exempt from Act

27 Nothing in this Act applies to or prevents

(a) the attendance upon a patient residing in this Province in the vicinity of the boundary between this Province and the Province of New Brunswick by a physician resident and duly registered in the Province of New Brunswick whose practice is normally near that boundary and who does not have within this Province an office or place of business wherein to meet patients or to receive calls;

(b) subject to the bylaws, a physician or surgeon entitled to practise medicine in any other province of Canada or another country from consulting in the Province with a medical practitioner who holds a licence;

(c) the domestic administration of family remedies;

(d) the practice of the religious tenets or general beliefs of any religious organization;

(e) the furnishing of first aid or emergency assistance in the case of emergency, if such aid or assistance is given without hire, gain or hope of reward;

(f) the manufacture, fitting or selling of artificial limbs or similar appliances;

(g) the practice of any health profession authorized pursuant to an Act of the Province, by a health professional authorized by such Act and practising within the authorized scope of practice of that person's profession and individual scope of practice, if such person does not describe their practice as "the practice of medicine"; or

(h) the performance of particular acts of the practice of medicine by another health professional if such acts are authorized by a process approved by the Council. 2011, c. 38, s. 27.

Application of Pharmacy Act limited

28 Except where prohibited by the regulations, but notwithstanding anything contained in the *Pharmacy Act*, a medical practitioner may dispense, compound or administer drugs or medicines in the course of the person's practice of medicine, and may make reasonable charges for any services rendered or goods supplied in doing so. 2011, c. 38, s. 28.

Application of Dental Act limited

29 Nothing contained in the *Dental Act* prohibits medical practitioners from doing, in the course of administering medical aid or treatment, anything for which registration is required pursuant to that Act or from doing anything in an emergency to relieve pain or suffering of a person, or making reasonable charges therefor. 2011, c. 38, s. 29.

PROFESSIONAL CONDUCT

Professional conduct process

30 (1) In accordance with the objects of the College, the professional conduct process must seek to address issues of incapacity and the disciplinary matters of professional misconduct, conduct unbecoming and incompetence by investigating such matters on the Registrar's initiative or on the complaints of others, and, where appropriate, disposing of matters in accordance with the regulations.

(2) A member has a duty to co-operate with the College in the conduct of its professional conduct processes. 2011, c. 38, s. 30.

Investigation Pool

31 (1) The Council shall appoint an Investigation Pool composed of such number of medical practitioners and public representatives as is determined by the Council.

(2) The Council shall appoint a Chair and a Vice-chair of the Investigation Pool.

(3) The Vice-chair shall act as chair in the absence of the Chair.

(4) Whenever for any reason neither the Chair nor the Vice-chair is available, the Council may appoint a member of the Investigation Pool to act as chair of the Pool. 2011, c. 38, s. 31.

Investigation committee

32 (1) The Chair of the Investigation Pool shall appoint an investigation committee of at least three persons from the Investigation Pool, at least one of whom must be a public representative, to act as an investigation committee for the purpose of the professional conduct process.

(2) The Chair of the Investigation Pool may sit on an investigation committee and, in such case, shall act as the chair of the investigation committee.

(3) Where the Chair of the Investigation Pool is not appointed to an investigation committee, the Chair of the Investigation Pool shall appoint a chair of the investigation committee.

(4) A majority of the members of an investigation committee constitutes a quorum of the investigation committee, regardless of whether the persons are members or public representatives.

(5) Failure of one or more members of an investigation committee to receive any notice of a meeting does not invalidate the proceedings at the meeting and nothing precludes the members from waiving notice of meetings.

(6) All decisions of an investigation committee require the vote of a majority of the members of the committee present.

(7) Where a proceeding is commenced before an investigation committee and the term of office of any person sitting on the committee expires, the Chair of the Investigation Pool may extend the term of office of such person until the proceeding is concluded. 2011, c. 38, s. 32.

Powers of investigation committee, etc.

33 (1) Subject to subsection (2), an investigation committee, the Registrar, an investigator and each member of an investigation committee have all the powers, privileges and immunities of a commissioner appointed pursuant to the *Public Inquiries Act*, with the exception of the powers of contempt, arrest and imprisonment.

(2) The Registrar, an investigator and each member of an investigation committee may exercise any of the powers and privileges pursuant to subsection (1) only if authorized by the chair of the investigation committee. 2011, c. 38, s. 33.

Functions, meetings and proceedings of investigation committee

34 (1) An investigation committee shall perform such functions as set out in this Act and in the regulations.

(2) An investigation committee may set its own procedure for meetings and proceedings. 2011, c. 38, s. 34.

Investigation committee retains jurisdiction

35 An investigation committee retains jurisdiction over a matter until such time as a hearing commences before a hearing committee or the matter is resolved in accordance with this Act and the regulations. 2011, c. 38, s. 35.

Initiation or withdrawal of complaint

- 36 (1) A complaint may be initiated by
- (a) the Registrar;

- (b) a committee of the College; or
- (c) any other person.

(2) Where the Registrar and the complainant agree, a complaint may be withdrawn. 2011, c. 38, s. 36.

Investigators

37 The Registrar or an investigation committee may appoint such investigators as may be required to assist in the investigation of any complaint. 2011, c. 38, s. 37.

Duties and powers of investigator

38 (1) An investigator shall conduct the functions set out in this Act and the regulations and has, in the discharge of the functions, all other powers of an investigator conferred by this Act and the regulations.

- (2) An investigator may
 - (a) on the production of proof of the investigator's appointment;
 - (b) with the approval of the chair of the investigation committee; and
 - (c) where there are reasonable and probable grounds to believe there is evidence relevant to the investigation at the member's place of practice,

enter at any reasonable time the place of practice of a member to examine the place of practice and any equipment, book, account, report, record or thing found there that is relevant to the investigation.

(3) No person shall obstruct an investigator or withhold or conceal from an investigator or destroy anything that is relevant to the investigation.

(4) This Section applies notwithstanding any provision of any Act relating to the confidentiality of health records. 2011, c. 38, s. 38.

Warrants

39 (1) A justice of the peace may, on the application of an investigator authorized by the chair of the investigation committee made without notice, issue a warrant authorizing an investigator to enter and search a place and examine any document or thing specified in the warrant if the justice of the peace is satisfied that the investigator has been properly appointed and that there are reasonable and probable grounds established upon oath for believing that

- (a) the member being investigated is incapacitated, has committed an act of professional misconduct or is incompetent; and
- (b) there is something relevant to the investigation at that place.

(2) A warrant may be executed only between 8:00 a.m. and 8:00 p.m. unless the warrant specifies otherwise.

(3) An application for a warrant to enter a dwelling must specifically indicate that the application relates to a dwelling.

(4) An investigator entering and searching a place under the authority of a warrant may be assisted by other persons and may enter a place by force.

(5) An investigator entering and searching a place under the authority of a warrant shall, on request, produce identification to any person at the place. 2011, c. 38, s. 39.

Evidence may be copied or removed

40 (1) An investigator may, at the College's expense, copy a document or photograph an object that an investigator may examine under subsection 38(2) or under the authority of a warrant issued under subsection 39(1).

(2) An investigator may remove the document or object if

(a) it is not practicable to copy or photograph it in the place where it is examined; or

(b) a copy or photograph of it is not sufficient for the purpose of the investigation.

(3) Where it is practicable to copy a document or photograph an object that has been removed, the investigator shall

(a) where it was removed under clause (2)(a), return the document or object within a reasonable time; or

(b) where it was removed under clause (2)(b), provide the person who was in possession of the document or object with a copy or photograph of it within a reasonable time.

(4) A copy of a document or a photograph of an object certified by an investigator to be a true copy or image must be received in evidence in any proceeding to the same extent and has the same evidentiary value as the document or object itself. 2011, c. 38, s. 40.

Reasonable steps required

41 In exercising any authority granted to the investigator under Sections 38 to 40, the investigator shall take all reasonable steps to

(a) protect patients' confidential information;

(b) protect patients' clinical needs; and

(c) consider the legal and operational requirements under which health institutions and members of health professions practise. 2011, c. 38, s. 41.

Notification of intention to enter

42 Where an investigator intends to enter the place of practice of a member and the place of practice is operated by or under the jurisdiction of a health authority, the investigator shall make reasonable efforts to notify the administrator

of the health authority of the intention to enter the place of practice of a member. 2011, c. 38, s. 42; 2014, c. 32, s. 144.

Complaint process

43 (1) Upon receipt of a complaint by or the initiation of a complaint by the Registrar, the complaint must proceed in accordance with the process set out in the regulations.

(2) Where a complaint is forwarded to an investigation committee for disposition, the committee shall give its decision in writing and shall send a copy of the decision, by registered mail or personal service, to the respondent and the complainant and may send some or all of the decision to such other persons as the committee determines.

(3) With respect to any decision made by an investigation committee, the committee may impose a publication ban on such portions of its decision as considered necessary by the committee. 2011, c. 38, s. 43.

Respondent's rights

44 (1) In a proceeding before an investigation committee, a respondent has the right to be represented by legal counsel at the respondent's cost.

(2) Before the disposition of a matter by an investigation committee, a respondent has the right to

- (a) receipt of
 - (i) disclosure of the complaint,
 - (ii) notice of any other matters that are under investigation,
 - (iii) such other information as natural justice requires, and
 - (iv) such other information as may be determined by the Registrar; and
- (b) a reasonable opportunity to present a response and make submissions. 2011, c. 38, s. 44.

Interim suspension, conditions or restrictions

45 (1) Notwithstanding any other provision of this Act or any provision of the regulations, where there are reasonable and probable grounds to believe that

- (a) a member is exposing or is likely to expose the public, patients, the medical profession or the member to harm or injury; and
- (b) intervention is required prior to the disposition of the matter by the investigation committee or hearing committee,
an investigation committee may direct the Registrar to
 - (c) suspend a licence to practise;

(d) impose restrictions or conditions on a respondent's licence to practise; or

(e) where a person does not hold a current licence, suspend the ability of the person to obtain a licence,

pending or following the completion of an investigation and lasting until the suspension, restrictions or conditions are lifted, superseded or annulled by the investigation committee or a hearing committee.

(2) The member must receive, forthwith, in writing, a notice with reasons of a decision made pursuant to subsection (1).

(3) Upon receipt of the notice, the member may request, in writing within 30 days, an opportunity to meet with the investigation committee.

(4) Upon receipt of the request, the investigation committee

(a) within 10 business days of receipt of the request, shall provide an opportunity for the member to meet with the committee; and

(b) after meeting with the member, may confirm, vary or terminate the suspension or imposition of restrictions or conditions.

(5) At the meeting, the member has the right to

(a) be represented by legal counsel at the member's own expense;

(b) disclosure of the complaint, any written report of an investigator provided to the committee and any other document produced or received by the committee; and

(c) a reasonable opportunity to present a response and make submissions.

(6) Where an investigation committee issues an interim suspension or imposes conditions or restrictions on a respondent's licence to practise, the Committee shall

(a) provide a copy of the decision to the complainant and the respondent and determine whether any aspects of the committee's decision is to be provided to other individuals, other regulating bodies, any past, present or intended employer of the respondent, any health authority or the public; and

(b) proceed in as timely a manner as possible to conclude its investigation and make a decision respecting the further disposition of the matter. 2011, c. 38, s. 45; 2014, c. 32, s. 145.

Confidentiality with respect to complaints

46 (1) All complaints received or under investigation, all information gathered in the course of the professional conduct process and all proceedings and decisions of an investigation committee and a hearing committee that are not open to or available to others in accordance with this Act or the regulations must be kept confidential by any persons who possess such information.

(2) Notwithstanding subsection (1), where it is consistent with the objects of the College,

(a) and where an investigation committee or a hearing committee has reasonable grounds to believe that a member has committed, is committing or is about to commit a criminal offence, the committee may direct the Registrar to disclose to law enforcement authorities such limited information as is necessary to alert the authorities to the suspected activity;

(b) the Registrar, an investigation committee or a hearing committee may authorize the release of specific information to a specific person;

(c) the Registrar may disclose information gathered in the course of the professional conduct process to an extra-provincial regulatory body when it is relevant to membership or an application for membership in the extra-provincial regulatory body, but not, without the member's consent, information relating to a matter that has been resolved in favour of the member; and

(d) the Registrar may disclose information with respect to a complaint for purposes of administration of this Act or to comply with the objects of the College. 2011, c. 38, s. 46.

Hearing Pool

47 (1) The Council shall appoint a Hearing Pool composed of such number of medical practitioners and public representatives as is determined by the Council.

(2) No member of the Council may be a member of the Hearing Pool.

(3) The Council shall appoint a Chair and a Vice-chair of the Hearing Pool.

(4) The Vice-chair shall act as chair in the absence of the Chair.

(5) Whenever for any reason neither the Chair nor the Vice-chair is available, the Council may appoint a member of the Hearing Pool to act as chair of the Hearing Pool. 2011, c. 38, s. 47.

Hearing committee

48 (1) The Chair of the Hearing Pool shall appoint a hearing committee of at least five persons from the Hearing Pool, at least one of whom must be a public representative and a majority of whom must be medical practitioners, to act as a hearing committee for the purpose of the professional conduct process.

(2) The Chair of the Hearing Pool may sit on a hearing committee and, in such case, shall act as the chair of the hearing committee.

(3) Where the Chair or Vice-chair of the Hearing Pool is not appointed to a hearing committee, the Chair of the Hearing Pool shall appoint a chair for the hearing committee.

(4) A majority of the members of a hearing committee constitutes a quorum of the hearing committee, regardless of whether such persons are members or public representatives.

(5) No member of the Hearing Pool may be a member of an investigation committee.

(6) Failure of one or more members of a hearing committee to receive any notice of a meeting does not invalidate the proceedings at the meeting, and nothing precludes the members from waiving notice of meetings.

(7) All decisions of a hearing committee require the vote of a majority of the members of the committee present.

(8) Where a proceeding is commenced before a hearing committee and the term of office of any person sitting on the committee expires, that person remains part of the committee until the proceeding is concluded. 2011, c. 38, s. 48.

Notice of hearing

49 (1) Where an investigation committee refers a matter to a hearing committee, the Registrar shall, at the earliest opportunity from the date of the referral, fix a date, time and place for holding a hearing to commence not later than 90 days from the date of the referral, or such later date as the respondent and the College 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 Registrar to the respondent at least 30 days before the hearing.

(3) At least 30 days prior to the hearing, the complainant must be provided information respecting the date, time and place for the hearing. 2011, c. 38, s. 49.

Deemed service

50 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 College provides evidence satisfactory to the investigation committee or the hearing committee, as applicable, that all reasonable efforts to effect service have been exhausted. 2011, c. 38, s. 50.

Settlement agreement

51 Where an investigation committee refers a matter to a hearing committee, the College may, before the commencement of a hearing by the hearing

committee, enter into a settlement agreement with the respondent, to be dealt with in accordance with the regulations. 2011, c. 38, s. 51.

Powers of hearing committee, etc.

52 (1) Subject to subsection (2), a hearing committee, the Registrar and each member of a hearing committee have all the rights, powers, privileges and immunities of a commissioner appointed pursuant to the *Public Inquiries Act*, with the exception of the powers of contempt, arrest and imprisonment.

(2) The Registrar and each member of a hearing committee may exercise any of the powers and privileges pursuant to subsection (1) only if authorized by the chair of the committee. 2011, c. 38, s. 52.

Hearing committee proceeding

53 (1) A proceeding held by a hearing committee must be conducted in accordance with the regulations and otherwise as the hearing committee considers fit.

(2) In a proceeding before a hearing committee, the parties have the right to

- (a) natural justice;
- (b) be represented by legal counsel at the parties' own expense;
- (c) present evidence and make submissions, including the right to cross-examine witnesses;
- (d) know all the evidence considered by the committee;
- and
- (e) receive written reasons for a decision within a reasonable time.

(3) Evidence is not admissible before a 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.

(4) Notwithstanding subsection (3), a hearing committee may, in its discretion, allow the introduction of evidence that is otherwise inadmissible by reason of subsection (3) and may make directions it considers necessary to ensure that a party is not prejudiced.

(5) With respect to any decision issued by a hearing committee, or with respect to any aspect of the hearing committee's process pursuant to this Act or

the regulations, the committee may impose a publication ban on such portions of its proceedings or decisions as considered necessary by the committee.

(6) In any proceeding held by a hearing committee, a member is a compellable witness. 2011, c. 38, s. 53.

Decision of hearing committee

54 (1) Where a hearing committee finds professional misconduct, conduct unbecoming, incompetence or incapacity, the committee shall dispose of the matter in accordance with the regulations.

(2) Where a hearing committee has revoked the registration of a member, the committee shall determine whether or when the member may apply for reinstatement, which must not be earlier than two years from the date of the committee's decision. 2011, c. 38, s. 54.

Record and disclosure of decisions

55 (1) Subject to any publication bans in existence, where a licensing sanction has been made by an investigation committee or a hearing committee, the Registrar shall

- (a) make such entries on the records of the College and on the licence of the member as set out in the regulations;
- (b) publish such information on the website of the College and in official publications of the College as set out in the regulations;
- (c) notify other licensing bodies as set out in the regulations; and
- (d) provide such information to individuals or the public as set out in the regulations.

(2) Where a hearing committee dismisses a matter, it shall disclose its decision in such manner as it determines. 2011, c. 38, s. 55.

Restoration of licence

56 (1) Where the period of suspension of a member has expired, the conditions imposed on the member have been satisfied or the restrictions imposed on the member have been removed, the Registrar shall restore the licence to practise to the member in the form it existed before the imposition of the suspension, conditions or restrictions if the member otherwise meets the criteria for the issuing of such licence but, where the licence has expired, the member must meet all criteria for the issuing of the licence before a new licence is issued.

(2) Where action has been taken pursuant to subsection (1), the Registrar shall

- (a) make the appropriate entries in the records of the College;
- (b) where registering bodies in other Canadian jurisdictions had previously been informed of the suspension, conditions or

restrictions, notify such registering bodies of the lifting of such suspension, conditions or restrictions; and

(c) notify such other persons as directed by the committee that initially imposed the suspension, conditions or restrictions. 2011, c. 38, s. 56.

Assistance retained

57 (1) For the purpose of the execution of their duties under this Act, the College or any committee of the College may retain such legal or other assistance as the College or the committee may think necessary or proper.

(2) Where authorized by this Act or the regulations, the costs of such assistance may be included, in whole or in part, as costs ordered by the committee. 2011, c. 38, s. 57.

Appeals

58 (1) A party may appeal on an error of law from the findings of a hearing committee to the Nova Scotia Court of Appeal.

(2) The notice of appeal must be filed with the Nova Scotia 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 committee certified by the chair of the committee.

(4) 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.

(5) Where a matter is appealed to the Nova Scotia 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 where, in its discretion, it considers fit. 2011, c. 38, s. 58.

Reinstatement committee

59 (1) Upon receipt of an application for reinstatement following revocation of a licence, the Council shall appoint a reinstatement committee, composed of not less than three members of the Registration Committee, at least one of whom must be a public representative.

(2) The Council shall appoint the chair of the reinstatement committee.

(3) A quorum of the reinstatement committee consists of a majority of the members of the Registration Committee, regardless of whether such members are members or public representatives. 2011, c. 38, s. 59.

Application for reinstatement

60 (1) The reinstatement committee shall, in the circumstances set out in this Act and the regulations, review applications for reinstatement of registration and licence and perform such other duties as set out in this Act and the regulations.

(2) Applications for reinstatement must proceed in accordance with the regulations.

(3) Where a member's licence 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. 2011, c. 38, s. 60.

Powers of reinstatement committee, etc.

61 A reinstatement committee and each member of a reinstatement committee 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 appointed pursuant to the *Public Inquiries Act*, with the exception of the powers of contempt, arrest and imprisonment. 2011, c. 38, s. 61.

Applicant's rights

62 In a proceeding before a reinstatement committee, a member has the right to

- (a) be represented by legal counsel at the member's expense;
- (b) disclosure of any information to be provided to the committee; and
- (c) a reasonable opportunity to present a response and make submissions. 2011, c. 38, s. 62.

Evidence for reinstatement committee proceeding

63 (1) Evidence is not admissible before a 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.

(2) Notwithstanding subsection (1), the reinstatement committee may, in its discretion, allow the introduction of evidence that is otherwise inadmissible under subsection (1) and may make directions it considers necessary to ensure that a party is not prejudiced. 2011, c. 38, s. 63.

PRACTICE ASSESSMENT

Practice assessment program

64 (1) The Council shall approve a practice assessment program with the objectives of

- (a) promoting a culture of continuous quality improvement within the profession; and
- (b) enhancing the competence of individual members by linking their practice assessment to their professional development.

(2) The Council shall determine the manner in which members are selected to participate in a practice assessment program, and the frequency of participation in such process.

(3) Every member selected to participate in a practice assessment program has a duty to fully comply with all requirements of the program.

(4) Where a member has not complied with the requirements of the practice assessment program,

- (a) the Registrar may lay a complaint against that member; and
- (b) the member's licence is not eligible for renewal.

(5) Written documents gathered or prepared as part of the practice assessment program may not be used for any purpose other than the practice assessment program.

(6) Notwithstanding subsection (5), where there are reasonable grounds to believe that a member who is the subject of a practice assessment is engaged in professional misconduct or conduct unbecoming or is incompetent or incapacitated, the practice assessment must be terminated, the member must be advised and the matter must be referred to the College to be dealt with as a complaint.

(7) A person referring a complaint under subsection (6) may disclose such limited information only as is necessary to allow the commencement of an investigation. 2011, c. 38, s. 64.

LIMITATIONS OF ACTIONS

Effect of voluntarily rendering service

65 Where

- (a) a member of the College; or
- (b) a physician or surgeon entitled to practise medicine in the Province, or any other province of Canada or country,

voluntarily renders first aid or emergency treatment without the expectation of monetary compensation to a person outside of a hospital or doctor's office, or in any other place not having proper and necessary medical facilities, that member, physician, surgeon or person is not liable for the death of such person, or damages alleged

to have been sustained by such person by reason of an act or omission in the rendering of such first aid or emergency treatment unless it is established that such injuries were or such death was caused by conduct on the part of such member, physician, surgeon or person that would constitute negligence if committed by a person of ordinary experience, learning or skill. 2011, c. 38, s. 65.

Immunity from liability

66 (1) No action for damages lies against the College, the Registrar, an officer or employee of the College, an assessor in the practice assessment program, a member of a committee or subcommittee of the College, a member of the Council or a committee of the Council, a member of the College, an investigator or any agent acting on their behalf

(a) for any act or failure to act, or any proceeding initiated or taken, in good faith under this Act, or in carrying out their duties or obligations as an officer, employee or member 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 is made with malice.

(3) No action for damages lies against any person for making a complaint to the College about a member if the complaint is made in good faith.

(4) Without limiting the generality of subsection (2), no action for damages lies against a member or other person for disclosing any books, records, papers and other documents in their possession or control when done pursuant to this Act. 2011, c. 38, s. 66.

PRIVILEGE

Confidentiality with respect to proceedings, reports and decisions

67 (1) In this Section,

“legal proceeding” means any civil proceeding, discovery, inquiry, proceeding before a tribunal, board or commission or arbitration, in which evidence may be sought or given, and includes a public inquiry or 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;

“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 question or produce any document, whether under oath or not;

“report” includes any document, statement, electronic record, minute, note, correspondence or memorandum created or received by a person, committee, panel or agent of the College for the purpose of any investigative, hearing, registration, licensing, audit, continuing

professional development, review or appeal processes, or practice assessment program of the College but, where the witness is a complainant, does not include an original document prepared by the complainant and, where the witness is a member, does not include an original document prepared by the member.

- (2) A witness in any legal proceeding, whether a party to the proceeding or not, shall not
- (a) answer any question as to any proceedings of the College, its employees or agents, or persons who are members of committees established or authorized under this Act; or
 - (b) produce any report.
- (3) Reports are not admissible in a legal proceeding.
- (4) Subsections (2) and (3) do not apply
- (a) with respect to a report, if the report has been made available to the public by the College; or
 - (b) if the written consent of the member involved in the College proceeding, the witness and all persons whose interests might be affected by the disclosure has been obtained and a court or administrative tribunal of competent jurisdiction authorizes the witness to answer the question or produce the report.
- (5) Unless otherwise determined by a court of competent jurisdiction, a decision of an investigation committee or a hearing committee is not admissible in a legal proceeding other than in an appeal or a review pursuant to this Act. 2011, c. 38, s. 67.

DUTY TO REPORT

Reporting required

- 68** (1) Notwithstanding anything contained in this Act or the regulations, where
- (a) a person has been charged with, pleaded 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),
 - (ii) the *Controlled Drugs and Substances Act* (Canada), or
 - (iii) such other legislation as prescribed in the regulations,
 unless a pardon has been issued;
 - (b) a person has been found guilty of a disciplinary matter in another jurisdiction;
 - (c) a person has been found to lack capacity to practise medicine in another jurisdiction;

(d) a person has had a licensing sanction imposed by another jurisdiction;

(e) a person is the subject of an investigation or disciplinary process in any jurisdiction;

(f) a person's hospital privileges have been revoked, withdrawn, suspended, varied, or not renewed as a result of the person's conduct, competence or capacity, apart from administrative suspensions; or

(g) there are reasonable grounds to believe a person has provided inaccurate or incorrect information in an application for registration or for a licence or a renewal of a licence,

and such person is a member or applies for registration or a licence or the renewal of a licence, the Registrar, by such notice as the Registrar prescribes, may require the person to attend before the Registrar to fully disclose the facts and circumstances of the matters referred to in clauses (a) to (g).

(2) 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.

(3) When a person holding a licence to practise meets the criteria pursuant to subsection (1), such person shall immediately report the matter to the Registrar.

(4) Where a medical practitioner has hospital privileges revoked, withdrawn, suspended, varied or not renewed as a result of the member's conduct, competence or capacity, apart from administrative suspensions, the administrator of that hospital shall report such matter, including the reasons for the hospital's actions, to the Registrar.

(5) Where a medical practitioner resigns hospital privileges after the medical practitioner has been advised by the hospital that the hospital has concerns regarding the practitioner's competence, negligence, conduct or capacity, the administrator of that hospital shall immediately report such matter to the Registrar.

(6) Where a member is employed, and the member resigns or has been terminated from such employment for reasons involving the member's conduct, competence or capacity, the employer shall immediately report such matter, as well as the reasons, to the Registrar.

(7) Where the Registrar receives information under subsection (1), (4), (5) or (6), the Registrar shall consider whether to file a complaint.

(8) No action for damages or other relief lies against any person or entity for any report made pursuant to subsection (4), (5) or (6) if such report was made in good faith. 2011, c. 38, s. 68.

TRANSITION

Complaint or matter pending under former Act

69 (1) A complaint made pursuant to the former Act must be processed in accordance with this Act as nearly as circumstances permit.

(2) On and after January 1, 2015, where a hearing is not commenced, any matter pending before a hearing committee that may be dealt with under processes established pursuant to this Act or the regulations may, by agreement of the College and the respondent, be dealt with in accordance with this Act and the regulations as nearly as circumstances permit. 2011, c. 38, s. 69.

GENERAL

Appointment of members necessary for 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. 2011, c. 38, s. 70.

CHAPTER M-16

**An Act Respecting
Medical Certificates for Employee Absences
Due to Sickness or Injury**

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Short title

1 This Act may be cited as the *Medical Certificates for Employee Absence Act*. 2023, c. 3, Sch. B, s. 1.

Interpretation

2 In this Act,

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

“Director” has the same meaning as in the *Labour Standards Code*;

“employee” has the same meaning as in the *Labour Standards Code*;

“employer” has the same meaning as in the *Labour Standards Code*;

“individual scope of practice” means the services for which a member of a regulated health profession is educated, authorized and competent to perform;

“qualified health professional” means

(a) subject to the regulations, a person who holds a licence to practise in a regulated health profession in the Province;

(b) a physician or surgeon entitled to practise medicine in any other province of Canada; and

(c) a person or class of persons prescribed by the regulations;

“regulated health profession” means a health profession regulated by any of the organizations listed in the Schedule to the *Regulated Health Professions Network Act*;

“scope of practice of the profession” means the roles and functions authorized for a member of a regulated health profession by that profession’s governing statute. 2023, c. 3, Sch. B, s. 2.

Application

3 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 except those exempted by the regulations made under the *Labour Standards Code*. 2023, c. 3, Sch. B, s. 3.

Supervision of Act

4 The Minister of Labour, Skills and Immigration has the general supervision and management of this Act. 2023, c. 3, Sch. B, s. 4.

Limitations on requiring certificate

5 (1) An employer may not require a certificate with respect to an employee’s absence from work due to the employee’s sickness or injury unless

(a) the absence continues for more than five consecutive working days; or

(b) the employee has had at least two non-consecutive absences of five or fewer working days due to sickness or injury in the preceding 12 months.

(2) A certificate permitted to be required under subsection (1) may be issued by a qualified health professional who is providing a diagnosis, treatment or care to the employee

(a) with respect to the sickness or injury that is causing the employee’s absence from work;

(b) that falls within the scope of practice of the profession of the qualified health professional; and

(c) that falls within the individual scope of practice of the qualified health professional. 2023, c. 3, Sch. B, s. 5.

Complaint to Director

6 (1) An employee may make a complaint to the Director alleging there has been a failure to comply with this Act and the Director shall inquire into the complaint, endeavour to effect a settlement and may make an order in accordance with Section 20 of the *Labour Standards Code* and the regulations under that Act.

(2) The Director may, with respect to the enforcement of this Act, exercise any of the powers the Director has with respect to enforcement under the *Labour Standards Code* with any necessary changes.

(3) An employee has, with respect to this Act, the same protections as under the *Labour Standards Code* with any necessary changes. 2023, c. 3, Sch. B, s. 6.

Appeal

7 An appeal to the Board must be proceeded with in accordance with Sections 21 to 26 of the *Labour Standards Code* and the regulations under that Act. 2023, c. 3, Sch. B, s. 7.

Administrative penalty

8 (1) Subject to Section 9, where the Director is of the opinion that an employer has failed to comply with an order of the Director or the Board within the period specified in the order, the Director may issue a written notice requiring the employer to pay an administrative penalty in accordance with the regulations.

(2) Notice of an administrative penalty may be issued only after the period for appealing an order has expired or, where an appeal has been filed, after the decision has been made on the appeal.

(3) The notice of administrative penalty must be served on the employer required to pay the penalty. 2023, c. 3, Sch. B, s. 8.

Limitation period

9 No penalty may be issued by the Director more than three years after the act or omission that renders the employer liable to a penalty first came to the knowledge of the Director. 2023, c. 3, Sch. B, s. 9.

Regulations

- 10 (1) The Governor in Council may make regulations
- (a) excluding classes of persons for the purpose of the definition of “qualified health professional” in Section 2;
 - (b) prescribing classes of persons for the purpose of the definition of “qualified health professional” in Section 2;
 - (c) excluding persons or classes of persons from the application of this Act;
 - (d) for the purpose of Section 8, respecting administrative penalties for contraventions of this Act, including
 - (i) prescribing the form and content of the notice of an administrative penalty,
 - (ii) respecting the determination of amounts of administrative penalties, which may vary according to the nature or frequency of the contravention, and
 - (iii) respecting any other matter necessary for the administration of the system of administrative penalties provided for under this Act;
 - (e) defining any word or expression used but not defined in this Act;

(f) 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*, 2023, c. 3, Sch. B, s. 10.

CHAPTER M-17

**An Act Respecting
the Practice of Medical Imaging
and Radiation Therapy Professionals**

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Short title

1 This Act may be cited as the *Medical Imaging and Radiation Therapy Professionals Act*. 2013, c. 7, s. 1.

Interpretation

2 In this Act,

“appellant” means a person who brings an appeal to the Registration Appeal Committee;

“approved education program” means a diploma or degree program in a discipline for which a licence is sought, that is accredited for the education of medical imaging technologists or radiation therapists by the Canadian Medical Association;

“Association” means the Nova Scotia Association of Medical Radiation Technologists;

“Board” means the Board of the College;

“bylaw” means a bylaw of the College;

“College” means the Nova Scotia College of Medical Imaging and Radiation Therapy Professionals;

“competence” means the ability to integrate and apply the knowledge, skills, attitude and judgement required to practise safely, ethically and professionally in a designated role and practice setting and includes both entry-to-practice and continuing competence;

“complaint” means a notice in writing indicating possible professional misconduct, conduct unbecoming the profession, incompetence or incapacity of a registrant, a former registrant, a professional corporation or the employees of a professional corporation, or any similar complaint, report or allegation initiated by the Registrar or referred pursuant to this Act or the regulations;

“conduct unbecoming the profession” means conduct in a registrant’s personal or private capacity that tends to bring discredit upon the profession;

“diagnostic medical sonographer” means a person holding a licence endorsed in the discipline of diagnostic medical sonography;

“diagnostic medical sonography” means the following aspects of the practice of medical imaging technology:

- (a) the application of high frequency sound waves to perform procedures and produce high quality diagnostic images;

(b) the education, advocacy and application of ultrasound field safety in the protection of patients, healthcare professionals and the public;

(c) the assessment of patients before, during and after the application of ultrasound;

(d) the use of pharmaceuticals in the performance of diagnostic interventions to enhance images;

(e) the application of knowledge, skills and judgement in the evaluation and interpretation of diagnostic images distinguishing artifact from pathological process and communication of results to the reporting physician;

(f) such other practices and procedures within the scope of practice of diagnostic medical sonography as taught in an approved education program; and

(g) such other practices and procedures as set out in the regulations;

“discipline” means the practice areas of magnetic resonance technology, nuclear medicine technology, radiation therapy, radiological technology, diagnostic medical sonography or any other discipline set out in the regulations;

“electronic means” means the use of telephone, fax, television, video conferencing, cable, Internet, intranet or any other form of electronic or computerized communication;

“former Act” means Chapter 280 of the Revised Statutes, 1989, the *Medical Radiation Technologists Act*;

“hearing” means a process before the Professional Conduct Committee following the issuance of a notice of hearing, in which the parties lead evidence and make submissions to the Professional Conduct Committee, but does not include the consideration by the Professional Conduct Committee of a settlement proposal or an application for consent revocation, and does not include any hearing or proceeding before the Investigative Committee;

“incapacity” means the status whereby a registrant has or had a medical, physical, mental or emotional condition, disorder or addiction that renders or rendered the registrant unable to practise with competence, or that may endanger or have endangered the health or safety of individuals;

“incompetence”, in relation to a respondent, means the display of lack of knowledge, skill or judgement in the respondent’s care of a patient or delivery of professional services that, having regard to all the circumstances, rendered it unsafe for the respondent to practise at the time of such care of the patient or delivery of professional services or that renders it unsafe for the respondent to continue in practice without remedial assistance;

“individual scope of practice” means the roles, functions and accountabilities that an individual is educated, competent and authorized to perform;

“Investigative Committee” means the Investigative Committee established by this Act;

“investigator” means a person designated by the Registrar to conduct or supervise an investigation into a complaint;

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

“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;

“licence” means a licence to practise issued in accordance with this Act and the regulations;

“licensing sanction” means

(a) the imposition of conditions or restrictions on a licence by the Investigative Committee or the Professional Conduct Committee or an equivalent body from another jurisdiction;

(b) a consensual reprimand ordered by the Investigative Committee or its equivalent from another jurisdiction;

(c) a reprimand issued by the Professional Conduct Committee or its equivalent from another jurisdiction;

(d) a suspension of a licence by the Investigative Committee or the Professional Conduct Committee or an equivalent body from another jurisdiction; or

(e) a revocation of registration by the Professional Conduct Committee or its equivalent from another jurisdiction;

“magnetic resonance technologist” means a person holding a licence endorsed in the discipline of magnetic resonance technology;

“magnetic resonance technology” means the following aspects of the practice of medical imaging technology:

(a) the use of magnetic fields to obtain pulse sequence data sets and produce high quality diagnostic images;

(b) the education, advocacy and application of magnetic field safety in the protection of patients, healthcare professionals and the public;

(c) the assessment of patients before, during and after the application of magnetic resonance imaging;

(d) the use of pharmaceuticals in the performance of diagnostic interventions to enhance magnetic resonance images;

(e) the application of knowledge, skills and judgement in the evaluation and interpretation of diagnostic images;

(f) such other practices and procedures within the scope of practice of magnetic resonance technology as taught in an approved education program; and

(g) such other practices and procedures as set out in the regulations;

“Medical Imaging and Radiation Therapy Professional” means a person whose name is entered in the Register and who holds a licence;

“medical imaging professional” means a person who engages in the practice of medical imaging technology;

“Minister” means the Minister of Health and Wellness;

“nuclear medicine technologist” means a person holding a licence endorsed in the discipline of nuclear medicine technology;

“nuclear medicine technology” means the following aspects of the practice of medical imaging technology:

(a) the use of radiopharmaceuticals to produce high quality images for the diagnosis and treatment of disease;

(b) the education, advocacy and application of radiation safety in the protection of patients, healthcare professionals and the public;

(c) the assessment of patients before, during and after the application of nuclear medicine imaging and therapy;

(d) the use of pharmaceuticals in the performance of diagnostic interventions to enhance images;

(e) the application of knowledge, skills and judgement in the evaluation and interpretation of diagnostic images;

(f) such other practices and procedures within the scope of practice of nuclear medicine technology as taught in an approved education program; and

(g) such other practices and procedures as set out in the regulations;

“patient” means the individual, group, community or population that is the recipient of professional services and, where the context requires, includes a substitute decision-maker for the recipient of professional services;

“party” means the College or a respondent, as the context requires;

“practice” means the practice of medical imaging technology and the practice of radiation therapy;

“practice of medical imaging technology” means the application of professional medical imaging technology knowledge, skills and judgement in the use of ionizing and non-ionizing radiation, magnetic fields, high frequency sound waves and other energy forms, in the provision of diagnostic and therapeutic modalities, in collaboration with other healthcare professionals, to achieve optimal health, wellness and functional performance, and includes the practice of

(a) diagnostic medical sonography;

(b) magnetic resonance technology;

(c) nuclear medicine technology;

(d) radiological technology; and

(e) the practice of any other medical imaging technology discipline set out in the regulations,

and includes research, education, consultation, management, administration, information technology, regulation and policy or system development relevant to the foregoing;

“profession” means the practice of medical imaging technology or radiation therapy, as the context requires;

“Professional Conduct Committee” means the Professional Conduct Committee appointed pursuant to this Act;

“professional conduct process” means the processes set out in Sections 38 to 78 and any related regulations;

“professional corporation” means one or more licensed registrants incorporated pursuant to the laws of the Province for the purpose of engaging in practice;

“professional development program” means a program approved by the Board for training, education, conferences and other activities of a professional development nature;

“professional misconduct” includes such conduct or acts relevant to the profession that, having regard to all the circumstances, would reasonably be regarded as disgraceful, dishonourable or unprofessional which, without limiting the generality of the foregoing, may include

- (a) failing to maintain the standards of practice;
- (b) failing to abide by this Act, the regulations or the bylaws;
- (c) failing to uphold any code of ethics adopted by the College;
- (d) abusing a person verbally, physically, emotionally or sexually;
- (e) misappropriating personal property, drugs or other property belonging to a patient or a registrant’s employer;
- (f) wrongfully abandoning a patient;
- (g) neglecting to provide care to a patient;
- (h) failing to exercise appropriate discretion in respect of the disclosure of confidential information;
- (i) falsifying records;
- (j) inappropriately using professional status for personal gain;
- (k) promoting for personal gain any drug, device, treatment, procedure, product or service that is unnecessary, ineffective or unsafe;
- (l) publishing, or causing to be published, any advertisement that is false, fraudulent, deceptive or misleading;
- (m) engaging or assisting in fraud, misrepresentation, deception or concealment of a material fact when applying for or

securing registration or a licence or taking any examination provided for in this Act, including using fraudulently procured credentials;

(n) taking or using a protected title, or describing the person's activities as a discipline in any advertisement or publication, including business cards, websites or signage, unless the referenced activity falls within the definition of the relevant discipline;

"professional services" means medical imaging technology or radiation therapy services, as the context requires;

"public representative" means a member of the Board or of a committee of the Board who is not a registrant of the College;

"protected title" means any of the titles or designations set out in Section 23;

"radiation therapist" means a person holding a licence endorsed in the discipline of radiation therapy;

"radiation therapy" means the application of professional radiation therapy knowledge, skills and judgement in the use of ionizing radiation and other energy forms in the provision of therapy, in collaboration with healthcare professionals to achieve optimal health, wellness and functional performance, and includes

(a) the planning for and application of ionizing radiation to patients in accordance with a prescription and instructions from a radiation oncologist;

(b) the education, advocacy and application of radiation safety in the protection of patients, healthcare professionals and the public;

(c) the assessment of patients before, during and after the application of radiation therapy treatments;

(d) the use of pharmaceuticals in the performance of therapy interventions to enhance treatment;

(e) the application of knowledge, skills and judgement in the evaluation and interpretation of treatment;

(f) such other practices and procedures within the scope of practice of radiation therapy as taught in an approved education program; and

(g) such other practices and procedures as set out in the regulations;

"radiological technologist" means a person holding a licence endorsed in the discipline of radiological technology;

"radiological technology" means the following aspects of the practice of medical imaging technology:

(a) the application of ionizing radiation to perform procedures and produce high quality diagnostic images;

(b) the education, advocacy and application of radiation safety in the protection of patients, healthcare professionals and the public;

(c) the assessment of patients before, during and after the application of radiological technology;

(d) the use of pharmaceuticals in the performance of diagnostic interventions to enhance images;

(e) the application of knowledge, skills and judgement in the evaluation and interpretation of diagnostic images;

(f) such other practices and procedures within the scope of practice of radiological technology as taught in an approved education program; and

(g) such other practices and procedures as set out in the regulations;

“Refresher Program” means a program approved by the Board that tests knowledge and provides for a period of preceptored clinical practice in the profession;

“Register” means the Register established pursuant to this Act;

“registrant” means a person whose name is entered in the Register and, for the purpose of Sections 38 to 78 and the regulations, includes a person who holds a temporary licence at the time of an incident giving rise to a complaint;

“Registrar” means the Registrar of the College appointed pursuant to this Act;

“Registration Appeal Committee” means the Registration Appeal Committee appointed pursuant to this Act;

“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 an appeal pursuant to this Act or the regulations;

“roster” means the record of a category of licence established pursuant to this Act or the regulations;

“scope of practice” means the roles, functions and accountabilities registrants are educated in and authorized to perform;

“settlement proposal” means a proposal for the settlement of a complaint as prescribed in the regulations;

“Society” means the Nova Scotia Society of Diagnostic Medical Sonographers;

“standards of practice” means the entry-level professional practice expectations for any registrant in any setting or role, approved by the Board or otherwise inherent in the profession;

“temporary licence” means a temporary licence issued pursuant to this Act;

“temporary licence (graduate)” means a temporary licence (graduate) issued pursuant to the regulations;

“witness” includes every person who, in the course of a legal proceeding, is examined for discovery or cross-examined upon an affidavit

made by that person, answers any interrogatories, makes an affidavit as to documents or is called upon to answer any question or produce any document, whether under oath or not, and includes any representative of the College. 2013, c. 7, s. 2.

COLLEGE

Association continued as College

3 **(1)** The Nova Scotia Association of Medical Radiation Technologists continued by the former Act is continued as a body corporate under the name of the Nova Scotia College of Medical Imaging and Radiation Therapy Professionals, and is composed of its registrants.

(2) Effective September 8, 2020, all assets, property and liabilities held by the Nova Scotia Association of Medical Radiation Technologists are the assets, property and liabilities of the College.

(3) The College 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. 2013, c. 7, s. 3.

Duties of College

4 In order to

(a) serve and protect the public interest in the practice of the profession; and

(b) subject to clause (a), preserve the integrity of the profession and maintain the confidence of the public in the ability of the profession to regulate itself,

the College shall

(c) regulate the practices of medical imaging technology and radiation therapy and govern its registrants through

(i) the registration, licensing, professional conduct and other processes set out in this Act and the regulations,

(ii) the establishment and promotion of standards of practice for its registrants,

(iii) the establishment and promotion of a code of ethics, and

(iv) the advancement and promotion of the practise of the profession; and

(d) do such other lawful acts and things as are incidental to the attainment of the purposes and objects set out in this Section. 2013, c. 7, s. 4.

Annual general meeting

5 There must be an annual general meeting of the College at such time and place as prescribed by the Board. 2013, c. 7, s. 5.

BOARD

Board of College

6 There is a Board of the College, to be constituted as provided in Section 8. 2013, c. 7, s. 6.

Powers of Board

7 **(1)** The Board shall govern the College 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 College, including

- (a) the setting of fees payable by applicants and registrants;
- (b) approving the processes for establishing, revising and monitoring its annual budget;
- (c) submitting to each annual general meeting of the College an audited financial statement of the College's operations for the past fiscal year;
- (d) appointing an auditor for the College; and
- (e) approving proposed changes to this Act, the regulations and the bylaws.

(2) In addition to any other power conferred by this or any other Act, the Board may do such things as it considers appropriate to advance the objects of the College 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 College 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 College 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 College;
- (h) borrow money for the use of the College on its credit, limit or increase the amount to be borrowed, issue bonds, debentures, debenture stock and other securities on the credit of the College and

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pledge or sell such securities for such sums or at such prices it considers 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 College, 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).

(3) The Board may take any action consistent with this Act by resolution passed by the Board. 2013, c. 7, s. 7.

Composition of Board and quorum

8 (1) The Board is composed of

(a) a minimum of five registrants and such additional number of registrants as set out in the bylaws; and

(b) at least one-third public representatives appointed pursuant to the regulations who

(i) are not registrants of the College, and

(ii) have shown an interest in serving on the Board.

(2) Members of the Board under clause (1)(a) must be elected or appointed to office in such manner as set out in the bylaws.

(3) The terms of office for members of the Board are as set out in the bylaws.

(4) A majority of members of the Board constitutes a quorum.

(5) Notwithstanding subsection (3), a public representative on the Board continues to hold office until the public representative's successor is appointed or until reappointed. 2013, c. 7, s. 8.

Registrar

9 (1) The Board shall appoint a Registrar of the College and shall determine the term of office and the duties of the Registrar.

(2) The Registrar may delegate any functions assigned to the Registrar by this Act, the regulations or the bylaws.

(3) The Registrar is a non-voting member of the Board. 2013, c. 7, s. 9.

Bylaws

10 The Board may make bylaws not inconsistent with this Act

(a) respecting the holding of the annual general meeting and special meetings of the College, including the notice for such meetings, the con-

tent of such meetings, the quorum, the procedures to be followed and the manner of voting;

(b) respecting fees and expenses payable to persons sitting on the Board and any other committees established for the purpose of attending to the business of the College;

(c) establishing a Nominations Committee, including its composition and duties;

(d) establishing the composition and number of the Board members and the eligibility for election or appointment to the Board;

(e) establishing the timing and manner of the election or appointment to the Board;

(f) respecting the terms of office of the persons sitting on the Board, the manner in which vacancies on the Board may be filled and the manner of removing Board members;

(g) prescribing the manner in which resolutions are forwarded to the Board;

(h) prescribing the roles, powers and duties of the officers of the College;

(i) respecting the holding of Board meetings, including required meetings, the notice for such meetings, the quorum and procedure to be followed and the manner of voting;

(j) respecting the establishment of, quorum for, powers and duties of such committees as may be appointed by the Board pursuant to this Act and providing for the holding and conduct of meetings of such committees;

(k) respecting the seal of the College;

(l) respecting the location of the head office of the College;

(m) respecting the approval of forms required for the conduct of the business of the College;

(n) approving the code of ethics for and standards of practice of the professions;

(o) creating categories of affiliation with the College, including honorary and student categories, and prescribing the rights, privileges, qualifications and obligations of the persons in these categories and prescribing the conditions for the entry and maintenance of such persons' names in these categories;

(p) respecting all other things necessary for the administration of the affairs of the College. 2013, c. 7, s. 10.

Regulations

11 (1) With the approval of the Governor in Council, the Board may make regulations

(a) respecting the registration and licensing of registrants and applicants for registration and licences, the renewals of registrants and the reinstatement of registrants, including the educational

preparation and other criteria required for registration and licensing, renewal and reinstatement;

(b) respecting the titles and designations authorized for use by medical imaging technologists and radiation therapists;

(c) prescribing practices and procedures that may be included or excluded within any of the disciplines regulated by this Act;

(d) respecting all matters associated with the professional conduct processes of the College, including the investigative and hearing processes and settlement agreements;

(e) respecting the powers, authority and processes of the Registrar, an investigator, the Investigative Committee and the Professional Conduct Committee relevant to the professional conduct process;

(f) respecting conditions under which temporary licences may be issued, including designations authorized for use by holders of temporary licences;

(g) creating the categories of licences;

(h) creating one or more rosters of licensing and prescribing the rights, privileges, qualifications and obligations of the registrants of each roster and prescribing the conditions for the entry and maintenance of registrants' names in each roster;

(i) respecting the imposition of terms or conditions on a registrant's registration or licence;

(j) establishing the process pursuant to subsection 22(2) to authorize registrants licensed in one discipline to engage in the practice of designated aspects of another discipline, which process must be in addition to any process available under the *Regulated Health Professions Network Act*;

(k) approving additional disciplines and providing for the regulation of registrants of such disciplines, and the protection of titles to be used by registrants of such disciplines;

(l) prescribing tasks authorized to be performed under supervision, and the degree of supervision required;

(m) respecting the information to be included on the Register;

(n) respecting the revocation or suspension of licences issued pursuant to this Act and the reinstatement of such licences and allowing for conditions or restrictions to be attached to a reinstated licence;

(o) allowing for an award of costs on a solicitor-client or other basis;

(p) authorizing the establishment of a Fitness to Practise program, including the creation of a Fitness to Practise Committee, with such powers, authorities and duties as set out in the regulations to deal with issues of incapacity;

(q) providing that the licence of a registrant be suspended without notice or investigation upon contravention of any regulation that requires the registrant to pay a fee, file a document or do any other act by a specified or ascertainable date and providing for the reinstatement of a licence so suspended upon payment of such fee as is determined by the Board;

(r) respecting the ability of the Registrar, the Investigative Committee and the Professional Conduct Committee to impose a fine if registrants have engaged in practice while not holding a current licence;

(s) respecting the reporting and publication of decisions in disciplinary matters;

(t) providing for the audit of a person who holds a licence, and the person's practice environment;

(u) prescribing legislation pursuant to Section 55, the violation of which may require a registrant to attend a hearing;

(v) prescribing the requirements, processes and obligations regarding incorporation of a practice, and otherwise regulating the practise of the profession by a partnership, company or individual operating under a business name or under any form of a limited liability practice;

(w) respecting a process for the appointment of public representatives to the Board;

(x) respecting the exemption granted to registered nurses to engage in the practice of diagnostic medical sonography as set out in subclause 89(1)(g)(ii);

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

(z) further defining any word or expression defined in this Act;

(aa) governing such other matters as the Board considers necessary or advisable for the effective discharge of its functions or the exercise of its powers.

(2) The Governor in Council may make regulations respecting the circumstances and the specified site that has less than 25 patient beds in which a regulated health professional may practise radiological technology.

(3) The exercise by the Board of the authority contained in subsection (1) or the exercise by the Governor in Council of the authority contained in subsection (2) is a regulation within the meaning of the *Regulations Act*.

(4) All regulations and bylaws of the Board must be available for inspection by any person, free of charge, at the head office of the College at all reasonable times during business hours. 2013, c. 7, s. 11; 2014, c. 32, s. 141.

REGISTRATION AND LICENSING

Register

- 12** (1) The Board shall keep a Register in which the names of all persons who are entitled pursuant to this Act to be registered are recorded.
- (2) The Register must include such other information required by the regulations.
- (3) The Board shall cause to be kept a record available to the public showing
- (a) the name and registration number of every person authorized to engage in practice;
- (b) the discipline or disciplines in which the registrant is authorized to practise;
- (c) any conditions or restrictions on such person's licence if the Registrar determines it is in the public interest to have such information available to the public; and
- (d) any licensing sanctions imposed on a registrant that are not otherwise subject to a publication ban. 2013, c. 7, s. 12.

Categories of licences

- 13** (1) The categories of licences are as set out in the regulations.
- (2) The Board shall cause to be maintained a separate roster for each category of licence as provided by the regulations. 2013, c. 7, s. 13.

Credentials Committee

- 14** (1) The Board shall appoint a Credentials Committee, the membership of which consists of one public representative and at least two registrants, as determined by the Board.
- (2) The Board shall appoint one of the registrants of the Credentials Committee as the chair of the Committee.
- (3) A majority of the Credentials Committee members constitutes a quorum.
- (4) The Credentials Committee shall perform such functions as are set out in this Act, the regulations and the bylaws.
- (5) Subject to subsection (6), the Registrar, the Credentials Committee and each member of the Credentials Committee have all of the powers, privileges and immunities of a commissioner appointed pursuant to the *Public Inquiries Act*, with the exception of the powers of contempt, arrest and imprisonment.
- (6) The Registrar, the Credentials Committee and each member of the Credentials Committee may exercise any of the powers and privileges pursuant to subsection (5) only if authorized by the chair of the Credentials Committee. 2013, c. 7, s. 14.

Licences

15 **(1)** The Registrar shall register and issue a licence to a person who meets the criteria for registration and entry in the applicable roster as set out in the regulations, and as approved by the Credentials Committee.

(2) The Credentials Committee may impose conditions or restrictions on a licence with the consent of the registrant if such conditions or restrictions are necessary in the interest of the public.

(3) Where conditions or restrictions are imposed by the Credentials Committee, the Registrar shall issue to the applicant a licence with conditions or restrictions.

(4) Where the Credentials Committee imposes conditions or restrictions pursuant to subsection (2), such conditions or restrictions are not licensing sanctions. 2013, c. 7, s. 15.

Temporary licence

16 **(1)** Where a person

(a) fails to meet the requirements or conditions for a licence, with or without conditions or restrictions as prescribed by the regulations; or

(b) is registered or licensed to practise in another jurisdiction,

and it is otherwise consistent with the objects of the College to issue a licence, with or without conditions or restrictions, the Credentials Committee, upon payment of the prescribed fee, may approve or refuse an application for a temporary licence and shall notify the applicant accordingly.

(2) A temporary licence issued pursuant to subsection (1) must be issued for a specified period of time, not to exceed 12 months in total, but may cease to be valid at an earlier time in accordance with the regulations.

(3) A temporary licence may be renewed if, in the opinion of the Credentials Committee, the criteria for the issuing of a temporary licence has been met, but a temporary licence may not at any time be issued for a period exceeding 12 months for each licence.

(4) The Registrar may impose conditions or restrictions on a temporary licence if such conditions or restrictions are necessary in the interest of the public.

(5) Where conditions or restrictions are imposed by the Registrar pursuant to subsection (4), the Registrar shall issue to the applicant a temporary licence with conditions or restrictions.

(6) Where the Registrar imposes conditions or restrictions pursuant to subsection (4), such conditions or restrictions are not licensing sanctions.

(7) The College shall maintain a roster of temporary licences and a roster of temporary licences with conditions or restrictions.

(8) The decision of the Registrar respecting the issue of a temporary licence or a temporary licence with conditions or restrictions is final. 2013, c. 7, s. 16.

Temporary licence (graduate)

17 (1) Where a person meets the criteria for the issuing of a temporary licence (graduate) as set out in the regulations, the Registrar shall issue a temporary licence (graduate) to such person.

(2) A temporary licence (graduate) issued pursuant to subsection (1) must be issued for such period of time as set out in the regulations.

(3) A temporary licence (graduate) may be renewed if, in the opinion of the Credentials Committee, the criteria for the issuing of a temporary licence (graduate) pursuant to the regulations have been met.

(4) The College shall maintain a roster of temporary licences (graduate).

(5) The decision of the Registrar respecting the issue of a temporary licence (graduate) is final. 2013, c. 7, s. 17.

Appeal

18 Where an applicant

- (a) has been refused registration; or
- (b) has been refused a licence other than a temporary licence,

the Credentials Committee shall give written reasons for such decision and the applicant may, by written notice, appeal that decision by forwarding a notice of appeal to the Registrar, within 30 days of receipt of such written reasons. 2013, c. 7, s. 18.

Registration Appeal Committee

19 (1) On receipt of an appeal pursuant to Section 18, the Board shall appoint a Registration Appeal Committee, the membership of which consists of one public representative, one registrant from the same discipline as the appellant and one other registrant.

(2) The Board shall appoint one of the registrants of the Registration Appeal Committee as the chair of the Committee.

(3) A quorum of the Registration Appeal Committee consists of two persons, at least one of whom must be a registrant from the same discipline as the appellant.

(4) The Registration Appeal Committee shall perform such functions as are set out in this Act, the regulations and the bylaws.

(5) Subject to subsection (6), the Registrar, the Registration Appeal Committee and each member of the Registration Appeal Committee have all of the powers, privileges and immunities of a commissioner appointed pursuant

to the *Public Inquiries Act*, with the exception of the powers of contempt, arrest and imprisonment.

(6) Each member of the Registration Appeal Committee may exercise any of the powers and privileges pursuant to subsection (5) only if authorized by the chair of the Registration Appeal Committee. 2013, c. 7, s. 19.

Hearings

20 (1) Upon receipt of an appeal pursuant to Section 18, the Registration Appeal Committee shall

- (a) set a date for a hearing of the appeal not later than 60 days following receipt of the written notice of appeal;
- (b) serve written notice of the date, time and place for the hearing of the appeal upon the appellant and the Registrar; and
- (c) advise the appellant of the right to
 - (i) be represented by legal counsel, a union representative or another representative at the expense of the appellant,
 - (ii) disclosure of any information to be provided to the Registration Appeal Committee, and
 - (iii) a reasonable opportunity to present a response and make submissions.

(2) The parties to an appeal before the Registration Appeal Committee are the College and the appellant.

(3) The Registration Appeal Committee shall determine the procedure to be followed for the Appeal, and the Registration Appeal Committee may proceed by way of a review of the written record, without the necessity of an oral hearing. 2013, c. 7, s. 20.

Decision

21 (1) The Registration Appeal Committee, in accordance with the evidence it receives when hearing an appeal, may make any determination that, in its opinion, ought to have been made by the Registrar or the Credentials Committee.

(2) The Registration Appeal Committee shall give its decision in writing and send a copy of the written decision by registered mail or personal service to the applicant.

(3) The decision of the Registration Appeal Committee is final. 2013, c. 7, s. 21.

PROTECTED TITLES AND PRACTICE

Unauthorized practice prohibited

22 (1) No person shall engage in the practice of a discipline unless such person

- (a) holds a licence endorsing the person as eligible to practise in that discipline;
- (b) is a student in an approved education program in that discipline, and is engaging in learning authorized by that program; or
- (c) is otherwise authorized to engage in the practice of that discipline as set out in this Act or the regulations.

(2) Notwithstanding any other provision of this Act or the provisions of the regulations, and in addition to any procedure pursuant to the *Regulated Health Professions Network Act*, the Board may set out in the regulations a process to authorize registrants licensed in one discipline to engage in the practice of designated aspects of another discipline.

(3) Where a registrant has been authorized to engage in the practice of designated aspects of another discipline pursuant to subsection (2), such person is not in violation of subsection (1). 2013, c. 7, s. 22.

Prohibitions on use of titles

23 (1) No person shall take or use the designation “Registered Medical Imaging Professional”, “Medical Imaging Professional”, “Registered Medical Imaging Technologist” or “Medical Imaging Technologist”, or any derivation or abbreviation thereof, or describe the person’s activities as the “practice of medical imaging technology” unless that person

- (a) holds a current licence in the disciplines of diagnostic medical sonography, magnetic resonance technology, nuclear medicine technology or radiological technology; or
- (b) is otherwise authorized to use such designation as set out in this Act or the regulations.

(2) No person shall take or use the designation “Registered Medical Radiation Technologist” or “Medical Radiation Technologist”, or any derivation or abbreviation thereof, or describe the person’s activities as “medical radiation technology” unless that person

- (a) holds a current licence in the disciplines of magnetic resonance technology, radiological technology, nuclear medicine technology or radiation therapy; or
- (b) is otherwise authorized to use such designation as set out in this Act or the regulations.

(3) No person shall take or use the designation “Diagnostic Medical Sonographer”, “Diagnostic Ultrasound Technologist”, “Registered Diagnostic Ultrasound Professional”, “Registered Ultrasound Technologist”, “Registered Sonographer”, “Sonographer”, or any derivation or abbreviation thereof, or describe the person’s activities as diagnostic medical sonography or diagnostic sonography unless that person

- (a) holds a current licence in the discipline of diagnostic medical sonography; or

(b) is otherwise authorized to use such designation and to engage in the practice of diagnostic medical sonography as set out in this Act or the regulations.

(4) No person shall take or use the designation “Registered Technologist, Magnetic Resonance” or “Magnetic Resonance Technologist”, or any derivation or abbreviation thereof, or describe the person’s activities as “magnetic resonance technology” unless that person

(a) holds a current licence in the discipline of magnetic resonance technology; or

(b) is otherwise authorized to use such designation and to engage in the practice of magnetic resonance technology as set out in this Act or the regulations.

(5) No person shall take or use the designation “Registered Technologist, Nuclear Medicine”, “Nuclear Medicine Technologist”, or any derivation or abbreviation thereof, or describe the person’s activities as “nuclear medicine technology” unless that person

(a) holds a current licence in the discipline of nuclear medicine technology; or

(b) is otherwise authorized to use such designation and to engage in the practice of nuclear medicine technology as set out in this Act or the regulations.

(6) No person shall take or use the designation “Registered Technologist Radiation Therapy”, “Radiation Therapist”, or any derivation or abbreviation thereof, or describe the person’s activities as “radiation therapy” unless that person

(a) holds a current licence in the discipline of radiation therapy; or

(b) is otherwise authorized to use such designation and to engage in the practice of radiation therapy as set out in this Act or the regulations.

(7) No person shall take or use the designation “Registered Technologist, Radiological Technology”, “Radiological Technologist”, “X-ray Technologist”, or any derivation or abbreviation thereof, or describe the person’s activities as “radiological technology” or “X-ray technology” unless that person

(a) holds a current licence in the discipline of radiological technology; or

(b) is otherwise authorized to use such designation and to engage in the practice of radiological technology as set out in this Act or the regulations.

(8) No person shall use the term “graduate” with any of the protected titles, or any derivation or abbreviation thereof, unless that person

(a) holds a temporary licence (graduate) issued in accordance with the Act and regulations; or

(b) is otherwise authorized to use such term as set out in this Act or the regulations. 2013, c. 7, s. 23.

Practice outside scope of practice prohibited

24 (1) No registrant shall engage in practice that falls outside that registrant's individual scope of practice.

(2) Unless otherwise authorized pursuant to this Act or the regulations, or any other law, no registrant shall practise outside the scope of practice of the registrant's discipline. 2013, c. 7, s. 24.

Practice of profession within Province

25 For the purpose of this Act and the regulations,

(a) a registrant in the Province who is engaged in practice by electronic means with patients outside of the Province is deemed to be practising the profession in the Province;

(b) a person, other than a registrant, who is outside of the Province and who engages in practice by electronic means with patients within the Province is not practising the profession in the Province if the person is licensed pursuant to a statute of another jurisdiction;

(c) a person, other than a registrant, who resides outside of the Province and who engages in practice by electronic means with patients within the Province, while not holding a licence in another jurisdiction, is deemed to be practising the profession in the Province; and

(d) nothing in this Act prohibits the practise of the profession in the Province or the recovery of fees or compensation for professional services rendered by a person registered in another country, state, territory or province and whose engagement requires that person to accompany and temporarily care for a patient during the period of the engagement, if that person does not represent or purport to be a person registered pursuant to this Act. 2013, c. 7, s. 25.

Restriction on recovery of fees

26 Subject to clause 25(d), no person may bring an action in any court to collect fees, compensation or other remuneration for professional services, unless that person was the holder of a relevant licence at the time the professional services were performed. 2013, c. 7, s. 26.

Statement as prima facie evidence

27 A statement certified under the hand of the Registrar 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. 2013, c. 7, s. 27.

Record of conditions or restrictions

28 Where the right of a person to practise has been limited by the imposition of conditions or restrictions pursuant to this Act or the regulations, particulars of all conditions or restrictions imposed on that person must be noted in the records of the College and may be disclosed to the public in accordance with this Act. 2013, c. 7, s. 28.

Register to be changed

- 29 (1)** The Registrar shall make a change in the Register if
- (a) data has been entered incorrectly;
 - (b) notification is received of a registrant's death;
 - (c) the registration of a registrant has been revoked;
 - (d) the Investigative Committee, as part of an informal resolution of a complaint, or the Professional Conduct Committee authorizes the resignation of a registrant from the Register; or
 - (e) a registrant has requested the change in writing and the Registrar, as part of an informal resolution of a complaint or otherwise, has approved the resignation of a registrant.

(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 registrant of the College. 2013, c. 7, s. 29.

Removal of name from roster

- 30 (1)** The Registrar shall remove the name of a registrant from the appropriate roster if
- (a) data has been incorrectly entered;
 - (b) notification is received of the registrant's death;
 - (c) the registration of the registrant has been revoked;
 - (d) the registrant so requests and surrenders any licence held;
 - (e) the registrant has been suspended, for the term of the suspension;
 - (f) the registrant no longer meets the criteria for entry on the relevant roster;
 - (g) there has been non-payment of fees or other assessments levied under this Act or the regulations; or
 - (h) the Investigative Committee, the Professional Conduct Committee or the Registrar authorizes the resignation of a registrant from the Register.

(2) The name of a person removed from the appropriate roster pursuant to clause (1)(a), (c), (d), (e), (f) or (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 name of a person removed from the Register pursuant to clause 29(1)(d) or (e) or the appropriate roster pursuant to clause (1)(h) may be restored only if

(a) the Committee or the Registrar authorizing the resignation of the registrant permitted the registrant the opportunity to reapply for membership in the College; and

(b) the Reinstatement Committee determines, on such conditions or with such restrictions as it directs, that the registration or licence should be reinstated. 2013, c. 7, s. 30.

Duties of employer

31 (1) Every person, other than a patient, who employs a person in the practice of the profession and every agency or registry that procures employment for a person in the practice of the profession shall

(a) ensure that the person, at the time of employment and each year employed thereafter, holds a current licence in the relevant discipline as set out in the regulations;

(b) where the person's employment is terminated or the person resigns because of allegations of professional misconduct, conduct unbecoming the profession, incompetence or incapacity, report the matter to the Registrar forthwith and provide a copy of the report to the person whose employment is terminated.

(2) Every person, other than a patient, who employs an incorporated entity engaged in the practice and every agency or registry that procures employment for an incorporated entity engaged in practice shall comply with subsection (1) with respect to each person engaged in practice who is in the employ of the incorporated entity. 2013, c. 7, s. 31.

Disciplinary findings or complaints from outside Province

32 (1) A registrant who engages in practice outside the Province, was subject to any disciplinary findings while outside the Province or has outstanding complaints from outside the Province, shall not engage in practice upon returning to the Province before providing the Registrar with notice of such disciplinary findings or complaints and receiving from the Registrar a notice authorizing the registrant to practise in the Province.

(2) Where the Registrar receives a notice pursuant to subsection (1), the Registrar may file a complaint. 2013, c. 7, s. 32.

Offences and penalty

33 (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 practice in the Province without complying with Sections 22 and 23;

(c) engages in practice in violation of any condition or restriction imposed on the person's licence; 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 penalty otherwise provided for in this Act or the regulations.

(3) All fines and penalties payable under this Act or under the *Summary Proceedings Act* as a result of a prosecution by or on behalf of the College belong to the College.

(4) Any information to be laid pursuant to this Act or the *Summary Proceedings Act* may be laid by the Registrar or any person authorized by the Registrar. 2013, c. 7, s. 33.

Onus of proof

34 In a prosecution of an offence contrary to this Act or the regulations, the onus of proving that a person accused of an offence has the right to practise, or that a person comes within any of the exemptions provided by this Act, is on the person accused. 2013, c. 7, s. 34.

Continuing offence

35 Where a violation of this Act or the regulations by a person continues for more than one day, the offender is guilty of a separate offence for each day that the violation continues. 2013, c. 7, s. 35.

Proof of practice

36 For the purpose of this Act or the regulations, proof of the performance by a non-registrant of one act in the practice of medical imaging technology or radiation therapy is sufficient to establish that a person has engaged in practice. 2013, c. 7, s. 36.

Injunctions

37 (1) In the event of a threatened or continuing violation of this Act or the regulations, the College may apply to a judge for an injunction to restrain the person from continuing or committing the violation and the judge, where the judge considers it to be just, may grant such an 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 Sections 33 to 36 and this Section. 2013, c. 7, s. 37.

PROFESSIONAL CONDUCT

Professional conduct process

38 **(1)** In accordance with the objects of the College, the purpose of the professional conduct process is to inhibit professional misconduct, conduct unbecoming the profession, incompetence and incapacity.

(2) The College shall investigate, on its own initiative or on the complaints of others, alleged instances of such misconduct, conduct unbecoming the profession, incompetence or incapacity and, when appropriate, disposing of the matter or matters in accordance with the regulations.

(3) Except where considered prejudicial to the attainment of the objects of the College, the professional conduct process followed by the College must take into account the potential for the rehabilitation of the respondent.

(4) A registrant has a duty to co-operate with the College in the conduct of its professional conduct process. 2013, c. 7, s. 38.

Jurisdiction of College continues

39 Where a person ceases to be registered or licensed for any reason, such person remains subject to the jurisdiction of the College 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 or licensed. 2013, c. 7, s. 39.

INVESTIGATIVE COMMITTEE

Investigative Committee

40 **(1)** The Board shall appoint an Investigative Committee composed of such number of registrants and public representatives as is determined by the Board.

(2) The Board shall appoint a chair and a vice-chair of the Investigative 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 for the purpose of Section 41, the Board may, for such purposes, appoint a member of the Investigative Committee to be chair of the Investigative Committee. 2013, c. 7, s. 40.

Panels

41 **(1)** The chair of the Investigative Committee shall appoint a panel of three persons from the Investigative Committee, one of whom must be a public representative and one of whom must be a registrant from the same discipline as the respondent, to act as the Investigative Committee for purposes of the professional conduct process.

(2) The chair of the Investigative Committee may sit on the panel and shall act as the chair of the panel in this event.

(3) Where the chair of the Investigative Committee is not appointed to the panel, the chair of the Investigative Committee shall appoint a chair for such panel. 2013, c. 7, s. 41.

Quorum and notice of meeting

42 (1) A quorum of the Investigative Committee consists of two persons, at least one of whom must be a registrant from the same discipline as the respondent.

(2) Failure of one or more Investigative Committee members to receive any notice of a meeting does not invalidate the proceedings thereat, and nothing herein precludes the members from waiving notice of meetings. 2013, c. 7, s. 42.

Majority vote

43 All Investigative Committee decisions require the vote of a majority of the panel of the Investigative Committee appointed pursuant to subsection 41(1). 2013, c. 7, s. 43.

Expiry of term of office

44 Where a proceeding is commenced before the Investigative Committee and the term of office of any person sitting on the Investigative Committee expires, that person may remain part of the Committee until the proceeding is concluded. 2013, c. 7, s. 44.

Complaints

- 45 (1) A complaint may be initiated by
- (a) any body corporate or association;
 - (b) the Registrar;
 - (c) a committee of the College; or
 - (d) any other person.

(2) Where the College and the complainant agree, a complaint may be withdrawn. 2013, c. 7, s. 45.

Powers, privileges and immunities

46 (1) The Investigative Committee has all the powers conferred by this Act and the regulations in the discharge of its functions.

(2) Subject to subsection (3), the Registrar, an Investigator, the Investigative Committee and each member of the Investigative Committee shall have all of the powers, privileges and immunities of a commissioner appointed pursuant to the *Public Inquiries Act*, with the exception of the powers of contempt, arrest and imprisonment.

(3) An investigator and each member of the Investigative Committee may exercise any of the powers and privileges pursuant to subsection (2) only if authorized by the chair of the Investigative Committee. 2013, c. 7, s. 46.

Procedure and jurisdiction

47 **(1)** The Investigative Committee may set its own procedure for meetings.

(2) The Investigative Committee retains jurisdiction over a matter until such time as a hearing commences before the Professional Conduct Committee or the matter is otherwise resolved by the Professional Conduct Committee or in accordance with this Act and regulations. 2013, c. 7, s. 47.

Processing

48 Subject to subsection 45(2), once received, a complaint must be processed in accordance with the regulations. 2013, c. 7, s. 48.

Publication ban

49 With respect to any decision issued by the Investigative Committee that is available to the public pursuant to this Act or the regulations, the Committee may impose a publication ban on such portions of its decision as considered necessary by the Committee. 2013, c. 7, s. 49.

Proceeding on complaint

50 **(1)** A complaint must be disposed of in accordance with the regulations.

(2) When a complaint is forwarded to the Investigative Committee for disposition, the Committee shall give its decision in writing and 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 Committee determines.

(3) In a proceeding before the Investigative Committee, a respondent has the right to

(a) be represented by legal counsel or a union representative at the respondent's own cost;

(b) disclosure of the complaint, any written reports of the investigator provided to the Investigative Committee and any other document produced or received by the Committee; and

(c) a reasonable opportunity to present a response and make submissions. 2013, c. 7, s. 50.

Suspension of licence or restrictions

51 **(1)** The Investigative Committee, where it is reasonably necessary to protect the public interest, may, at its discretion, direct the Registrar

(a) to suspend a licence;

(b) to impose restrictions or conditions on a respondent's licence; or

(c) where a person does not hold a current licence, to suspend the ability of the person to obtain a licence,

pending or following the completion of an investigation and lasting until the suspension, restrictions or conditions are lifted, superseded or annulled by the Committee or the Professional Conduct Committee, as the case may be.

(2) The registrant must receive, forthwith, in writing, notice with reasons of a decision made pursuant to subsection (1).

(3) A registrant who receives written notice pursuant to subsection (2) may request, in writing within 30 days, an opportunity to meet with the Investigative Committee. 2013, c. 7, s. 51.

Meeting with Investigative Committee

52 Where a request is received pursuant to subsection 51(3), the Investigative Committee

(a) shall provide an opportunity for the registrant to meet with the Committee within 10 days of the receipt of the request; and

(b) after meeting with the registrant, may confirm, vary or terminate the suspension or imposition of restrictions or conditions. 2013, c. 7, s. 52.

Rights of registrant

53 Where a meeting is held pursuant to Section 52, the registrant has the right to

(a) be represented by legal counsel or a union representative at the member's own expense;

(b) disclosure of the complaint, any written report of an investigator provided to the Committee and any other document produced or received by the Committee; and

(c) a reasonable opportunity to present a response and make submissions. 2013, c. 7, s. 53.

Provision of decision

54 Where an Investigative Committee issues an interim suspension or imposes conditions or restrictions on a respondent's licence, the Committee shall provide a copy of the decision to the complainant and the respondent and determine whether any part of the Committee's decision is to be provided to other affected individuals, other regulatory bodies in other jurisdictions, any past, present or intended employer of the respondent or the public. 2013, c. 7, s. 54.

Charges or other proceedings

55 (1) Notwithstanding anything contained in this Act or the regulations, where a person

(a) has been charged with, pleaded guilty to, been convicted or found to be guilty of any offence in or out of Canada that is inconsistent with the proper professional behaviour of a registrant, including a conviction under

(i) the *Criminal Code* (Canada),

(ii) the *Controlled Drug and Substances Act* (Canada), or

(iii) such other legislation as is prescribed in the regulations,

unless a pardon has been issued;

(b) has been found guilty of a disciplinary finding in another jurisdiction;

(c) has had a licensing sanction imposed by another jurisdiction; or

(d) is the subject of an investigation or disciplinary process in any jurisdiction,

and such person is a registrant or applies for registration or a licence or the renewal of a licence, the Registrar may, by such notice as the Registrar prescribes, require the person to attend a hearing before the Investigative Committee to fully disclose the facts and circumstances of the matters referred to in clauses (a) to (d).

(2) For the purpose of a hearing pursuant to subsection (1), the Investigative Committee may take any of the actions authorized to be taken by the Committee pursuant to this Act or the regulations.

(3) For the purpose of subsection (1), a certificate of conviction of a registrant is conclusive evidence that the registrant has committed the offence stated therein, unless it is proven that the conviction has been quashed or set aside.

(4) When a person holding a licence meets the criteria pursuant to subsection (1), such person shall report the matter to the Registrar immediately. 2013, c. 7, s. 55.

Confidentiality

56 (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 Investigative Committee and the Professional Conduct Committee that are not open to or available to the public in accordance with this Act or the regulations must be kept confidential by the person or persons who possess such information.

(2) Notwithstanding subsection (1), where it is consistent with the objects of the College,

(a) the Registrar, on the recommendation of the Investigative Committee or the Professional Conduct Committee, may disclose to law enforcement authorities any information about possible criminal activity on the part of a registrant that is obtained during an investigation pursuant to this Act;

(b) the Investigative Committee or the Professional Conduct Committee may authorize the Registrar to release specific information to a specific person or persons;

(c) the Registrar may disclose information with respect to a complaint or a matter before a committee to the regulatory body of another jurisdiction when it is relevant and concerns the fitness of a

registrant for membership in the regulatory body of the other jurisdiction; and

(d) the Registrar may disclose information with respect to a complaint for the purpose of the administration of this Act or to meet the objects of the College. 2013, c. 7, s. 56.

Witness not compellable

57 (1) A witness in any legal proceeding, whether a party thereto or not, is excused from answering any question as to any proceedings of the Investigative Committee, the Professional Conduct Committee or the Reinstatement Committee, and is excused from producing any report, statement, memorandum, recommendation, document or information prepared for purposes of the professional conduct process, including any information gathered in the course of an investigation or produced for the Investigative Committee, the Professional Conduct Committee or the Reinstatement Committee.

(2) Subsection (1) does not apply to documents or records that have been made available to the public by the College. 2013, c. 7, s. 57.

Decision of committee not admissible

58 Unless otherwise determined by a court of competent jurisdiction, a decision of the Investigative Committee or the Professional Conduct Committee is not admissible in a civil proceeding other than an appeal or review pursuant to this Act. 2013, c. 7, s. 58.

PROFESSIONAL CONDUCT COMMITTEE

Professional Conduct Committee

59 (1) The Board shall appoint a Professional Conduct Committee composed of such number of registrants and public representatives as is determined by the Board.

(2) The Board shall appoint a chair and a vice-chair of the Professional Conduct 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 Section 60, the Board may, for such purpose, appoint a member of the Professional Conduct Committee to be chair of the Professional Conduct Committee. 2013, c. 7, s. 59.

Panels

60 (1) The chair of the Professional Conduct Committee shall appoint a panel consisting of a minimum of three persons from the Committee, at least one of whom must be a public representative and at least one of whom must be a registrant from the same discipline as the respondent, to act as the Professional Conduct Committee for purpose of the professional conduct process.

(2) The chair of the Professional Conduct Committee may sit on the panel and shall act as the chair of the panel in this event.

(3) Where the chair of the Professional Conduct Committee is not appointed to the panel, the chair of the Professional Conduct Committee shall appoint a chair for such panel. 2013, c. 7, s. 60.

Quorum

61 A quorum of the Professional Conduct Committee consists of three persons, at least one of whom must be a registrant from the same discipline as the respondent. 2013, c. 7, s. 61.

Ineligibility for membership

62 No member of the Professional Conduct Committee may be a member of an Investigative Committee. 2013, c. 7, s. 62.

Notice of Meeting

63 Failure of one or more Professional Conduct Committee members to receive any notice of a meeting does not invalidate the proceedings at the meeting, and nothing precludes Committee members from waiving notice of meetings. 2013, c. 7, s. 63.

Majority vote

64 All Professional Conduct Committee decisions require the vote of a majority of the panel of the Committee appointed pursuant to subsection 60(1) or the quorum of such panel in the event the full panel is not sitting. 2013, c. 7, s. 64.

Expiry of term of office

65 Where a proceeding is commenced before the Professional Conduct Committee and the term of office of any person sitting on the Committee expires, that person remains part of the Committee until the proceeding is concluded. 2013, c. 7, s. 65.

Date and notice of hearing

66 (1) Where the Investigative Committee refers a matter to the Professional Conduct Committee the Registrar shall, within 30 days from the date of the referral, fix a date, time and place for holding a hearing, to commence not later than 90 days from the date of the referral, or such later date as the respondent and the College may agree or the Professional Conduct 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 Registrar to the respondent and the complainant at least 30 days before the hearing. 2013, c. 7, s. 66.

Service of documents

67 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 College provides evidence satisfactory to the Professional Conduct Committee that all reasonable efforts to effect service have been exhausted. 2013, c. 7, s. 67.

Settlement proposal

68 Where the Investigative Committee refers a matter to the Professional Conduct Committee, the College, before the commencement of a hearing by the Professional Conduct Committee, may enter into a settlement proposal with the respondent, which proposal must be dealt with in accordance with the regulations. 2013, c. 7, s. 68.

Powers, privileges and immunities

69 (1) Subject to subsection (2), the Professional Conduct Committee and each person on the Professional Conduct Committee have all of the powers, privileges and immunities of a commissioner appointed pursuant to the *Public Inquiries Act*, with the exception of the powers of contempt, arrest and imprisonment.

(2) Each member of the Professional Conduct Committee may exercise any of the powers and privileges pursuant to subsection (1) only if authorized by the chair of the Professional Conduct Committee. 2013, c. 7, s. 69.

Conduct of proceedings

70 (1) A proceeding held by the Professional Conduct Committee must be conducted in accordance with the regulations.

(2) In a proceeding before the Professional Conduct Committee, the parties have the right to

- (a) be represented by legal counsel or a union representative at the party's own expense;
- (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.

(3) Evidence is not admissible before the Professional Conduct 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.

(4) Notwithstanding subsection (3), the Professional Conduct Committee may, in its discretion, allow the introduction of evidence that would be otherwise inadmissible under subsection (3) and may make directions it considers necessary to ensure that a party is not prejudiced. 2013, c. 7, s. 70.

Disposition of matters

71 (1) Where the Professional Conduct Committee finds professional misconduct, conduct unbecoming the profession, incompetence or incapacity, the Committee shall dispose of the matter or matters in accordance with the regulations.

(2) Where the Professional Conduct Committee has revoked the registration of a registrant, the Committee shall determine whether the registrant is entitled to apply for reinstatement of registration or whether the revocation is final.

(3) Where the Professional Conduct Committee determines that a registrant whose registration has been revoked may apply for reinstatement, the Committee shall determine when the registrant may apply for reinstatement, which may not be earlier than two years from the date of the Committee's decision. 2013, c. 7, s. 71.

Records and publication

72 (1) Subject to any publication bans in existence, where a licensing sanction has been issued by the Investigative Committee or the Professional Conduct Committee, the Registrar shall

(a) make such entries on the records of the College and on the licence of the registrant as set out in the regulations;

(b) publish such information on the website of the College and in official publications of the College as set out in the regulations;

(c) notify other affected licensing bodies as set out in the regulations; and

(d) provide such information to individuals or the public as set out in the regulations.

(2) Where the Professional Conduct Committee dismisses a matter, it shall disclose its decision in such manner as it determines. 2013, c. 7, s. 72.

REINSTATEMENT COMMITTEE

Reinstatement Committee

73 (1) The Board shall appoint a Reinstatement Committee, composed of not less than three and not more than five members of the Board, at least one of whom must be a public representative.

(2) The Board 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 registra-

tion and licence and 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 the Committee, regardless of whether such members are registrants or public representatives. 2013, c. 7, s. 73.

Reinstatement proceedings

74 (1) Applications for reinstatement must proceed in accordance with the regulations.

(2) Where a registrant's licence 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.

(3) Subject to subsection (4), the Registrar, the Reinstatement Committee and each member of the Reinstatement Committee have all of 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 appointed pursuant to the *Public Inquiries Act*, with the exception of the powers of contempt, arrest and imprisonment.

(4) Each member of the Reinstatement Committee may exercise any of the powers and privileges pursuant to subsection (3) only if authorized by the chair of the Reinstatement Committee. 2013, c. 7, s. 74.

Conduct of proceedings

75 (1) In a proceeding before the Reinstatement Committee, a registrant has the right to

(a) be represented by legal counsel, a union representative or another representative at the registrant's expense;

(b) disclosure of any information to be provided to the Committee; and

(c) a reasonable opportunity to present a response and make submissions.

(2) 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.

(3) Notwithstanding subsection (2), the Reinstatement Committee may, in its discretion, allow the introduction of evidence that is otherwise inadmissi-

ble under subsection (2) and may make directions it considers necessary to ensure that a party is not prejudiced. 2013, c. 7, s. 75.

Restoration of licence

76 (1) Where the period of suspension of a registrant has expired, or the conditions imposed on the registrant have been satisfied, or the restrictions imposed on the registrant have been removed, the Registrar shall restore the licence to the registrant in the form it existed prior to the imposition of the suspension, conditions or restrictions, if the registrant otherwise meets the criteria for the issuing of a licence, but where the licence has expired, the registrant shall pay the prescribed fee for renewal of the licence before its reissue.

(2) Where action has been taken pursuant to subsection (1), the Registrar shall

- (a) make the appropriate entries in the records of the College;
- (b) where registering bodies in other Canadian jurisdictions had previously been informed of the suspension, conditions or restrictions, notify such registering bodies of the lifting of such suspension, conditions or restrictions; and
- (c) notify such other persons as directed by the committee that initially imposed the suspension, conditions or restrictions. 2013, c. 7, s. 76.

Power to retain assistance

77 (1) For the purpose of the execution of their duties under this Act, the College or any committee of the College, may retain such legal or other assistance as the College or the committee 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. 2013, c. 7, s. 77.

Appeal

78 (1) A party may appeal on any question of law from the findings of the Professional Conduct Committee to the Nova Scotia Court of Appeal.

(2) 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 decision of the Professional Conduct Committee.

(3) The record on appeal from the findings of the Professional Conduct Committee consists of a copy of the transcript of the proceedings, the decision of the Committee and the evidence before the Committee certified by the chair of the Committee.

(4) The *Civil Procedure Rules* governing appeals 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.

(5) Where a matter is appealed to the Nova Scotia Court of Appeal pursuant to this Section, the decision of the Professional Conduct Committee takes effect immediately unless the Court of Appeal grants a stay. 2013, c. 7, s. 78.

PROFESSIONAL INCORPORATION

Nothing in Act prevents incorporation

79 Subject to any regulations made pursuant to subsection 10(1), nothing in this Act prevents the incorporation of a practice, but every registrant continues to be personally responsible for compliance with this Act and the regulations notwithstanding any such incorporation. 2013, c. 7, s. 79.

Liability for acts or omissions

80 All persons who carry on practice as, by, through or on behalf of an incorporated entity are liable in respect of acts or omissions done or omitted to be done by them in the course of their practice to the same extent and in the same manner as if such practice were carried on by them as an individual or a partnership carrying on the practice of the profession. 2013, c. 7, s. 80.

Relationship with patient

81 Where a registrant is engaged in practice as an incorporated entity, the existence of the incorporated entity does not affect, modify or limit any law or standard applicable to the confidential or ethical relationship between a registrant and a patient. 2013, c. 7, s. 81.

Compellability of witnesses

82 All shareholders, directors, officers and employees of an incorporated entity engaged in practice are compellable witnesses in any proceedings pursuant to this Act. 2013, c. 7, s. 82.

Powers of inspection, investigation or inquiry apply

83 Where the conduct of a registrant is the subject of a complaint, investigation or inquiry and the registrant was an officer, director, shareholder or employee of an incorporated entity at the time the conduct occurred, any power of inspection, investigation or inquiry that may be exercised in respect of the registrant or the registrant's records may be exercised in respect of the incorporated entity or its records. 2013, c. 7, s. 83.

Offences by incorporated entities

84 (1) Every incorporated entity engaged in practice 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 pursuant to this Act.

(2) Sections 32 and 33 apply with necessary changes to all incorporated entities engaged in practice. 2013, c. 7, s. 84.

GENERAL

Registrant's duty to report

85 (1) A registrant has a duty to report to the Registrar if the registrant has reasonable grounds to believe that another registrant of the College

- (a) has engaged in professional misconduct, incompetence or conduct unbecoming the profession;
- (b) is incapacitated; or
- (c) is practising in a manner that otherwise constitutes a danger to the public.

(2) A registrant has a duty to report to the regulator of another health profession if the registrant has reasonable grounds to believe that a registrant of that health profession

- (a) has engaged in professional misconduct, incompetence or conduct unbecoming the profession;
- (b) is incapacitated; or
- (c) is practising in a manner that otherwise constitutes a danger to the public.

(3) No action for damages or other relief lies against a registrant for any report made pursuant to subsection (1) or (2) if the report was made in good faith. 2013, c. 7, s. 85.

Fines and costs are debts due to College

86 Any fine or cost ordered to be paid pursuant to this Act or the regulations is a debt due to the College recoverable by civil action, in addition to any other remedy available to the College for non-payment of a fine or cost. 2013, c. 7, s. 86.

No action lies

87 (1) No action for damages or other relief lies against the College, the Board, the members of the Board, committees or subcommittees of the College or the Board, or the members of the committees or subcommittees, or the Registrar, officers, agents or employees of the College

- (a) for any act or failure to act or any proceeding initiated or taken in good faith under this Act, or in carrying out 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 is made with malice.

(3) No registrant of the College, public representative, the Board, committees or subcommittees of the College or the Board, or any officer, agent or employee thereof is personally liable for any of the debts or liabilities of the College unless such person expressly agrees to be liable. 2013, c. 7, s. 87.

Power to appoint additional committee members

88 Whenever for any reason a quorum of any committee may not be available for a meeting or hearing, the Board may, for the purpose of such meeting or hearing, appoint to the committee such additional persons as are needed for a quorum. 2013, c. 7, s. 88.

Act does not prohibit

89 (1) Nothing in this Act prohibits

(a) the furnishing of first aid or emergency assistance in the case of emergency, if such aid or assistance is given without hire, gain or hope of reward;

(b) the right of employees to engage in a lawful strike;

(c) the practise of any health profession authorized pursuant to a statute of the Province, by a health professional licensed pursuant to such statute, practising within the scope of practice of their profession;

(d) the carrying out of specific tasks constituting part of the practice of medical imaging technology or radiation therapy by persons authorized under Section 22(2) or under the *Regulated Health Professions Network Act*;

(e) the conducting of ultrasounds of the eye by persons acting under the direction of a medical practitioner;

(f) the measuring of follicles and endometrial thickness by a health professional licensed under a statute of this Province, as part of assisted reproduction therapy under the direction of a medical practitioner;

(g) the practice of diagnostic medical sonography by a registered nurse licensed under the *Nursing Act* who

(i) was employed at the Izaak Walton Killam Health Centre in either the Fetal Assessment Treatment Centre or the Children's Heart Centre immediately before September 8, 2020, or

(ii) is employed at the Izaak Walton Killam Health Centre in either the Fetal Assessment Treatment Centre or the Children's Heart Centre on or after September 8, 2020, and is either

(A) currently certified in Pediatric Echocardiography or Obstetrics and Gynecology by the American Registry for Diagnostic Medical Sonographers, or

(B) a registered nurse engaged in learning as part of the American Registry for Diagnostic Medical Sonographers' certification process for Pediatric Echocardiography or Obstetrics and Gynecology, who is practicing under the supervision of a person authorized to engage in the practice of diagnostic medical sonography; or

(h) the practice of radiological technology by another regulated health professional at a specified site that has less than 25 patient beds and under circumstances prescribed in the regulations.

(2) Notwithstanding clause (1)(g), the exemption granted pursuant to subclause (1)(g)(ii) may be revised or revoked in accordance with the regulations, following consultation on such regulations with the Izaak Walton Killam Health Centre.

(3) The right of a registered nurse licensed under the *Nursing Act* to continue in the practice of diagnostic medical sonography pursuant to subclause (1)(g)(i) terminates when such person vacates the employment position held by that person at the Izaak Walton Killam Health Centre in either the Fetal Assessment Treatment Centre or the Children’s Heart Centre immediately before September 8, 2020. 2013, c. 7, s. 89; 2014, c. 32, s. 142.

TRANSITION

Complaint under former Act

90 A complaint made pursuant to the former Act must continue to be proceeded with in accordance with this Act as nearly as circumstances permit. 2013, c. 7, s. 90.

Eligibility for registration

91 (1) Notwithstanding this Act or the regulations, a person who is a member of the Association immediately before September 8, 2020, is eligible for registration in the College and eligible to be issued a relevant licence on or after September 8, 2020.

(2) Notwithstanding this Act or the regulations, a person who is an active member of the Canadian Association of Registered Diagnostic Ultrasound Professionals immediately before September 8, 2020, is eligible for registration in the College and eligible to be issued a relevant licence on or after September 8, 2020.

(3) A person who has been registered and issued a licence under subsection (1) or (2) continues to be eligible for the renewal of a licence under the regulations when the person meets the criteria for renewal as set out in the regulations. 2013, c. 7, s. 91.

Eligibility for registration as diagnostic medical sonographer

92 (1) Notwithstanding this Act or the regulations,

(a) every person who, immediately before September 8, 2020, has been certified to practise diagnostic medical sonography by the American Registry for Diagnostic Medical Sonographers, and who has engaged in the practice of diagnostic medical sonography in the Province during the 12-month period prior to September 8, 2020; and

(b) every person who, immediately before September 8, 2020, has engaged in the practice of diagnostic medical sonography

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in the Province for a period of time during each of the past five consecutive years,

is eligible to be registered in the College and to be issued a licence as a diagnostic medical sonographer upon payment of the appropriate fee.

(2) A person who has been registered and issued a licence under subsection (1) continues to be eligible for the renewal of a licence under the regulations when the person meets the criteria for renewal as set out in the regulations. 2013, c. 7, s. 92.

CHAPTER M-18

**An Act Respecting the Practice
of Medical Laboratory Technology**

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

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Short title

1 This Act may be cited as the *Medical Laboratory Technology Act*, 2000, c. 8, s. 1.

Interpretation

2 In this Act,

“Board” means the Board of the College;

“College” means the Nova Scotia College of Medical Laboratory Technologists;

“committee” includes a committee of the Board, an investigation committee or a hearing committee, as the context requires;

“complaint” means any complaint, report or allegation in writing and signed by a person regarding the conduct, actions, competence, character, fitness, health or ability of a member of the College, former member of the College, professional corporation or the employees thereof, or any similar complaint, report or allegation initiated by the Registrar or referred pursuant to subsection 50(2);

“Credentials Committee” means the committee appointed by the Board that deals with the registration and licensing of members of the College and applicants for registration and such other matters as provided by the regulations;

“disciplinary committee” means an investigation committee or a hearing committee;

“disciplinary matter” means any matter involving an allegation of professional misconduct, conduct unbecoming a medical laboratory technologist or professional incompetence, including incompetence arising out of physical or mental incapacity;

“hearing committee” means a hearing committee appointed pursuant to this Act;

“investigation committee” means an investigation committee appointed pursuant to this Act;

“licence” means a valid and subsisting licence issued pursuant to this Act;

“mediation” means any form of alternative dispute resolution;

“medical laboratory technology” means the collection and handling of laboratory specimens, analysis of specimens and the interpretation of quality-control data to verify the accuracy and precision of test results for use by healthcare practitioners in diagnosis, treatment and prevention of disease;

“member of the College” means a person who is registered in the Register and holds a licence;

“prescribed” means prescribed by regulations;

“Register” means the Register of the College kept pursuant to this Act;

“registered” means registered pursuant to this Act;

“Registrar” means the person holding the office of Registrar pursuant to this Act. 2000, c. 8, s. 2.

Interpretation

3 The words “medical laboratory technologist” or any like words or expressions implying a person recognized by law as a medical laboratory technologist in the Province, when used in any regulation, rule, order or bylaw made pursuant to an Act of the Legislature enacted or made before, on or after January 1, 2004, or when used in any public document, includes a person registered in the Register who holds a licence. 2000, c. 8, s. 3.

NOVA SCOTIA COLLEGE OF MEDICAL
LABORATORY TECHNOLOGISTS**Continuation of body corporate**

4 (1) The Nova Scotia Society of Medical Laboratory Technologists, a society incorporated under the *Societies Act*, is continued as a body corporate under the name of the Nova Scotia College of Medical Laboratory Technologists and is composed of its members.

(2) The College 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. 2000, c. 8, s. 4.

Objects

5 In order that the public interest may be served and protected, the objects of the College are to

(a) regulate the practice of medical laboratory technology and govern its members in accordance with this Act and the regulations;

(b) establish, maintain and develop standards of knowledge and skill among its members;

(c) establish, maintain and develop standards of qualification and practice for the practice of medical laboratory technology;

(d) establish, maintain and develop standards of professional ethics among its members;

(e) establish, maintain and develop standards of continuing education for its members;

(f) establish or assist in establishing continuing education programs for its members; and

(g) administer this Act and perform such other duties and exercise such other powers as are imposed or conferred on the College by or under any Act. 2000, c. 8, s. 5.

Powers

6 In addition to any other power conferred by this or any other Act, the College may do such things as it considers appropriate to advance the objects of the College 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, employees and such professional or other assistance as it considers expedient;

(d) expend the money of the College in the advancement of its objects and the interests of the profession of medical laboratory technology 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 College 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 College;
- (h) borrow money for the use of the College on its credit, limit or increase the amount to be borrowed, issue bonds, debentures, debenture stock and other securities on the credit of the College and pledge or sell such securities for such sums or at such prices as may be 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 College, both present and future;
- (j) do such things as are incidental or necessary to the exercise of the powers referred to in clauses (a) to (i). 2000, c. 8, s. 6.

Annual meetings

- 7 (1) There must be an annual meeting of the College at such time and place as is prescribed.
- (2) An annual report must be distributed at or before the annual meeting for review by the membership, and must include a report by an auditor.
- (3) Auditors shall be recommended by the Board but are subject to the approval of the College at the annual meeting.
- (4) A resolution in writing, in one or more counterparts, signed by two thirds of all members of the College entitled to vote thereon at a meeting of the College is as valid and effective as if duly passed at a meeting of the members of the College. 2000, c. 8, s. 7.

BOARD

Constitution, selection and terms of office

- 8 (1) There is a Board consisting of
 - (a) seven members of the College elected in the manner provided by this Act; and
 - (b) three persons appointed by the Governor in Council, all of whom are persons who
 - (i) are not members of the College, and
 - (ii) have shown an interest in serving on the Board.
- (2) Members of the Board are elected or appointed to office for a term of two years.

(3) Notwithstanding subsection (2), the terms of office of members of the Board upon the first election or appointment of members of the Board shall be

- (a) three members of the College elected for a term of one year;
- (b) four members of the College elected for a term of two years; and
- (c) three persons appointed by the Governor in Council, one for a term of one year and two for a term of two years.

(4) Notwithstanding subsections (2) and (3), persons appointed by the Governor in Council hold office until such time as they are reappointed, or until their successors are appointed, even if such appointment or reappointment does not occur until after their specified term of office has otherwise expired. 2000, c. 8, s. 8.

Eligibility

9 (1) In this Section, “consecutive” means that 12 months or less occurred between the end of one term and the commencement of the next.

(2) Every member of the College in good standing is eligible to be nominated as and vote for a candidate for membership on the Board.

(3) Elected or appointed members of the Board may not be members of the Board for more than three consecutive terms but are eligible for re-election or appointment after an absence from the Board of at least two years. 2000, c. 8, s. 9.

Regulations

10 The Board may make regulations governing elections of members of the Board and, in those regulations, may

- (a) provide for the procedure for the nomination of candidates;
- (b) provide for the appointment or designation of presiding officers for the election;
- (c) prescribe the forms to be used;
- (d) subject to Section 11, prescribe the procedure to be used for the holding of the elections and for determining the persons elected as members of the Board. 2000, c. 8, s. 10.

Secret ballot

11 Members of the Board shall be elected by secret ballot. 2000, c. 8, s. 11.

Treatment of ballots

12 The ballots used at an election may not be destroyed until all petitions pursuant to Section 13 in respect of the election have been decided and, until that time, the ballots must be retained by the Registrar together with all other papers in connection with the election. 2000, c. 8, s. 12.

Right to contest election

13 (1) A person may petition the Board against the election of a person to the Board by filing a petition with the Registrar within 15 days after the election.

(2) The petitioner shall state in the petition the grounds on which the election is disputed.

(3) The petitioner shall serve a copy of the petition upon the person whose election is disputed.

(4) Where a petition is filed with the Registrar pursuant to subsection (1), the Board shall hold an inquiry and, where

(a) the election is found to be illegal; or

(b) the person is found not to be eligible to be nominated as a candidate for membership on the Board,

shall order that a new election be held. 2000, c. 8, s. 13.

Vacancies

14 (1) In case of failure in an election to elect the required number of duly qualified members of the Board, the Registrar shall cause an election to be held within 60 days for the purpose of filling the vacancy.

(2) Notwithstanding subsection (1), where a vacancy occurs for any reason within six months before the date of an election of members of the Board, the vacancy must be filled at such election.

(3) Where a vacancy occurs in the Board as a result of the death or resignation of a member of the Board elected pursuant to clause 8(1)(a) or from any other cause, the remaining members may appoint another member in good standing to fill the vacancy.

(4) Where an election is held pursuant to subsection (1) or an appointment is made pursuant to subsection (3) to fill a vacant Board position, the term of office for the position is the remainder of the unexpired term of such position.

(5) The Members of the Board may act notwithstanding a vacancy in the Board. 2000, c. 8, s. 14.

End of term of office

15 An elected member of the Board ceases to hold office where

(a) the member resigns by notice in writing delivered to the Registrar;

(b) the member ceases to be a member in good standing of the College, as defined in the regulations; or

(c) the member is absent from three consecutive meetings of the Board, unless excused by the Board. 2000, c. 8, s. 15.

Executive Committee

16 (1) The Board shall elect annually from its members a Chair, a Vice-chair, a Secretary and a Treasurer who constitute the Executive Committee.

- (2)** The Executive Committee
- (a) may exercise all of the powers; and
 - (b) shall perform all the duties,

of the Board with respect to any matters that the Board may delegate to it or that, in the opinion of the Executive Committee, require immediate attention. 2000, c. 8, s. 16.

Registrar and other officers

17 (1) The Board shall appoint a Registrar who holds office during the pleasure of the Board, at such salary or other remuneration as the Board determines, and who shall perform such duties as may be assigned by the Board.

(2) The Board may appoint an Acting Registrar who shall exercise the powers and duties of the Registrar in the event of the death or incapacity of the Registrar or the Registrar's absence from the Province. 2000, c. 8, s. 17.

Power to appoint other employees

18 The Board may appoint such other officers, agents or employees at such salary or other remuneration, and for such term of office, as the Board considers necessary to assist it in carrying out its duties pursuant to this Act. 2000, c. 8, s. 18.

Meetings

19 (1) The Board shall meet at least three times in each calendar year.

(2) Where 10% of the membership of the College request in writing, whether by petition or otherwise, that a special general meeting be held, the Board shall hold such meeting within 15 working days of determining 10% of the members have requested such a meeting. 2000, c. 8, s. 19.

Committees

20 The Board may appoint annually such committees consisting of such members and non-members of the College as the Board considers necessary to assist it in carrying out its duties pursuant to this Act. 2000, c. 8, s. 20.

Chair

21 (1) Subject to subsection (2), the Chair presides at all meetings of the Board and of the College.

(2) Where the Chair is absent from a meeting, the Vice-chair or, in the Vice-chair's absence, some other member of the Board or of the College, as the case may be, chosen by the members present presides at the meeting.

(3) Except in the event of an equal number of votes being given for and against a resolution at any meeting, the Chair or other presiding officer shall not vote. 2000, c. 8, s. 21.

Regulations

22 (1) The Board shall, subject to this Act, govern, control and administer the affairs of the College and, without limiting the generality of the foregoing, may make regulations

(a) providing for the management of the College, including the keeping of the registers to be kept pursuant to this Act;

(b) providing for the holding of meetings of the College or the Board, setting the quorum for such meetings and regulating the conduct of such meetings;

(c) fixing the time and place for regular meetings of the Board, determining by whom meetings may be called, providing for emergency meetings and regulating the notice required in respect of meetings;

(d) providing for the appointment of such committees as the Board considers expedient;

(e) respecting the composition, powers and duties of such committees as may be appointed by the Board, and providing for the holding and conduct of meetings of such committees;

(f) respecting the powers, duties and qualifications of the Registrar and the officers, agents and employees of the College;

(g) prescribing fees payable pursuant to this Act by applicants and members of the College and, where the Board considers advisable, designating different classes of applicants and members and prescribing different fees for different classes;

(h) prescribing the fees and allowances of members of the Board and committees and providing for the payment of necessary expenses of the Board and committees;

(i) prescribing the seal of the College;

(j) providing for the execution of documents by the College;

(k) prescribing examinations to be written by applicants for registration;

(l) prescribing forms and providing for their use;

(m) providing procedures not inconsistent with this Act for the making, amending and revoking of regulations;

(n) respecting the information to be included in the Register;

(o) subject to approval by the College at an annual or special meeting, prescribing a code of ethics;

(p) governing elections of members of the Board.

(2) With the approval of the Governor in Council, the Board may make regulations

(a) respecting the recognition of schools and examinations as prerequisites to registration and licensing;

(b) respecting the educational qualifications of applicants for registration as members of the College;

(c) respecting the registration and licensing of members of the College;

(d) respecting continuing-competency requirements, including continuing-education requirements or practice-hour requirements of members of the College;

(e) respecting the limiting or qualifying of a member's licence, including procedures and interventions;

(f) respecting the evaluation of, and licensing requirements of, members of the College and applicants for registration who have not practised medical laboratory technology for at least one year;

(g) respecting the disciplining of members of the College;

(h) respecting the revocation or suspension of licences issued pursuant to this Act;

(i) respecting the reporting and publication of decisions in disciplinary matters;

(j) regulating, controlling and prohibiting the use of terms, titles or designations by members of the College or groups or associations of members in respect of their practice;

(k) providing that the licence of a member of the College be suspended without notice or investigation upon contravention of any regulation that requires the member to pay a fee, file a document or do any other act by a specified or ascertainable date, and providing for the reinstatement of a licence so suspended;

(l) notwithstanding subsection 8(1), changing the number and characteristics of appointments to the Board;

(m) determining the procedure to be followed at hearings by a disciplinary committee;

(n) prescribing the type of professional liability insurance or other form of malpractice coverage a member shall hold;

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

(p) further defining any word or expression defined in this Act;

(q) respecting and governing such other subjects, matters and things as may be required to give effect to the objects of the College and this Act.

(3) All regulations of the College must be available for inspection by any person, free of charge, at the head office of the College at all reasonable times during business hours.

(4) A certificate purporting to be signed by the Registrar stating that a certain regulation of the College was, on a specified day or during a specified period, a duly enacted regulation of the College in full force and effect constitutes

prima facie evidence in any court of that fact without proof that the person who signed it is the Registrar or that it is the Registrar's signature. 2000, c. 8, s. 22.

REGISTRATION

Register

23 The Board shall keep a Register in which must be entered the name, address and qualifications of all persons who are entitled pursuant to this Act to be registered in the Register. 2000, c. 8, s. 23.

Entries on Register

24 (1) The Board shall direct the Registrar to enter in the Register the name, address and qualifications of any person who

- (a) has successfully completed any prescribed certification exam;
- (b) has successfully completed a prescribed medical laboratory technology program;
- (c) satisfies the Board that the person possesses the qualifications required in the regulations for registration in the Register;
- (d) satisfies the Board that the person holds the prescribed professional liability insurance or other form of malpractice insurance;
- (e) complies with this Act and the regulations and any conditions imposed by the Registrar and the Board; and
- (f) complies with Section 29.

(2) Upon receiving a direction from the Board pursuant to subsection (1), the Registrar shall

- (a) enter the name, address and qualifications of the person named in the direction in the Register; and
- (b) issue a licence to the person. 2000, c. 8, s. 24.

Registration

25 (1) Notwithstanding anything contained in this Act, where a person applies to be registered pursuant to this Act and the Registrar is satisfied that the person

- (a) meets
 - (i) in a manner that would be satisfactory to the Board, the requirements for registration in the relevant register with such exceptions as may be prescribed by regulation, and
 - (ii) the requirements of Section 29; and
- (b) has paid the prescribed fees,

the Registrar may, before the matter is brought to the Credentials Committee for its direction,

(c) enter the name, address and qualifications of the person in the relevant register; and

(d) issue a licence to the person, subject to such terms and conditions as may be prescribed, including the maximum period of validity of the registration and the licence.

(2) Every registration made and every licence issued pursuant to this Section is valid and remains in full force and effect until ratified, varied or vacated by the Credentials Committee at a meeting requested by such person or the Registrar, or held at the instigation of the Credentials Committee itself.

(3) Subject to subsection (7), where the registration or licence of a person is varied or vacated pursuant to subsection (2), the Registrar shall forthwith give notice to such person in accordance with subsection 75(1), and the registration or licence of that person is deemed to be varied or vacated as of the date on which service was made or deemed to have been made on the person.

(4) Where the registration or licence of a person is varied or vacated pursuant to subsection (2), the person may request the opportunity to appear before the next scheduled meeting of the Board, with or without legal counsel, where the Board shall consider the application in accordance with this Act.

(5) No member of the Board who considered the application pursuant to subsection (2) shall participate in the Board's consideration of the application.

- (6) After hearing the applicant and the Registrar, the Board may
- (a) direct the Registrar to issue to the applicant a licence;
 - (b) direct the Registrar to issue to the applicant a licence subject to such conditions, limitations or restrictions as the Board considers appropriate;
 - (c) adjourn further consideration of the application pending completion by the applicant of such training, upgrading, clinical examinations or other examinations as the Board may designate; or
 - (d) direct the Registrar to refuse the application where the Board is not satisfied that the applicant meets the criteria set out in subsection (1).

(7) Where a hearing is requested pursuant to subsection (4), the registration or licence of the person requesting the hearing may not be varied or vacated until the Board has completed its consideration of the application. 2000, c. 8, s. 25.

Credentials Committee

26 (1) Where the Registrar is not satisfied with the evidence presented by a person applying for registration, the Registrar

- (a) may; or
 - (b) where the applicant so requests in writing, shall,
- refer the matter to the Credentials Committee.

(2) Upon a referral pursuant to subsection (1), the Credentials Committee, in consultation with the Registrar, shall consider the eligibility of the application and may make such inquiries or demand such further information as the Committee sees fit, and the Committee shall consider the application in accordance with this Act.

(3) Where the person requests the opportunity to appear before the Credentials Committee, this request must be granted and the person may appear with legal counsel. 2000, c. 8, s. 26.

Defined Register

27 (1) The Board may keep a register, called the Defined Register, in which must be entered the name, address, qualifications and terms and conditions of registration of all persons who may be entitled pursuant to this Act and the regulations to be registered in the register.

(2) The Board may make regulations, which take effect upon approval by a general meeting of the College and by the Governor in Council,

(a) governing the persons or classes of persons who may be registered in the Defined Register;

(b) dividing the Defined Register into parts representing the classes of persons who may be registered;

(c) prescribing the qualifications required for registration in the Defined Register;

(d) prescribing the extent to which and terms and conditions under which persons registered in the Defined Register may engage in the practice of medical laboratory technology;

(e) prescribing by whom applications may be made pursuant to this Section, and the procedure on such applications.

(3) The Board may direct the Registrar to register in the Defined Register the name, address and qualifications and terms and conditions of registration of any person who

(a) satisfies the Board that that person possesses the qualifications required for registration in the Defined Register; and

(b) complies with Section 29.

(4) Upon receiving a direction from the Board pursuant to subsection (3), the Registrar shall enter in the Defined Register the name, address and qualifications and any terms and conditions of registration of the person named therein, and issue a licence to the person. 2000, c. 8, s. 27.

Consequences of conviction of an offence

28 Notwithstanding anything contained in this Act, where a person has been convicted or found to be guilty, by a court in or out of Canada, of any offence that is inconsistent with the proper professional behaviour of a medical laboratory technologist, including a conviction under the *Criminal Code* (Canada) or the *Controlled Drugs and Substances Act* (Canada), and such person applies for registration, the Registrar and the Board may refuse to register the person, but the Board

may, at any time, permit such person to be registered or to remain registered upon such terms and conditions as the Board may direct. 2000, c. 8, s. 28.

Application for registration

- 29** Any person who applies for registration pursuant to this Act shall
- (a) apply in the prescribed manner;
 - (b) satisfy the Board that that person is the person named in any diploma or documentation submitted in support of the application;
 - (c) provide proof of insurance as prescribed by the regulations;
 - (d) satisfy the Board that that person is of good character;
 - (e) provide such information as the Board may require; and
 - (f) pay the prescribed fee. 2000, c. 8, s. 29.

Change of address

30 A member of the College who changes address shall promptly inform the Registrar who shall enter the change in the Register. 2000, c. 8, s. 30.

Licence fees

31 (1) Every member of the College shall pay to the Registrar, or such person as the Registrar may designate,

- (a) at the time that the member is registered; and
- (b) on or before a date or dates prescribed by the Board in each year thereafter,

the prescribed annual registration or licence fee.

(2) The licence of any member of the College who fails to pay prescribed annual fees as required by subsection (1) or who fails to comply within the prescribed period with any continuing competence requirements established in regulations must be suspended in accordance with the procedure prescribed by the regulations.

(3) The Registrar shall forthwith notify, in writing, any person whose licence has been suspended under this Section.

(4) The prescribed annual licence fees payable by members of the College under subsection (1) is as determined by the Board. 2000, c. 8, s. 31.

Relicensing

32 (1) Where the licence of a member of the College has been suspended pursuant to subsection 31(2), or where there has been non-compliance with continuing competency requirements, or in any other case where the licence of a member has expired or lapsed pursuant to this Act for non-payment of fees, such person may apply to the Registrar for relicensing.

(2) Where a person referred to in subsection (1) satisfies the Registrar

- (a) of the person's intention to practise medical laboratory technology in the Province;
- (b) as to the person's activities since the date of the suspension or expiry or lapsing of the person's licence;
- (c) that the person has maintained and possesses an appropriate level of skill and knowledge in medical laboratory technology;
- (d) as to the person's good standing in all jurisdictions in which the person has practised medical laboratory technology since the date of the suspension or expiry or lapsing of the person's licence;
- (e) that the person has paid all fees or any other amount owing to the College and such administrative fees as may be prescribed; and
- (f) that the person has complied with the continuing competency requirements prescribed by the College,

the Registrar may issue a licence to such person.

(3) Where the Registrar is not satisfied with the evidence presented under subsection (2), the Registrar

- (a) may; or
- (b) where the applicant so requests in writing, shall,

refer the matter to the Credentials Committee.

(4) Upon a referral pursuant to subsection (3), the Credentials Committee, in consultation with the Registrar, shall consider the eligibility of the application and may make such inquiries or demand such further information as the Committee sees fit, and the Committee shall consider the application in accordance with this Act.

(5) Where, within 30 days of a referral pursuant to subsection (3), the applicant requests the opportunity to appear before the Credentials Committee, this request must be granted and the applicant may appear with legal counsel.

(6) Where the registration or licensing of a person is refused pursuant to subsection (4), the person may request the opportunity to appear before the next scheduled meeting of the Board, with or without legal counsel, where the Board shall consider the application in accordance with this Act.

(7) No member of the Board who considered the application pursuant to subsection (4) may participate in the Board's consideration of the application.

- (8)** After hearing the applicant and the Registrar, the Board may
- (a) direct the Registrar to issue to the applicant a licence;
 - (b) direct the Registrar to issue to the applicant a licence subject to such conditions, limitations or restrictions as the Board considers appropriate;

(c) adjourn further consideration of the application, pending completion by the applicant of such training, upgrading, clinical examinations or other examinations as the Board may designate; or

(d) direct the Registrar to refuse the application, if the Board is not satisfied that the applicant meets the criteria set out in subsection (2). 2000, c. 8, s. 32.

Restrictions on licences

33 Every licence issued pursuant to Section 32 is subject to any conditions, limitations or restrictions contained in the licence that had expired, lapsed or been suspended under subsection 31(2), unless the Board orders otherwise. 2000, c. 8, s. 33.

Publication of annual list

34 The Registrar shall, in each year, cause to be published in the manner prescribed an annual list that includes the names of those persons who hold a licence and who are listed in the Defined Register. 2000, c. 8, s. 34.

Restriction

35 (1) The licence of a member of the College may be surrendered by the member only after notice in writing to the Board and with the consent of the Board.

(2) Where a member of the College ceases to be a member for any reason, or where a person ceases to be registered or licensed for any reason, such person remains subject to the jurisdiction of the College in respect of any disciplinary matter arising out of the person's conduct while a member or while registered. 2000, c. 8, s. 35.

PROHIBITIONS

Offences

36 (1) A person licensed pursuant to this Act who practises medical laboratory technology in violation of any condition or limitation contained in the person's licence is guilty of an offence.

(2) A person who practises medical laboratory technology

(a) while the person's licence is suspended or revoked; or

(b) without a licence,

is guilty of an offence. 2000, c. 8, s. 36.

Offence

37 (1) A member of the College who leaves the Province for longer than the prescribed period and practises medical laboratory technology on the member's return to the Province before providing the Registrar with a certificate of good standing from all jurisdictions in which the member had practised during such absence is guilty of an offence.

(2) The Board may waive the requirements of subsection (1) and may make regulations exempting members of the College from the requirements of subsection (1) where members have been absent from the Province for a period shorter than the prescribed period. 2000, c. 8, s. 37.

Prohibition

38 (1) Except as provided in this Act or the regulations, no person, other than a member of the College, shall

(a) publicly or privately, for hire, gain or hope of reward, practise or offer to practise medical laboratory technology;

(b) purport to be in any way to be entitled to practise medical laboratory technology;

(c) use the title “Medical Laboratory Technologist” or assume any title or description implying or designed to lead the public to believe that that person is entitled to practise medical laboratory technology; or

(d) use the designation “M.L.T.” or “MLT”, either alone or in combination with other words, letters or description, to imply that the person is entitled to practise medical laboratory technology.

(2) No person is entitled to receive a fee, reward or remuneration for professional services rendered to any person in the practice of medical laboratory technology unless registered and licensed at the time the services were provided. 2000, c. 8, s. 38.

Offence

39 A person who knowingly furnishes false information in an application pursuant to this Act, or in any statement or return required to be furnished pursuant to this Act or the regulations, is guilty of an offence. 2000, c. 8, s. 39.

Prosecutions

40 (1) In a prosecution for an offence contrary to this Act or the regulations, the onus of proof that a person accused of an offence has the right to practise medical laboratory technology, or that a person comes within any of the exemptions provided by this Act, is on the person accused.

(2) Where a violation of this Act or the regulations by a person who does not have the right to practise medical laboratory technology continues for more than one day, the offender is guilty of a separate offence for each day that the violation continues.

(3) For the purpose of this Act, proof of the performance of one act in the practice of medical laboratory technology on one occasion is sufficient to establish that a person has engaged in the practice of medical laboratory technology. 2000, c. 8, s. 40.

Fines and penalties

41 (1) A person who violates this Act or a regulation made pursuant to clause 22(2)(j) is guilty of an offence and the *Summary Proceedings Act* applies in addition to any penalty otherwise provided for in this Act or the regulations.

(2) All fines and penalties payable under this Act as a result of a prosecution by or on behalf of the College belong to the College.

(3) Any information to be laid pursuant to this Act may be laid by the Registrar or any member of the College authorized by the Board. 2000, c. 8, s. 41.

Exemptions from application of Act

42 Nothing in this Act applies to or prevents

- (a) the domestic administration of family remedies;
- (b) the practice of the religious tenets or general beliefs of any religious organization;
- (c) the furnishing of first aid or emergency assistance in the case of emergency, if such aid or assistance is given without hire, gain or hope of reward;
- (d) the practice of chiropractic by a person who is registered pursuant to the *Chiropractic Act*;
- (e) the practice of dentistry or dental surgery by a person who is registered pursuant to the *Dental Act*;
- (f) the practice of dental technology by a person registered pursuant to the *Dental Technicians Act*;
- (g) the practice of denturology by a person who is licensed pursuant to the *Denturists Act*;
- (h) the practice of dietetics by a person who is registered pursuant to the *Dietitians Act*;
- (i) the practice of dispensing optician by a person who is registered pursuant to the *Dispensing Opticians Act*;
- (j) the practice of medicine by a person who is registered pursuant to the *Medical Act*;
- (k) the practice of radiological technology by a person registered pursuant to the *Medical Imaging and Radiation Therapy Professionals Act*;
- (l) the practice of nursing by a person who is registered as a licensed practical nurse pursuant to the *Nursing Act*;
- (m) the practice of nursing by a person registered as a registered nurse pursuant to the *Nursing Act*; or
- (n) the practice of occupational therapy by a person who is licensed pursuant to the *Occupational Therapists Act*;
- (o) the practice of optometry by a person who is licensed pursuant to the *Optometry Act*;
- (p) the practice of pharmacy by a person who is registered pursuant to the *Pharmacy Act*;

(q) the practice of physiotherapy by a person who is licensed pursuant to the *Physiotherapy Act*;

(r) the practice of psychology by a person who is licensed pursuant to the *Psychologists Act*;

(s) the carrying out of specific tasks constituting part of the practice of medical laboratory technology by persons authorized under the regulations and under the supervision and control of a medical laboratory technologist;

(t) the carrying on of any occupation, calling or profession by a person authorized to carry on such occupation, calling or profession by any public or private act of the Legislature;

(u) the carrying out of laboratory investigations by members in good standing of the Canadian Society of Clinical Chemists;

(v) the carrying out of laboratory investigations by members in good standing of the Canadian College of Microbiologists, with training or certification in clinical microbiology;

(w) the carrying out of laboratory investigations by scientists with a university degree at the Master's or Doctorate level with in-depth clinical knowledge in their field of laboratory medicine;

(x) the carrying on of the occupation of a pathology assistant under the supervision of a pathologist authorized to practise medicine under the *Medical Act*; or

(y) the carrying out of blood gas measurements by a medical perfusionist or a respiratory technologist authorized to carry out such measurements. 2000, c. 8, s. 42.

Injunctions

43 (1) Where a member of the College whose licence to practise has been suspended pursuant to this Act or the regulations does or attempts to do anything contrary to this Act or the regulations, the doing of such thing may be restrained by an injunction of the court at the instance of the Board.

(2) Where a person other than a member does or attempts to do anything contrary to this Act, the doing of such thing may be restrained by an injunction of the court at the instance of the Board. 2000, c. 8, s. 43.

DISCIPLINE

Manner of initiation

44 Complaints may be initiated by

- (a) any body corporate or association;
- (b) the Registrar; or
- (c) any other person. 2000, c. 8, s. 44.

Specialized assistance

45 The College or a disciplinary committee may employ, at the expense of the College, such legal or other assistance as it considers necessary for the purpose of the investigation of any disciplinary matter. 2000, c. 8, s. 45.

Confidentiality

46 Every person involved in the administration of this Act and any member of the Board, or a committee of the Board or the College, shall maintain confidentiality with respect to all health information that comes to that person's knowledge regarding clients except

- (a) in connection with the administration of Sections 44 to 71, and the regulations or proceedings thereunder;
- (b) to one's own legal counsel;
- (c) as otherwise required by law; or
- (d) with the consent of the person to whom the information relates. 2000, c. 8, s. 46.

Power to investigate other matters

47 A person or disciplinary committee investigating a disciplinary matter concerning a member of the College may investigate any other disciplinary matter concerning the member that arises in the course of the investigation. 2000, c. 8, s. 47.

Powers of disciplinary committee

48 (1) Where a disciplinary committee

- (a) learns that the registration or licence of a member of the College has been suspended or revoked for reasons of professional misconduct, conduct unbecoming or incompetence by another licensing or regulatory authority;
- (b) has provided the member with such notice as it may prescribe of a hearing together with a copy of the relevant decision of the other licensing or regulatory authority; and
- (c) has heard such evidence as is offered by the member, if any, at the hearing as to why the member should not be subject to disciplinary action,

the disciplinary committee may take any of the actions contemplated by clause 66(2)(e).

(2) Where a member of the College has been convicted of an offence pursuant to the *Criminal Code* (Canada) or the *Controlled Drugs and Substances Act* (Canada) or has been convicted of an offence as referred to in Section 28, the disciplinary committee may, by such notice as it prescribes, require the member to attend a hearing to establish why the member should not be subject to disciplinary action.

(3) For the purpose of subsection (2), a certificate of conviction of a member of the College is conclusive evidence that a person has committed the

offence stated therein unless it is shown by the member that the conviction has been quashed or set aside.

(4) When a disciplinary committee is conducting a hearing pursuant to this Section, it may, if it considers proper, take any of the actions contemplated by clause 66(2)(e). 2000, c. 8, s. 48.

Investigation committee

49 (1) The Board shall appoint an investigation committee or committees.

(2) An investigation committee shall be composed of at least three persons.

(3) An investigation committee shall

(a) have a chair appointed by the Board who is a member or former member of the Board;

(b) have as a member at least one person who is a member or former member of the Board and a member of the College; and

(c) have as a member at least one person who does not hold a diploma in medical laboratory technology or equivalent, who may be a member or former member of the Board.

(4) Notwithstanding subsection (3), any two members of an investigation committee constitute a quorum.

(5) The Board may appoint additional members to an investigation committee who are members of the College but who need not be members or former members of the Board. 2000, c. 8, s. 49.

Duties and powers of investigation committee

50 (1) An investigation committee shall

(a) investigate complaints regarding a disciplinary matter concerning any member of the College;

(b) investigate any matter referred to the committee by the Registrar; and

(c) perform such other duties as may be assigned to it by the Board.

(2) The Registrar may refer a matter to an investigation committee notwithstanding that a written complaint has not been filed with the Registrar.

(3) Without receipt of a written complaint, an investigation committee may

(a) do all things necessary to provide a full and proper investigation;

(b) appoint a person or persons to conduct an investigation or practice audit, or both.

(4) The investigation committee and each member of the investigation committee have all of the powers, privileges and immunities of a commissioner appointed pursuant to the *Public Inquiries Act*, with the exception of the powers of contempt, arrest and imprisonment.

(5) Upon receipt of a written complaint respecting a member of the College and upon giving to the member a copy of the complaint, an investigation committee may require the member to

(a) submit to physical or mental examinations by such qualified persons as the committee designates; and

(b) submit to such examinations as the committee directs to determine whether the member is competent to practise medical laboratory technology.

(6) Where a member of the College fails to comply with subsection (5), the investigation committee may suspend or restrict the registration or licence, or both, of the member until the member complies.

(7) Where an investigation committee has, pursuant to clause 5(a) or (b), required a member of the College to submit to physical or mental examinations by a qualified person designated by the committee, the committee shall deliver to the member any report it receives from the designated qualified person.

(8) An investigation committee or person appointed to conduct an investigation under clause (3)(b) may

(a) employ such other experts as the committee or person considers necessary;

(b) require the member being investigated or any other member of the College, who may have information relevant to the investigation, to attend before the committee or the person conducting the investigation to be interviewed;

(c) investigate any other matter relevant to the conduct, capacity or fitness of a member of the College to practise medical laboratory technology that arises in the course of the investigation. 2000, c. 8, s. 50; 2012, c. 48, s. 33.

Further duties and powers

51 (1) An investigation committee may

(a) dismiss a complaint;

(b) attempt to resolve the matter informally;

(c) with the consent of both parties, refer the matter, in whole or in part, to mediation;

(d) refer the matter, in whole or in part, to a hearing committee;

(e) counsel the member of the College complained of;

(f) caution the member;

(g) counsel and caution the member;

(h) with the comment of the member, reprimand the member with the member's consent; or

(i) with the consent of the member, require the member to undergo such treatment or re-education as the committee considers necessary.

(2) Where an investigation committee is considering a decision to counsel, caution or counsel and caution a member of the College pursuant to clause (1)(e), (f) or (g), the committee shall give notice to the member and the member shall be given the opportunity to appear, with or without legal counsel, before the committee prior to the committee making a decision.

(3) When making findings under clause (1)(e), (f), (g), (h) or (i), an investigation committee may make any combination of the dispositions that are set out in those clauses, or the committee may make such other dispositions as it considers appropriate, in accordance with the objects of this Act.

(4) The member of the College complained of and the complainant shall be advised in writing of the disposition of the committee. 2000, c. 8, s. 51.

Appeal

52 (1) A member of the College who has consented to a requirement for treatment or re-education under clause 51(1)(i) may consent to such requirement in principle, while reserving the right to appeal the actual content of the requirement for treatment or re-education to a hearing committee within 15 days of receiving notice thereof.

(2) Parties to an appeal pursuant to subsection (1) bear their own costs.

(3) An appeal pursuant to subsection (1) must be conducted without oral testimony and a hearing committee shall review an agreed statement of facts supplied by the legal counsel for the College and signed by the member of the College.

(4) Where an agreed statement of facts is not filed within 30 days of filing the notice of appeal, the consent of the member of the College is deemed to have been withdrawn and the matter referred back to the investigation committee, which may consider other actions or dispositions as authorized by this Act. 2000, c. 8, s. 52.

Further powers of investigation committee

53 (1) Notwithstanding anything contained in this Act, where

(a) an investigation committee receives information that indicates that a member of the College may be incompetent or guilty of professional misconduct or conduct unbecoming; and

(b) the investigation committee concludes that it is in the public interest to suspend from practice or restrict the practice of the member,

the investigation committee may, without a hearing,

(c) immediately suspend the registration or licence, or both, of the member on a temporary basis; or

(d) immediately impose restrictions on the registration or licence, or both, of the member on a temporary basis.

(2) The member of the College shall receive forthwith notice, in writing, with reasons, of a decision made under subsection (1).

(3) Subject to a determination under subsection (5), a decision pursuant to subsection (1) continues in force until final resolution by a hearing committee, which must occur without undue delay.

(4) A member of the College who receives written notice pursuant to subsection (2) may request, in writing, an opportunity to meet with the investigation committee.

(5) Where a request is received under subsection (4), the investigation committee

(a) shall provide an opportunity for the member of the College to meet with the committee within 10 days of the written request; and

(b) after meeting with the member, may confirm, vary or terminate the suspension or restrictions imposed pursuant to subsection (1). 2000, c. 8, s. 53.

Hearing committee

54 Notwithstanding anything contained in this Act, where a decision is made under subsection 53(1), then, subject to any disposition made under subsection 53(5), a hearing committee shall be appointed under subsection 57(1) to proceed with a hearing to determine whether the member of the College is guilty of charges relating to a disciplinary matter. 2000, c. 8, s. 54.

Settlement agreement

55 (1) After an investigation committee refers a matter to a hearing committee under clause 51(1)(d), the member of the College complained of may, at any time before the beginning of the hearing, tender to the investigation committee a proposed settlement agreement, in writing, consented to by legal counsel for the College that includes an admission of a disciplinary-matter violation or violations and the member's consent to a specified disposition, conditional upon the acceptance of the agreement by a hearing committee.

(2) The investigation committee may, in its discretion, recommend or refuse to recommend acceptance of the proposed settlement agreement by a hearing committee.

(3) Where the investigation committee recommends the acceptance of the proposed settlement agreement, it shall instruct legal counsel for the College to advise the hearing committee appointed to hear the complaint of its recommendation.

(4) Where the investigation committee refuses to recommend the proposed settlement agreement, the hearing must proceed without reference to the proposed settlement agreement.

(5) Where the hearing committee appointed to hear the complaint accepts the recommendation of the investigation committee, it shall confirm such acceptance by written decision that incorporates the settlement agreement.

(6) Where the hearing committee appointed to hear the complaint rejects the recommendation of the investigation committee,

(a) it shall advise the Registrar of its decision;

(b) it shall proceed no further with the hearing of the complaint;

(c) a new hearing committee shall be appointed to hear the complaint and no member of the committee that considered the proposed settlement agreement may be a member of the new committee; and

(d) the investigation committee retains jurisdiction over a complaint until the commencement of the hearing by a hearing committee. 2000, c. 8, s. 55.

Investigation of non-member

56 The Registrar may request the committee to investigate the activities of a non-member of the College but the committee has no compulsory powers in relation to the investigation of the non-member, except that the committee may require a member of the College who may have information relevant to the investigation to attend before the committee or the person conducting the investigation to be interviewed. 2000, c. 8, s. 56.

Purpose and composition of hearing committee

57 (1) A hearing committee shall be appointed for the purpose of hearing any charges relating to a disciplinary matter against a member when a disciplinary matter is referred, in whole or in part, to a hearing committee.

(2) A hearing committee shall be composed of at least three persons, of whom one member shall be appointed by the Board as the chair.

(3) A hearing committee shall have as members

(a) at least one person who does not hold a diploma in medical laboratory technology or equivalent, who is a member of the Board; and

(b) at least two other members of the Board.

(4) Notwithstanding subsection (3), any two members of a hearing committee constitute a quorum. 2000, c. 8, s. 57.

Powers of hearing committee

58 (1) Subject to the regulations, a hearing committee may do all things necessary to provide a full and proper inquiry.

(2) In a matter over which a hearing committee has jurisdiction, the hearing committee and each member of the committee has all the powers, privileges and immunities of a commissioner appointed pursuant to the *Public Inquiries Act*. 2000, c. 8, s. 58.

Witnesses and attendance at hearing

- 59** (1) Upon the application of
- (a) any party to a disciplinary hearing;
 - (b) the chair of a hearing committee; or
 - (c) legal counsel for the College or a hearing committee,

the Registrar of the College shall sign and issue a summons to witness for the purpose of procuring the attendance and evidence of a witness before the hearing committee.

(2) It is the duty of the member of the College who is charged in a disciplinary matter to appear at the hearing, but in the event of non-attendance by the member, the hearing committee, upon proof by affidavit, statutory declaration or other evidence acceptable to the hearing committee of service of the notice, pursuant to subsection (3), may proceed with the hearing and, without further notice to the member, render its decision and take such other action as it is authorized to take pursuant to this Act.

(3) Unless the member has agreed to a shorter notice period, a notice of hearing shall be served at least 30 days before the holding of the hearing upon the member whose disciplinary matter is being heard.

(4) A notice of a hearing must state the details of the charges and the time and place of the holding of the hearing, and must be signed by the Registrar.

(5) The College shall place the notice as provided for in subsection (4) in such publications as it considers necessary in order to inform the public. 2000, c. 8, s. 59.

Admissibility of evidence

60 (1) Evidence is not admissible before a hearing committee unless the opposing party has been given, at least 10 days before the hearing,

- (a) in the case of written or documentary evidence, an opportunity to examine the evidence;
- (b) in the case of the 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 the evidence of a witness, the identity of the witness.

(2) Notwithstanding subsection (1), a hearing committee may, in its discretion, allow the introduction of evidence that would be otherwise inadmissible under subsection (1) and may make such directions it considers necessary to ensure that a party is not prejudiced. 2000, c. 8, s. 60.

Restriction on communications

61 No member of a hearing committee holding a hearing shall communicate outside the hearing, in relation to the subject-matter of the hearing, with a party or a party's representative unless the other party has been given notice of the subject-matter of the communication and an opportunity to be present during the communication, with the exclusion of communications where the sole purpose is to make administrative arrangements. 2000, c. 8, s. 61.

Access to expert opinion

62 Where a hearing committee obtains expert opinion regarding medical laboratory technology with respect to a hearing, it shall make the nature of the opinion known to the parties and the parties may make submissions with respect to the opinion. 2000, c. 8, s. 62.

Restriction on public access to hearing

- 63** (1) Subject to subsection (2), a hearing is open to the public.
- (2) A hearing committee may make an order that the public, in whole or in part, be excluded from a hearing or any part of it if the hearing committee is satisfied that
- (a) matters involving public security may be disclosed;
 - (b) 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 be open to the public; or
 - (c) the safety of a person may be jeopardized.
- (3) Where it thinks fit, a hearing committee may make such orders it considers necessary to prevent the public disclosure of matters disclosed at a hearing, including orders prohibiting publication or broadcasting of those matters.
- (4) No order may be made pursuant to subsection (3) that prevents the publication of anything that is contained in the Register and available to the public.
- (5) A hearing committee may make an order that the public be excluded from the part of a hearing dealing with a motion for an order under subsection (2).
- (6) A hearing committee may make any order necessary to prevent the public disclosure of matters disclosed in the submission relating to any motion described in subsection (5), including prohibiting the publication or broadcasting of those matters.
- (7) Subject to any orders pursuant to this Section, a hearing committee shall state, at the hearing, its reasons for any order made pursuant to this Section. 2000, c. 8, s. 63.

Right to attend hearing

64 Where a hearing committee makes an order under subsection 63(2), wholly or partly, because of the desirability of avoiding disclosure of matters in the interest of a person affected,

- (a) the committee shall allow the parties, the complainant and their legal and personal representatives; and
- (b) the committee may allow such other persons as the committee considers appropriate,

to attend the hearing. 2000, c. 8, s. 64.

Transcripts

65 (1) A hearing committee holding a hearing shall ensure that

- (a) the oral evidence is recorded;
- (b) copies of the transcript of the hearing are available to a party at the party's request and expense, to the complainant at the complainant's request and expense and to other persons the hearing committee or the Registrar considers appropriate at those persons' request and expense; and
- (c) copies of the transcript of any part of the hearing that is not closed nor the subject of an order prohibiting publication are available to any person at that person's expense.

(2) Where a transcript of a part of a hearing that is the subject of an order for a closed hearing or an order prohibiting publication is filed with a court in respect of proceedings, only the court, the parties to the proceedings and the complainant may examine it unless the court or the hearing committee orders otherwise. 2000, c. 8, s. 65.

Powers and duties of hearing committee

66 (1) At a hearing of a hearing committee, a member of the College is entitled to all the rights of natural justice, including the right to be represented by legal counsel, to know all the evidence considered by the hearing committee, to present evidence and to cross-examine witnesses.

(2) A hearing committee

- (a) shall hear each case in such manner as it considers fit;
- (b) may require the member of the College complained of to
 - (i) submit to physical or mental examinations by such qualified persons as the committee designates, or
 - (ii) undergo such examinations as the committee directs to determine whether the member is competent to practise medical laboratory technology;
- (c) where the member fails to comply with clause (b), may resolve that the registration or licence, or both, of the member be suspended until the member does comply;

(d) where the committee has, pursuant to subclause (b)(i), required a member to submit to physical or mental examinations, shall deliver to the member any report it receives from the designated qualified person;

(e) shall determine whether the member is guilty of charges relating to a disciplinary matter, and

(i) where there is a guilty finding, may determine that

(A) the registration or licence of the member be revoked and that member's name be stricken from the Register,

(B) the licence of the member be suspended

(I) for a fixed period, or

(II) for an indefinite period until the occurrence of some specified future event or until compliance with conditions prescribed by the committee,

(C) conditions, limitations or restrictions be imposed on the member's licence,

(D) the member undergo such treatment or re-education as the committee considers necessary,

(E) such fine as the committee considers appropriate to a maximum of \$15,000 be paid by the member to the College for the purpose of funding medical laboratory technology education and research as determined by the Board,

(F) the member be reprimanded,

(G) such other disposition as it considers appropriate be imposed, or

(ii) where there is a not guilty finding, the committee shall dismiss the charges; and

(f) shall file its decision, including reasons, at the offices of the College.

(3) When making dispositions under clause (2)(e), the hearing committee may impose one or more of the penalties that are set out in that clause, or the committee may make such other dispositions as it considers appropriate, in accordance with the objects of this Act.

(4) The Registrar shall provide the member of the College complained of, the complainant and such other persons as the Registrar considers appropriate with a copy of the decision of the hearing committee except that, where there are references identifying clients or other persons other than the complainant, those references as well as other personal information about those persons must be deleted where, in the Registrar's opinion, it is appropriate.

(5) The decision of a hearing committee has effect immediately upon service on the member of the College complained of or from such time as the decision may direct.

(6) The hearing committee shall release documents and things put into evidence at a hearing to the person who produced them, on request, within a reasonable time after the matter in issue has been finally determined. 2000, c. 8, s. 66.

Inadmissibility of evidence in legal proceeding

67 (1) In this Section,

“civil proceeding” means any proceeding of a civil nature other than an arbitration proceeding or a proceeding before an adjudicative tribunal, board or commission or inquiry; and

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

(2) A witness in any legal proceeding, whether a party to the proceeding or not, is excused from answering any question as to any proceedings of an investigation committee or a hearing committee, and is excused from producing any report, statement, memorandum, recommendation, document or information prepared for the purpose of the investigative, disciplinary and hearing processes of the College, including any information gathered in the course of an investigation or produced for an investigation committee, a hearing committee or staff members of the College.

(3) Subsection (2) does not apply to documents or records that have been made available to the public by the College.

(4) Unless otherwise determined by a court of competent jurisdiction, a decision of an investigation committee or a hearing committee is not admissible in a civil proceeding other than in an appeal or a review pursuant to this Act. 2008, c. 3, s. 7.

Costs

68 (1) In this Section, “costs of the Board” include

(a) expenses incurred by the College, the Board, the investigation committee and the hearing committee;

(b) honoraria paid to members of the investigation committee and the hearing committee; and

(c) solicitor and client costs and disbursements of the College relating to the investigation and hearing of the complaint.

(2) When a hearing committee finds a member guilty of charges relating to a disciplinary matter, it may order that the member pay the costs of the Board, in whole or in part.

(3) When a member is ordered to pay costs under subsection (1), the Board may make it a condition of the registration or licence of the member that such costs be paid forthwith, or at such time and on such terms as the Board may fix. 2000, c. 8, s. 67.

Jurisdiction preserved

69 Notwithstanding that a member or members of an investigation committee or a hearing committee have ceased to hold office by reason of the lapse of their appointments, such member or members are seized with the jurisdiction to complete any matter the committees have commenced if necessary to retain a quorum and, for this purpose, such member or members continue to have the same powers, privileges, immunities and duties as are provided by this Act and the regulations. 2000, c. 8, s. 68.

Appeal

70 (1) The member of the College complained of 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 served upon the Registrar and the complainant.

(3) The record on appeal from the findings of a hearing committee consists of a copy of the transcript of the proceedings, the decision of the committee and the evidence before the committee certified by the chair of the committee.

(4) 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.

(5) Where a matter is appealed to the Nova Scotia Court of Appeal pursuant to this Section, the Court of Appeal has jurisdiction to, pending a decision by the Court of Appeal, grant a stay of any order made pursuant to this Act where, in its discretion, it considers it fit. 2000, c. 8, s. 69.

Rights of person whose licence is revoked

71 (1) A person whose licence has been revoked by a resolution of a hearing committee pursuant to subclause 66(2)(e)(i), may apply to the Board for

- (a) the entering of the person's name, address and qualifications on the Register or Defined Register; and
- (b) the issuance of a licence.

(2) An application pursuant to subsection (1) may not be made earlier than

- (a) two years after the revocation; and
- (b) six months after the previous application.

- (3) The Board may, upon
- (a) being satisfied that the interest of the public has been adequately protected;
 - (b) being satisfied as to the intention of such person to practise medical laboratory technology in the Province;
 - (c) being satisfied as to the activities of such person since the time of the resolution of the hearing committee;
 - (d) such person producing a letter of good standing from all jurisdictions in which the person had practised medical laboratory technology since the date of such resolution of the hearing committee; and
 - (e) such person undergoing such clinical or other examinations as the Board may designate,

direct the Registrar to enter the name, address and qualifications of such person in the Register or Defined Register and issue a licence to such person upon such terms and conditions as the Board may direct. 2000, c. 8, s. 70.

GENERAL

Manner of participating in meeting

72 (1) A member of the Board, or of a committee of the Board or of the College, may participate in any meeting of the Board or committee of the Board or of the College, with the exception of a hearing committee when it is conducting a hearing, as the case may be, by telephone or other communications facilities that permit all persons participating in a meeting to communicate with each other, and a member participating in a meeting by such means is deemed to be present at the meeting.

(2) A meeting of the Board, or of a committee of the Board, with the exception of a hearing committee when it is conducting a hearing, or of the College, may be held by conference telephone call or other communications facilities that permit all persons participating in the meeting to communicate with each other, and all members participating in the meeting by such means are deemed to be present at the meeting. 2000, c. 8, s. 71.

Certificate as evidence

73 A certificate purporting to be signed by the Registrar stating that any person named therein was or was not, on a specified day or during a specified period, registered and licensed, is prima facie evidence in any court of that fact without proof that the person signing it is the Registrar or of the Registrar's signature. 2000, c. 8, s. 72.

Evidence of registration and licensing

74 The presence of the name of any person in a document purporting for any year to be an annual list published by the Registrar under Section 34 is prima facie evidence in any court of the fact that a person whose name so appears is or was registered and licensed at the time of publication of such annual list. 2000, c. 8, s. 73.

Service of documents

75 (1) Service of any notice, order, resolution or other document pursuant to this Act or the regulations may be made

- (a) upon a member by registered letter addressed to such person at the member's address as set forth in the Register; and
- (b) upon any other person by registered letter.

(2) Where service is made by registered letter, service is deemed to be made on the third day after the notice, order, resolution or other document is mailed, and proof that the notice, order, resolution or other document was addressed and posted in accordance with subsection (1) is proof of service.

(3) Service of any document on the College may be made by service on the Registrar. 2000, c. 8, s. 74.

Exemption from liability

76 (1) Where a member of the College voluntarily renders first aid or emergency treatment without the expectation of monetary compensation to a person outside of a hospital, or in any other place not having proper and necessary medical facilities, that member is not liable for the death of such person, or damages alleged to have been sustained by such person by reason of an act or omission in the rendering of such first aid or emergency treatment, unless it is established that such injuries were caused, or such death was caused, by conduct on the part of the member that, if committed by a person of ordinary experience, learning and skill, would constitute negligence. 2000, c. 8, s. 75.

Exemption from liability

77 (1) No action for damages lies against the College, the Board, the Registrar, a member, officer or employee of the College or Board, a member of a committee or subcommittee of the College or the Board or a member of the College

- (a) for any act or failure to act, or any proceeding initiated or taken, in good faith under this Act, or in carrying out their duties or obligations as a member, officer or employee 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 is made with malice.

(3) Without limiting the generality of subsection (2), no action for damages lies against a member of the College or other person for disclosing any books, records, papers and other documents in their possession or control when done pursuant to this Act. 2000, c. 8, s. 76.

Publication of decision

78 (1) Subject to any publication bans, the College shall publish a hearing committee's decision or summary of the decision in its annual report and may publish the decision or summary in any other publication.

(2) Where the registration or licence, or both, of a member of the College has been revoked or suspended or where conditions, limitations or restrictions are imposed on the licence of a member, the College shall place a notice in such publications as it considers necessary in order to inform the public. 2000, c. 8, s. 77.

Regulations

79 All regulations made pursuant to this Act, with the exception of those regulations made pursuant to subsection 22(1), are regulations within the meaning of the *Regulations Act*. 2000, c. 8, s. 79.

CHAPTER M-19

**An Act to Permit Physicians
to Incorporate for the Purpose of Carrying on
the Practice of Medicine**

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

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Short title

1 This Act may be cited as the *Medical Professional Corporations Act*, 1995-96, c. 11, s. 1.

Interpretation

2 In this Act,

“Council” means the Council of the College of Physicians and Surgeons of Nova Scotia constituted by the *Medical Act*;

“Minister” means the Minister of Health and Wellness;

“permit” means a permit issued to a professional corporation pursuant to this Act;

“physician” means a medical practitioner as defined by the *Medical Act*;

“practice of medicine” means the practice of medicine, surgery, obstetrics, pathology, radiology and specialties thereof by a physician;

“professional corporation” means a company incorporated pursuant to the *Companies Act* for the purpose of carrying on the practice of medicine;

“Registrar” means the Registrar under the *Medical Act*;

“spouse” means a person married to another person, and includes either of a man and woman who, not being married to each other, live together as husband and wife and have so lived for at least one year. 1995-96, c. 11, s. 2.

Professional corporation

3 Subject to this Act and the regulations, a professional corporation may engage in the practice of medicine and physicians may be employed by a professional corporation for the purpose of engaging in the practice of medicine. 1995-96, c. 11, s. 3.

Ownership of shares

4 (1) A majority of the issued shares of a professional corporation must be legally and beneficially owned by one or more physicians.

(2) A majority of the issued voting shares of a professional corporation must be legally and beneficially owned by one or more physicians.

(3) Subject to subsections (1) and (2), any person may own, beneficially or legally, shares of a professional corporation.

(4) Notwithstanding subsections (1) and (2), a person resident in Canada may hold legal title to issued shares of a professional corporation solely as trustee for the exclusive benefit of a physician, or the spouse or child of a physician, or a group of such individuals pursuant to a trust settlement governed by the laws of the Province, but no one other than a physician, or the spouse or child of a physician, shall act as such a trustee without the written consent of the Registrar. 1995-96, c. 11, s. 4.

Qualifications of directors

5 All of the directors of a professional corporation that is engaged in the practice of medicine must be physicians. 1995-96, c. 11, s. 5.

Restriction on right to practise

6 A professional corporation shall not engage in the practice of medicine unless the corporation holds a permit pursuant to this Act and the corporation is in compliance with this Act and the regulations. 1995-96, c. 11, s. 6.

Permit

7 (1) Notwithstanding any other provision of this Act, a professional corporation to which a permit is issued pursuant to this Section may practise medicine in its own name.

(2) Notwithstanding subsection (1), no professional corporation may be registered as a physician pursuant to the *Medical Act*.

(3) The Registrar shall issue a permit to any professional corporation that

(a) files all required applications in the form prescribed by the regulations;

- (b) pays all fees prescribed by the regulations;
- (c) satisfies the Registrar that it is a company limited by shares in good standing with the Registrar of Joint Stock Companies under the *Companies Act* and the *Corporations Registration Act* and that it is a private company as defined by the *Securities Act*;
- (d) satisfies the Registrar that the name of the corporation is in accordance with the regulations;
- (e) satisfies the Registrar that the legal and beneficial ownership of all of the issued shares of the corporation satisfies the requirements of Section 4;
- (f) satisfies the Registrar that all of the directors of the corporation are physicians;
- (g) satisfies the Registrar that the corporation holds such liability insurance as may be prescribed by the regulations; and
- (h) satisfies the Registrar that the persons who will carry on the practice of medicine for or on behalf of the corporation are physicians.

(4) A permit issued pursuant to subsection (3), or any renewal thereof pursuant to subsection (5), expires on December 31st of the year for which it was issued or renewed.

(5) The Registrar may renew a permit upon such application and payment of such fee as may be prescribed by the regulations where the Registrar determines that the requirements of subsection (3) are satisfied by the professional corporation.

(6) A permit issued pursuant to subsection (3), or renewed pursuant to subsection (5), may be suspended or revoked at any time by the Registrar where a professional corporation fails to satisfy any of the requirements of subsection (3).

(7) The Council may, in its discretion, review a decision of the Registrar to suspend or revoke a permit pursuant to subsection (6).

(8) For the purpose of this Act, the practice of medicine is not carried on, and is not deemed to be carried on, by clerks, secretaries, nurses and other persons employed by a professional corporation to perform services that are not usually and ordinarily considered by law, custom and practice to be services that may be performed only by a physician. 1995-96, c. 11, s. 7.

Physician owner

8 (1) In this Section, “physician owner” means a physician who is the legal and beneficial owner of issued voting shares of a professional corporation.

(2) Where a professional corporation practises medicine only through the services of a physician owner and no other physician, and that physician owner dies, becomes incompetent or is no longer registered pursuant to the *Medical Act*, or is suspended pursuant to that Act, the permit of the corporation is deemed to be revoked and the corporation shall cease to practise medicine.

(3) Where a professional corporation practises medicine through the services of at least one physician other than the physician owner and the corporation ceases to fulfill any requirement of subsection 7(3) by reason of

- (a) the death of the physician owner;
- (b) the incompetency of the physician owner;
- (c) the physician owner ceasing to be a physician as defined by this Act; or
- (d) the suspension of the physician owner pursuant to the *Medical Act*,

the corporation shall forthwith notify the Registrar and shall fulfill the requirements in question within 120 days from the date of death, incompetency, ceasing to be a physician or the suspension, as the case may be, of the physician owner, failing which the permit is revoked and the corporation shall cease to practise medicine effective upon the expiration of the 120-day period.

(4) Where a majority of the issued voting shares of a professional corporation are legally and beneficially owned by two or more physician owners and the corporation ceases to fulfill any requirement referred to in subsection 7(3) by reason of

- (a) the death of a physician owner;
- (b) the physician owner ceasing to be a physician as defined by this Act; or
- (c) the suspension of a physician owner pursuant to the *Medical Act*,

the corporation shall forthwith notify the Registrar and shall fulfill the requirements in question within 120 days from the date of death, ceasing to be a physician or the suspension, as the case may be, of the physician owner, failing which the permit is revoked and the corporation shall cease to practise medicine upon the expiration of the 120-day period.

(5) Where the permit of a professional corporation is revoked pursuant to this Section and thereafter the corporation is able to demonstrate that it is in compliance with subsection 7(3), the corporation may apply to the Registrar to have its permit reinstated and the Registrar may, in the discretion of the Registrar, reinstate the permit subject to such conditions as the Registrar may determine. 1995-96, c. 11, s. 8.

Notice of certain changes

9 Where the shares of a professional corporation engaged in the practice of medicine are transferred or where there is a change in the shareholders, directors or officers of such corporation, or any change in the location where such corporation carries on business, the corporation shall, within 15 days, notify the Registrar of such transfer or change. 1995-96, c. 11, s. 9.

Application of Medical Act unaffected

10 The relationship of a physician to a professional corporation, whether as a shareholder, director, officer or employee, does not affect, modify or diminish

the application of the *Medical Act* and the regulations made pursuant to that Act to the physician. 1995-96, c. 11, s. 10.

Liability unaffected

11 (1) All persons who carry on the practice of medicine by, through or on behalf of a professional corporation are liable in respect of acts or omissions done or omitted to be done by them in the course of the practice of medicine to the same extent and in the same manner as if such practice were carried on by them as an individual or a partnership, as the case may be, carrying on the practice of medicine.

(2) No owner of voting shares of a professional corporation shall pledge, hypothecate, enter into a voting trust, proxy or any other type of agreement vesting in any other person who is not a physician the authority to exercise the voting rights attached to any or all of the owner's shares. 1995-96, c. 11, s. 11.

Confidentiality and ethics

12 (1) Nothing contained in this Act affects, modifies or limits any law applicable to the confidential or ethical relationships between a physician and the physician's patient.

(2) The relationship between a professional corporation and a patient of the corporation is subject to all applicable law relating to the confidential and ethical relationships between a physician and the physician's patient.

(3) All rights and obligations pertaining to communications made to or information received by a physician apply to the shareholders, directors, officers and employees of a professional corporation. 1995-96, c. 11, s. 12.

Compellable witnesses

13 All shareholders, directors, officers and employees of a professional corporation are compellable witnesses in any proceedings pursuant to this Act or the *Medical Act*. 1995-96, c. 11, s. 13.

Certificate as evidence

14 A certificate purporting to be signed by the Registrar stating that a named professional corporation was or was not, on a specified day or during a specified period, a professional corporation entitled to practise medicine according to the records of the Registrar, must be admitted in evidence as prima facie proof of the facts stated therein without proof of the Registrar's appointment or signature. 1995-96, c. 11, s. 14.

Consequences of commission of offence

15 Where a professional corporation commits an offence contrary to this Act or the regulations, every person who, at the time of the commission of the offence, was a director or officer of the corporation is guilty of the same offence and subject to the same penalties unless the act or omission constituting the offence took place without the person's knowledge or consent or the person exercised all due diligence to prevent the commission of the offence. 1995-96, c. 11, s. 15.

Offence and penalties

16 (1) Every person who contravenes this Act or the regulations is guilty of an offence and liable, on summary conviction, for a first offence to a fine not exceeding \$500 and for a second or any subsequent offence to a fine not exceeding \$1,000.

(2) Where a professional corporation is convicted of an offence contrary to this Act or the regulations, the permit of the corporation is suspended in default of paying any fine ordered to be paid until such time as the fine is paid.

(3) Where a professional corporation is convicted of a second or subsequent offence, the permit of the corporation may be revoked. 1995-96, c. 11, s. 16.

Regulations

17 (1) Subject to subsections (2) and (3), the Council may make regulations

(a) prescribing the manner of proof as to matters required to be proven by applicants for permits;

(b) fixing reasonable fees payable for the issuance and renewal of permits;

(c) providing that the permit of a professional corporation is suspended without notice or investigation upon contravention of any regulation that requires the corporation to pay a fee or assessment, file a document or do any other act by a specified or ascertainable date, and providing for the reinstatement of a permit so suspended;

(d) prescribing the grounds upon which the Council may review a decision of the Registrar pursuant to subsection 7(7) and the procedures to be followed in reviewing any such decision;

(e) providing for the reinstatement or reissuance of any permit suspended or revoked pursuant to this Act and prescribing the terms and conditions upon which reinstatement or reissuance of a permit may be granted;

(f) providing for the creation and maintenance of a register of professional corporations;

(g) providing for the filing of periodic returns by professional corporations;

(h) providing for the annual renewal of permits and prescribing the terms and conditions upon which renewals may be granted;

(i) prescribing the types of names and business names by which

(i) a professional corporation,

(ii) a partnership of two or more professional corporations, or

(iii) a partnership of one or more professional corporations and one or more individual physicians,

may be known;

(j) prescribing the advertising that may be undertaken by a professional corporation;

(k) prescribing access to the minute book records of a professional corporation by the Registrar;

(l) prescribing any other matters necessary for the proper administration of this Act.

(2) Prior to making any regulation pursuant to this Act, the Council shall consult and seek the advice of Doctors Nova Scotia with respect to the proposed regulation.

(3) No regulation has effect until it is approved by the Governor in Council.

(4) The exercise of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 1995-96, c. 11, s. 17.

CHAPTER M-20

**An Act to Restrict
the Privatization of Medical Services**

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Short title

1 This Act may be cited as the *Medical Services Act*. R.S., c. 281, s. 1.

Purpose of Act

2 The purpose of this Act is to prohibit the privatization of the provision of certain medical services in order to maintain a single high-quality healthcare delivery system for all Nova Scotians. R.S., c. 281, s. 2.

Interpretation

3 In this Act,
“designated medical service” means a medical service designated pursuant to the regulations;
“Minister” means the Minister of Health and Wellness. R.S., c. 281, s. 3.

Prohibition

4 No person shall perform or assist in the performance of a designated medical service other than in a hospital approved as a hospital pursuant to the *Hospitals Act*. R.S., c. 281, s. 4.

No reimbursement

5 Notwithstanding the *Health Services and Insurance Act*, a person who performs or for whom is performed a medical service contrary to this Act is not entitled to reimbursement pursuant to that Act. R.S., c. 281, s. 5.

Offence

6 (1) Every person who contravenes this Act is guilty of an offence and liable upon summary conviction to a fine of not less than \$10,000 nor more than \$50,000.

(2) Where a person is guilty of an offence pursuant to subsection (1), the court may, in addition to any other penalty it may impose, order the person to comply with the provision of this Act the violation for which that person has been convicted.

(3) No action or prosecution for a contravention of this Act shall be commenced without the leave of the Attorney General having first been obtained in writing. R.S., c. 281, s. 6.

Injunctive relief

7 Notwithstanding any other provision of this Act, where designated medical services are being performed contrary to this Act, the Minister may, at any time, apply to a judge of the Supreme Court of Nova Scotia for an injunction, and the judge may make any order that in the opinion of the judge the case requires. R.S., c. 281, s. 7.

Regulations

8 (1) The Governor in Council, on the recommendation of the Minister, may make regulations

(a) after consultation by the Minister with Doctors Nova Scotia, designating a medical service for the purpose of this Act;

(b) defining “medical service”;

(c) defining any word or expression used in this Act and not defined therein;

(d) respecting any matter or thing that the Minister 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*. R.S., c. 281, s. 8.

Conflict with another enactment

9 Where there is a conflict between this Act or the regulations and any other enactment, this Act and the regulations prevail. R.S., c. 281, s. 9.

CHAPTER M-21

**An Act to Provide for
Retiring Allowances to Members
of the House of Assembly**

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Short title

1 This Act may be cited as the Members Retiring Allowances Act. R.S., c. 282, s. 1.

INTERPRETATION

Interpretation

2 (1) In this Act

"Account" means the Members' Retiring Allowances Account, established under this Act;

"allowance" means a member's retiring allowance payable under this Act;

"annual allowance for expenses" means the annual allowance for expenses payable under the House of Assembly Act to a member;

"annual indemnity", on and after January 1, 1969, means the annual indemnity payable under the House of Assembly Act to a member, and before January 1, 1969, means the sessional indemnity paid under the House of Assembly Act to a member in respect of a session of the House;

"annual salary" means, with respect to the Leader of the Opposition, the leader of a recognized party, the Speaker and a Deputy Speaker, the salary payable to them, respectively, in each year under the House of Assembly Act, and, with respect to the Premier and the other members of the Executive Council, the salary payable to them, respectively, in each year under the Executive Council Act;

“dependant” of a member means a parent, sibling or child who at the date of death of the member is, by reason of mental or physical infirmity, dependent upon the member for support;

“designated beneficiary” means the person or organization a member has designated as a beneficiary with the administrator of the Registered Plan;

“House” means the House of Assembly;

“Income Tax Act (Canada)” means the *Income Tax Act* (Canada), including any regulations made pursuant thereto, as amended from time to time;

“leader of a recognized party” means the leader of a recognized party as defined in the *House of Assembly Act*;

“member” means a member of the House unless the member is excluded from the requirements and benefits of this Act by order of the Governor in Council;

“Minister” means the Minister of Finance and Treasury Board;

“personal representative” has the same meaning as in the *Probate Act*;

“Registered Plan” means the Members’ Retiring Allowances Plan;

“service”, in Part I, means “eligible service” within the meaning of the *Income Tax Act* (Canada);

“spouse” means either of two persons who

- (a) are married to each other;
- (b) are married to each other by a marriage that is voidable and has not been annulled by a declaration of nullity;
- (c) have gone through a form of marriage with each other, in good faith, that is void and are cohabiting or, where they have ceased to cohabit, have cohabited within the 12-month period immediately preceding the date of entitlement; or
- (d) neither of them being married, are cohabiting in a conjugal relationship of at least two years with each other;

“Supplementary Account” means the Members’ Supplementary Retiring Allowances Account established under this Act;

“Supplementary Plan” means the Members’ Supplementary Retiring Allowances Plan;

“totally and permanently disabled” has the same meaning as in the *Income Tax Act* (Canada).

(2) Entitlements must accumulate and allowances must be paid to former members, spouses of former members, children or dependents of former members notwithstanding federal income tax provisions respecting registered pension plans and the entitlements earned and payments must be made in such a manner to enable utilization of the provisions of the *Income Tax Act* (Canada) to

continue to the fullest extent possible. R.S., c. 282, s. 2; Nova Scotia Commission of Inquiry on Remuneration of Elected Provincial Officials, November 29, 1990, MRA R 90-4; 1993, c. 29, s. 1; 2011, c. 39, s. 2; 2014, c. 34, s. 31; 2022, c. 4, s. 5.

PART I

MEMBERS' RETIRING ALLOWANCES PLAN

Plan

3 There is a Members' Retiring Allowances Plan, the terms of which are prescribed by this Part. 2011, c. 39, s. 3.

Trustee and administrator

4 (1) The Minister is the trustee of the Registered Plan.

(2) The Minister may appoint a person to be the administrator of the Registered Plan. 2011, c. 39, s. 3.

No assignment or surrender

5 (1) No right of a person under the Registered Plan is capable of being assigned, charged, anticipated, given as security or surrendered.

(2) An assignment does not include

(a) an assignment pursuant to a decree, order or judgment of a competent tribunal or a written agreement in settlement of rights arising out of a marriage or other spousal relationship on or after the breakdown of the marriage or relationship; or

(b) an assignment by the legal representative of a deceased person on the distribution of the person's estate.

(3) A surrender does not include a reduction in benefits to avoid the revocation of the registration of the Registered Plan. 2011, c. 39, s. 3.

Administration in accordance with Income Tax Act (Canada)

6 (1) This Part must be administered in accordance with the *Income Tax Act* (Canada) and, where there is a conflict between this Part and that Act, that Act prevails.

(2) For greater certainty, notwithstanding any other provision of this Act or the regulations, no allowance is payable

(a) in an amount that exceeds the maximum permitted for that allowance by the *Income Tax Act* (Canada); or

(b) to a surviving spouse in an amount that exceeds the maximum permitted for spousal pension benefits by the *Income Tax Act* (Canada).

(3) Notwithstanding anything in this Part or any report made by a commission of inquiry respecting the annual indemnity pursuant to Section 44 of the *House of Assembly Act*, the Registered Plan is modified to the extent necessary

to comply with the requirements of the *Income Tax Act* (Canada) applicable to registered pension plans and funds. 1993, c. 29, s. 2; 2011, c. 39, ss. 3, 4.

MEMBERS' RETIRING ALLOWANCE ACCOUNT

Members' Retiring Allowance Account

7 (1) There shall be established in the General Revenue Fund an account to be known as the Members' Retiring Allowance Account to which must be credited the payments made by members under this Part and the amounts credited by the Minister pursuant to Section 8.

(2) All allowances payable under this Part must be paid out of the General Revenue Fund and charged to the Account. R.S., c. 282, s. 3; 1993, c. 29, s. 3; 2010, c. 2, s. 119.

Credit to Account

- 8 (1) The Minister shall credit to the Account in each fiscal year
- (a) the amount equal to the contributions made by the members in that year, but not in excess of the employer's contributions recommended by the Registered Plan's actuary;
 - (b) an amount equal to the employer's contributions recommended by the Registered Plan's actuary, less contributions made pursuant to clause (a); and
 - (c) an amount representing interest on the balance that is from time to time to the credit of the Account.

(2) Where at any time the Account is insufficient to make all payments by this Part required to be made, the Minister shall credit to the Account an amount out of the General Revenue Fund sufficient to enable such payments to be made as recommended by the Registered Plan's actuary. R.S., c. 282, s. 4; 1993, c. 29, s. 4; 2010, c. 2, s. 120; 2011, c. 39, s. 5.

Account for each member

9 An account must be kept in respect of each member in which are shown all payments made by the member, to the member or on the member's account. R.S., c. 282, s. 5.

CONTRIBUTIONS

Payment by member

10 (1) All members except a member excluded by order of the Governor in Council shall by reservation from their annual indemnities pay into the General Revenue Fund 10% of all amounts that are payable to them as annual indemnities.

(2) Any person who on January 1, 1987, was a member may pay into the General Revenue Fund an amount equal to eight per cent of the aggregate of all annual allowances for expenses paid to the member during the period from January 1, 1969, to December 31, 1981, together with interest thereon at such rate as is determined by the Governor in Council from the date of payment of the several

allowances to the date of payment into the General Revenue Fund and, in respect of such person who has made such contribution, subsection 16(2) is to be read, for the purpose of all payment of allowances subsequent to the later of January 1, 1987, and such date as the person elects to make such contribution, as if the date of December 31, 1981, is December 31, 1968.

(3) Any person who was a member prior to January 1, 1969, but who did not make contributions to the General Revenue Fund pursuant to this Act may, where the person was not a member on January 1, 1969, but subsequently becomes a member, at any time within two years of the person's election as a member, pay into the General Revenue Fund an amount equal to eight per cent of the aggregate of all annual indemnities paid to the person prior to January 1, 1969, together with interest thereon at such rate as is determined by the Governor in Council from the date of payment of the several indemnities to the date of payment into the General Revenue Fund and shall thereupon be credited with the service prior to January 1, 1969. R.S., c. 282, s. 6; Nova Scotia Commission of Inquiry on Remuneration of Elected Provincial Officials, November 24, 1989, MRA R 89-2, 9; 1993, c. 29, s. 5; 2010, c. 2, s. 121; 2014, c. 34, s. 32.

Maximum period of required contribution

11 (1) A member is not required to make contributions under this Act after the member has contributed for 20 years.

(2) A member is not required to make contributions under this Act with respect to an allowance after the member has become entitled to the maximum amount payable for that allowance. R.S., c. 282, s. 7; 2011, c. 39, s. 6.

Additional payment by certain members

12 (1) A member who is Premier, a member of the Executive Council, Leader of the Opposition, a leader of a recognized party, Speaker or a Deputy Speaker, shall, in addition to the contributions made as a member, other than a member excluded by order of the Governor in Council, pay into the General Revenue Fund 10% of such person's annual salary.

(2) Subject to the payment of the applicable contribution by the member pursuant to subsection (1), the representation allowance paid to the member who was Premier for the years 1982 to 1989 must be included in the calculation of the average salary of that member for the purpose of determining the amount of the allowance to be paid pursuant to subsection 16(3). R.S., c. 282, s. 8; Nova Scotia Commission of Inquiry on Remuneration of Elected Provincial Officials, November 24, 1989, MRA R 89-5 and 9; 2010, c. 2, ss. 122, 123.

Repayment of amount withdrawn

13 A person who has been paid an amount pursuant to clause 24(1)(a) may, upon subsequently becoming a member, pay the amount into the General Revenue Fund, together with interest thereon at such rate as is determined by the Governor in Council. R.S., c. 282, s. 10; 2010, c. 2, s. 125.

ALLOWANCES

Credit for period of service

14 A member shall be credited with a period of service for the purpose of calculating the allowance payable to the member upon paying the required contributions. 2011, c. 39, s. 8.

Entitlement to allowance

15 (1) An allowance must be paid in accordance with this Act to or in respect of a member who has made payments into the General Revenue Fund pursuant to Section 10 or 12, and has served as a member in sessions of more than two General Assemblies or for 10 years and upwards and

- (a) has ceased to be a member and has attained the age of 55 years;
- (b) has ceased to be a member and is totally and permanently disabled; or
- (c) has died.

(2) Subsection (1) does not apply to a person who is a member on January 1, 1982, or becomes a member subsequent to that date.

(3) An allowance must be paid in accordance with this Act to or in respect of a person who was a member on January 1, 1982, or became a member subsequent to that date, who has made payments into the General Revenue Fund pursuant to Section 10, 12 or 13, who has served as a member for at least five years during two or more General Assemblies and who

- (a) has ceased to be a member and has attained either
 - (i) the age of 60 years, or
 - (ii) the age of 55 years and the aggregate of the person's age in years and years of service is equal to at least 80;
- (b) has ceased to be a member and is totally and permanently disabled; or
- (c) has died.

(4) Subsection (3) does not apply to a person who is a member on November 1, 2013, or becomes a member subsequent to that date.

(5) An allowance must be paid in accordance with this Act to or in respect of a person who was a member on November 1, 2013, or became a member subsequent to that date, who has made payments into the General Revenue Fund of the Province pursuant to Section 10, 12 or 13, who has served as a member for at least two years and who

- (a) has ceased to be a member and has attained either
 - (i) the age of 60 years, or
 - (ii) the age of 55 years and the aggregate of the person's age in years and years of service is equal to at least 80;

- (b) has ceased to be a member and is totally and permanently disabled; or
- (c) has died.

(6) In computing the number of years of service for the purpose of Sections 16, 18 and 19, the period during which any member who

- (a) is a member;
- (b) becomes a member; or
- (c) was formerly a member and who is in receipt of an allowance or may be entitled to an allowance under this Act,

from August 1, 1976, who actively served in the Crown's armed forces, including the armed forces of Canada, Britain or other Commonwealth countries, during either World War II, which commenced on September 10, 1939, and terminated on September 30, 1947, or who actively served in Korea during the Korean Conflict, which commenced on June 30, 1950, and terminated on January 1, 1954, is entitled to count such service as service for the purpose of this Act, upon the member paying into the General Revenue Fund the member's contribution rate in effect on August 1, 1976, with simple interest at the rate of four per cent per year, from the date of the member's last being a contributor to the General Revenue Fund pursuant to this Act, to the date of election to contribute, the cost of such contributions and simple interest thereon must be based on the member's annual salary or indemnity on the date of the member's last becoming a contributor and is payable in a lump sum, or, in such instalments as the Minister approves.

(7) Subsection (6) does not apply to a member who has received or who will receive credit under another Act or pension plan for the service covered by subsection (6). R.S., c. 282, s. 11; 2010, c. 2, s. 126; 2011, c. 39, s. 9; 2014, c. 36, s. 5.

Duration and amount of allowance

16 (1) The annual allowance payable to a person who has served as a member must be paid to the person for life and is 1/50 of the product of

- (a) the average annual indemnity earned in the three years during which the person's annual indemnity was the highest; and
- (b) the number of years of the person's service,

but in no case may the annual allowance exceed 70% of the person's average annual indemnity earned in the three years during which the person's annual indemnity was the highest.

(2) Notwithstanding subsection (1), an additional annual allowance is payable for life to a person to whom an annual allowance is payable pursuant to subsection (1) and the additional annual allowance is 1/50 of the total obtained by multiplying the average annual allowance for expenses

- (a) during the last three years of service; or
- (b) where the number of years of service after December 31, 1981, is fewer than three years, during the actual years of service after that date,

by the number of years of service after December 31, 1981, but in no case may the additional annual allowance exceed 75% of the average annual allowance for expenses during the last three years of service.

(3) When a person to whom Section 12 applies becomes eligible to receive an allowance as a member under Section 15, the person must be paid, in addition to the person's member's allowance, a further allowance calculated in accordance with the following provisions:

(a) where the period of service in one or more of the positions mentioned in Section 12 exceeds three years, the average annual salary earned in the three years at the highest rate of remuneration must be used for the purpose of calculating the further allowance;

(b) where the period of service mentioned in clause (a) is less than three years, the average annual salary for the actual years of service must be used for the purpose of calculating the further allowance;

(c) the further allowance is two per cent of the average annual salary calculated pursuant to clause (a) or (b) multiplied by the number of years of service after January 1, 1954, to a total maximum of 70% of the average annual salary calculated pursuant to clause (a) or (b), in one or more of the positions mentioned in Section 12.

(4) For the purpose of determining the amount of any allowances paid pursuant to this Act on or after January 1, 1990, the amount of the deferred retiring allowance, including portions of the allowance provided pursuant to subsection (3), to which any member or former member was entitled during and including January 1, 1976, to December 31, 1986, or any part thereof, must be determined as if Schedule "B" of Order in Council no. 75-342 applied to it.

(5) Notwithstanding subsections (1) to (3), the aggregate of the allowances payable to a person pursuant to those subsections may not exceed the defined benefit limit, pursuant to the *Income Tax Act* (Canada), for the year the allowances to that person commence multiplied by the person's years of service.

(6) An allowance under this Act or any predecessor to this Act being paid to a member or to a surviving spouse or dependant of a member on December 31, 2010, inclusive of any cost of living adjustments made by that date, must be adjusted annually, commencing January 1, 2011, in the same manner and by the same percentage as are superannuation allowances payable under the *Public Service Superannuation Act*.

(7) An allowance under this Act or any predecessor to this Act that commences to be paid to a member or to a surviving spouse or dependant of a member after December 31, 2010, must be adjusted annually in the same manner and by the same percentage as are superannuation allowances under the *Public Service Superannuation Act* that commence to be paid after December 31, 2010.

(8) Sections 67 to 69 and 71 of the *Public Service Superannuation Act* apply with necessary changes to subsections (6) and (7).

(9) From and after January 1, 2011, no allowance under this Act may commence to be credited or continue to be credited with any cost of living adjustment during the period prior to which the allowance commences to be paid.

(10) Any allowance under this Act or any predecessor to this Act being paid on December 31, 2010, or that commences to be paid after December 31, 2010, must be adjusted for cost of living in accordance only with subsections (6) to (8) and, notwithstanding any prior enactment or regulation, or any contract, agreement, order or representation relating to, fixing or in any manner referencing a cost of living adjustment applicable to any allowance under this Act or any predecessor to this Act, the amount of any such cost of living adjustment must be determined solely in accordance with subsections (6) to (8), and no person has or may maintain any cause of action or claim against the Province, the Minister or any other person arising from or in relation to any such prior enactment, regulation, contract, agreement, order or representation. R.S., c. 282, s. 12; Nova Scotia Commission of Inquiry on Remuneration of Elected Provincial Officials, November 24, 1989, MRA R 89-6; 2010, c. 2, s. 127; 2010, c. 3, s. 9; 2011, c. 39, s. 10; 2012, c. 4, Sch. B, s. 90.

Reduced allowance

17 A person who ceases to be a member and who has not attained the age of 55 years but has attained the age of 50 years is entitled to the allowance otherwise payable reduced by the greater of

- (a) one half of one per cent of the allowance for each month remaining until the member attains the age of 55 years; and
 - (b) one quarter of one per cent of the allowance for each month remaining until the earlier of when
 - (i) the member attains the age of 60 years, and
 - (ii) the member attains the age of 55 years and the aggregate of the person's age in years and years of service is equal to 80.
- 2011, c. 39, s. 11.

Allowance to spouse and dependants

18 (1) Where a person

- (a) is in receipt of an allowance pursuant to subsection 15(1) or (3); or
- (b) would be entitled to an allowance pursuant to subsection 15(1) or (3) if the person were 60 years of age,

and dies leaving surviving

- (c) a spouse, 66 2/3% of the allowance to which the person would have been entitled on attaining the age of 55 years and ceasing to be a member or 66 2/3% of the allowance that was being paid, as the case may be, must be paid to the person's spouse for life;
- (d) a child under the age of 18 years, or 25 years in the case of a child who is attending on a full-time basis an educational institution recognized as such by regulation made by the Governor in Council, and who annually submits evidence of such attendance in a form satisfactory to the Minister, 10% of the allowance the person would have been entitled to or that was being paid must be paid in

respect of each child who has not attained the age of 18 years, or 25 years in the case of a child who is attending on a full-time basis an educational institution recognized as such by regulation made by the Governor in Council, and who annually submits evidence of such attendance in a form satisfactory to the Minister and until the person attains that age, not exceeding in the whole 33 1/3% of the allowance in respect of all such children, but where the person leaves no spouse surviving or the person's spouse dies, 66 2/3% of the allowance the person would have been entitled to or that was being paid must be paid in respect of the said children in substitution for the 10% in respect of each child;

(e) no spouse or child under 18 years of age, or 25 years of age in the case of a child who is attending on a full-time basis an educational institution, 50% of the allowance to which the person would have been entitled or that was being paid must be paid to the person's dependants, if any, in equal shares, until, in each case, the dependant's mental or physical disability ceases or the dependant dies, whichever first occurs.

(2) Section 21 does not apply to an allowance paid pursuant to this Section.

(3) Any reference in subsection (1) to "66 2/3%" is, for a person who first becomes a member on or after April 6, 2010, deemed to be 60%.

(4) The reference in subsection (1) to "33 1/3%" is, for a person who first becomes a member on or after April 6, 2010, deemed to be 40%. R.S., c. 282, s. 13; 2003, c. 12, s. 1; 2010, c. 3, s. 10; 2011, c. 39, s. 12.

Member for less than five years

19 (1) Where a person

(a) is a member;

(b) has made payments into the General Revenue Fund pursuant to Section 10, 12 or 13;

(c) has served as a member at all or part of two General Assemblies but for less than five years; and

(d) while the person is a member becomes totally and permanently disabled and ceases to be a member or dies,

there must be paid

(e) to the person or, where the person is deceased, to, subject to the limitation in the *Income Tax Act* (Canada), the spouse, children or dependants of the person who would be entitled if the person had served five years and upwards, an allowance calculated in accordance with Section 16 or 18 as if the member had served five years, but deducting from such allowance in each year for the number of years that the person has served less than five years an amount equal to the deductions that would have been made in such year if the person had continued to serve as a member and receive the same annual indemnity as the person was receiving at the time of the person's death or total disability; or

(f) a refund of the contributions paid by the member, at the option of the member or, where deceased, the member's spouse or, where there is no spouse, the member's designated beneficiary or, where there is no designated beneficiary, the member's personal representative, in accordance with Section 24.

(2) Subsection (1) does not apply to a person who was a member on November 1, 2013, or becomes a member subsequent to that date.

(3) Where a person

- (a) is a member;
- (b) has made payments into the General Revenue Fund pursuant to Section 10, 12 or 13;
- (c) has served as a member for less than two years; and
- (d) while a member becomes totally and permanently disabled and ceases to be a member or dies,

there must be paid

(e) to the person or, where deceased, to, subject to the limitation in the *Income Tax Act* (Canada), the spouse, children or dependants of the person who would be entitled if the person had served two years and upwards, an allowance calculated in accordance with Section 16 or 18 as if the person had served two years, but there must be deducted from such allowance in each year for the time that the person has served less than two years an amount equal to the deductions that would have been made in such year if the person had continued to serve as a member and receive the same annual indemnity as the person was receiving at the time of the person's death or total disability; or

(f) a refund of the contributions paid by the person, at the option of the person or, where deceased, the person's spouse or, where there is no spouse, the person's designated beneficiary or, where there is no designated beneficiary, the person's personal representative, in accordance with Section 24. R.S., c. 282, s. 14; 2010, c. 2, s. 128; 2011, c. 39, s. 13; 2014, c. 36, s. 6; 2022, c. 4, s. 6.

Date of termination of allowance on death

20 Notwithstanding any other provision of this Act, where a person who has been granted an allowance dies, the allowance must be paid to the last day of the month in which the person dies. 1993, c. 29, s. 9.

Discontinuance of allowance while member

21 (1) An allowance must be discontinued while the person to whom it is payable is a member.

(2) Notwithstanding subsection (1), a member, otherwise entitled to an allowance pursuant to this Act, is entitled to be paid such allowance or allowances commencing on the first day of the month immediately following the member's 71st birthday. R.S., c. 282, s. 15; Nova Scotia Commission of Inquiry on Remuneration of Elected Provincial Officials, November 24, 1989, MRA R 89-4.

Latest payment of allowance

22 Notwithstanding Section 21, a member who was born in the month of December and is otherwise entitled to an allowance pursuant to this Act must be paid such allowance or allowances no later than the last day of the year in which the member turns 71 years of age. 2022, c. 4, s. 7.

Commencement of allowance

23 Notwithstanding any other provision of this Act, any allowance payable under this Act commences on the later of either

(a) the first day of the month following the date on which the member has died or ceased to be a member; or

(b) the date when the allowance otherwise commences pursuant to this Act. Nova Scotia Commission of Inquiry on Remuneration of Elected Provincial Officials, November 24, 1989, MRA R 90-1;

WITHDRAWALS

Payment under certain circumstances

24 (1) The amount paid by a person under this Act, with interest at a rate fixed by the regulations, must

(a) be paid to the person on the person's application after the person has ceased to be a member;

(b) be paid to the spouse of a deceased member or, where there is no spouse, the designated beneficiary of the member or, where there is no designated beneficiary, the personal representative of the member if an allowance is payable pursuant to Section 19 and the spouse, designated beneficiary or personal representative, as the case may be, elects a refund of the member's contributions;

(c) be paid to the person's designated beneficiary or, where there is no designated beneficiary, the person's personal representative if the person dies and is not survived by a spouse, child or dependant to whom an allowance is payable pursuant to Section 18 or 19; or

(d) be paid to the person upon the person's expulsion from the House.

(2) Where a person is convicted of an indictable offence that is punishable by imprisonment for a maximum of more than five years, and the offence occurred in whole or in part while the person was a member of the House, any amounts paid by that person under this Act, with interest at a rate fixed by the regulations, must be paid to the person upon such conviction.

(3) Where an amount has been paid to a person pursuant to clause (1)(a) or (d) or subsection (2), the time in respect of which that amount was paid into the Account must not thereafter be taken into account in computing an allowance under this Act unless, in the case of an amount paid pursuant to clause (1)(a), the person has paid an amount pursuant to Section 13.

(4) From any amount payable to a person pursuant to subsection (2) must be deducted the amount of any allowance paid under this Act to the person.

(5) From any amount payable to a person pursuant to clause (1)(d) or subsection (2) may be deducted by the Minister all sums ordered by a court of competent jurisdiction to be owing to the Province in connection with the conviction referred to in subsection (2).

(6) Nothing in this Section affects any entitlement of a person who is a former spouse of a member or former member at the time the member is expelled from the House or the member or former member is convicted as set out in subsection (2).

(7) Any amount referred to in this Section to be payable to the member or former member must have deducted from it an actuarially determined sum required to fund the entitlement of a former spouse described in subsection (6).

(8) For the purpose of subsection (3), the determination of the amount paid by a person in respect of subsection (2) is deemed to include any sums deducted pursuant to subsection (4), (5) or (7). R.S., c. 282, s. 16; 2013, c. 24, s. 1; 2022, c. 4, s. 8.

Deduction from payment

25 Where, in the opinion of the Minister, a debt is due by a member or former member to the Crown in right of the Province, the Minister may deduct from any amount under this Act to the credit of a member or former member, or any pension income entitlement under this Act in favour of a member or former member, sums necessary to make good the debt. 2013, c. 24, s. 2.

GENERAL

Refund of balance of contributions

26 Where an allowance has ceased to be paid pursuant to this Act because there are not persons entitled to receive the same, the amount of the allowance paid pursuant to this Act to the member and a spouse, children and dependants of the member must be totalled and, where the total allowance paid is less than the total contributions made by the member plus interest thereon calculated at a rate and in the manner prescribed by the regulations, then the difference between the allowance paid and the contributions made and the interest thereon must be paid to the designated beneficiary of the member or, where there is no designated beneficiary, to the estate of the member. 1993, c. 29, s. 10; 2022, c. 4, s. 9.

Date of becoming or ceasing to be member

27 For the purpose of this Act

(a) a person does not cease to be a member by reason only of the dissolution of the House;

(b) a person who, immediately before a dissolution of the House, was a member ceases to be a member if the person is not elected as a member at the general election next following the dissolution, and the person is deemed to have ceased to be a member on the day on which that general election was held; and

(c) a person becomes a member on the polling day on which the person is elected as a member. R.S., c. 282, s. 18.

Reduction of deemed service

28 (1) Where pursuant to regulations made pursuant to clauses 15(j) and (k) of Chapter 181 of the Revised Statutes, 1967, as enacted by Chapter 43 of the Acts of 1980, service in an elected public office was deemed to be service as a member for the purpose of this Act and a member elected to count as service as a member in excess of two and one half years of such deemed service, the deemed service is reduced to two and one half years and any payment made by the member in respect of the deemed service in excess of two and one half years must be refunded to the member upon application together with interest thereon at the rate of four per cent per year compounded half-yearly from the date the payment was received by the Minister.

(2) Subsection (1) does not apply in respect of a member who dies before June 1, 1983. R.S., c. 282, s. 20.

Implementation of 1982 recommendations

29 (1) Notwithstanding anything contained in this Act, the Governor in Council may implement recommendations R-19, R-22 and R-23, or any of them in the Report of the Commission of Inquiry on Remuneration of Elected Provincial Officials dated June 23, 1982, and may make regulations for this purpose.

(2) Regulations made pursuant to subsection (1) may be retroactive to the extent necessary to give effect to the recommendations. R.S., c. 282, s. 21.

PART II

MEMBERS' SUPPLEMENTARY
RETIRING ALLOWANCES PLAN**Supplementary Plan**

30 (1) There is a Members' Supplementary Retiring Allowances Plan to which Sections 10 to 15, subsections 16(1) to (3) and (5) to (9) and Sections 18 to 29 apply with the following changes:

(a) a reference to the age of 60 years is to be read as the age of 55 years;

(b) a reference to 1/50 is to be read as 7/200;

(c) a reference to two per cent is to be read as three and one half per cent; and

(d) a person who ceases to be a member and who has not attained the age of 55 years but has attained the age of 50 years is entitled to the allowance otherwise payable reduced by one half of one per cent of the allowance for each month remaining until the member attains the age of 55 years.

(2) With respect to service before October 1, 2013, the following additional changes apply:

(a) notwithstanding clause (1)(b), a reference to 1/50 is to be read as 1/20;

(b) notwithstanding clause (1)(c) but subject to clause (c), a reference to two per cent is to be read as five per cent; and

(c) notwithstanding clause (1)(c), the further allowance provided for pursuant to clause 16(3)(c) is two and one half per cent of the average annual salary calculated pursuant to clause 16(3)(a) or (b) multiplied by the number of years of service on or after January 1, 1954, and before January 1, 1982, plus five per cent of the average annual salary calculated pursuant to clause 16(3)(a) or (b) multiplied by the number of years service after December 31, 1981, and before October 1, 2013, to a total maximum of 75% of the average annual salary, in one or more of the positions mentioned in Section 12.

(3) The annual allowances payable at any time pursuant to the Supplementary Plan are reduced by the annual allowances payable at the same time pursuant to the Registered Plan. 2011, c. 39, s. 15.

Trustee and administrator

31 (1) The Minister is the trustee of the Supplementary Plan.

(2) The Minister may appoint a person to be the administrator of the Supplementary Plan. 2011, c. 39, s. 15.

No assignment or surrender

32 (1) No right of a person under the Supplementary Plan is capable of being assigned, charged, anticipated, given as security or surrendered.

(2) An assignment does not include

(a) an assignment pursuant to a decree, order or judgment of a competent tribunal or a written agreement in settlement of rights arising out of a marriage or other spousal relationship on or after the breakdown of the marriage or relationship; or

(b) an assignment by the legal representative of a deceased person on the distribution of the person's estate. 2011, c. 39, s. 15.

Members' Supplementary Retiring Allowance Account

33 (1) There shall be established in the General Revenue Fund an account to be known as the Members' Supplementary Retiring Allowance Account to which must be credited the payments made by members under this Part and the amounts credited by the Minister pursuant to Section 34.

(2) All allowances payable under this Part must be paid out of the General Revenue Fund and charged to the Supplementary Account. 1993, c. 29, s. 12; 2010, c. 2, s. 129.

Credits to Supplementary Account

34 (1) The Minister shall credit to the Supplementary Account in each fiscal year

(a) an amount equal to the contributions made by members in that year pursuant to this Part; and

(b) an amount representing interest on the balance that is from time to time to the credit of the Supplementary Account.

(2) Where at any time the Supplementary Account is insufficient to make all payments by this Part required to be made, the Minister shall credit to the Supplementary Account an amount out of the General Revenue Fund sufficient to enable such payments to be made. 1993, c. 29, s. 12; 2010, c. 2, s. 130.

Account for each member

35 An account must be kept in respect of each member in which are shown all payments made by or to the member or on the member's account. 1993, c. 29, s. 12.

Effect of reference

36 With respect to a person who was a member immediately before June 1, 2015, a reference in this Act to 70% is to be read as 75%. 2011, c. 39, s. 16.

Supplementary allowance

37 (1) Subject to subsection (2), where, pursuant to this Act, the aggregate of all of the allowances being paid

(a) to a person who was 65 years of age or more on November 3, 2011; or

(b) to the surviving spouse of a person who would have been 65 years of age or more if the person had been alive on November 3, 2011,

is less than \$1,000 per month, a supplementary allowance must be paid in such an amount that the aggregate of all of the allowances being paid to or with respect to the person pursuant to this Act is the amount necessary to provide a total that is no less than \$1,000 per month.

(2) Subsection (1) applies only to allowances that have never been divided pursuant to Section 42.

(3) The Minister shall review subsection (1) periodically as the Minister considers appropriate to ensure its fairness with respect to changing circumstances. 2011, c. 39, s. 17.

PART III

GENERAL

Tabling of report

38 The Minister shall, as soon as possible after the end of each fiscal year, lay before the House a report on the administration of this Act during the preceding fiscal year and shall include therein a statement of the amounts received by way of contributions and interest, the amounts paid by way of allowances, the number of contributors, the number of persons receiving allowances, and such other information as the Governor in Council prescribes. R.S., c. 282, s. 22.

Allowances earned or payable after next general election

39 (1) Effective May 30, 2017, an allowance earned after May 30, 2017, under the Registered Plan or the Supplementary Plan by a member or former member who participates in and has contributed to the *Canada Pension Plan* must be integrated with the pension benefits earned under the *Canada Pension Plan* and must, notwithstanding Sections 16, 19 and 30, be calculated as prescribed by the regulations.

(2) Effective May 30, 2017, a survivor allowance payable under the Registered Plan or the Supplementary Plan to a spousal, child or dependant survivor of a member or former member who participated in and contributed to the *Canada Pension Plan* must be integrated with the pension benefits earned under the *Canada Pension Plan* and must, notwithstanding Sections 16, 19 and 30, be calculated as prescribed by the regulations.

(3) For greater certainty, subsections (1) and (2) do not apply to an allowance or survivor allowance in pay before May 30, 2017.

(4) For the purpose of subsection (1), a person who is not exempt from participation in the *Canada Pension Plan* is deemed to be entitled to commencement of a pension under the *Canada Pension Plan* at age 65, regardless of whether the person applies for and receives a pension under the *Canada Pension Plan* at that time. 2014, c. 36, s. 7.

Reduction of remuneration while receiving allowance

40 While a former member is in receipt of an allowance, any salary or remuneration of the former member from the Crown in right of the Province, a crown corporation within the meaning of the *Finance Act*, a government agency within the meaning of the *Auditor General Act*, or any agency, corporation, commission or body designated by the Governor in Council for the purpose of this subsection must be reduced by the amount of the allowance. 1993, c. 29, s. 13; 2010, c. 2, s. 131; 2010, c. 33, s. 34.

Effect of marriage breakdown

41 Upon marriage breakdown, Section 76 of the *Pension Benefits Act* applies with necessary changes to the retiring allowance entitlement to the credit of or being paid to a member or former member or spouse thereof, as if that Section of the *Pension Benefits Act* were set out herein with necessary changes. Recommendation of Nova Scotia Commission of Inquiry on Remuneration of Elected Provincial Officials for 1999; 2000, c. 29, s. 25; 2011, c. 39, s. 18; 2011, c. 41, s. 141.

Regulations

- 42 (1)** The Governor in Council may make regulations
- (a) prescribing for the purpose of Sections 8 and 34 a rate or rates of interest, the manner of calculating interest and the times at which interest will be credited to the Account or Supplementary Account, as the case may be;
 - (b) prescribing the days on which payments of allowances must be made, and providing that payment may be made in respect of any fractional period and that where a recipient dies payment may be made in respect of the full month in which the recipient dies;

- (c) with respect to Part I, providing for the payment of an allowance at an actuarially reduced level to or in respect of a member who ceases to be a member before attaining the age of 60 years or the age of 55 years where the aggregate of the member's age in years and years of service is equal to at least 80;
 - (d) with respect to Part II, providing for the payment of an allowance at an actuarially reduced level to or in respect of a member who ceases to be a member before attaining the age of 55 years;
 - (e) providing for payment of the allowance of a recipient who is incapable of managing the recipient's affairs;
 - (f) providing for proofs of age, relationship and disability;
 - (g) prescribing for the purpose of Sections 10, 13, 24 and 26 a rate or rates of interest, the manner of calculating interest and the times at which interest will be credited;
 - (h) respecting the excluding of any member from making contributions under Sections 10 and 12;
 - (i) recognizing institutions as educational institutions for the purpose of this Act;
 - (j) integrating benefits earned under the Registered Plan and the Supplementary Plan with benefits earned under the *Canada Pension Plan*;
 - (k) notwithstanding this Act, making any change to the Registered Plan necessary to comply with the *Income Tax Act* (Canada) and a corresponding change to the Supplementary Plan in order to maintain the net effect of the two Plans;
 - (l) defining any word or expression used but not defined in this Act;
 - (m) respecting any matter or thing the Governor in Council considers necessary or advisable for the administration of this Act and to give effect to it.
- (2) A regulation made pursuant to subsection (1) may, where it so provides, be made retroactive to a date not earlier than January 1, 2010.
- (3) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*, 2011, c. 39, s. 19; 2014, c. 36, s. 8.
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CHAPTER M-22

An Act Respecting Mercantile Agents

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

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Short title

1 This Act may be cited as the *Mercantile Agents Act*. R.S., c. 157, s. 1.

Interpretation

2 (1) In this Act,

“document of title” includes any bill of lading, dock warrant, warehouse keeper’s certificate and warrant or order for the delivery of goods and any other document used in the ordinary course of business as proof of the possession or control of goods or authorizing or purporting to authorize, either by indorsement or by delivery, the possessor of the document to transfer or receive goods thereby represented;

“goods” includes wares and merchandise;

“mercantile agent” means a mercantile agent having in the customary course of the agent’s business as such agent, authority either to sell goods or to consign goods for the purpose of sale, to buy goods or to raise money on the security of goods;

“person” includes any body of persons, corporate or unincorporate;

“pledge” includes any contract pledging, or giving a lien or security on, goods, whether in consideration of an original advance, of any further or continuing advance or of any pecuniary liability.

(2) A person is deemed to be in possession of goods, or of the documents of title to goods, where the goods or documents are in the person's actual custody or are held by any other person subject to the person's control or for the person or on the person's behalf. R.S., c. 157, s. 2.

DISPOSITIONS BY MERCANTILE AGENTS

Deemed validity of disposition

3 (1) Where a mercantile agent is, with the consent of the owner, in possession of goods, or of the documents of title to goods, any sale, pledge or other disposition of the goods, made by the agent when acting in the ordinary course of business of a mercantile agent, is, subject to this Act, as valid as if the agent was expressly authorized by the owner of the goods to make the same, provided that the person taking under the disposition acts in good faith, and has not at the time of the disposition notice that the person making the disposition has not authority to make the same.

(2) Where a mercantile agent has, with the consent of the owner, been in possession of goods, or of the documents of title to goods, any sale, pledge or other disposition that would have been valid if the consent had continued is valid notwithstanding the determination of the consent, provided that the person taking under the disposition has not at the time thereof notice that the consent has been determined.

(3) Where a mercantile agent has obtained possession of any documents of title of goods by reason of the agent being or having been, with the consent of the owner, in possession of the goods represented thereby, or of any other documents of title to the goods, the agent's possession of the first mentioned documents is, for the purposes of this Act, deemed to be with the consent of the owner.

(4) For the purposes of this Act, the consent of the owner is presumed in the absence of evidence to the contrary. R.S., c. 157, s. 3.

Exemption from Personal Property Security Act

4 Section 3 does not apply to a consignment to which the *Personal Property Security Act* applies. 1995-96, c. 13, s. 80.

Deemed pledge of goods

5 A pledge of the documents of title to goods is deemed to be a pledge of the goods. R.S., c. 157, s. 4.

Pledge by mercantile agent

6 Where a mercantile agent pledges goods as security for a debt or liability due from the pledgor to the pledgee before the time of the pledge, the pledgee acquires no further right to the goods than could have been enforced by the pledgor at the time of the pledge. R.S., c. 157, s. 5.

Consideration

7 The consideration necessary for the validity of a sale, pledge or other disposition of goods, in pursuance of this Act, may be either a payment in cash, the delivery or transfer of other goods, of a document of title to goods or of a negotiable

security or any other valuable consideration, but, where goods are pledged by a mercantile agent in consideration of the delivery or transfer of other goods, of a document of title to goods or of a negotiable security, the pledgee acquires no right or interest in the goods so pledged in excess of the value of the goods, documents or security when so delivered or transferred in exchange. R.S., c. 157, s. 6.

Agreement

8 For the purposes of this Act, an agreement made with a mercantile agent through a clerk or other person, authorized in the ordinary course of business to make contracts of sale or pledge on the agent's behalf, is deemed to be an agreement with the agent. R.S., c. 157, s. 7.

Goods on consignment

9 (1) Where the owner of goods has given possession of the goods to another person for the purpose of consignment or sale, or has shipped the goods in the name of another person, and the consignee of the goods has not had notice that such person is not the owner of the goods, the consignee has, in respect to advances made to or for the use of such person, the same lien on the goods as if such person were the owner of the goods and may transfer any such lien to another person.

(2) Nothing in this Section limits or affects the validity of any sale, pledge or disposition by a mercantile agent. R.S., c. 157, s. 8.

Purchaser in good faith

10 Where a document of title to goods has been lawfully transferred to a person as a buyer or owner of the goods and that person transfers the document to a person who takes the document in good faith and for valuable consideration, the last mentioned transfer has the same effect for defeating any vendor's lien or right of stoppage in transit as the transfer of a bill of lading has for defeating the right of stoppage in transit. R.S., c. 157, s. 9.

MISCELLANEOUS

Transfer of document

11 For the purposes of this Act, the transfer of a document may be by endorsement or, where the document is by custom or by its express terms transferable by delivery or makes the goods deliverable to the bearer, then by delivery. R.S., c. 157, s. 10.

Agents

12 (1) Nothing in this Act authorizes an agent to exceed or depart from the agent's authority as between the agent and the agent's principal, or exempt the agent from any liability for so doing.

(2) Nothing in this Act prevents the owner of goods from recovering the goods from an agent at any time before the sale or pledge thereof, or prevents the owner of goods pledged by an agent from having the right to redeem the goods at any time before the sale thereof, on satisfying the claim for which the goods were pledged and paying to the agent, if by the agent required, any money in respect to which the agent would, by law, be entitled to retain the goods or the doc-

uments of title thereto, or any of them, by way of lien as against the owner, or from recovering from any person with whom the goods have been pledged any balance of money remaining in the person's hands, as the produce of the sale of the goods, after deducting the amount of the person's lien.

(3) Nothing in this Act prevents the owner of goods sold by an agent from recovering from the buyer the price agreed to be paid for the same, or any part of that price, subject to any right of set-off on the part of the buyer against the agent. R.S., c. 157, s. 11.

Power of agent

13 This Act is to be construed in amplification and not in derogation of the powers exercisable by an agent independently of this Act. R.S., c. 157, s. 12.

CHAPTER M-23

An Act Respecting Midwifery

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

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Short title

1 This Act may be cited as the *Midwifery Act*. 2006, c. 18, s. 1.

Interpretation

2 In this Act,

“active-practising licence” means a licence to practise midwifery issued to a person who meets the criteria for entry in the active-practising roster as set out in the regulations;

“Association” means the Association as defined in the regulations;

“complaint” means a notice in writing pursuant to this Act, indicating possible professional misconduct, conduct unbecoming the profession or incompetence of a member;

“Council” means the Midwifery Regulatory Council of Nova Scotia;

“hearing panel” means a hearing panel established pursuant to this Act;

“incompetence” means the display of lack of knowledge, skill or judgement in the member’s care of a client or delivery of midwifery services that, having regard to all the circumstances, rendered the respondent unsafe to practise at the time of such care of the client or delivery of midwifery services or that renders the member unsafe to continue in practice without remedial assistance;

“member” means a person whose name is recorded in the Register;

“midwife” means a person whose name appears on the Register and who has an active-practising licence;

“Minister” means the Minister of Health and Wellness;

“practice of midwifery” means

(a) the assessment and monitoring of the health of a mother and her baby during pregnancy, labour and the post-partum period;

(b) the provision of care in the normal course of pregnancy, labour and the post-partum period;

(c) the management of vaginal deliveries;

(d) the ordering and interpreting of screening and diagnostic tests and the recommending, prescribing or reordering of drugs restricted to actual delivery and care, blood products and related paraphernalia respecting the provision of care in the normal course of pregnancy, labour and the post-partum period; and

(e) invasive procedures restricted to actual delivery and care, as prescribed by the regulations,

either within or outside of a hospital setting and research, education, consultation, management, administration, regulation, policy or system development relating to clauses (a) to (e);

“professional misconduct” means such conduct, attitude or acts relevant to the profession that, having regard to all the circumstances, would reasonably be regarded as disgraceful, dishonourable or unprofessional and, without limiting the generality of the foregoing, includes

(a) failing to maintain the standards of midwifery practice;

(b) failing to uphold the code of ethics adopted by the Council;

(c) abusing a person verbally, physically, emotionally or sexually;

(d) misappropriating personal property, drugs or other property belonging to a client or a member’s employer;

(e) inappropriately influencing a client to make or change a will or power of attorney;

(f) wrongfully abandoning a client;

(g) neglecting to provide care to a client;

(h) failing to exercise discretion respecting the disclosure of confidential information;

(i) falsifying records;

(j) inappropriately using professional midwifery status for personal gain;

(k) promoting for personal gain any drug, device, treatment, procedure, product or service that is unnecessary, ineffective or unsafe;

(l) publishing, or causing to be published, any advertisement that is false, fraudulent, deceptive or misleading,

(m) engaging or assisting in fraud, misrepresentation, deception or concealment of a material fact when applying for or securing registration or a licence to practise midwifery or taking any examination provided for in this Act, including using fraudulently procured credentials; or

(n) taking or using the designation “registered midwife” or “midwife”, or any derivation or abbreviation thereof, or describing the person’s activities as “midwifery” in any advertisement or publication, including business cards, websites or signage, unless the referenced activity falls within the definition of the practice of midwifery;

“Register” means the Midwifery Register established pursuant to this Act;

“Registrar” means the Registrar appointed by the Council;

“Registration Appeal Committee” means the Registration Appeal Committee established pursuant to this Act;

“roster” means the record of the class of licensing established pursuant to this Act or the regulations;

“standards of midwifery practice” means the minimal professional practice expectations for a midwife in any setting or role approved by Council or otherwise inherent in the practice of midwifery. 2006, c. 18, s. 2.

MIDWIFERY REGULATORY COUNCIL

Council constituted

3 (1) The Midwifery Regulatory Council of Nova Scotia is constituted as a body corporate and, subject to this Act, has the capacity, rights, powers and privileges of a natural person.

(2) The Council 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. 2006, c. 18, s. 3.

Members of Council

4 (1) The Council consists of the following persons, appointed by the Governor in Council:

(a) three persons recommended by the Association who are registered or eligible to be registered in a province of Canada as a midwife;

(b) a registered nurse recommended by the Nova Scotia College of Nursing;

(c) a physician recommended by the College of Physicians and Surgeons of Nova Scotia; and

(d) up to three members of the public who are not members of a health profession and who have shown an interest in serving on the Council.

(2) The members of the Council shall receive such remuneration and allowances as may be determined by the Governor in Council.

(3) The members of the Council must be paid such reasonable expenses incurred by them in the performance of their duties as are determined by the Governor in Council. 2006, c. 18, s. 4; 2019, c. 8, s. 185.

Quorum

5 (1) Subject to subsection (2), a majority of the members of the Council constitute a quorum.

(2) The majority referred to in subsection (1) must consist of at least one person appointed pursuant to clause 4(1)(a) and at least one person appointed pursuant to clause 4(1)(d). 2006, c. 18, s. 5.

Terms of office

6 (1) Each member of the Council holds office for a term, not exceeding three years, prescribed in the member's appointment, unless the Governor in Council revokes the member's appointment sooner, and is eligible for reappointment to the Council.

(2) Notwithstanding subsection (1), members of the Council continue to hold office until their successors are appointed or until such time as they are reappointed.

(3) The Governor in Council may appoint persons to fill vacancies occurring on the Council.

(4) A vacancy on the Council does not impair the right of the remaining members to act. 2006, c. 18, s. 6.

Duties and powers of Council

7 (1) The Council shall

(a) regulate the practice of midwifery in accordance with the registration, licensing and professional conduct processes set out in this Act and the regulations;

(b) establish, maintain and promote standards of midwifery practice and consult with the College of Physicians and Surgeons of Nova Scotia, Doctors Nova Scotia and the Nova Scotia College of Nursing on these standards;

(c) approve and promote a code of ethics; and

(d) perform such other duties and exercise such other powers as are imposed or conferred on the Council by or under any Act or regulations.

(2) In addition to any other power conferred by this or any other Act, the Council may do such things as it considers appropriate to perform its duties under this Act and the regulations 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) improve, manage, develop, exchange, dispose of, turn to account or otherwise deal with the real or personal property of the Council; or

(e) do such things as are incidental or necessary to the exercise of the powers referred to in clauses (a) to (d). 2006, c. 18, s. 7; 2019, c. 8, s. 186.

Bylaws

8 The Council may make bylaws

(a) providing for the holding of meetings of the Council or committees of the Council and the conduct of such meetings;

(b) fixing the time and place for regular meetings of Council, determining by whom meetings may be called, regulating the conduct of meetings, providing for emergency meetings and regulating the notice required in respect of meetings;

(c) providing for the appointment of such committees as the Council considers expedient;

(d) respecting the composition, powers and duties of such committees as may be appointed by the Council and providing for the holding and conduct of meetings of such committees;

(e) prescribing fees payable pursuant to this Act by applicants and members and, where the Council considers it advisable, prescribing different fees for different classes of applicants and members;

(f) prescribing forms and providing for their use;

(g) prescribing the criteria to be met for candidates recommended to the Governor in Council for appointment to the Council;

(h) respecting the powers, duties and qualifications of the officers, agents and employees of the Council;

(i) approving a code of ethics and the standards of midwifery practice;

(j) respecting all other things necessary for the administration of the affairs of the Council. 2006, c. 18, s. 8.

Regulations

9 (1) Subject to the approval of the Governor in Council, the Council may make regulations

(a) regulating the registration, licensing, discipline and reinstatement of members;

(b) respecting a continuing competency program and requiring members to participate in any such program and providing for any other matter that will facilitate or give effect to such program;

(c) respecting the verification of members' compliance with the continuing competence program;

(d) respecting the limitation of the duration of a licence to practise for non-compliance with the continuing competence program;

(e) respecting the information to be included on the Register;

(f) respecting the revocation or suspension of licences issued pursuant to this Act and the reinstatement of such licences and allowing for conditions, limitations or restrictions to be attached to a reinstated licence;

(g) creating one or more classes and rosters of licensing, including a provisional licence, and prescribing the rights, privileges, qualifications and obligations of the member of each class and prescribing the conditions for the entry and maintenance of members' names in each roster;

(h) respecting the limiting or qualifying of a member's licence, including procedures and interventions;

(i) respecting the type of professional liability insurance or other form of malpractice coverage a member must hold;

(j) determining the procedure to be followed at hearings by a hearing panel;

(k) respecting the powers, duties and qualifications of the Registrar;

(l) regulating, controlling or prohibiting the use of terms, titles or designations by members or groups or associations of members in respect of their practice;

(m) allowing for an award of costs on a solicitor-client or other basis;

(n) providing that the licence of a member be suspended without notice or investigation upon contravention of any regulation that requires the member to pay a fee, file a document or do any other act by a specified or ascertainable date and providing for the reinstatement of a licence so suspended upon payment of such fee as is determined by the Council;

(o) prescribing the powers and functions of committees and the processes and procedures to be utilized by committees;

- (p) respecting the recognition of midwifery schools and examinations as prerequisites to registration and licensing;
- (q) respecting the assessment process required for registration as registered midwives;
- (r) respecting any quality assurance programs required;
- (s) respecting the criteria for supervised practice;
- (t) respecting the remuneration, allowances and expenses for members of the Council;
- (u) respecting the prescribing of drugs restricted to actual delivery and care by a midwife;
- (v) respecting invasive procedures that a member may perform and any conditions or restrictions on the performance of those procedures;
- (w) defining any word or expression used but not defined in this Act;
- (x) further defining any word or expression defined in this Act;
- (y) governing such other matters as the Council considers necessary or advisable for the effective discharge of 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*. 2006, c. 18, s. 9.

Chair and Vice-chair

10 The Council shall appoint annually from its members a Chair and a Vice-chair. 2006, c. 18, s. 10.

Meetings

11 The Council shall meet quarterly or more frequently when considered necessary by the Council. 2006, c. 18, s. 11.

Committees

12 The Council may appoint such committees as the Council considers necessary to assist it in carrying out its duties pursuant to this Act. 2006, c. 18, s. 12.

Annual report

13 The Council shall submit an annual report to the Minister containing the information prescribed by the Minister. 2006, c. 18, s. 13.

REGISTRATION AND LICENSING

Registrar

14 (1) A Registrar must be appointed by the Council, who holds office at the pleasure of the Council, at such salary or other remuneration as is determined by the Minister.

(2) Subject to subsection (4), the Registrar shall perform all of the duties assigned to the Registrar under this Act and the regulations.

(3) The Council may appoint such other officers, agents and employees at such salary or other remuneration as is determined by the Minister and for such term of office as the Council considers necessary to assist the Council in carrying out its duties pursuant to this Act.

(4) The Registrar may delegate any functions assigned to the Registrar by this Act or the regulations. 2006, c. 18, s. 14.

Requirements for registration

15 Subject to the requirements for registration set out in the regulations, an applicant who provides the Registrar with such evidence as may be required to establish that the applicant

(a) holds a baccalaureate degree from a Canadian university midwifery education program; or

(b) has educational qualifications equivalent to the degree referred to in clause (a),

is entitled to become a registrant of the College and to have the applicant's name entered in the Register in the appropriate class. 2006, c. 18, s. 15.

Register

16 (1) The Registrar shall cause to be kept a Midwifery Register in which the names of those persons who qualify for registration according to this Act and the regulations are recorded.

(2) The Register shall include such other information as may be required by the regulations.

(3) The classes of licences recorded in the Register are as set out in the regulations.

(4) The Council shall cause to be maintained separate rosters for each class of licence as provided by the regulations.

(5) The Registrar shall also cause to be kept a record available to the public showing

(a) the name and registration number of every person authorized to engage in the practice of midwifery;

(b) any conditions or restrictions on such person's licence, if the Council determines it is in the public interest to have such conditions or restrictions available to the public; and

(c) any licensing sanctions imposed on a member that are not otherwise subject to a publication ban.

(6) Any person may inspect the Register at all reasonable times during normal business hours at the head office of the Council. 2006, c. 18, s. 16.

Issuance of licence

17 The Registrar shall issue a licence to a person who meets the criteria for entry as set out in this Act and the regulations and register the person in the Register. 2006, c. 18, s. 17.

Written notice of refusal

18 Where the Registrar is not satisfied that an applicant meets the requirements for registration set out in this Act and the regulations, the Registrar shall refuse to register the applicant and shall notify the applicant in writing of the decision. 2006, c. 18, s. 18.

Registration Appeal Committee

19 (1) The Council shall appoint a Registration Appeal Committee, the membership of which may be determined by the Council.

(2) The Registration Appeal Committee shall perform the functions and duties set out in this Act, the regulations and the bylaws.

(3) An applicant who is refused registration under this Act may, by written notice, appeal that decision to the Registration Appeal Committee within 30 days of receipt of such refusal.

(4) An appeal before the Registration Appeal Committee must be conducted in the manner and follow the procedure set out in the regulations.

(5) The decision of the Registration Appeal Committee is final.

(6) Each person on the Registration Appeal Committee has all the rights, powers, duties and privileges of a commissioner appointed pursuant to the *Public Inquiries Act*. 2006, c. 18, s. 19.

Convictions of certain offences

20 (1) Notwithstanding anything contained in this Act, where any person has been convicted or found to be guilty, by a court in or outside of Canada, of any offence that is inconsistent with the proper professional behaviour of a midwife, including a conviction under the *Criminal Code (Canada)* or the *Controlled Drugs and Substances Act (Canada)*, and such person applies for registration under this Act, the Council and the Registrar may refuse to register such person, but the Council may, at any time, permit such person to be registered or to remain registered upon such terms and conditions as the Council directs.

(2) Upon application for registration or a licence, an applicant shall advise the Registrar, in writing, of any convictions referred to in subsection (1). 2006, c. 18, s. 20.

Term of licence

21 Unless otherwise suspended, revoked or amended, a licence to practise midwifery remains in effect until the expiration of the year in which it was issued. 2006, c. 18, s. 21.

Renewal and suspension

22 (1) The Registrar shall renew a licence to practise midwifery if the person who holds the licence applies for renewal, pays the applicable fee as established by the bylaws and meets the requirements for renewal of a licence as prescribed in the regulations.

(2) The licence of any member who fails to pay prescribed annual fees as required by subsection (1) or who fails to comply within the prescribed period with any continuing competence requirements established in regulations must be suspended in accordance with the procedure prescribed by the regulations.

(3) The Registrar shall forthwith notify, in writing, any person whose licence has been suspended pursuant to this Section. 2006, c. 18, s. 22.

Application for relicensing

23 (1) Where

(a) the licence of a member has been suspended pursuant to subsection 22(2);

(b) there has been non-compliance with continuing-competency requirements; or

(c) in any other case, the licence of a member has expired or lapsed pursuant to this Act for non-payment of fees,

the person may apply to the Registrar for relicensing.

(2) Where a person referred to in subsection (1) satisfies the Registrar

(a) of the person's intention to practise midwifery in the Province;

(b) as to the person's activities since the date of the suspension, expiry or lapsing of the person's licence;

(c) that the person has maintained and possesses an appropriate level of skill and knowledge in midwifery;

(d) as to the person's good standing in all jurisdictions in which the person has practised midwifery since the date of the suspension or expiry or lapsing of the person's licence;

(e) that the person has paid all fees or any other amount owing to the Council and such administrative fees as may be prescribed; and

(f) that the person has complied with continuing-competency requirements,

the Registrar may issue a licence to the person.

(3) Where the Registrar is not satisfied with the evidence presented pursuant to subsection (2), the Registrar

(a) may; or

(b) where the applicant so requests in writing, shall, refer the matter to the Council.

(4) Upon a referral pursuant to subsection (3), the Council, in consultation with the Registrar, shall consider the eligibility of the application and may make such inquiries or demand such further information as the Council sees fit, and the Council shall consider the application in accordance with this Act.

(5) Where the person requests the opportunity to appear before the Council, this request must be granted and the person may appear with legal counsel.

- (6) After hearing the applicant and the Registrar, the Council may
- (a) direct the Registrar to issue a licence to the applicant;
 - (b) direct the Registrar to issue a licence to the applicant subject to such conditions, limitations or restrictions as the Council considers appropriate;
 - (c) adjourn further consideration of the application pending completion by the applicant of such training, upgrading, clinical examinations or other examinations as the Council may designate; or
 - (d) direct the Registrar to refuse the application if the Council is not satisfied that the applicant meets the criteria set out in subsection (2). 2006, c. 18, s. 23.

Licence remains subject to conditions

24 Every licence issued pursuant to Section 23 is subject to any conditions, limitations or restrictions contained in the licence that expired, lapsed or was suspended pursuant to subsection 22(2), unless the Council orders otherwise. 2006, c. 18, s. 24.

Prohibition respecting designations

25 Subject to the regulations, no person shall take or use the designation “Registered Midwife”, “midwife” or a variation or equivalent in another language of the title in the Province, either alone or in combination with other words, letters or descriptions to imply that the person is entitled to practise as a midwife in the Province unless the person is a holder of an active-practising licence with or without conditions or restrictions. 2006, c. 18, s. 25.

PRACTICE OF MIDWIFERY

Prohibitions respecting practice

- 26 (1) Subject to subsection (2), no person shall engage in the practice of midwifery unless such practice is consistent with
- (a) the midwife’s individual scope of practice; and
 - (b) the standards of midwifery practice.

(2) Unless otherwise authorized by this Act or the regulations, or any other law, no midwife shall practise outside the scope of the practice of midwifery.

(3) No person shall engage in the practice of midwifery in the Province unless

(a) that person's name is entered in the Register and that person is the holder of a licence, with or without conditions or restrictions; or

(b) that person is a student enrolled in an approved midwifery education program and is authorized by the administrators of the program to engage in the practice of midwifery. 2006, c. 18, s. 26.

Restrictions to be noted in Register

27 Where the right of a person to practise as a midwife has been limited by the imposition of conditions or restrictions pursuant to this Act or the regulations, particulars of all conditions or restrictions imposed on that person must be noted in the Register and on the member's licence during any time when such conditions or restrictions apply. 2006, c. 18, s. 27.

Annotation of Register

28 The Registrar shall annotate the Register if

(a) a person's name has been incorrectly entered;

(b) notification is received of a member's death;

(c) the registration of a member has been revoked;

(d) the Registrar, as part of an informal resolution of a complaint, or the hearing panel authorizes the resignation of a member from the Register; or

(e) a member has requested in writing and the Registrar, as part of an informal resolution of a complaint or otherwise, has approved the resignation of the member,

and a person referred to in clauses (b) to (e) ceases to be a member of the College. 2006, c. 18, s. 28.

Removal of name from Register

29 (1) The Council shall cause the removal of the name of a member from the Register

(a) if the member no longer meets the criteria for entry on the relevant roster;

(b) at the request of the member, upon surrendering any licence held by the member;

(c) if the member's name has been incorrectly entered;

(d) if notification is received of the member's death;

(e) for non-payment of fees or other assessments levied under this Act or the regulations;

(f) if the member has been suspended, for the term of the suspension;

(g) if the registration of the member has been revoked; or

(h) if a hearing panel or the Council authorizes the removal of the member from the Register.

(2) The name of a person removed from the appropriate roster pursuant to clauses (1)(a) to (f) must be restored upon

(a) payment of the prescribed fee; and

(b) compliance by the person with this Act and the regulations.

(3) The name of a person removed from the appropriate roster pursuant to clause 28(d) or (e) or (1)(h) may be restored only if

(a) the hearing panel or the Registrar authorizing the resignation of the member permits the member to reapply for membership; and

(b) the Council determines, on such conditions or with such restrictions as the Council directs, that the registration or licence be reinstated.

(4) Where a midwife has been suspended, the Registrar shall reinstate the person in the Register if

(a) the suspension is for a stated period, on the expiry of that period; or

(b) terms and conditions for reinstatement were set by a hearing panel, when the terms and conditions have been met. 2006, c. 18, s. 29.

Requirement for current licence

30 (1) Every member who is engaged in the practice of midwifery must hold a current licence to practise midwifery with or without conditions or restrictions.

(2) Every person, other than a client, who employs a person in the practice of midwifery and every agency or registry that procures employment for a person in the practice of midwifery shall

(a) ensure that the person, at the time of employment and each year employed thereafter, holds a current licence to practise midwifery; and

(b) where the person's employment is terminated or the person resigns because of allegations of professional misconduct, conduct unbecoming the profession or incompetence, report the matter to the Council forthwith and provide a copy of the report to the person whose employment is terminated. 2006, c. 18, s. 30.

Duties of midwife

31 A midwife shall

(a) identify conditions in a mother and her baby that necessitate consultation or referral to a physician or other healthcare professional, in accordance with standards approved by the Council;

(b) consult with a physician regarding any deviations from the normal course of pregnancy, labour, delivery and the post-partum period, in accordance with standards approved by the Council;

(c) transfer primary responsibility for care if the consultation under clause (b) determines that management by a physician is required, in accordance with the standards approved by the Council; and

(d) continue to provide midwifery care in collaboration with a physician when primary responsibility for care is transferred under clause (c), to the extent that is agreed to by the physician, the midwife and the mother. 2006, c. 18, s. 31.

Notice of disciplinary findings or complaints

32 (1) A midwife who was engaged in the practice of midwifery in the Province and who was subject to any disciplinary findings while engaged in the practice of midwifery outside the Province or has outstanding complaints from outside the Province shall not engage in the practice of midwifery on the member's return to the Province before providing the Council with notice of such disciplinary findings or complaints and receiving notice from the Council that the member is authorized to resume the practice of midwifery in the Province.

(2) Where the Council receives notice pursuant to subsection (1), the Council may require the member to attend a hearing, which must be conducted in accordance with subsection 37(2). 2006, c. 18, s. 32.

PROFESSIONAL CONDUCT**Initiation of complaints**

33 Complaints may be initiated by

(a) any official body corporate or association; or

(b) any other person. 2006, c. 18, s. 33.

Power to employ assistance

34 The Council or a hearing panel may employ, at the expense of the Council, such legal or other assistance as it considers necessary for the purpose of the investigation of any disciplinary matter. 2006, c. 18, s. 34.

Duty to maintain confidentiality

35 Every person involved in the administration of this Act and any member of the Council, or a committee of the Council, shall maintain confidentiality with respect to all health information that comes to that person's knowledge regarding clients, except

(a) in connection with the administration of Sections 36 to 56 and the regulations or proceedings thereunder;

- (b) to one's own legal counsel;
- (c) as otherwise required by law; or
- (d) with the consent of the person to whom the information relates. 2006, c. 18, s. 35.

Power to investigate other matters

36 The Registrar, the hearing panel or a person investigating a disciplinary matter concerning a member may investigate any other disciplinary matter concerning the member that arises in the course of the investigation. 2006, c. 18, s. 36.

Prerequisite for action

- 37** (1) Where the Registrar or hearing panel
- (a) learns that the registration or licence of a member has been suspended or revoked for reasons of professional misconduct, conduct unbecoming or incompetence by another licensing or regulatory authority;
 - (b) has provided the member with such notice as it may prescribe of a hearing together with a copy of the relevant decision of the other licensing or regulatory authority; and
 - (c) has heard such evidence as is offered by the member, if any, at the hearing as to why the member should not be subject to disciplinary action,

the Registrar or hearing panel may take any of the actions contemplated by clause 52(2)(e).

(2) Where a member has been convicted of an offence pursuant to the *Criminal Code* (Canada) or the *Controlled Drugs and Substances Act* (Canada), the Registrar or hearing panel may, by such notice as it prescribes, require the member to attend a hearing to establish why the member should not be subject to disciplinary action.

(3) For the purpose of subsection (2), a certificate of conviction of a member is conclusive evidence that a person has committed the offence stated therein unless it is shown by the member that the conviction has been quashed or set aside.

(4) When a Registrar or hearing panel is conducting a hearing pursuant to this Section, it may, where it considers it proper, take any of the actions contemplated by clause 52(2)(e). 2006, c. 18, s. 37.

Duties and powers of Registrar

- 38** (1) The Registrar shall
- (a) investigate complaints regarding a disciplinary matter concerning any member;
 - (b) investigate any matter referred by the Council; and
 - (c) perform such other duties as may be assigned by the Council.

(2) The Registrar may investigate a matter notwithstanding that a written complaint has not been filed with the Registrar.

- (3) Without receipt of a written complaint, the Registrar may
- (a) do all things necessary to provide a full and proper investigation; or
 - (b) appoint a person or persons to conduct an investigation or practice audit,

or both.

(4) The Registrar or a person or persons appointed by the Registrar to conduct an investigation has all of the powers, privileges and immunities of a commissioner appointed pursuant to the *Public Inquiries Act*, with the exception of the powers of contempt, arrest and imprisonment.

(5) Upon receipt of a written complaint and upon giving to the member a copy of the complaint, the Registrar may require the member to do any or all of the following:

- (a) submit to physical or mental examinations by such qualified persons as the Registrar designates;
- (b) submit to an inspection or audit of the practice of the member by such qualified persons as the Registrar designates;
- (c) submit to such examinations as the Registrar directs to determine whether the member is competent to practise midwifery;
- (d) produce records and accounts kept with respect to the member's practice.

(6) Where the member fails to comply with subsection (5), the Registrar may suspend or restrict the registration or licence of the member until the member complies.

(7) Where the Registrar has, pursuant to clause (5)(a), (b) or (c), required a member to submit to physical or mental examinations or submit to inspection or audit of the practice by a qualified person designated by the Registrar, the Registrar shall deliver to the member any report it receives from the designated qualified person.

(8) The committee or person appointed to conduct an investigation pursuant to clause (3)(b) may

- (a) employ such experts as the committee or person considers necessary;
- (b) require the member, or any other member who may have information relevant to the investigation, to attend before the committee or the person conducting the investigation to be interviewed; and
- (c) investigate any other matter relevant to the conduct, capacity or fitness of a member to practise midwifery that arises in the course of the investigation.

- (9) The Registrar may
- (a) dismiss the complaint;
 - (b) attempt to resolve the matter informally;
 - (c) with the consent of both parties, refer the matter, in whole or in part, for mediation;
 - (d) refer the matter, in whole or in part, to a hearing panel;
 - (e) counsel the member;
 - (f) caution the member;
 - (g) counsel and caution the member;
 - (h) reprimand the member with the member's consent; or
 - (i) with the consent of the member, require the member to undergo such treatment or re-education as the Registrar considers necessary.

(10) Where the Registrar is considering a decision to counsel, caution or counsel and caution a member pursuant to clause (9)(e), (f) or (g), the Registrar shall give notice to the member and the member must be given the opportunity to appear, with or without legal counsel, before the Registrar prior to the Registrar making a decision.

(11) A member who has consented to a requirement for treatment or re-education pursuant to clause (9)(i) may consent to such requirement in principle while reserving the right to appeal the actual content of the requirement for treatment or re-education to a hearing panel within 15 days of receiving notice thereof.

(12) Parties to an appeal pursuant to subsection (11) bear their own costs.

(13) An appeal pursuant to subsection (11) must be conducted without oral testimony and a hearing panel shall review an agreed statement of facts supplied by the legal counsel for the Council and signed by the member.

(14) Where an agreed statement of facts is not filed within 30 days of filing the notice of appeal, the consent of the member is deemed to have been withdrawn and the matter referred back to the Registrar who may consider other actions or dispositions as authorized by this Act.

(15) When making a disposition pursuant to clause (9)(e), (f), (g), (h) or (i), the Registrar may make any combination of the dispositions that are set out in those clauses or the Registrar may make such other dispositions as the Registrar considers appropriate, in accordance with the objects of this Act.

(16) The member and the complainant must be advised, in writing, of the disposition of the Registrar. 2006, c. 18, s. 38; 2012, c. 48, s. 35.

Further duties and powers

- 39 (1) Notwithstanding anything contained in this Act, where

(a) the Registrar receives reliable information that indicates that a member may be incompetent or guilty of professional misconduct or conduct unbecoming; and

(b) the Registrar concludes that it is in the public interest to suspend from practice or restrict the practice of the member,

the Registrar may, without a hearing,

(c) immediately suspend the registration or licence of the member on a temporary basis; or

(d) immediately impose restrictions on the registration or licence of the member on a temporary basis.

(2) The member must receive, forthwith, notice in writing, with reasons, of a decision made pursuant to subsection (1).

(3) Subject to a determination pursuant to subsection (5), a decision pursuant to subsection (1) continues in force until final resolution by a hearing panel, which must occur without undue delay.

(4) A member who receives written notice pursuant to subsection (2) may request, in writing, an opportunity to meet with the Registrar.

(5) Where a request is received pursuant to subsection (4), the Registrar

(a) shall provide an opportunity for the member to meet with the Registrar within 10 days of the written request; and

(b) after meeting with the member, may confirm, vary or terminate the suspension or restrictions imposed pursuant to subsection (1). 2006, c. 18, s. 39.

Hearing panel

40 Notwithstanding anything contained in this Act, where a decision is made pursuant to subsection 39(1), subject to any disposition made pursuant to subsection 39(5), a hearing panel must be appointed pursuant to subsection 44(1) to proceed with a hearing to determine whether the member is guilty of charges relating to a disciplinary matter. 2006, c. 18, s. 40.

Continuation of powers of former members

41 Notwithstanding that members of a hearing panel have ceased to hold office by reason of the lapse of their appointments, such members are seized with the jurisdiction to complete any matter the panel has commenced if necessary to retain a quorum and, for this purpose, such members continue to have the same powers, privileges, immunities and duties as are provided by this Act and the regulations. 2006, c. 18, s. 41.

Settlement agreement

42 (1) After the Registrar refers a matter to a hearing panel pursuant to clause 38(9)(d), the member complained of may, at any time before the commencement of the hearing, tender to the Registrar a proposed settlement agreement, in writing, consented to by legal counsel for the Council that includes an admission

of a disciplinary matter violation or violations and the member's consent to a specified disposition, conditional upon the acceptance of the agreement by a hearing panel.

(2) The Registrar may, in the Registrar's discretion, recommend or refuse to recommend acceptance of the proposed settlement agreement by the hearing panel.

(3) Where the Registrar recommends the acceptance of the proposed settlement agreement, the Registrar shall instruct legal counsel for the Council to advise the hearing panel of the recommendation.

(4) Where the Registrar refuses to recommend the proposed settlement agreement, the hearing shall proceed without reference to the proposed settlement agreement.

(5) Where the hearing panel appointed to hear the complaint accepts the recommendation of the Registrar, it shall confirm such acceptance by written decision that incorporates the settlement agreement.

(6) Where the hearing panel appointed to hear the complaint rejects the recommendation of the Registrar,

(a) the hearing panel shall advise the Council of its decision;

(b) the hearing panel shall proceed no further with the hearing of the complaint;

(c) a new hearing panel must be appointed to hear the complaint and no member of the hearing panel that considered the proposed settlement agreement may be a member of the new hearing panel; and

(d) the Registrar retains jurisdiction over the complaint until the commencement of the hearing by a hearing panel. 2006, c. 18, s. 42.

Investigation of non-member

43 The Registrar may investigate the activities of a non-member but the Registrar has no compulsory powers in relation to the investigation of the non-member, except that the Registrar may require a member who may have information relevant to the investigation to attend before the committee or the person conducting the investigation to be interviewed. 2006, c. 18, s. 43.

Hearing

44 (1) A hearing panel must be appointed for the purpose of hearing any charges relating to a disciplinary matter against a member when a disciplinary matter is referred, in whole or in part, to a hearing panel.

(2) The hearing panel must be composed of at least three persons of whom one member is appointed by the Council as the chair.

- (3) The hearing panel must have as members
- (a) at least one person appointed pursuant to clause 4(1)(a);
 - (b) at least one person appointed pursuant to clause 4(1)(b) or (c); and
 - (c) at least one person appointed pursuant to clause 4(1)(d).
- (4) Notwithstanding subsection (3), two members of the hearing panel constitute a quorum, one of whom must be a person appointed pursuant to clause 4(1)(a).
- (5) Subject to the regulations, the hearing panel may do all things necessary to provide a full and proper inquiry.
- (6) In a matter over which a hearing panel has jurisdiction, the hearing panel and each member of the hearing panel has all the powers, privileges and immunities of a commissioner appointed pursuant to the *Public Inquiries Act*.
- (7) Unless the member has agreed to a shorter notice period, a notice of hearing must be served at least 30 days before the holding of the hearing upon the member whose disciplinary matter is being heard.
- (8) A notice of a hearing must state the details of the charges and the time and place of the holding of the hearing and must be signed by the Registrar.
- (9) The Council shall place the notice as provided for in subsection (8) in such publications as it considers necessary in order to inform the public.
- (10) Upon the application of
- (a) any party to the hearing;
 - (b) the chair of the hearing panel; or
 - (c) legal counsel for the Council or the hearing panel,
- the Registrar shall sign and issue a summons to witness for the purpose of procuring the attendance and evidence of witnesses before the hearing panel.
- (11) It is the duty of the member who is charged in a disciplinary matter to appear at the hearing, but in the event of non-attendance by such member, the hearing panel, upon proof by affidavit, statutory declaration or other evidence acceptable to the hearing panel of service of the notice pursuant to subsection (7), may proceed with the hearing and, without further notice to the member, render its decision and take such other action as it is authorized to take pursuant to this Act. 2006, c. 18, s. 44.

Admissibility of evidence

- 45 (1) The following evidence is not admissible before a hearing panel unless the opposing party has been given, at least 10 days before the 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 a witness, the identity of the witness.

(2) Notwithstanding subsection (1), a hearing panel may, in its discretion, allow the introduction of evidence that would be otherwise inadmissible under subsection (1) and may make directions it considers necessary to ensure that a party is not prejudiced. 2006, c. 18, s. 45.

Conduct of hearing panel members

46 (1) No member of a hearing panel holding a hearing shall communicate outside the hearing, in relation to the subject-matter of the hearing, with a party or the party's representative unless the other party has been given notice of the subject-matter of the communication and an opportunity to be present during the communication, with the exception of communications of which the sole purpose is to make administrative arrangements.

(2) Any member of a hearing panel who is present at a Council meeting at which information is to be presented or discussed that has the potential of becoming a source of review by a hearing panel may not be present during the Council's discussions of such matter.

(3) Notwithstanding subsection (2), a majority of the serving members of the Council who have not absented themselves pursuant to subsection (2) constitute a quorum and may transact any business of the Council. 2006, c. 18, s. 46.

Disclosure of expert evidence

47 Where a hearing panel obtains expert opinion regarding midwifery with respect to a hearing, the hearing panel shall make the nature of the opinion known to the parties and the parties may make submissions with respect to the opinion. 2006, c. 18, s. 47.

Public hearings subject to power to exclude

48 (1) Subject to subsection (2), a hearing is open to the public.

(2) The hearing panel may make an 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) matters involving public security may be disclosed;

(b) financial or 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 be open to the public; or

(c) the safety of a person may be jeopardized.

(3) Where it thinks fit, the 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.

(4) No order may be made pursuant to subsection (3) that prevents the publication of anything that is contained in the Register and available to the public.

(5) The hearing panel may make an order that the public be excluded from the part of a hearing dealing with a motion of an order pursuant to subsection (2).

(6) The hearing panel may make any order necessary to prevent the public disclosure of matters disclosed in the submission relating to any motion described in subsection (5), including prohibiting the publication or broadcasting of those matters.

(7) Subject to any orders pursuant to this Section, the hearing panel shall state, at the hearing, its reasons for any order made pursuant to this Section. 2006, c. 18, s. 48.

Admission of certain parties to hearing

49 Where a hearing panel makes an order pursuant to subsection 48(2), wholly or partly, because of the desirability of avoiding disclosure of matters in the interest of a person affected,

(a) the hearing panel shall allow the parties, the complainant and their legal and personal representatives; and

(b) the hearing panel may allow such other persons as the panel considers appropriate,

to attend the hearing. 2006, c. 18, s. 49.

Publication ban

50 A hearing panel shall, on the request of a witness other than the member whose testimony is in relation to allegations of misconduct of a sexual nature by a member involving the witness, make an order that no person may publish the identity of the witness or any information that could disclose the identity of the witness. 2006, c. 18, s. 50.

Transcript of hearing

51 (1) A hearing panel shall ensure that

(a) the oral evidence is recorded;

(b) copies of the transcript of the hearing are available to a party at the party's request and expense, the complainant at the complainant's request and expense and other persons the hearing panel or the Registrar considers appropriate at those persons' request and expense; and

(c) copies of the transcript of any part of the hearing that is not closed nor the subject of an order prohibiting publication are available to any person at that person's request and expense.

(2) Where a transcript of a part of a hearing that is the subject of an order for a closed hearing or an order prohibiting publication is filed with a court in respect of proceedings, only the court, the parties to the proceedings and the complainant may examine it unless the court or the hearing panel orders otherwise. 2006, c. 18, s. 51.

Procedure at hearing

52 (1) At a hearing of a hearing panel, a member is entitled to all the rights of natural justice, including the right to be represented by legal counsel, to know all the evidence considered by the hearing panel, to present evidence and to cross-examine witnesses.

(2) A hearing panel

- (a) shall hear each case in such manner as it considers fit;
- (b) may require the member to
 - (i) submit to physical or mental examinations by such qualified persons as the panel designates,
 - (ii) submit to an inspection or audit of the member's practice by such qualified persons as the panel designates,
 - (iii) undergo such examinations as the panel directs to determine whether the member is competent to practise midwifery, and
 - (iv) produce records and accounts kept with respect to the member's practice;
- (c) may, where the member fails to comply with clause (b), resolve that the registration or licence of the member be suspended until the member complies;
- (d) shall, where the panel has, pursuant to subclause (b)(i), (ii) or (iii), required a member to submit to physical or mental examinations or submit to inspection or audit of the practice by a qualified person designated by the panel, deliver to the member any report it receives from the designated qualified person;
- (e) shall determine whether the member is guilty of charges relating to a disciplinary matter and
 - (i) where there is a guilty finding, may determine that
 - (A) the registration or licence of the member be revoked and that the member's name be stricken from the Register,
 - (B) the licence of the member be suspended
 - (I) for a fixed period, or
 - (II) for an indefinite period until the occurrence of some specified future event or until compliance with conditions prescribed by the panel,

- (C) conditions, limitations or restrictions be imposed on the licence of the member,
- (D) the member undergo such treatment or re-education as the panel considers necessary,
- (E) the member be reprimanded, or
- (F) such other disposition as it considers appropriate be imposed, or
- (ii) where there is a not guilty finding, the hearing panel may dismiss the charges; and
- (f) shall file its decision, including reasons, at the offices of the Council.

(3) When making dispositions pursuant to clause (2)(e), the hearing panel may impose one or more of the penalties that are set out therein, or the hearing panel may make such other dispositions as it considers appropriate, in accordance with the objects of this Act.

(4) The Registrar shall provide the member, the complainant and such other persons as the Registrar considers appropriate with a copy of the decision of the hearing panel except that, where there are references identifying clients or other persons other than the complainant, those references as well as other personal information about those persons must be deleted if, in the Registrar's opinion, it is appropriate.

(5) The decision of a hearing panel has effect immediately upon service on the member or from such time as the decision may direct.

(6) The hearing panel shall, on request, release documents and things put into evidence at a hearing to the person who produced them within a reasonable time after the matter in issue has been finally determined. 2006, c. 18, s. 52.

Inadmissibility of evidence in legal proceeding

53 (1) In this Section,

“civil proceeding” means any proceeding of a civil nature other than an arbitration proceeding or a proceeding before an adjudicative tribunal, board or commission or inquiry; and

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

(2) A witness in any legal proceeding, whether a party to the proceeding or not, is excused from answering any question as to any proceedings of the Registrar or a hearing panel, and is excused from producing any report, statement, memorandum, recommendation, document or information prepared for the purpose of the investigative, disciplinary and hearing processes of the Council, including

any information gathered in the course of an investigation or produced for the Registrar, a hearing panel or staff members of the Council.

(3) Subsection (2) does not apply to documents or records that have been made available to the public by the Council.

(4) Unless otherwise determined by a court of competent jurisdiction, a decision of the Registrar or a hearing panel is not admissible in a civil proceeding other than in an appeal or a review pursuant to this Act. 2008, c. 3, s. 8.

Payment of costs

- 54 (1) In this Section, “costs of the Council” include
- (a) expenses incurred by the Council, the Registrar and the hearing panel;
 - (b) honoraria paid to members of the hearing panel; and
 - (c) solicitor and client costs and disbursements of the Council relating to the investigation and hearing of the complaint.

(2) Where a hearing panel finds a member guilty of charges relating to a disciplinary matter, the hearing panel may order that the member pay the costs of the Council, in whole or in part.

(3) Where a member is ordered to pay costs pursuant to subsection (2), the Council may make it a condition of the registration or licence of the member that such costs be paid forthwith, or at such time and on such terms as the Council may fix. 2006, c. 18, s. 53.

Appeal on point of law

55 (1) The member complained against may appeal on any point of law from the findings of the hearing panel to the Nova Scotia Court of Appeal.

(2) The notice of appeal must be served upon the Registrar and the complainant.

(3) The record on appeal from the findings of a hearing panel consists of a copy of the transcript of the proceedings, the decision of the hearing panel and the evidence before the hearing panel certified by the chair of the hearing panel.

(4) 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 Nova Scotia Court of Appeal pursuant to this Section.

(5) Where a matter is appealed to the Nova Scotia Court of Appeal pursuant to this Section, the Nova Scotia Court of Appeal has jurisdiction to, pending a decision by the Nova Scotia Court of Appeal, grant a stay of any order made pursuant to this Act if, in its discretion, it considers it appropriate. 2006, c. 18, s. 54.

Application for reinstatement

56 (1) A person whose licence has been revoked by a resolution of a hearing panel pursuant to subclause 52(2)(e)(i), may apply to the Registrar for

- (a) the entering of the person's name, address and qualifications on the Register; and
- (b) the issuance of a licence.

(2) An application pursuant to subsection (1) may not be made earlier than

- (a) two years after the revocation; and
- (b) six months after the previous application.

(3) The Registrar, upon

- (a) being satisfied that the interest of the public has been adequately protected;
- (b) being satisfied as to the intention of such person to practise midwifery in the Province;
- (c) being satisfied as to the activities of such person since the time of the resolution of the hearing panel;
- (d) such person producing a letter of good standing from all jurisdictions in which the person has practised midwifery since the date of such resolution of the hearing panel; and
- (e) such person undergoing such clinical or other examinations as the Council may designate,

may direct the Registrar to

- (f) enter the name, address and qualifications of such person in the Register; and
- (g) issue a licence to such person upon such terms and conditions as the Council may direct.

(4) An applicant who is refused registration may appeal that decision to the Registration Appeal Committee pursuant to subsection 19(3). 2006, c. 18, s. 55.

NOTICES**Service**

57 Service of any notice, order, resolution or other document pursuant to this Act or the regulations may be made

- (a) upon a midwife or former midwife by registered letter addressed to such person at the person's address as set forth in the Register; or
- (b) upon any other person, by registered letter. 2006, c. 18, s. 56.

Registered letter

58 Where service is made by registered letter, service is deemed to be made on the third day after the notice, order, resolution or other document is mailed and proof that the notice, order, resolution or other document was addressed and posted in accordance with Section 57 is proof of service. 2006, c. 18, s. 57.

Service on Council

59 Service of any document on the Council may be made by service on the Registrar. 2006, c. 18, s. 58.

GENERAL

Duty to report

60 (1) A member has a duty to report to the Registrar if the member has reasonable grounds to believe that another member

(a) has engaged in professional misconduct, incompetence or conduct unbecoming the profession; or

(b) is practising in a manner that otherwise constitutes a danger to the public.

(2) A member has a duty to report to the regulator of another health profession if the member has reasonable grounds to believe that a member of that health profession

(a) has engaged in professional misconduct, incompetence or conduct unbecoming the profession; or

(b) is practising in a manner that otherwise constitutes a danger to the public.

(3) No action for damages or other relief lies against a member for any report made pursuant to subsection (1) or (2) if such report was made in good faith. 2006, c. 18, s. 59.

No action lies

61 (1) No action for damages or other relief lies against the Council, the persons on the Council, committees or subcommittees of the Council, or the persons on the committees or subcommittees, or the officers, agents or employees of the Council for

(a) any act or failure to act, or any proceeding initiated or taken, in good faith under this Act or in carrying out the duties or obligations under this Act; or

(b) 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 is made with malice.

(3) No member of the Council, a committee or subcommittee of the Council or any officer, agent or employee thereof is personally liable for any of

the debts or liabilities of the Council unless the person expressly agrees to be liable. 2006, c. 18, s. 60.

Exemptions from application of Act

62 Nothing in this Act prohibits the practice by a person of medicine, nursing or pharmacy or any other health discipline recognized by statute. 2006, c. 18, s. 61.

Exemption from liability

63 Where a midwife voluntarily renders first aid or emergency services without the expectation of monetary compensation to a person in any place not having proper and necessary medical facilities, the midwife is not liable for the death of such person or damages alleged to have been sustained by such person by reason of an act or omission in the rendering of such first aid or emergency services unless it is established that the injuries were, or the death was caused by, conduct on the part of the midwife that, if committed by a person of ordinary experience, learning and skill, would constitute negligence. 2006, c. 18, s. 62.

Offences and penalties

64 (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 midwifery without complying with this Act;

(c) engages in the practice of midwifery in violation of any condition or limitation contained in the person's licence; 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 penalty otherwise provided for in this Act or the regulations.

(3) All fines and penalties payable under this Act or under the *Summary Proceedings Act* as a result of a prosecution by or on behalf of the Council belong to the Council.

(4) Any information to be laid pursuant to this Act or the *Summary Proceedings Act* may be laid by the Council or any person 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 midwifery, 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 or employer continues for more than one day, the offender is guilty of a separate offence for each day that the violation continues.

(7) For the purpose of this Act and the regulations, proof of the performance by a person who is not a registered midwife of one act in the practice of midwifery is sufficient to establish that the person has engaged in the practice of midwifery. 2006, c. 18, s. 63.

Injunctions

65 (1) In the event of a threatened or continuing violation of this Act or the regulations, the Council may apply to a judge for an injunction to restrain the person from continuing or committing the violation and the judge, where the judge considers it to be just, may grant such an 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. 2006, c. 18, s. 64.

CHAPTER M-24

**An Act Respecting Education
on Mi'kmaq Reserves in Nova Scotia**

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

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Short title

1 This Act may be cited as the *Mi'kmaq Education Act*. 1998, c. 17, s. 1.

Purpose of Act

2 The purpose of this Act is to give effect to the Agreement respecting the jurisdiction of the Mi'kmaq of the Province over education. 1998, c. 17, s. 2.

Interpretation

3 In this Act,

“Agreement” means the agreement dated February 14, 1997, between “The Mi'kmaq Bands in Nova Scotia”, the Crown in right of Canada and the Crown in right of the Province;

“band” means a band within the meaning of the *Indian Act* (Canada);

“community” means a band that is named in the Schedule to this Act;

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

“reserve” means a reserve of a band that is named in the Schedule to this Act. 1998, c. 17, s. 3.

Application of Act

4 This Act applies to a community for which a constitution is in effect. 1998, c. 17, s. 4.

Laws applicable to reserves

5 (1) A community may, to the extent provided by the Agreement, enact laws applicable on its reserve respecting primary, elementary and secondary education for residents of the reserve.

(2) Where there is a conflict between laws enacted pursuant to subsection (1) and any other law respecting primary, elementary or secondary education in the Province, the laws enacted pursuant to subsection (1) prevail. 1998, c. 17, s. 5.

Educational programs and services

6 (1) A community shall, to the extent provided by the Agreement, provide or make provision for primary, elementary and secondary education programs and services to all residents of its reserve.

(2) The educational programs and services provided by a community must be comparable to the programs and services provided by other education systems in Canada in order to permit the transfer of students to and from those systems without academic penalty, to the same extent as the transfer of students between those other educational systems. 1998, c. 17, s. 6.

Laws of a community

7 (1) Laws of a community enacted pursuant to subsection 5(1) must be enacted in the manner provided by its constitution.

(2) Laws enacted pursuant to subsection 5(1) are not regulations within the meaning of the *Regulations Act*. 1998, c. 17, s. 7.

Power to amend Schedule

8 (1) The Governor in Council may, by order, add to the Schedule the name of a band if the council of the band has, in a manner consistent with the Agreement, authorized the Agreement to be signed on behalf of the band, the Agreement has been signed on behalf of the band and the council of the band has so notified the Minister.

(2) The Governor in Council may, by order, delete the name of a band from the Schedule if the council of the band has, in a manner consistent with the Agreement, authorized the withdrawal of the band from the Agreement and so notified the Minister.

(3) An order of the Governor in Council made pursuant to this Section has effect on and after the April 1st immediately following the July 1st immediately following the day the Minister is given notice pursuant to this Section. 1998, c. 17, s. 8.

SCHEDULE

1. Acadia Band
2. Annapolis Valley Band
3. Bear River Band
4. Chapel Island Band
5. Eskasoni Band
6. Gloosecap First Nation

7. Membertou Band
8. Paq'tnkek First Nation
9. Pictou Landing First Nation
10. Shubenacadie First Nation
11. Wagmatcook Band
12. Whycocomagh First Nation

1998, c. 17, Sch.; 2004, c. 15, s. 1; N.S. Reg. 129/2014; N.S. Reg. 137/2014.

CHAPTER M-25

**An Act to Recognize, Promote and Support
the Revitalization and Reclamation
of the Mi'kmaw Language**

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

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WHEREAS the Mi'kmaq have inhabited Mi'kma'ki, including the land now known as Nova Scotia, since time immemorial;

AND WHEREAS the Mi'kmaw language was the first language used in the land now known as Nova Scotia;

AND WHEREAS the Mi'kmaw language is fundamental to the worldviews and self-determination of the Mi'kmaq, including their customs, values, traditions, knowledge, laws, identity, culture, spirituality and relationships to the land;

AND WHEREAS the relationship between the Province of Nova Scotia and the Mi'kmaq of Nova Scotia is reflected in the spirit and intent of the Peace and Friendship Treaties and upheld through ongoing positive and collaborative work on the recognition and revitalization of Mi'kmaw culture, language and traditions;

AND WHEREAS the Mi'kmaw language and culture are included in the agreements that established the Tripartite Forum and the Made-in-Nova Scotia Process between the Mi'kmaq of Nova Scotia, the Government of Nova Scotia and the Government of Canada;

AND WHEREAS the final report of the Royal Commission on Aboriginal Peoples, the Truth and Reconciliation Commission Calls to Action, the United Nations Declaration on the Rights of Indigenous People and the National Inquiry into Missing and Murdered Indigenous Women and Girls' Calls for Justice recognize the preservation, revitalization, promotion and protection of Indigenous languages as integral to Indigenous identity and well-being;

AND WHEREAS after the United Nations' International Year of Indigenous Languages (2019), the United Nations Educational, Scientific and Cultural Organization (UNESCO) declared 2022-2032 as the International Decade of Indigenous Languages to preserve, revitalize and support Indigenous languages;

AND WHEREAS efforts to preserve and protect the vitality of the Mi'kmaw language contribute to the enrichment of Mi'kmaw knowledge as well as to the preservation of cultural diversity, biodiversity and spirituality;

AND WHEREAS there is an urgent and pressing need to support the efforts of the Mi'kmaq to preserve, reclaim, revitalize, maintain and strengthen the Mi'kmaw language;

AND WHEREAS there is a desire for the Province of Nova Scotia to support the Mi'kmaq of Nova Scotia in the revitalization, protection and promotion of their language;

AND WHEREAS the Mi'kmaq are best placed to take the leading role in reclaiming, revitalizing, maintaining and strengthening the Mi'kmaw language;

AND WHEREAS the Mi'kmaq of Nova Scotia are the rightful stewards and teachers of their own language and are best positioned to identify and implement mechanisms for preserving, relearning, revitalizing and promoting their language;

AND WHEREAS the Government of Nova Scotia recognizes that all relations with the Mi'kmaq of Nova Scotia must be based on the recognition and implementation of their right to self-determination, including the inherent right of self-government, whose interpretation and implementation remain under discussion between the Mi'kmaq of Nova Scotia, the Government of Nova Scotia and the Government of Canada;

AND WHEREAS the recognition and implementation of rights related to the Mi'kmaw language are at the core of reconciliation;

AND WHEREAS the Government of Canada has enacted the *Indigenous Languages Act* and this Act is intended to be complimentary to that Act and to enhance the cooperation between the Mi'kmaq, the Government of Canada and the Government of Nova Scotia:

Short title

1 This Act may be cited as the *Mi'kmaw Language Act*. 2022, c. 5, s. 1.

Purpose of Act

2 The purpose of this Act is to

(a) recognize the Mi'kmaw language as the original language of the Province;

(b) enable long-term collaborative relationships and ensure government support for the preservation, revitalization, promotion and protection of the Mi'kmaw language for generations to come;

(c) enable a collaboratively developed strategy between the Mi'kmaq of Nova Scotia and the Government of Nova Scotia for the promotion, protection and revitalization of the Mi'kmaw language;

(d) establish a Mi'kmaw Language Committee with membership of the Government of Nova Scotia, the Mi'kmaq of Nova Scotia and other members to ensure continued collaborative and positive relationships in rec-

ognition of the shared priority of the preservation, revitalization and protection of the Mi'kmaw language; and

(e) increase the visibility of the Mi'kmaw language across the Province. 2022, c. 5, s. 2.

Interpretation

3 In this Act,

“Committee” means the Mi'kmaw Language Committee established under Section 5;

“Mi'kmaw Kina'matnewey” means Mi'kmaw Kina'matnewey as created pursuant to an Act of the Parliament of Canada on April 22, 1999;

“Minister” means the Minister of L'nu Affairs. 2022, c. 5, s. 3.

Rights and obligations preserved

4 (1) This Act does not derogate from the inherent aboriginal or treaty rights of the Mi'kmaq.

(2) This Act does not affect any jurisdiction or responsibility of the Government of Canada respecting the Mi'kmaq or the Mi'kmaw language. 2022, c. 5, s. 4.

Mi'kmaw Language Committee

5 (1) The Minister shall, in collaboration with the Mi'kmaq of Nova Scotia, as represented by Mi'kmaw Kina'matnewey, establish a joint committee, to be known as the Mi'kmaw Language Committee, for the co-development of a Mi'kmaw language revitalization strategy.

(2) The functions of the Committee are to

(a) establish a multi-year strategic plan, within areas of provincial jurisdiction, for the revitalization of the Mi'kmaw language in the Province;

(b) establish tools to measure and assess progress of Mi'kmaw language revitalization;

(c) identify and secure the resources needed to support the strategic plan; and

(d) periodically review and update the strategic plan.

(3) In addition to its functions under subsection (2), the Committee may make additional recommendations to the Government of Nova Scotia and the Mi'kmaq, as represented by Mi'kmaw Kina'matnewey, as the Committee determines appropriate.

(4) The Committee shall develop its own terms of reference, subject to the approval of the Minister and the Mi'kmaq, as represented by Mi'kmaw Kina'matnewey.

(5) The terms of reference developed under subsection (4) may include

- (a) the Committee's rules of procedure;
 - (b) the quorum required for a meeting of the Committee;
- and
- (c) the frequency and locations of meetings of the Committee.

(6) The Committee is composed of

- (a) four members appointed by the Minister;
- (b) four members appointed by Mi'kmaw Kina'matnewey;
- (c) one member appointed by each of the 13 Mi'kmaw communities in the Province; and
- (d) up to four other members, jointly appointed by the Minister and Mi'kmaw Kina'matnewey, representing other communities and organizations.

(7) Each member of the Committee is appointed for a term of three years and may be reappointed.

(8) A member of the Committee remains a member after the expiry of the member's term until reappointed or a successor is appointed.

(9) The Minister and the Mi'kmaq of Nova Scotia, as represented by Mi'kmaw Kina'matnewey, may each appoint a member of the Committee as co-chair. 2022, c. 5, s. 5.

CHAPTER M-26

An Act Respecting Mineral Resources

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Short title

1 This Act may be cited as the *Mineral Resources Act*. 2016, c. 3, s. 1.

Purpose of Act

2 (1) The purpose of this Act is to support and facilitate responsible mineral resource management consistent with sustainable development while recognizing the following goals:

- (a) providing a framework for efficient and effective mineral rights administration;
- (b) encouraging and facilitating mineral exploration, development and production;
- (c) providing a fair royalty regime; and
- (d) improving and ensuring the retention of the knowledge of mineral resources in the Province for the future benefit of the Province.

(2) In administering this Act, the Minister shall consider the principles and goals referred to in the *Environmental Goals and Climate Change Reduction Act*, which include the Mi'kmaq concept of Netukulimk. 2016, c. 3, s. 2.

INTERPRETATION AND APPLICATION

Interpretation

3 In this Act,

“assessment work” means bona fide work that meets the prescribed requirements and is undertaken to prove the existence, extent and value of a mineral deposit and to report in an assessment work report for work credit;

“assessment work report” means a report respecting assessment work, or a prospector’s statement, that meets the prescribed requirements;

“bulk sampling” means the extraction of a sample of mineral-bearing material for the purpose of

- (a) assessing the resource;
- (b) developing a suitable method of mining; or
- (c) developing a suitable method of treatment,

and includes grade and reserve estimation, metallurgical testing, product testing and market evaluation;

“claim” means a claim of 40 acres or 16.188 hectares, more or less, applied for or held in accordance with this Act;

“conservation officer” means a conservation officer appointed under this Act;

“Crown” means the Crown in right of the Province;

“Crown lands” means lands that are Crown lands within the meaning of the *Crown Lands Act*;

“Department” means the Department of Natural Resources and Renewables acting through its duly authorized officers and employees;

“excavation registration” means an excavation registration recorded under this Act;

“exploration licence” means a licence granting the licence holder, under this Act, the right to search and prospect for minerals within an area designated in the licence;

“exploring” means searching for minerals or non-minerals by prospecting, aerial survey, geological, geophysical or geochemical surveys, trenching, stripping, drilling or any other method, and includes bulk sampling;

“former Act” means Chapter 18 of the Acts of 1990, the *Mineral Resources Act*;

“geothermal resource” means a substance, including steam, water and water vapour, that is found anywhere below the surface of the earth and that derives an added value from the natural heat of the earth present in, resulting from or created by the earth;

“geothermal resource area” means an area designated by the Governor in Council under this Act as a geothermal resource area;

“holiday” includes a day or portion of a day designated under the *Civil Service Act* as a holiday;

“legal representative” means an executor, administrator, guardian, trustee, liquidator, receiver or other person upon whom an interest has devolved by operation of law, legal process or order of a court of competent jurisdiction;

“lessee” means a holder of a mineral lease or, unless the context otherwise requires, a legal representative acting on behalf of a holder of a mineral lease;

“letter of authorization” means a letter of authorization granted under this Act;

“licensee” means a holder of an exploration licence;

“mine” includes

(a) an opening upon, excavation in or working of the ground for the purpose of mining, opening up or proving a mineral, gypsum, limestone or a mineral-bearing substance, but not for the purpose of bulk sampling;

(b) an ore body, mineral deposit or place where mining is being or may be carried on; and

(c) the ways, works, machinery, plant, wash-houses and other buildings, structures and roadways below or above ground belonging to or used in connection with mining and production;

“Mine Assessor” means the officer appointed by the Minister to administer the royalty provisions of this Act and the regulations;

“mineral” means a natural solid inorganic or fossilized organic substance or a substance prescribed to be a mineral, but does not include

(a) ordinary stone, building stone or construction stone;

(b) sand, gravel, peat, peat moss or ordinary soil;

(c) gypsum;

(d) limestone, except that which is vested in the Crown; or

(e) oil or natural gas,

unless declared to be a mineral by the Governor in Council;

“mineral lease” means a mineral lease issued under this Act;

“mineral right” means an exploration licence or mineral lease;

“mineral right holder” means a person whose name appears in the records of the Registrar as having a mineral right;

“mining” means performing any work in or about a mine, and includes a method of working whereby soil, earth, rock, stone, mineral, gypsum, limestone or a mineral-bearing substance may be disturbed, whether previously disturbed or not, or removed, washed, sifted, roasted, smelted, refined, crushed, dissolved, precipitated, separated or dealt with, for the purpose of obtaining a mineral, gypsum or limestone, except for the purpose of assaying, sampling, including bulk sampling, or metallurgical testing;

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

“non-mineral registration” means a non-mineral registration issued under this Act;

“occupier” means, in respect of private property, an occupier at common law, and includes

(a) a person who is in physical possession of the property;
and

(b) a person who has responsibility for, and control over, the condition of the property, the activities conducted on the property or the persons allowed to enter upon the property,

and, for the purpose of this Act, there may be more than one occupier of the same property;

“officer” includes the Registrar, the Mine Assessor, an engineer or geologist in the public service and a person appointed or employed by the Minister to carry out an inspection, investigation or other function under this Act;

“operator” means, with respect to a mine, the mineral right holder, a legal representative acting on behalf of the mineral right holder or, in the case where there is no mineral right holder or legal representative, the owner or occupier of the property or premises where the mine is situated;

“output” means the minerals and mineral products taken, gained or derived from a mine;

“person” includes a partnership, syndicate or company;

“police officer” means a member of the Provincial Police, the Royal Canadian Mounted Police, a municipal police department or another police department providing policing services in the Province;

“prescribed” means prescribed by the regulations;

“private land” means all land other than Crown lands;

“production” means the winning, stockpiling, taking or carrying away of a mineral, a mineral-bearing substance, gypsum, limestone or tailings or any product thereof, except for the purpose of assaying, sampling, including bulk sampling, or metallurgical testing;

“prospector” means a person who is prospecting, whether or not the person is registered with the Department or is a mineral right holder under this Act;

“record” means a book, map, chart, plan, file or any information stored by micrographic, electronic or other storage means, that logs events, transactions, documents, instruments or other information;

“registrant” means a holder of a non-mineral registration;

“Registrar” means the Registrar appointed under this Act;

“registry” means the office of the Registrar, and includes the electronic registry maintained by the Registrar under this Act;

“safety” means public safety, but does not include occupational health and safety;

“security” means cash, an irrevocable letter of credit or another form of security that is acceptable to the Minister, taken for any purpose consistent with the proper administration of this Act;

“tailings” means the residue discarded, set aside or impounded during production;

“tract” means a mineral tract made up of 16 claims that conforms with the prescribed description;

“work credit” means credit given for assessment work performed with respect to an exploration licence. 2016, c. 3, s. 3; O.I.C. 2018-188.

Application of Act

4 This Act applies to every person who explores for, mines or produces a mineral or any substance declared under Section 6 to be a mineral, and to every person mentioned in this Act or the regulations, including a person who produces gypsum or limestone. 2016, c. 3, s. 4.

Title to minerals

5 (1) All minerals are reserved to the Crown and the Crown owns all minerals in or upon land in the Province and the right to explore for, mine and produce those minerals.

(2) Every grant of Crown lands made on or after April 22, 1910, is, whether the same is so expressed therein or not, to be construed and held to reserve to the Crown all the minerals in or upon the land so granted and the right to explore for, mine and produce those minerals.

(3) Every grant of Crown lands made at any time before April 22, 1910, is, whether the same is so expressed therein or not, and notwithstanding the provisions of such conveyance or of any enactment or law, to be construed and held to have reserved to the Crown all the minerals in or upon the land so granted and the right to explore for, mine and produce those minerals.

(4) Every person who has acquired Crown lands by conveyance or prescription is deemed not to have acquired the minerals in or upon the Crown lands or the right to explore for, mine and produce those minerals, and no person is entitled to acquire minerals or such rights by conveyance or prescription. 2016, c. 3, s. 5.

Declaration as mineral

6 (1) Where it is made to appear to the Governor in Council that a non-living substance formed by the processes of nature that occurs on or under the surface of the earth

(a) has a higher economic value or use than that to which it has formerly been put;

(b) that had formerly been classified as gypsum, limestone or building material, has a higher economic value or use than has gypsum, limestone or building material; or

(c) should in the public interest be treated as a mineral,

the Governor in Council may, by regulation, declare the substance or any deposit of it to be a mineral.

(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) A copy of a regulation made under subsection (1) must be published in the Royal Gazette and in such other manner as the Governor in Council directs.

(4) A regulation made under subsection (1) may apply to all lands in the Province or such lands as may be prescribed. 2016, c. 3, s. 6.

Consequences of declaration

7 Where the Governor in Council has made a regulation under clause 6(1)(b), the substance or the deposit of the substance referred to in the regulation is deemed, for the purposes of this Act and the *Crown Lands Act*, to have always been a mineral, notwithstanding the terms of any grant from the Crown or any conveyance, instrument, enactment or law. 2016, c. 3, s. 7.

Former owner's rights

8 Where the Governor in Council has made a regulation under subsection 6(1), the person who, but for the regulation, was the owner of the substance or the deposit of the substance has the exclusive right during the six months immediately following the publication of the regulation in the Royal Gazette, in priority to all other persons, to apply for and obtain a mineral right under this Act for, or with respect to, the substance or the deposit of the substance. 2016, c. 3, s. 8.

Application for compensation

9 (1) A person engaged in mining activities regulated under this Act and claiming an interest in a substance or a deposit of a substance declared to be a mineral under Section 6 may apply to the Nova Scotia Utility and Review Board for compensation and is subject to the *Expropriation Act*.

(2) No compensation is to be paid in respect of an application under subsection (1) made more than one year after the date a regulation made under Section 6 is published in the Royal Gazette. 2016, c. 3, s. 9.

Geothermal resource area

- 10 (1) The Governor in Council may
- (a) designate areas to be known as geothermal resource areas;
 - (b) determine that Section 5 applies to the geothermal resources in a geothermal resource area as if the geothermal resources were a mineral and may further determine which other provisions of this Act apply to geothermal resources in those areas;
 - (c) modify a provision of this Act respecting its application to geothermal resources;
 - (d) generally adapt the provisions of this Act to existing circumstances with respect to geothermal resources in geothermal resource areas.
- (2) Where, under subsection (1),
- (a) an area is designated as a geothermal resource area and Section 5 is determined to apply to the geothermal resources in a geo-

thermal resource area as if the geothermal resources were a mineral;
or

(b) there is a modification or adaptation of any other provision of this Act with respect to a geothermal resource in a geothermal resource area,

no person affected by the designation, determination, modification or adaptation is entitled to compensation of any nature or kind whatsoever.

(3) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*.

(4) A copy of a regulation made under subsection (1) must be published in the Royal Gazette and in such other manner as the Governor in Council directs.

(5) A regulation made under subsection (1) may apply to all lands in the area or such lands as may be prescribed. 2016, c. 3, s. 10.

ADMINISTRATION

Supervision of Act and regulations

11 The Minister has the general supervision and management of this Act and the regulations. 2016, c. 3, s. 11.

Powers of Minister

12 (1) The Minister may

(a) extend, upon application and for good cause shown, the time fixed or allowed for the doing of anything or the taking of any proceeding under this Act; or

(b) cancel, revoke or rescind a mineral right if money is due to the Crown by the mineral right holder.

(2) An extension may be made under subsection (1) although the application for the same is not made until after the expiration of the time fixed or allowed and may require payment by the applicant to a person aggrieved by such extension. 2016, c. 3, s. 12.

Personnel

13 (1) Persons required for the administration and enforcement of this Act and the regulations may be appointed in accordance with the *Civil Service Act*.

(2) Notwithstanding subsection (1), the Minister may engage, upon such terms and conditions as the Minister considers fit, the services of such professional and technical persons and experts to advise the Minister as the Minister considers necessary for the efficient carrying out of this Act and the regulations.

(3) Notwithstanding subsection (1) and anything in the *Civil Service Act*, the Minister may employ any person to investigate the mineral resources of the Province or to perform any work in connection with this Act and

the regulations, and may pay any such person for such services at the rate agreed upon out of the General Revenue Fund. 2016, c. 3, s. 13.

Registrar and officers

14 (1) The Minister shall designate a person as the Registrar to perform such duties as are assigned to the Registrar by the Minister, this Act or the regulations.

(2) The Minister may designate such other persons as officers as the Minister considers necessary to perform such duties as are assigned to them by the Minister, this Act or the regulations. 2016, c. 3, s. 14; 2018, c. 14, s. 1.

Registrar's office and records

15 (1) The Registrar shall have an office in the Halifax Regional Municipality and at any other place required by the Minister.

(2) The Registrar shall maintain an electronic registry for the purpose of this Act.

(3) The Registrar shall keep, in the manner prescribed, such records as are required by this Act and the regulations.

(4) The Registrar shall maintain a record of mineral rights and non-mineral registrations, which is conclusive as to the matters entered in the record.

(5) The Registrar shall maintain a record of applications for mineral rights and non-mineral registrations properly filed with the Registrar in which are entered particulars of the disposition of each application and such other matters as may be prescribed.

(6) The Registrar shall maintain a record in which are entered the names of mineral right holders and registrants.

(7) All information contained in records and copies of records that are required under this Act to be kept by the Registrar, and an accurate reproduction of such information, is admissible in evidence as proof of the contents of the records, if certified as correct by the Registrar.

(8) A certificate purporting to be signed by the Registrar is prima facie proof of the contents of instruments and documents filed in the registry. 2016, c. 3, s. 15.

Transfer of exploration licence

16 The Registrar is responsible for the transfer of an exploration licence in the manner set out in this Act and the regulations. 2016, c. 3, s. 16.

Filing of instruments and documents

17 (1) All instruments and documents that are required to be filed under this Act and the regulations must be filed with the Registrar.

(2) Those instruments and documents that are of a type that can be filed in the electronic registry must be filed with the Registrar by filing them, in the prescribed manner, in the electronic registry.

(3) Subject to subsections 43(4) and 68(9), where the time limited for the filing or recording of an instrument or document or for the doing of any act or thing in the registry under this Act expires or falls on a day on which the electronic registry is unavailable and the Registrar is satisfied that the filing, recording or other act may not be possible for this reason, the time so limited extends to, and such filing, recording or other act may be done on, the next following day on which the office is open and the electronic registry is available. 2016, c. 3, s. 17.

Inspection of records and registrations

18 (1) Upon payment of the prescribed fee, an interested person may, subject to subsection (2), inspect records of mineral rights and non-mineral registrations and records of names of mineral right holders and registrants and obtain copies of applications for mineral rights and non-mineral registrations by

- (a) with respect to records that are not filed in the electronic registry, submitting a request in person at the office of the Registrar during office hours; or
- (b) accessing the electronic registry.

(2) Notwithstanding the *Freedom of Information and Protection of Privacy Act*,

- (a) departmental notations, other than the application number and date stamp, not forming part of a document;
- (b) leases and other instruments or documents of a confidential nature and filed for information purposes only under Section 15 or 17;
- (c) options; and
- (d) financial information,

must be held in confidence by the Registrar unless the Registrar is directed to release the information by the order of a court of competent jurisdiction or by the Minister under subsection (3).

(3) Notwithstanding the *Freedom of Information and Protection of Privacy Act*, the Minister may direct that information that must be held in confidence under subsection (2) be released in connection with an order of a court respecting procedures under and provisions of this Act or the regulations with respect to the information contained in the portion of the record ordered to be released, and upon such notice to the parties concerned as the Minister considers appropriate. 2016, c. 3, s. 18.

Hours of operation

19 (1) The office of the Registrar is required to be open every day that is not a holiday, a Saturday or a Sunday, from 10:00 a.m. until 4:00 p.m.

(2) Notwithstanding subsection (1), the office of the Registrar is not required to be open for any period during which the Government temporarily closes Government offices in the area where the office is located.

(3) Where the time limited for the filing or recording of an instrument or document, other than an instrument or document to which subsection 17(2) applies, or for the doing of any act or thing at the office of the Registrar under this Act expires or falls on a day on which the office is closed, the time so limited extends to, and such filing, recording or other act may be done on, the next following day on which the office is open. 2016, c. 3, s. 19.

Conservation officers

20 (1) The Minister or any other member of the Executive Council with responsibility for appointing conservation officers may appoint such conservation officers as the Minister or other member of the Executive Council considers necessary to perform such duties as are assigned to conservation officers by this Act or the regulations.

(2) A conservation officer, in carrying out duties under this Act and the regulations, has and may exercise in the Province all powers, authorities and immunities of a peace officer as defined in the *Criminal Code* (Canada).

(3) A conservation officer, before commencing duties under this Act, shall swear an oath prescribed by the regulations.

(4) The Government shall supply identification to conservation officers appointed under subsection (1).

(5) A copy of the identification supplied by the Government is prima facie proof in any court of law that the individual named in the identification is a conservation officer appointed under this Act, without any further proof.

(6) A conservation officer may administer oaths or affirmations to any person making a declaration or affidavit under this Act.

(7) The protection afforded by this Act and any other enactment to a conservation officer extends to any other person while and to the extent that the other person is in the course of assisting a conservation officer under the conservation officer's direction.

(8) A police officer may exercise the powers and perform the duties of a conservation officer. 2016, c. 3, s. 20.

Powers of entry

21 (1) An officer, person appointed by the Minister under this Act or conservation officer, and any person assisting any of them, when engaged in duties under this Act or in geoscientific activities, may at any reasonable time enter upon and pass over the land of any person by any reasonable means doing as little damage as possible.

(2) No action lies against an officer, a person appointed by the Minister under this Act, a conservation officer, a person assisting any of them, the

Minister or the Crown for any act done under subsection (1) except with respect to actual damage. 2016, c. 3, s. 21.

Appeals

22 (1) Notwithstanding anything in this Act, the Governor in Council may, if authorized by the regulations, appoint a commissioner or establish a board, in accordance with the regulations, to hear appeals of decisions made under this Act, as set out in the regulations.

(2) The Minister may delegate the Minister's authority under Section 26 to a commissioner appointed or board established under subsection (1). 2016, c. 3, s. 22.

Security

23 Notwithstanding anything in this Act, the Minister may require security for any purpose consistent with the proper administration of this Act. 2016, c. 3, s. 23.

LAND ACCESS

Prohibited entry or working of Crown lands

24 No prospector, mineral right holder or legal representative or other person acting on behalf of a mineral right holder shall enter upon and work Crown lands except with the written consent of the Minister, or of a person authorized by the Minister, and upon such terms and conditions as are specified by the Minister or the person authorized by the Minister, as the case may be. 2016, c. 3, s. 24.

Prohibited entry or working of private lands

25 (1) No prospector, mineral right holder or legal representative or other person acting on behalf of a mineral right holder shall enter upon or work private land for the purpose of gaining access to a mineral right and exploring without the consent required by this Section.

(2) For the purpose of activities that do not involve disturbing the ground, including associated access requirements, and including

- (a) walking;
- (b) panning;
- (c) prospecting;
- (d) driving on existing roads;
- (e) geological mapping;
- (f) testing and geochemical sampling by non-mechanical means;
- (g) geophysical surveying; and
- (h) any other prescribed activity,

a mineral right holder or prospector must obtain verbal or written consent from the owner or occupier of the land before commencing the activities.

(3) For the purpose of activities that involve disturbing the ground, including associated access requirements, and, without limiting the generality of the foregoing, including

- (a) trenching, test-pitting or other excavating by mechanized means;
- (b) drilling;
- (c) bulk sampling;
- (d) cutting trees or survey lines;
- (e) building roads; and
- (f) any other prescribed activity,

a mineral right holder must obtain written consent, as prescribed, from the owner or occupier of the land before commencing the activities.

(4) A mineral right holder or prospector who is not able to obtain the verbal or written consent required by this Section to enter upon private land may apply for surface access rights under Section 26. 2016, c. 3, s. 25.

Application for surface access

26 (1) Subject to subsection (3), a mineral right holder or prospector who is unable to obtain consent of the owner or occupier of private lands required under Section 25 may apply, in the prescribed manner, to the Minister, after notice to the owner or occupier, for surface access rights to pass over or enter upon and work such lands.

(2) The Minister, in accordance with the prescribed process, may grant surface access rights, in writing, on such terms and conditions as the Minister determines, and may determine the amount of any compensation to be paid to the owner or occupier of the private land and the manner and time of such payment.

(3) The Minister may order the applicant for surface access rights to post security for payment of the compensation and may prohibit, pending the determination of the proceeding or until the compensation is paid or secured, further entry upon or work by the applicant or a legal representative or other person acting on behalf of the applicant.

(4) Where the Minister is satisfied that the owner or occupier of the private land cannot be identified, located or contacted, the Minister may grant surface access rights on the terms and conditions determined by the Minister.

(5) Where there are several owners or occupiers of the lands sought to be entered upon or worked and there are, in the opinion of the Minister, special difficulties in effecting service of any notice under this Section, the Minister may order substituted service in such manner as the Minister may determine.

(6) There is no appeal of the granting by the Minister of surface access rights, of the Minister's determination as to the amount of compensation, of any order for security or of any order, decision or ruling in respect of any of them.

(7) Where a licensee is delayed in the performance of work on land covered by the licence by refusal of the owner or occupier of the land to permit the licensee to enter upon or work the land and the Minister has granted the licensee surface access rights under this Section, the time within which the licensee is required to perform work under the licence is extended by a period equal to the delay resulting from the owner's or occupier's refusal to permit the licensee to enter upon or work the land from the date the licensee makes an application under this Section to the date the surface access rights are granted under this Section.

(8) The grant of surface access rights under this Section is a decision made by the Minister and may be filed with the Supreme Court of Nova Scotia under Section 139. 2016, c. 3, s. 26; 2018, c. 14, s. 2.

Application for vesting order

27 (1) Where a lessee requires land, or a right or interest in land, for a mine or any purpose connected with or incidental to a mine and no agreement can be made for the acquisition of the land or the right or interest in the land, the lessee may apply to the Minister for a vesting order.

(2) An application must include

(a) a statement that the lessee is the lessee under a certain lease;

(b) a statement that the lessee requires certain land or some right or interest in certain land, of which a plan and description is attached, for one or more of the purposes set out above in connection with the area covered by the lease;

(c) where the owner of the land is known,

(i) a statement that the lessee is willing to make an arrangement with the owner for the acquisition of the land, right or interest that the owner is unwilling to accept, and

(ii) information specifying the nature of the proposed arrangement and the price that the lessee is willing to pay;

(d) where the owner of the land cannot be identified, located or contacted,

(i) a statement that the owner of the land cannot be identified, located or contacted despite reasonable attempts by the lessee to do so, and

(ii) information specifying the attempts made by the lessee to identify, locate or contact, as the case may be, the owner, which information must be sufficient to satisfy the Minister that the attempts were reasonable; and

(e) a request by the lessee that the Minister make an order that the land or the right or interest in the land required by the lessee be vested in the lessee.

(3) Where required by the Minister, the application must be accompanied by a deposit in an amount as directed to cover the costs or expenses that may be ordered to be paid by the lessee to the owner.

(4) The Minister shall consider the application within the prescribed time and may, by order, vest in the lessee the land or the right or interest required by the lessee or such other right or interest as the Minister may determine.

(5) A vesting order issued by the Minister must be filed in the registry of deeds for the registration district in which the land to which the order relates is situate, and the filing thereof is deemed to be a deposit of expropriation documents under the *Expropriation Act*.

(6) Upon the filing of a vesting order by the Minister, the lessee named in the order is deemed to be the expropriating authority within the meaning of the *Expropriation Act*, and the land, right or interest that is vested is deemed to be expropriated. 2016, c. 3, s. 27.

Expropriation Act

28 In connection with the proceedings under Section 27,

(a) the *Expropriation Act* applies with necessary changes to the expropriation;

(b) notwithstanding Section 4 of the *Expropriation Act*, whenever the provisions of that Act conflict with the expropriation provisions of this Act, the expropriation provisions of this Act prevail;

(c) the lessee is deemed to be the statutory authority for the purpose of the *Expropriation Act*; and

(d) the Minister is deemed to be the approving authority for the purpose of the *Expropriation Act*. 2016, c. 3, s. 28.

Restriction on use of mineral right

29 Every mineral right holder who has acquired any property, right or interest under this Act or through an agreement with the owner of land, subject to the terms of any such agreement, shall, where the property, right or interest is less than fee simple, use the property

(a) only for purposes related to mining, and for no other purposes; and

(b) in such manner as is least injurious to the owner of the land. 2016, c. 3, s. 29.

PROSPECTING, MINERAL RIGHTS AND NON-MINERAL REGISTRATIONS

Requirement for mineral right

30 (1) No person shall explore for minerals except under a mineral right.

(2) Notwithstanding subsection (1) and subject to subsection (3), a person who explores for minerals in a preliminary way with the intent of acquiring

a mineral right is not required to obtain an exploration licence under subsection (1) if such exploring is restricted to outcrop and float examination, line flagging, geological and topographical mapping, rock, water and overburden sampling and geophysical surveys, if that person

- (a) registers as a prospector with the Registrar and pays the prescribed fee in the prescribed manner, unless the regulations otherwise provide;
 - (b) has the verbal or written consent of the owner or occupier of private lands or, in the case of Crown lands, the consent of the Minister; and
 - (c) conducts the preliminary non-disturbance surface work on lands that are open for application for an exploration licence and that are not restricted under the regulations.
- (3) An individual must be of the age of majority to register as a prospector.
- (4) No person, including a person exploring under subsection (2), shall carry out any exploration, mining or production on a claim held under an exploration licence, mineral lease or non-mineral registration unless the person is the mineral right holder or the registrant or does so with the authority of the mineral right holder or the registrant. 2016, c. 3, s. 30.

Application for exploration licence

- 31 (1) Subject to subsection (2), a person may apply for an exploration licence in the prescribed manner.
- (2) An individual must be of the age of majority to apply for an exploration licence.
- (3) An application for an exploration licence must
- (a) meet the prescribed requirements;
 - (b) include the prescribed fee; and
 - (c) specify one or more claims applied for as designated on the official maps of the Department.
- (4) The Registrar shall
- (a) receive any application that the Registrar is satisfied is complete and complies with this Act and the regulations; and
 - (b) cause the application to be inscribed with the precise time and date at which it is received at the registry. 2016, c. 3, s. 31.

Tenders for competing applications

- 32 (1) Where two or more persons submit applications for an exploration licence for a common claim and the Registrar is unable to determine which application was received first, the Registrar shall, after giving notice in the prescribed manner and within the prescribed time, request the applicants to submit ten-

ders or proposals, in the prescribed manner and within the prescribed time, for the right to obtain the exploration licence.

(2) Subject to subsection 36(2), where tenders or proposals have been submitted under subsection (1), the Registrar shall, within the prescribed time, issue an exploration licence to the applicant who

- (a) in the opinion of the Minister, best satisfies the requirements of the tender call or request for proposals;
- (b) provides an application that the Registrar is satisfied is complete and complies with this Act and the regulations; and
- (c) deposits with the Registrar, within a time fixed by the Registrar, security in an amount and form acceptable to the Minister.

(3) Where no tender or proposal is submitted in the prescribed manner and within the prescribed time that, in the Minister's opinion, is acceptable or that meets the requirements under subsection (2), the claim is to be made available for application at 10:00 a.m. on the next following day.

(4) Where an exploration licence is issued to an applicant under subsection (2), the amount of assessment work that the applicant undertook to perform in the successful tender or proposal is the amount of assessment work the applicant is required to perform.

(5) Upon the completion of all the required assessment work, within the time and in the manner acceptable to the Registrar, the security deposited under clause (2)(c) must be returned to the person who is the licensee at the time the security is returned, regardless of whether that person was the licensee at the time of the tender or proposal.

(6) The security is forfeited if all the required assessment work is not completed. 2016, c. 3, s. 32.

Required information

33 (1) Every person shall, within 15 days of that person's first application for a mineral right, file in the office of the Registrar documentation, as prescribed, that contains the following information:

- (a) where an individual or sole proprietorship,
 - (i) the individual's name or proprietorship's name,
 - (ii) the individual's address in the Province,
 - (iii) the individual's address, if any, outside of the Province, and
 - (iv) the name and address of the agent resident in the Province;
- (b) where a partnership or syndicate,
 - (i) the name of the partnership or syndicate,
 - (ii) the names of all partners or members of the syndicate,

- (iii) the addresses of all partners or members of the syndicate in the Province,
 - (iv) the addresses, if any, of all partners or members of the syndicate outside the Province,
 - (v) the name and address of the agent resident in the Province, and
 - (vi) a copy of the certificate of partnership or syndicate registration or other registration confirming registration for the Province;
- (c) where a body corporate,
- (i) the name of the corporation,
 - (ii) the names and addresses of the president, secretary and other officers and directors of the corporation,
 - (iii) the mode of incorporation,
 - (iv) the date of incorporation,
 - (v) a copy of the certificate of incorporation or registration,
 - (vi) the location of the head office,
 - (vii) the name and address of the agent resident in the Province,
 - (viii) the principal office of the corporation in the Province, and
 - (ix) any information that the Registrar may require.

(2) Service upon the agent referred to in subclause (1)(a)(iv), (b)(v) or (c)(vii) is deemed to be sufficient service upon the individual or proprietorship, the partnership or syndicate and the members thereof or the corporation, as the case may be.

(3) Every mineral right holder shall advise the Registrar in writing, within 30 days, of a material change affecting the information required by subsection (1).

(4) For greater certainty, where a mineral right holder fails to advise the Registrar as required by subsection (3), the mineral right holder, not the Crown, the Minister, the Registrar or the Department, is responsible if any notice under this Act fails to reach the mineral right holder. 2016, c. 3, s. 33.

Contents of application

34 (1) An application for a mineral right, any other application and a transfer or assignment of a claim or right or interest acquired under this Act must contain, or have endorsed thereon,

- (a) the place of residence and post office address of the applicant, transferee or assignee;

(b) where the applicant, transferee or assignee does not reside in the Province, the name, residence and post office address of a person resident in the Province upon whom service may be made as agent; and

(c) such other information as may be prescribed.

(2) The address provided under subsection (1) is the address for service and, unless otherwise provided for by this Act, service may be made by forwarding by prepaid registered mail to such address.

(3) No application, transfer or assignment may be accepted unless it conforms with subsection (1) and the regulations.

(4) The name of the agent upon whom service may be made may be changed by filing in the office of the Registrar a memorandum setting forth the name, residence in the Province and post office address of the new agent. 2016, c. 3, s. 34.

Duty to accept application

35 (1) Except where this Act otherwise provides, the Minister shall accept an application for an exploration licence.

(2) An application for an exploration licence must be considered for acceptance within the prescribed time. 2016, c. 3, s. 35.

Restriction on acceptance of application

36 (1) No application for an exploration licence may be accepted for areas that are subject to a mineral right or non-mineral registration or an application for either of them unless the applicant holds the mineral right or non-mineral registration.

(2) Where, in the opinion of the Minister, the acceptance of an application for an exploration licence is not in the best interests of the Crown or the public, or would hinder mineral development, the Minister may reject such an application. 2016, c. 3, s. 36.

Dispute

37 (1) Subject to subsection (2), where, under Section 32, the right to obtain an exploration licence for a claim is in dispute, no application may be accepted for an exploration licence for the claim until the dispute is disposed of by the decision of the Registrar.

(2) Where an appeal lies from a decision referred to in subsection (1), no application for an exploration licence for the claim may be made until after the time limited for taking the appeal expires or, where an appeal is taken, after the dispute is disposed of by the highest authority to which the appeal is taken. 2016, c. 3, s. 37; 2018, c. 14, s. 3.

Exploration licence

38 (1) Subject to subsection (2) and acceptance of the application by the Minister, where the Registrar is satisfied that the application for an exploration

licence is complete and complies with this Act and the regulations, the Registrar shall issue the licence.

(2) With the approval of the Minister, the Registrar may issue an exploration licence for part of the lands applied for. 2016, c. 3, s. 38.

Form of exploration licence

39 An exploration licence

- (a) must include the prescribed information;
- (b) must specify the location to which it relates by claims and tracts as designated on the official maps of the Department;
- (c) may include any number of coterminous claims not exceeding 80; and
- (d) may not be granted for a portion or portions of claims. 2016, c. 3, s. 39.

Duties of Registrar upon issuing exploration licence

40 When the Registrar issues an exploration licence, the Registrar shall cause appropriate entries to be made in the records maintained by the Registrar and shall forward the licence to the applicant in the prescribed manner. 2016, c. 3, s. 40.

Refund of fees

41 When an application is refused or rejected, the Registrar shall refund the fees submitted with the application, subject to any prescribed restrictions. 2016, c. 3, s. 41.

Rights conferred

42 Subject to Sections 24, 25 and 26, the rights conferred by a licence are, and are limited to, exploring for minerals, extracting minerals for test purposes and applying for a mineral lease for all or a part of the area held under a licence. 2016, c. 3, s. 42.

Expiry and renewal of exploration licence

43 (1) An exploration licence is valid for a term of two years and expires two years from the date of its issue, unless renewed under Section 47 or extended under subsection 26(7) or Section 48.

(2) An exploration licence may be renewed only once every two years, and no sooner than six months before the licence expires.

(3) A renewal is effective for a term of two years commencing the day following the day on which the exploration licence would have expired but for the renewal.

(4) Where a licensee has been unable to apply or submit documents necessary for a renewal of the exploration licence because the electronic registry is unavailable, and the Registrar is satisfied that the licensee has been unable to renew the exploration licence for this reason, the Registrar may extend the time to renew until the end of the next following day on which the electronic registry is

available, if the licensee contacts the Registrar in the prescribed manner. 2016, c. 3, s. 43.

Stakeholder engagement plan

44 (1) A licensee shall

- (a) prepare and implement a stakeholder engagement plan, in the prescribed manner; and
- (b) submit the plan if and as required to do so by the regulations or the Minister.

(2) Where the Registrar determines under Section 77 that a licensee has failed to comply with subsection (1), the Minister may, on report from the Registrar, order the licensee to stop exploration, and the licensee shall stop exploration until the Minister is satisfied that the licensee is in compliance with subsection (1), or the Minister issues another order under Section 77.

(3) For greater certainty, an order may be issued under subsection (2) notwithstanding the time periods and other requirements set out in Section 77. 2016, c. 3, s. 44; 2018, c. 14, s. 4.

Reports of work done

45 (1) Subject to Section 48, a licensee shall submit a report specifying all the work done or caused to be done during the term of the licence, including assessment work and other related work, and a statement of expenditure that includes the prescribed information, prior to the expiry date of the licence.

(2) The licensee may, at any time, submit a report that includes the prescribed information as to the work done or caused to be done by the licensee.

(3) Where the licensee fails to comply with subsection (1), the assessment work may not be credited to the licence. 2016, c. 3, s. 45.

Payments in lieu of work

46 (1) Where there are not sufficient work credits for the renewal of an exploration licence, the licensee may make a payment in lieu of assessment work for the term if

- (a) the payment is in the amount of the deficiency in the required assessment work for that term, and in no case is less than the assessment work requirement for one claim for that term;
- (b) the payment is calculated on a per claim basis; and
- (c) no payment in lieu has been made in any of the previous five terms of the licence.

(2) Where a payment in lieu of assessment work is made under subsection (1), it must be refunded if in the following term the licensee performs the required assessment work plus the amount of the deficiency for the previous term, and the assessment work is acceptable to the Registrar.

(3) The refund is the total value of that portion of assessment work performed and approved that can be applied in total satisfaction of the assessment work requirements for individual claims within the area licensed.

(4) A refund under this Section is to be made at the end of the term and to the person who is the licensee at the time the refund is made, without regard to whether the person was the licensee when the payment in lieu was made or the assessment work was performed. 2016, c. 3, s. 46.

Entitlement to renewal of exploration licence

47 Unless otherwise provided in this Act, the Registrar shall renew an exploration licence if the licensee

- (a) files an application for renewal that meets the prescribed requirements;
- (b) pays the prescribed fee; and
- (c) meets one of the following requirements:
 - (i) the licensee has performed the required assessment work in a manner acceptable to the Registrar and has filed the assessment work report in a form acceptable to the Registrar,
 - (ii) the licensee has sufficient work credits,
 - (iii) the licensee provides the required payment in lieu of assessment work on or before the day upon which the exploration licence is due to expire. 2016, c. 3, s. 47.

Time extension

48 (1) Notwithstanding Sections 45 and 47, upon meeting the prescribed conditions, the Registrar may grant a licensee a single extension for filing the assessment work report for the prescribed period and subject to any terms and conditions determined by the Registrar.

(2) Where the licensee submits an assessment work report that is acceptable to the Registrar and filed within the time provided by the extension, the Registrar shall renew the exploration licence for two years from the date when the licence or renewed licence was due to expire.

(3) Notwithstanding subsection 43(1), where the assessment work report is not filed within the extension period, the licence expires at the end of that period. 2016, c. 3, s. 48.

Restriction on right to apply

49 An application for a claim that was contained in an exploration licence that has expired or been forfeited or surrendered may not be received by the Registrar for a period of 90 days following the date of the expiry, forfeiture or surrender unless the Registrar is satisfied that the applicant is neither the licensee who held the exploration licence immediately preceding the date of the expiry, forfeiture or surrender nor a person acting on behalf of, or having a prescribed community of interest with, that licensee. 2016, c. 3, s. 49.

Renewal of expired exploration licence

50 (1) Notwithstanding Section 49, the Registrar may, within the prescribed time, renew an exploration licence that has expired if

(a) the requirements of subsection 45(1) and Section 47 have been met; and

(b) the claim subject to the exploration licence has not been applied for by or issued to another person.

(2) Payment in lieu of required assessment work under subclause 47(c)(iii) does not constitute satisfaction of assessment work under this Section. 2016, c. 3, s. 50.

Application of excess credits

51 (1) Where assessment work in excess of the required assessment work is performed during any single term of an exploration licence and proven to the satisfaction of the Registrar, the Registrar shall apply the excess work credits against the assessment work requirement for subsequent terms of the exploration licence.

(2) A report of acceptable assessment work must be filed before

(a) the end of the term in which the assessment work was performed; or

(b) the expiration of an extension period granted under Section 48 in respect of the term,

whichever is later.

(3) Except as prescribed, where an assessment work report that is acceptable to the Registrar is filed after the end of the period that is applicable under subsection (2), the assessment work may be credited at one half of the value of assessment work reported in compliance with subsection (2).

(4) Acceptable assessment work that is a ground or aerial regional survey may be credited with such percentage of the value of that assessment work as is prescribed, and subsection (3) does not apply to that assessment work. 2016, c. 3, s. 51.

Certificate of compliance

52 The Registrar, where satisfied that the required assessment work has been performed or the prescribed payment in lieu thereof has been made, shall grant a certificate of compliance in respect of the exploration licence, and the certificate, in the absence of fraud or mistake, is final and conclusive evidence of the renewal of the licence. 2016, c. 3, s. 52.

Effect of delay

53 Notwithstanding Section 43, where evidence of assessment work performed is submitted to the Registrar within the required period or the Registrar requires the licensee to revise information submitted for work credit, the exploration licence does not lapse because of any delay that may occur in the consideration of the evidence or in making an investigation that is considered necessary. 2016, c. 3, s. 53.

Work on coterminous claims and reference in report to exploration licence

54 (1) Where an exploration licence has two or more coterminous claims, the required amount of assessment work for all of the claims may be performed on one or more of the claims.

(2) Assessment work reports to be filed and certificates issued under Section 52 must indicate the exploration licence with respect to which the assessment work was performed. 2016, c. 3, s. 54.

Integration of anniversary dates

55 A licensee holding two or more exploration licences with different expiry dates may apply to the Registrar to integrate their expiry dates, and the Registrar may assign a common expiry date for the exploration licences and amend the exploration licences accordingly if

- (a) the exploration licences are not first-term licences;
- (b) there is no payment in lieu of assessment work outstanding with respect to the exploration licences; and
- (c) the expiry dates are not being integrated for the purpose of extending the time for doing assessment work or making a payment in lieu of assessment work. 2016, c. 3, s. 55.

Conversion to single exploration licence

56 (1) Notwithstanding Section 102, where

- (a) any two or more coterminous exploration licences
 - (i) are held by the same licensee, and
 - (ii) have been held for one or more terms;
- (b) none of the exploration licences are in good standing by reason only of a payment in lieu of assessment work in the previous term; and
- (c) all of the exploration licences for which renewal applications have been made have been renewed,

the Registrar may

- (d) upon application, accept a surrender of the coterminous exploration licences; and
- (e) upon payment of the prescribed fee, issue one exploration licence for the whole or any single coterminous portion of the claims that were contained in the surrendered exploration licences.

(2) An exploration licence issued under subsection (1)

- (a) assumes the term of the oldest of the exploration licences from which it is derived; and
- (b) is deemed to have been renewed through payment in lieu of assessment work during the term of any exploration licence from which it is derived,

and the Registrar shall select

(c) the date to be used to determine the expiry date of the new exploration licence; and

(d) the date to be used to determine when a payment in lieu of assessment work may be used for renewal.

(3) On or before the expiry date of a new exploration licence issued under subsection (1), the licensee shall file an assessment work report that is acceptable to the Registrar or apply work credits or provide the required payment in lieu of assessment work to meet the requirement for the claims included in the new exploration licence based on the term of the new exploration licence determined in accordance with subsection (2).

(4) The assessment work requirement per claim for the renewal of each new exploration licence issued under subsection (1) is the assessment work requirement per claim for the oldest of the exploration licences surrendered under subsection (1).

(5) Each exploration licence issued under subsection (1) may not itself, or combined with others, be subject to further regrouping during its term determined in accordance with subsection (2).

(6) Work credits that apply to any exploration licences that have been regrouped under subsection (1) may be applied to the new exploration licence.

(7) The licensee may not re-apply, within a period of 90 days of the regrouping, for an exploration licence covering a claim surrendered for the purpose of regrouping. 2016, c. 3, s. 56.

Execution and date of exploration licence

57 Every exploration licence that is issued or renewed must be executed on the part of the Crown by the Registrar and bear the date on which the licence or renewed licence was issued. 2016, c. 3, s. 57.

Restriction on lands

58 (1) The Minister may, by order, provide that lands within the Province are restricted from any or all prospecting, mining-related exploration or development or mining for such period and in such a manner as may be prescribed.

(2) The exercise by the Minister of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*.

(3) A copy of a regulation made under subsection (1) must be published in the Royal Gazette and in such other manner as the Governor in Council directs.

(4) A regulation made under subsection (1) may apply to all lands or such lands as may be prescribed. 2016, c. 3, s. 58.

Withdrawal of lands and tender calls or requests for proposals

59 (1) The Minister may withdraw any lands in the Province from being subject to application for a mineral right for all or certain minerals.

(2) The Minister may offer by tender call or request for proposals the right to apply for an exploration licence or mineral lease upon all or part of the lands withdrawn under subsection (1).

(3) Subject to subsection (5), where tenders or proposals have been submitted in response to an offer made under subsection (2), the Minister, within the prescribed time, shall accept the application for the exploration licence or mineral lease from the applicant who

(a) in the opinion of the Minister, best satisfies the requirements of the tender call or request for proposals; and

(b) deposits with the Registrar, within a time fixed by the Minister, security in the amount and form acceptable to the Minister.

(4) Where the Minister intends to issue a mineral lease in response to an offer under subsection (2) with respect to lands subject to an existing mineral right or a non-mineral registration, the Minister shall impose such terms and conditions on the mineral lease as are necessary, in the Minister's opinion, to minimize interference with the existing mineral right or non-mineral registration.

(5) The Minister shall not accept an application for an exploration licence or mineral lease under this Section if, in the Minister's opinion, it would not be in the best interest of the Province to do so.

(6) The Minister may reopen for application for an exploration licence for all or certain minerals any lands withdrawn under subsection (1). 2016, c. 3, s. 59.

Aerial survey notification

60 A person who intends to explore by aerial survey shall submit and have recorded an aerial survey notification, as prescribed, before commencing the survey. 2016, c. 3, s. 60.

Excavation registration

61 A licensee shall submit and have recorded an excavation registration, as prescribed, before commencing

(a) trenching or pitting to prescribed depths;

(b) trenching, pitting or stripping by mechanized means;

(c) underground exploration, including shaft sinking, driving of adits, declines, drifts, levels, cross cuts, raises or winzes and the reopening, rehabilitation or dewatering of any such workings;

(d) bulk sampling for the removal of less than 100 tonnes of mineral-bearing material; or

(e) any other prescribed work. 2016, c. 3, s. 61; 2018, c. 14, s. 5.

Bulk sampling

62 (1) A licensee shall obtain a letter of authorization, in the prescribed manner, before commencing bulk sampling for the purpose of extracting 100 tonnes or more of mineral-bearing material.

(2) The letter of authorization is for such term as the Minister determines but must not exceed the term of the exploration licence or any renewals of the exploration licence. 2016, c. 3, s. 62; 2018, c. 14, s. 6.

Requirement for mineral lease

63 (1) No person shall carry out mining or production of a mineral except in accordance with a mineral lease.

(2) For greater certainty, subsection (1) does not apply to the production of gypsum, limestone or a building material that has not been declared a mineral under Section 6. 2016, c. 3, s. 63.

Prerequisites to issue and term of mineral lease

64 (1) Subject to Section 59, where the holder of an exploration licence

(a) files with the Registrar an application that meets the requirements of this Act and the regulations;

(b) provides the prescribed documentation;

(c) satisfies the Minister that the applicant has delineated a mineral deposit within the proposed lease area;

(d) provides a written undertaking to commence production within five years of obtaining the lease;

(e) pays the first year's rent in advance; and

(f) posts reclamation security in accordance with clause 89(1)(b),

the Minister shall issue a mineral lease.

(2) A mineral lease is issued for a term of 20 years, or such other term agreed upon by the Minister and the lessee, subject to compliance with this Act.

(3) A mineral lease may be issued for any number of coterminous claims as approved by the Minister.

(4) A mineral lease is subject to the prescribed terms or conditions and such other terms or conditions as the Minister may require. 2016, c. 3, s. 64.

Work credits

65 (1) Notwithstanding subsection 51(1), upon application for a mineral lease, the applicant may direct that all or any portion of the work credits accumulated on the existing exploration licence be applied to the claims that are to be included in the proposed lease area.

(2) Where any work credits are applied to claims in the leased area under subsection (1), the work credits

(a) retain their value until the termination of the lease or of any replacement lease; and

(b) may be applied to an exploration licence acquired under subsection 68(3) or 74(5).

(3) Notwithstanding subsections (1) and (2),

(a) there is no requirement to perform assessment work under a mineral lease; and

(b) no work credit will be granted for activity performed under a mineral lease. 2016, c. 3, s. 65.

Rights under mineral lease

66 A mineral lease gives the exclusive right to all or specified minerals in or upon the leased area for the term of the lease, subject to the payment of royalties and compliance with this Act and the regulations. 2016, c. 3, s. 66.

Issue and filing of mineral lease

67 (1) A mineral lease must include the prescribed information and be made in duplicate, with one to be issued to the lessee and the other to be filed with the Registrar who shall enter it in the Registrar's records in the prescribed manner.

(2) A certificate of the registration of the mineral lease, with the date of registration, must be inscribed on the duplicate delivered to the lessee. 2016, c. 3, s. 67.

Renewal of mineral lease

68 (1) A lessee who

(a) is bona fide working the mineral lease;

(b) is in compliance with this Act and the regulations; and

(c) applies to the Minister no sooner than six months before the lease expires and no later than three months before the lease expires,

is entitled to a renewal of the lease for an additional 20 years, or for such other term agreed upon by the Minister and lessee, upon the terms and conditions in force at the time of the renewal.

(2) Where a lessee who meets the requirements of clauses (1)(a) and (b) applies for the renewal of the mineral lease sooner than six months before the lease expires, the Minister may renew the lease for an additional 20 years, or for such other term agreed upon by the Minister and the lessee, upon the terms and conditions in force at the time of the renewal.

(3) Where a mineral lease has expired or been surrendered or forfeited, the Minister shall withdraw, under Section 59, the area formerly held under the lease and give the lessee the exclusive right to apply for and obtain an exploration licence, for 30 days from the date the mineral lease expired or was surrendered or forfeited, in the manner set out in Section 31.

(4) No other applications for an exploration licence for the area withdrawn as set out in subsection (3) may be received or accepted during the 30-day period referred to in subsection (3).

(5) Where the lessee applies for and obtains the exploration licence during the 30-day period, the exploration licence must bear the date of the next day following the expiration of the mineral lease.

(6) The assessment work required for the exploration licence referred to in subsection (3) is that prescribed for an exploration licence that had its commencement at the date of issue of the original exploration licence that was converted to the mineral lease.

(7) Where any question arises as to the assessment work required under subsection (6), the decision of the Minister on the question is final.

(8) Where the lessee does not apply for and obtain the exploration licence during the 30-day period, the Minister may reopen the area for application or offer the area by tender call or request for proposals, under Section 59.

(9) Where a lessee has been unable to apply or submit documents necessary for a renewal of the mineral lease because the electronic registry is unavailable, and the Registrar is satisfied that the lessee has been unable to renew the lease for this reason, the Registrar may extend the time to renew until the end of the next following day on which the electronic registry is available, if the lessee contacts the Registrar in the prescribed manner. 2016, c. 3, s. 68.

Keeping and inspection of records and accounts

69 (1) Every lessee shall keep in the Province records, accounts, correspondence and documents in which are entered a clear and distinct statement of

- (a) all mineral-bearing substances processed by or for the lessee;
- (b) the sources of the minerals or mineral-bearing substances processed;
- (c) the quantity and analysis of the minerals or mineral-bearing substances processed;
- (d) the quantity and analysis of the concentrate recovered;
- (e) the quantity and analysis of tailings and waste discharges;
- (f) the quantity and analysis of all products sold and the name and address of the buyer; and
- (g) any other information prescribed or required by the Minister.

(2) Records referred to in subsection (1) must at all reasonable times be open for inspection and be produced upon request by any person authorized by the Minister. 2016, c. 3, s. 69.

Annual report

70 A lessee or registrant shall submit, on or before the first day of March in each year, annual reports as prescribed. 2016, c. 3, s. 70.

Payment of rent

71 Rent at the prescribed rate must be paid annually for the ensuing year, on or before the anniversary date of a mineral lease. 2016, c. 3, s. 71.

Conversion to single mineral lease

72 (1) Subject to this Act, upon application by the holder of two or more leases and the surrender of the leases, the Minister may

(a) issue one lease for the whole or any smaller portion of the coterminous claims covered by the surrendered leases; and

(b) include in the lease any additional coterminous claim to which the lessee holds a valid mineral right.

(2) A mineral lease issued under subsection (1) assumes the year of the oldest of the leases from which it is derived, and the Registrar shall select the date to be used to determine the expiry date of the lease. 2016, c. 3, s. 72.

Order to cease operations

73 The Minister may order a lessee to cease production or other specified activities with respect to a specified mineral lease pending the outcome of a review under Section 74 or an investigation under Section 77. 2016, c. 3, s. 73.

Review of mineral lease

74 (1) The Minister may review a mineral lease if

(a) the lessee fails to commence production or significant development work leading to production within five years of obtaining the lease;

(b) the lessee fails to submit the prescribed annual reports;

(c) the lessee has applied to surrender the lease under Section 102;

(d) following the commencement of production, an annual report required under Section 70 indicates that no production or development work occurred during the 12-month period to which the report relates; or

(e) the security posted with respect to the lease no longer meets the prescribed level for reclamation of peak disturbance reclamation activities, based on the most recent reclamation plan filed by the lessee under the lease.

(2) For the purpose of the review, the lessee shall provide all relevant information required by the Minister in the manner and at the time the Minister requests.

(3) Following the review, the Minister shall declare that

(a) the mineral lease continues until its expiry date;

(b) the mineral lease continues for a period of two years from the date of the declaration;

(c) the mineral lease is forfeited; or

(d) the application to surrender the mineral lease is accepted.

(4) Where the Minister allows the lease to continue for two years under clause (3)(b), the Minister shall review the lease at the end of the two-year period and make another declaration under subsection (3).

(5) Where the Minister declares the mineral lease forfeited under clause (3)(c), the Minister shall provide the lessee and the Registrar with a written declaration of the forfeiture of the lease and give the lessee the exclusive right to apply for and obtain an exploration licence for the area held under the forfeited lease, for 30 days from the date of the declaration.

(6) The exploration licence referred to in subsection (5) must bear the date of the next day following the termination of the mineral lease.

(7) The assessment work required for the exploration licence referred to in subsection (5) is that prescribed for an exploration licence that had its commencement at the date of issue of the original exploration licence that was converted to the mineral lease.

(8) Where the lessee does not apply for and obtain an exploration licence referred to in subsection (5), the Minister may reopen the area for application or offer the area by tender call or request for proposals, under Section 59. 2016, c. 3, s. 74.

Forfeiture of mineral lease

75 The Minister may declare a mineral lease forfeited if the lessee

- (a) fails to perform the obligations under the lease;
- (b) is a corporation that becomes dissolved;
- (c) obtains the lease by misrepresenting any material fact;
- (d) fails to pay royalties within 30 days of the due date; or
- (e) fails to pay rent within 30 days of the due date. 2016, c. 3, s. 75.

Effect of forfeiture of mineral lease

76 Where the Minister declares a mineral lease forfeited and the Registrar provides the lessee with written notice of the forfeiture, including the reason for the forfeiture, and makes the appropriate entry in the records, the lessee and all lienholders cease to have any interest in the lease or mine as of the date of the declaration. 2016, c. 3, s. 76.

Investigation of mineral lease or non-mineral registration

77 (1) Where the Registrar has reason to believe that this Act or a term or condition of a mineral right or non-mineral registration has not been complied with, the Registrar may

- (a) investigate the matter and, where necessary, with or without notice, make or cause to be made an inspection of the premises and property;

(b) notify the mineral right holder or registrant of the non-compliance; and

(c) provide the mineral right holder or registrant with an opportunity, exercisable within such reasonable period as may be determined by the Registrar, to make representations to the Registrar.

(2) For the purpose of the investigation under subsection (1), the mineral right holder or registrant shall provide all relevant information required by the Registrar in the manner and at the time the Registrar requests.

(3) Where the Registrar is satisfied, after investigating under subsection (1), that this Act or a term or condition of a mineral right or non-mineral registration has not been complied with, the Registrar may require the mineral right holder or registrant to remedy the non-compliance within 30 days.

(4) Where the Registrar determines that the mineral right holder or registrant has not remedied the non-compliance within the period referred to in subsection (3), the Registrar shall

(a) refer the matter, with the Registrar's recommendations, to the Minister; and

(b) notify the mineral right holder or registrant of the referral.

(5) Upon referral by the Registrar, the Minister may

(a) declare a mineral right forfeited or a non-mineral registration cancelled for failure on the part of the mineral right holder or registrant to comply with this Act or a term or condition of the mineral right or non-mineral registration; or

(b) make such order or decision as the Minister considers just and equitable.

(6) Where the mineral right holder or registrant does not comply with an order or decision made under clause (5)(b), the Minister may declare the mineral right forfeited or the non-mineral registration cancelled.

(7) A mineral right holder or registrant whose mineral right has been forfeited or non-mineral registration has been cancelled under subsection (5) may, within 20 days of receiving notice of the forfeiture or cancellation, appeal the forfeiture or cancellation in the manner provided by Section 78.

(8) Subject to subsection (9), upon the forfeiture of a mineral right or cancellation of a non-mineral registration under subsection (5), the Registrar shall immediately post in the office of the Registrar or the electronic registry, as the Registrar considers appropriate, a notice of the forfeiture or cancellation and, upon the posting, claims included in such mineral right or non-mineral registration are, unless withdrawn from application, again open to application at a time set by the Registrar.

(9) Acceptance of an application referred to in subsection (8) is subject to the result of an appeal by a mineral right holder whose mineral right has

been forfeited or a registrant whose non-mineral registration has been cancelled. 2016, c. 3, s. 77; 2018, c. 14, s. 7.

Appeal to Supreme Court of Nova Scotia

78 Any person aggrieved by a declaration, decision or order made by the Minister under Section 77 may appeal to the Supreme Court of Nova Scotia in accordance with Section 140. 2018, c. 14, s. 8.

Right to copy of report

79 The mineral right holder or registrant is entitled, upon payment of the prescribed fee, to a certified copy of any report of inspection filed with the Registrar for the purpose of Section 77 in respect of that holder's mineral right or that registrant's non-mineral registration. 2016, c. 3, s. 78.

Appeal to Minister

80 (1) Any person aggrieved by a decision of an officer made under this Act may appeal to the Minister in the manner prescribed.

(2) On appeal, the Minister shall examine the matter *de novo* and give the appellant and any other persons the Minister considers may be interested an opportunity to be heard.

(3) On appeal, the Minister has all the powers of the person appealed from.

(4) An appeal decision made by the Minister under this Section may be appealed to the Supreme Court of Nova Scotia in accordance with Section 140. 2016, c. 3, s. 79; 2018, c. 14, s. 9.

Inefficient mining

81 (1) In this Section, "inefficient mining" means the extraction or recovery of a mineral by a lessee in a manner that, in the opinion of the Minister,

- (a)** unduly affects the ability of the mineral deposit to be mined; or
- (b)** produces less than an optimum recovery of minerals.

(2) Where the Minister becomes aware that a lessee is conducting inefficient mining, the Minister may order an inspection by an officer to determine if the operation of the mine should be altered or modified to facilitate the more economical and efficient prosecution of the work.

(3) Following the inspection, the Minister may order such modifications or alterations to the operation of the mine as the Minister considers necessary to correct the situation.

(4) The Minister shall serve the lessee with notice of the order.

(5) The lessee has 30 days from the date of service of the notice to comply with the order, or such further time as may be provided in the order.

(6) Where the lessee does not comply with the order as required by subsection (5), the Minister may declare the lease forfeited. 2016, c. 3, s. 80.

Notice and effect of forfeiture or cancellation

82 (1) The Registrar shall, immediately upon the making of a declaration by the Minister that a mineral right is forfeited or a non-mineral registration is cancelled, mark the mineral right “Forfeited” or the non-mineral registration “Cancelled”, amend the record accordingly and send notice to the mineral right holder or registrant, by registered mail, of the forfeiture or cancellation, including the reason for the forfeiture or cancellation.

(2) A forfeiture or cancellation is effective upon the date of a declaration referred to in subsection (1).

(3) A notice of forfeiture or cancellation is deemed to have been received five days after the day on which it is mailed. 2016, c. 3, s. 81.

Notice of commencement or resumption of production

83 A lessee or registrant shall provide the Registrar with notice in writing if the lessee or registrant intends to commence production or resume production after a suspension of production of 60 days or longer. 2016, c. 3, s. 82.

Termination of mining operations

84 (1) A lessee shall provide the Minister with six months notice in writing of the lessee’s intent to permanently terminate mining operations.

(2) Where the lessee is required through no fault of the lessee to suddenly and permanently terminate mining operations, the lessee, the legal representative of the lessee and every creditor of the lessee who has knowledge of the termination shall forthwith notify the Minister.

(3) Where the Minister determines it is appropriate, the Minister shall direct the lessee to, and the lessee shall, maintain access to the mine for a period of up to 30 days from the date upon which notice was given under subsection (2), as directed.

(4) The costs incurred in maintaining access to the mine from the date upon which operations terminate until the time referred to in subsection (3)

(a) are to be borne by the lessee or the legal representative of the lessee; or

(b) may be paid by the Minister and, in that case, the amount paid is a debt due to the Crown by the lessee or the legal representative of the lessee and forms a charge upon the property.

(5) Not later than one month prior to the intended permanent closure of a mine, or within such period as the Minister may determine and direct, the lessee, registrant or legal representative of the lessee or registrant shall submit a summary report containing the prescribed information on the workings of the mine and

(a) the reason for the closure;

- (b) the nature and amount of any mineral remaining in the mine;
- (c) the reclamation completed to date;
- (d) the plans for future reclamation activities; and
- (e) such existing maps and plans as the Minister may request. 2016, c. 3, s. 83.

Interpretation of Sections 86 to 92

85 In this Section and Sections 86 to 92,

“lessee” includes the lessee who held the mineral lease immediately preceding its forfeiture or expiry and the legal representative of the lessee;

“property” means the real and personal property of the lessee that is associated with the mine;

“registrant” includes the registrant who held the non-mineral registration immediately preceding its cancellation or expiry and the legal representative of the registrant. 2016, c. 3, s. 84.

Liability of lessee or registrant

86 (1) Notwithstanding the surrender, forfeiture or expiry of a mineral lease, the lessee remains liable for any terms and conditions of the lease, including those related to reclamation, safety, rent, royalties and maintenance of the property, buildings and structures, until all of the terms and conditions have been fulfilled.

(2) Notwithstanding the surrender, cancellation or expiry of non-mineral registration, the registrant remains liable for any terms and conditions of the registration, including those related to reclamation, safety and maintenance of the property, until all of the terms and conditions have been fulfilled. 2016, c. 3, s. 85.

Reclamation plan

87 (1) An application for a mineral lease or non-mineral registration must include a reclamation plan that contains the prescribed information and is acceptable to the Minister.

(2) A lessee or registrant who, on December 18, 2018, has not filed a reclamation plan, shall file a reclamation plan that contains the prescribed information and is acceptable to the Minister, as prescribed.

(3) When required to do so by the regulations, a lessee or registrant shall file a revised reclamation plan that contains the prescribed information and is acceptable to the Minister. 2016, c. 3, s. 86.

Reclamation

88 (1) When required to do so under the most recent reclamation plan filed by a lessee or registrant, the area disturbed by the mining operations, including the area upon which waste rock and tailings were deposited, must be reclaimed by the lessee or registrant, as the case may be, in accordance with the reclamation plan and to the satisfaction of the Minister.

(2) The security posted by the lessee or registrant is forfeited to the Crown if reclamation is not completed in accordance with subsection (1).

(3) Any unforfeited security posted by the lessee or registrant must be retained until the area described in subsection (1) is inspected by an officer and the lessee or registrant is notified in writing by the Minister that the lessee or registrant is relieved from the obligation to maintain security for the purpose of reclamation. 2016, c. 3, s. 87.

Security for reclamation

89 (1) A person shall post security in an amount determined in accordance with the regulations to provide for the reclamation of the area that may be disturbed by the activities of a licensee, lessee, registrant or holder of a letter of authorization or excavation registration, or an agent or assignee of such person, as follows:

(a) a licensee shall post security prior to commencing activities that involve disturbing the ground;

(b) an applicant for a lease or non-mineral registration shall post security upon application for the lease or non-mineral registration;

(c) an applicant for a letter of authorization under Section 62 shall post security upon application for the letter of authorization;

(d) a person who submits an excavation registration under subsection 61(1) shall post security, if required to do so by the Minister, upon review of the excavation registration;

(e) a person who submits a reclamation plan under subsection 87(2) shall post security upon filing the plan;

(f) a person who files a revised reclamation plan under subsection 87(3) shall post revised security if, in the opinion of the Minister, the plan shows that the cost of reclamation has changed from that previously estimated.

(2) The security posted under subsection (1) is forfeited to the Crown

(a) if reclamation has not been completed to the satisfaction of the Minister within the period required by the regulations or otherwise applicable under the licence, lease, registration, letter of authorization or reclamation plan; or

(b) where the security is subject to an expiry date, if it is not renewed at least 30 days before its expiry date and reclamation is not then completed.

(3) Where

(a) production under a lease or non-mineral registration ceases without notice to the Minister, and the Minister gives notice to the lessee or registrant, or an agent or assignee of such person, that the security posted under subsection (1) is forfeited unless the person

informs the Minister that the production will resume by the date set out in the notice; and

(b) the lessee or registrant, or an agent or assignee of such person, does not so inform the Minister by the date set out in the notice or indicates to the Minister that the production will not resume by the date set out in the notice,

the security posted under subsection (1) is forfeited to the Crown without regard to the period otherwise applicable under subsection (2).

(4) Where a lessee, registrant or holder of a letter of authorization or excavation registration carries out any act of bankruptcy, makes a general assignment for the benefit of the person's creditors or other acknowledgement of insolvency or makes any application under the *Bankruptcy and Insolvency Act* (Canada) or the *Companies Winding Up Act* or any similar legislation, the security posted under subsection (1) is forfeited to the Crown without regard to the period otherwise applicable under subsection (2).

(5) Subject to Section 132, where security is forfeited under subsection (2), (3) or (4),

(a) the resulting funds may be employed, in whole or in part, under the direction of the Minister, to reclaim the area disturbed by the activities of the lessee, registrant or holder of the letter of authorization or excavation registration, or an agent or assignee of such person; and

(b) any balance of the funds that is not expended under clause (a) must be returned to the person who posted the security.
2016, c. 3, s. 88; 2018, c. 14, s. 10.

Failure to post security

90 Where security is not posted as required under this Act, the amount of the outstanding security is a debt due to the Crown by the person required to post it.
2016, c. 3, s. 89.

Maintenance of property

91 (1) The lessee or property owner of the property that is subject to the lease

(a) shall maintain the property in a safe condition; and

(b) shall not permit the property to become unsightly.

(2) Where the Minister determines that the condition of the property constitutes

(a) a danger to public health or safety; or

(b) an unsightly premise,

the Minister may cause work required to make the property safe, or to remove or remedy the unsightliness of the property, to be performed at the expense of the Crown.

(3) Where the Minister causes work to be done under subsection (2), the cost of the work is a debt due to the Crown by the lessee or property owner and forms a charge upon the property.

(4) Nothing in this Section, nor any work done under subsection (2), relieves the lessee or property owner from liability for the maintenance of the property in such manner as to prevent danger to public health or safety or damage to property. 2016, c. 3, s. 90.

Disposition of property from mineral lease

92 In connection with the disposition of property from a mineral lease that expires or is surrendered or forfeited and dating from the time of expiry, surrender or forfeiture,

- (a) the lessee
 - (i) shall not, without the written authorization of the Minister, alienate or remove from the Province any of the property within the first six months, and
 - (ii) shall, following the receipt of authorization under subclause (i), remove the property within the six months following the date of the authorization;
- (b) the Minister may, at any time, subject to Section 132, acquire all or any of the property for the Crown; and
- (c) compensation to the lessee
 - (i) is payable with respect to any land acquired under clause (b), with necessary changes in accordance with the procedure set out in the *Expropriation Act* in respect of the acquisition of land, subject to the deduction of any amount due to the Crown by the lessee under this Act and the regulations, and
 - (ii) is not payable with respect to property other than land acquired under clause (b). 2016, c. 3, s. 91.

Rights to acquired property

93 The issuance under subsection 68(3) of a mineral right to the subsequent mineral right holder does not confer upon that mineral right holder any right respecting property acquired by the Crown under Section 91. 2016, c. 3, s. 92.

Decision of Minister final

94 Where any question arises as to whether a mineral lease is expired, surrendered or forfeited or whether a mine has been abandoned, the decision of the Minister on the question is final. 2016, c. 3, s. 93.

Reversion to Crown

95 Where a mineral lease expires and no renewal is being sought under this Act,

- (a) all minerals in and upon the area formerly held under lease absolutely revert to the Crown; and

(b) any mineral stockpiles upon which no royalty has been paid absolutely become the property of the Crown. 2016, c. 3, s. 94.

Remedies of Minister

96 Nothing contained in this Act prevents the Minister from having or using any remedy available to recover possession of the minerals and the rights related to minerals contained in any area or claim covered by a mineral lease. 2016, c. 3, s. 95.

Restriction on production of gypsum or limestone

97 No person shall, except in accordance with a non-mineral registration, carry out production of gypsum or limestone that has not been declared to be a mineral under Section 6. 2016, c. 3, s. 96.

Non-mineral registration

98 Where an applicant for a non-mineral registration required by Section 97

- (a) files with the Registrar an application for a non-mineral registration that meets the requirements of this Act and the regulations;
- (b) provides the prescribed documentation;
- (c) satisfies the Minister that the applicant has delineated a deposit of gypsum or limestone that has not been declared a mineral under Section 6 within the proposed non-mineral registration area;
- (d) provides a written undertaking to commence production within five years;
- (e) provides evidence of the applicant's right to the gypsum or limestone, including surface rights access; and
- (f) posts reclamation security in accordance with clause 89(1)(b),

the Minister shall issue a non-mineral registration within the prescribed time. 2016, c. 3, s. 97.

Right of holder and duty of Minister

99 (1) Subject to this Act, a non-mineral registration gives the registrant the right to carry out the production of gypsum or limestone that has not been declared a mineral under Section 6 within the area designated in the non-mineral registration and is limited to such area as may be required for the purpose of the mine.

(2) Where the Minister issues a non-mineral registration, the Minister shall

- (a) cause it to be forwarded to the applicant; and
- (b) file a duplicate with the Registrar, who shall enter it in the Registrar's records in the prescribed manner. 2016, c. 3, s. 98

Review of non-mineral registration

100 (1) The Minister may review a non-mineral registration if

(a) the registrant fails to commence production or significant development work leading to production within five years of obtaining the non-mineral registration;

(b) the registrant fails to submit the prescribed annual reports;

(c) the registrant has applied to surrender the non-mineral registration under Section 102;

(d) following the commencement of production, an annual report required under Section 70 indicates that no production or development work occurred during the 12-month period to which the report relates; or

(e) the security posted with respect to the non-mineral registration no longer meets the prescribed level for peak disturbance reclamation activities, based on the most recent reclamation plan filed by the registrant under the registration.

(2) For the purpose of the review under subsection (1), the registrant shall provide all relevant information required by the Minister in the manner and at the time the Minister requests.

(3) Upon reviewing the non-mineral registration, the Minister shall declare that

(a) the non-mineral registration continues as issued;

(b) the non-mineral registration continues for such period and upon such terms and conditions as the Minister considers appropriate;

(c) the non-mineral registration is cancelled; or

(d) the application to surrender the non-mineral registration is accepted.

(4) Where the Minister allows the non-mineral registration to continue under clause (3)(b), the Minister shall review the non-mineral registration at the end of the period during which the non-mineral registration was continued and make another declaration under subsection (3).

(5) Where, following the review, the Minister is of the opinion that the continuation of the non-mineral registration is not justified, the Minister shall declare the non-mineral registration cancelled. 2016, c. 3, s. 99.

Notice of cancellation of non-mineral registration

101 The Minister may declare a non-mineral registration cancelled not less than 30 days after giving the registrant written notice of a failure to submit the prescribed annual reports, unless the registrant remedies the deficiency before the non-mineral registration is cancelled. 2016, c. 3, s. 100.

SURRENDER OF AREAS SUBJECT TO MINERAL RIGHTS
OR NON-MINERAL REGISTRATIONS

Surrender

102 (1) Subject to the acceptance by the Minister under Section 74 or 100 or subsection (3), a mineral right holder or registrant may surrender all or a specified part of the area included within the mineral right or non-mineral registration by filing an application with the Registrar, together with the original mineral right or non-mineral registration, if one was provided.

(2) Where the original mineral right or non-mineral registration is lost, the Registrar may accept an affidavit verifying the fact of such loss in place of the original.

(3) The Minister may accept an application to surrender a mineral lease or non-mineral registration and, upon doing so under Section 74 or 100 or this subsection,

(a) all or the specified part of the mineral lease or non-mineral registration expires; and

(b) the Registrar shall provide the mineral right holder or registrant with written notice of the expiry.

(4) Notwithstanding subsection (1), upon receipt of an application to surrender an exploration licence, all or the specified part of the licence expires, and the Registrar shall provide the licensee with written notice of the expiry.

(5) Where there has been a partial surrender of a mineral right or non-mineral registration, the Registrar shall amend the mineral right or non-mineral registration in accordance with the surrender and return it to the mineral right holder or registrant. 2016, c. 3, s. 101.

Liability of holder

103 The surrender of a mineral right or non-mineral registration does not relieve the mineral right holder or registrant from any terms, conditions or obligations of the mineral right or non-mineral registration or from the provisions of this Act and the regulations that existed at the time of such surrender. 2016, c. 3, s. 102.

TRANSFERS AND ASSIGNMENTS OF MINERAL RIGHTS
AND NON-MINERAL REGISTRATIONS

Restriction on transfer of exploration licence

104 (1) An exploration licence may not be transferred without the written consent of the Registrar.

(2) A lease or non-mineral registration may not be transferred without the written consent of the Minister.

(3) A transfer of a mineral right or non-mineral registration must meet the prescribed requirements and be signed by the transferor or by the legal representative of the transferor. 2016, c. 3, s. 103.

Filing of transfer or assignment

105 (1) A mineral right holder or registrant shall file with the Registrar a summary, which must include the prescribed information, of any agreement that results or may result in a transfer or assignment of a mineral right or non-mineral registration, any part of a mineral right or non-mineral registration or any interest in a mineral right or non-mineral registration.

(2) Notwithstanding the *Freedom of Information and Protection of Privacy Act*, a document filed under subsection (1) that has been marked “Confidential” must be held in confidence by the Registrar.

(3) A transfer or assignment of a mineral right or non-mineral registration or an agreement that results or may result in the transfer or assignment of a mineral right or non-mineral registration is ineffective against any person who, for valuable consideration and without notice of the transfer or agreement, acquires an interest in the mineral right or non-mineral registration, unless a notice of the transfer, assignment or agreement containing the prescribed information is filed with the Registrar as prescribed. 2016, c. 3, s. 104.

Deemed transfer

106 The sale of a controlling interest of a body corporate that holds a mineral right or non-mineral registration or the transfer of a mineral right or non-mineral registration from a parent corporation to a subsidiary or an affiliate is deemed to be a transfer of a mineral right or non-mineral registration for the purposes of Sections 104 and 105. 2016, c. 3, s. 105.

Effect of instrument

107 (1) Where, in an application for a mineral right or non-mineral registration or in a transfer of a mineral right or non-mineral registration, an interest is sought to be created for, or to be transferred by an instrument to, more than one person, the instrument operates as if it were expressed to be conveyed to the person named first in the instrument upon the trusts set out in subsections (2) and (3), and the Registrar shall, for the purpose of this Act, treat the first-named person as the mineral right holder or registrant, as the case may be.

(2) The mineral right holder referred to in subsection (1) holds the mineral right in trust for each person who owns the mineral right, including the mineral right holder referred to in subsection (1), and the registrant referred to in subsection (1) holds the non-mineral registration in trust for each person who owns the registration, including the registrant referred to in subsection (1).

(3) The persons whose names appear on an application for a mineral right or non-mineral registration or in a transfer of a mineral right or non-mineral registration are prima facie deemed to be the owners of the mineral right or non-mineral registration held for them in trust under this Section.

(4) A trust created by this Section is ineffective against any person who, for valuable consideration and without notice of the trust, acquires an interest in a mineral right or non-mineral registration, unless a caveat that includes the prescribed information and gives notice of the trust is filed with the Registrar in the prescribed manner. 2016, c. 3, s. 106.

ROYALTIES

Interpretation of Sections 109 to 122

107 In this Section and Sections 109 to 122,

“allowance for processing” means the lesser of

(a) the sum of

(i) an allowance by way of return on capital employed in the secondary crushing, grinding, concentrating, chemical extraction, smelting, refining or packaging of output in the Province equal to 8% of actual cost borne by the operator of the processing assets, and

(ii) a further allowance by way of return on capital employed by the operator in respect of assets that were necessary to the servicing and management of the processing activities equal to 25% of that amount allowed by way of return on capital for processing assets;

and

(b) an amount that does not exceed 65% of net income before deducting the sum described in clause (a);

“depreciable asset” means an asset in use in the Province by the operator resulting from

(a) the expenses incurred and substantiated by the operator in the exploration for an ore body to the date a mineral lease is acquired if such expense is incurred in relation to assessment work as prescribed and has not been used as a deduction in the calculation of royalties payable with respect to any mine in the Province, unless the operator has operated a mine during a fiscal year in respect of which exploration expenses have been incurred;

(b) the expenses incurred by the operator in the development of a mine from the date the mineral lease is acquired to the date production of the mine begins, if such expense is essential to the production of output from a mine, is approved by the Mine Assessor and has not been used as a deduction in the calculation of royalties payable with respect to any mine in the Province; or

(c) the expenditures for the purchase and installation of mining, milling, power, plant and equipment essential to the production of the output of a mine and all other expenditures that are, in the opinion of the Mine Assessor, essential for the purpose mentioned in this subclause and are not deducted from net income or specifically prohibited under this Act,

and includes equipment leased at its fair market value less any amount of buyout at the effective date of the lease;

“fiscal year” means the fiscal period, not exceeding 12 months, for which the accounts of the business of an operator have been or are ordinarily prepared and accepted for the purpose of assessment under this Act and, subject to Section 112, in the absence of such an established practice, is the fiscal period to be adopted by the operator. 2016, c. 3, s. 107.

Deemed single mine

109 (1) Where mining is conducted in more than one location, the locations are deemed to be one mine for the purpose of determining whether a person pays a royalty if

- (a) the mining is conducted in the locations
 - (i) by the same person,
 - (ii) under the same general management or control,
 or
 - (iii) under joint control by persons not dealing at arm's length; or
- (b) the net income of the mining accrues to the same person.

(2) Where

- (a) mining is carried on by two or more affiliated or associated corporations under the same general control; or
- (b) the net income of mining being carried on as more than one operation accrues for the benefit of the same shareholders,

the income from the various operations must be combined and dealt with as the net income of one and the same operator.

(3) Where the mining of a mine is conducted by two or more operators, each operator is deemed not to be dealing at arm's length with the other.

(4) For the purpose of this Act,

- (a) a corporation and a person or any of several persons by whom the corporation is directly or indirectly controlled;
- (b) corporations controlled directly or indirectly by the same persons; and
- (c) persons connected by blood relationship, marriage or adoption,

are deemed not to be dealing with each other at arm's length. 2016, c. 3, s. 108.

Allowances proportioned

110 Where the operator provides secondary crushing, grinding, concentrating, chemical extraction, smelting, refining or packaging or otherwise processes any output other than that derived from a mine controlled by the operator in the Province, the required allowance for processing and the prescribed indirect expenses incurred must be proportioned on the same basis as the operator's output from a mine controlled by the operator in the Province is to the total output processed at the mine during the fiscal year. 2016, c. 3, s. 109.

Deemed cost and deemed receipt of amount

111 (1) An expense or depreciable asset resulting from a non-arm's length transaction is deemed not to exceed the cost of the service supplied or the value of the depreciable asset, as approved by the Mine Assessor.

(2) Any operator who has provided services or transferred assets not at arm's length is deemed to have received an amount not less than the cost of such service or the value of the asset at the time of the transfer as approved by the Mine Assessor. 2016, c. 3, s. 110.

Change in fiscal year

112 No operator shall change the operator's fiscal year without first notifying and receiving the approval of the Mine Assessor. 2016, c. 3, s. 111.

Removal from Province

113 (1) Except for testing, no person shall remove from the Province to any place outside of Canada for processing any output from a mine in the Province without first obtaining the consent of the Minister.

- (2) Where the operator files
- (a) all smelter or sales contracts or agreements; and
 - (b) such information as requested by the Mine Assessor,

the Minister may approve the removal from the Province of any ore, mineral or mineral-bearing substance.

(3) Where consent is not obtained under subsection (1), the Governor in Council may order that the amount of the royalty payable by the operator of the mine be increased to up to three times the amount of the royalty that the operator would otherwise be required to pay. 2016, c. 3, s. 112.

Royalties

114 All output, whether gained under such authority as may be granted under this Act or not, is subject to such royalty to the Crown for the use of the Province as is imposed under this Act and the regulations. 2016, c. 3, s. 113.

Payment of royalty

115 (1) Every operator subject to a royalty under this Act shall, at the times required under the mineral lease or non-mineral registration, pay to the Minister the royalty, interest and penalty, if any, in respect of every fiscal year.

(2) All royalties are payable to the Crown and bear interest and penalty from the time when due until paid at the prescribed rate.

(3) A royalty payment made by an operator must be first applied to any outstanding balance of interest and penalty charged to the operator. 2016, c. 3, s. 114.

Deemed separate fund and deemed trust

116 (1) The royalty payable by an operator is deemed to be held separate from and form no part of the operator's money, assets or estate, whether or not the amount of the royalty has in fact been kept separate and apart from the operator's money, assets or estate.

(2) Every person subject to royalty under this Act is deemed to hold the same in trust for the Crown and for the payment over of the same in the manner and at the time prescribed, whether or not the amount for the royalty has in fact been held separate and apart by that person, and

(a) the amount, from the moment the output is severed until the royalty is paid, forms a lien and charge on all the estates and interests in the output, slimes and tailings and all other assets of the mine, or any of the proceeds thereof; and

(b) the lien is deemed to be a mortgage or secured debenture and is payable in priority to all other liens, charges or mortgages in respect of the output, slimes, tailings and all other assets of the mine, or any of the proceeds thereof.

(3) The lien referred to in subsection (2) is not a charge against a parcel registered under the *Land Registration Act* until a certificate evidencing the lien has been recorded in the register of the parcel. 2016, c. 3, s. 115.

Circumstances requiring payment of royalty

117 Where it is found that a mine has been in operation and the operator of the mine or owner of the property or premises where the mine is situated fails to show upon demand a mineral lease, excavation registration or letter of authorization, the Mine Assessor may demand payment of a royalty for the quantity of output at the value that the Mine Assessor considers reasonable, and the demand is prima facie evidence that the operator of the mine or owner of the property or premises where the mine is situated has mined output in the quantity and value so determined. 2016, c. 3, s. 116.

Time for examination of returns

118 The Mine Assessor shall examine all returns received by the Mine Assessor within the prescribed time. 2016, c. 3, s. 117.

Payment of royalties and submission of reports and returns

119 (1) Subject to Section 120, the payment of royalties and submission of reports and returns must be made as prescribed.

(2) The payment of the balance due under subsection (1) is payable upon filing of the annual return or within three months after the end of the fiscal year, whichever is earlier. 2016, c. 3, s. 118.

Royalties less than \$1000

120 Where an operator, upon application, has provided written detail estimating that the royalties payable for a fiscal year are to be less than \$1000, the Mine Assessor may allow payment to be made 30 days after the end of the operator's fiscal year. 2016, c. 3, s. 119.

Records of accounts of operator

121 (1) Every operator liable to pay a royalty shall keep proper records of accounts showing the prescribed information.

(2) Where a doubt arises as to whether any record of account is required to be kept, how a record of account is to be kept or what records of account must be kept, the Minister shall, by written order, determine the matter.

(3) Subject to subsection (4), every operator shall keep in the Province all records of account, including financial, production and general business records, pertaining to the mining operation.

(4) Upon application, the Mine Assessor may authorize an operator to keep records of account outside the Province.

(5) Where the operator has been granted permission to maintain records of account and reports outside the Province, the operator is required to recompense the Province for expenditures, including for travel of persons authorized by the Minister, made to examine the records of account at the location where they are maintained.

(6) Except as may otherwise be approved by the Mine Assessor, whoever is required under this Act to keep records of account shall retain them for seven years following termination of the lease to which the records relate. 2016, c. 3, s. 120.

Appeal

- 122 (1) Where a notice of assessment sent to an operator shows that
- (a) a royalty has been assessed in an amount greater than that paid to the Minister;
 - (b) a penalty has been assessed; or
 - (c) interest has been charged,

the operator so notified may, within 60 days from the date of the notice of assessment, appeal the assessment by serving the Minister with a notice of appeal, as prescribed.

(2) Sections 80, 139 and 140 apply with necessary changes to an appeal under this Section. 2016, c. 3, s. 121.

ENFORCEMENT

Requirement to file information

123 The Minister may require from any operator that the operator file, and the operator shall file, in a form or including the content acceptable to the Minister and within the prescribed period, any information required for the purpose of this Act or the regulations. 2016, c. 3, s. 122.

Powers of Mine Assessor

124 The Mine Assessor or another officer authorized by the Minister may, within normal business hours,

- (a) audit or examine the records of account that, in the opinion of the Mine Assessor or officer, assist the Mine Assessor or officer in verifying the amount of royalty payable under this Act;

(b) examine any process or methods, the examination of which may, in the opinion of the Mine Assessor or officer, assist in verifying the amount of royalty payable under this Act; and

(c) require the operator or any other person on the premises to give all reasonable assistance to the Mine Assessor or officer in respect of the audit or examination and, for that purpose, require the operator to attend the premises. 2016, c. 3, s. 123.

Entry and inspection by officer

125 (1) An officer may, at any reasonable time, enter upon an area where mining is or has taken place for the purpose of making an inspection and obtaining information as to the amount and value of the output of the mine.

(2) In the course of an inspection under this Section or an audit or examination under Section 124, an officer may

(a) require the production of any documents or records for inspection and copying;

(b) inspect the property and premises and any installation, equipment or vehicle there;

(c) require that anything be operated, used or set in motion under conditions specified by the officer;

(d) use any tackle, machinery, appliance, structure, material or equipment in the place the officer is inspecting in order to carry out the inspection;

(e) conduct tests or take measurements;

(f) use any computer system at any place to examine any data contained in or available to the computer system;

(g) record or copy any information by any method;

(h) reproduce any record from data in the form of a print-out or other intelligible output;

(i) take any printout or other output for examination or copying;

(j) use any copying equipment to make copies;

(k) take any photographs or audio-video records;

(l) descend any pit or shaft;

(m) take from the property any sample or specimen as the officer considers necessary for the purpose of determining, by assay or otherwise, the mineral content or value of ore, minerals or mineral-bearing substances being taken therefrom, or any product thereof; and

(n) inquire into any matter that relates to compliance with the requirements of this Act or the regulations.

(3) The operator of the mine shall allow the officer to have free access to all buildings, structures and vessels used in connection with the mine, to

take from the property such samples or specimens as the officer considers necessary for the purpose of this Section and to have full and complete access to all records, accounts, correspondence and documents maintained or used for or in connection with the actual operations and business of the mine.

(4) An officer may remove any document that the officer is entitled to examine or copy or otherwise reproduce but shall give a receipt to the person from whom it was taken and shall promptly return it on completion of the examination or reproduction.

(5) An officer who exercises the power set out in clause (2)(n) may exclude from the questioning any person, except counsel for the person being questioned.

(6) Upon request, an officer who exercises a power set out in subsection (1) shall produce an identification card and explain the purpose of the inspection.

(7) Any information of a private or confidential nature acquired under this Section must not be disclosed to anyone except so far as may be necessary for the purpose of this Act. 2016, c. 3, s. 124.

Powers of officer

126 A conservation officer, officer, employee of the Department or any other person appointed by the Minister under this Act, together with any person assisting any of them, may, for the purpose of ensuring compliance with this Act and the regulations and any order made under this Act or the regulations,

(a) at any reasonable time, enter and inspect an exploration site or mine and make such examinations as the person considers necessary or advisable;

(b) require the production of any records or documents in the possession of an operator that relate to the registration and statistical returns required of an operator for inspection and copying;

(c) require that anything be operated, used or set in motion under conditions specified by the person;

(d) use any tackle, machinery, appliance, structure or materials to carry out the inspection;

(e) descend any pit or shaft;

(f) make any examination or inquiry as the person considers necessary to ascertain whether there is compliance with this Act and the regulations and any order made under this Act or the regulations;

(g) in an inspection or an examination, be accompanied and assisted by a person having special, expert or professional knowledge of any matter; and

(h) enter upon any land for the purpose of performing the person's duties and functions under this Act and the regulations. 2016, c. 3, s. 125.

Order to cease mining

127 (1) Where it is found that mining has been carried out and the person who has carried out the mining fails to show, upon demand, the appropriate lease or non-mineral registration, a conservation officer may order that person to cease mining.

(2) Where a conservation officer orders a person to cease mining under subsection (1), the conservation officer shall without delay report particulars of the situation to the Department.

(3) Upon receiving the report under subsection (2), the Department shall assign an officer to

- (a) order the person to reclaim any works, pits, shafts or slopes in or from which mining has been carried out; or
- (b) direct the reclamation of such works, pits, shafts or slopes.

(4) Where the Crown performs or causes to be performed, at its own cost, reclamation pursuant to clause (3)(b), the Minister may certify the amount of the cost of such reclamation, and the amount certified is a debt due to the Crown by the person and forms a lien on the property that may be registered in the registry of deeds for the registration district in which the property is situated.

(5) The lien referred to in subsection (4) is not a charge against a parcel registered pursuant to the *Land Registration Act* until a certificate evidencing the lien has been recorded in the register of the parcel. 2016, c. 3, s. 126.

Seizure by officer

128 (1) Where a conservation officer has reasonable and probable grounds to believe that a person is or has been mining without the appropriate lease or non-mineral registration, any mineral produced and any installation, equipment or vehicle used in connection with the operation may be seized.

(2) Where a conservation officer has seized anything under subsection (1), the conservation officer shall

- (a) report particulars of the seizure to the Department as soon as is practicable; and
- (b) where the conservation officer has knowledge of the person who was in apparent possession of the mineral, installation, equipment or vehicle at the time of seizure, give notice to that person of the seizure.

(3) Where a person is convicted of an offence under this Act or the regulations, the court may, in addition to any other penalty imposed, order that any mineral, installation, equipment or vehicle seized under subsection (1) be

- (a) forfeited to the Crown; or
- (b) returned to the owner thereof,

or make such other order as the court sees fit.

(4) Where a person is acquitted of an offence, the court shall order that any mineral, installation, equipment or vehicle seized under subsection (1) be returned to the owner thereof.

(5) Where a charge is not laid within the time allowed under this Act, and the owner of any mineral, installation, equipment or vehicle seized is known, the Minister shall order that the seized goods be returned to the owner. 2016, c. 3, s. 127.

Order of justice

129 (1) Notwithstanding anything contained in this Act, where a justice is satisfied on evidence under oath by an officer or conservation officer that

(a) there are reasonable grounds to believe that it is appropriate for the administration of this Act for the officer or conservation officer, as the case may be, to do anything set out in Section 124, 125, 126, 127 or 128; and

(b) the officer or conservation officer 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 officer or conservation officer access to the property or premises or there are reasonable grounds for believing that a person may deny the officer or conservation officer access to the property or premises,

(iii) a person has prevented the officer or conservation officer from doing anything set out in Section 124, 125, 126, 127 or 128, or denied the officer or conservation officer access to anything, as a result of which the officer or conservation officer is unable to do anything set out in Section 124, 125, 126, 127 or 128, as the case may be,

(iv) there are reasonable grounds to believe that a person may prevent the officer or conservation officer from doing anything set out in Section 124, 125, 126, 127 or 128, or may deny the officer or conservation officer access to anything, as a result of which the officer or conservation officer may be unable to do anything set out in Section 124, 125, 126, 127 or 128, as the case may be,

(v) it is unpractical, because of the remoteness of the property or premises to be inspected or because of any other reason, for the officer or conservation officer to obtain an order under this Section without delay if access is denied,

(vi) entry has not been sought on the ground that there are reasonable grounds to believe that evidence contained in the property or premises would be destroyed or otherwise disposed of if a request for entry were made, or

(vii) there are reasonable grounds to believe that an attempt by the officer or conservation officer to do anything set out in Section 124, 125, 126, 127 or 128 without the order

might defeat the purpose of that Section or cause an adverse effect,

the justice may issue an order to enter and inspect authorizing the officer or conservation officer to do anything set out in Section 124, 125, 126, 127 or 128 that is specified in the order for the period set out in the order, subject to any conditions specified 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 under 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. 2016, c. 3, s. 128.

Arrest

130 (1) A conservation officer may arrest a person for any offence under this Act and detain that person in custody after arrest if on reasonable and probable grounds the officer believes that the arrest and detention is necessary

- (a) to prevent the continuation or repetition of the offence;
- or
- (b) to establish the identity of the person.

(2) Where a conservation officer arrests or detains a person under subsection (1), the conservation officer shall comply with the *Summary Proceedings Act*. 2016, c. 3, s. 129.

DEBTS TO THE CROWN

Restriction on sale or transfer

131 Where any royalty, rent, tax, debt or other sum of money with respect to a mineral lease is due to the Province,

- (a) the lessee shall not, without prior written authorization of the Minister, sell, transfer, set over, assign, sublet or otherwise dispose of the property, including minerals; and
- (b) the amount due is a debt due to the Crown and forms
 - (i) a charge upon the property, and
 - (ii) a first charge on the proceeds of the sale, transfer, set-over, assignment, sublease or other disposition of the property. 2016, c. 3, s. 130.

First charge to Crown

132 (1) Where any royalty, rent, tax, debt or sum of money is due to the Crown by a lessee, the Crown has a first and prior charge on any mineral, mineral stockpile, slimes or tailings of the lessee for the amount due and, in addition to

any legal remedy available to the Minister in respect of such royalty, rent, tax, debt or sum of money, the Minister may take possession of any such mineral, mineral stockpile, slimes or tailings.

(2) The charge of the Crown for royalties has priority over every other charge against the area, claim or tract covered by the mineral right under which the royalties are payable, and against all fixtures, machinery, goods and chattels used in working and operating the mine situated thereon, and continues against all such fixtures, machinery, goods and chattels, notwithstanding the forfeiture of the mineral right under this Act. 2016, c. 3, s. 131.

Restriction on acquisition

133 (1) Notwithstanding any enactment, no trustee, trustee in bankruptcy, receiver, assignee, liquidator or lienholder shall acquire by any means whatsoever any mineral, mineral stockpile, slimes or tailings or any interest therein of a lessee where any royalty, rent, tax, debt or sum of money is due to the Crown by the lessee in respect of the lease or otherwise.

(2) Any deemed or actual transfer by the lessee, by any means whatsoever, of any such mineral, mineral stockpile, slimes or tailings or any interest therein is void until such royalty, rent, tax, debt or sum of money is paid to the Crown and the Minister consents to such transfer in writing. 2016, c. 3, s. 132.

Use of remaining security

134 Where any royalty, rent, tax, debt or sum of money is due to the Crown by a lessee, the Minister may use and apply the balance of any money or security of the lessee held, including that designated for the purpose of reclamation, if such reclamation has been completed to the Minister's satisfaction, to such royalty, rent, tax, debt or sum of money due to the Crown. 2016, c. 3, s. 133.

GENERAL

Statistical reports

135 Any operator or any other person who is exploring or mining shall file statistical reports with the Department during each year as prescribed. 2016, c. 3, s. 134.

Information privileged

136 (1) Notwithstanding the *Freedom of Information and Protection of Privacy Act* but subject to this Section, information or documentation provided for the purpose of this Act or the regulations, whether or not such information or documentation is required to be provided under this Act or the regulations, is privileged and must not knowingly be disclosed without the consent in writing of the person who provided it or as otherwise provided in this Act, except for the purpose of the administration or enforcement of this Act or for the purposes of legal proceedings relating to such administration or enforcement.

(2) No person shall be required to produce or give evidence relating to any information or documentation that is privileged under subsection (1) in connection with any legal proceedings, other than proceedings relating to the administration or enforcement of this Act. 2016, c. 3, s. 135.

Agreements

137 (1) The Minister may, for the purpose of aiding in an investigation under this or any other Act, enter into an agreement with the Government of Canada or the government of any other province of Canada, under which any information obtained or written statement furnished under this Act may be disclosed to an officer of that government, and any information obtained or written statement furnished under an enactment of Canada or the province of Canada, as the case may be, may be disclosed to an officer of the Government of the Province.

(2) Any information obtained or written statement furnished under this Act may be disclosed to the Government of Canada or the government of any province of Canada in accordance with an agreement authorized by subsection (1), but may not otherwise be disclosed to the Government of Canada or the government of any province of Canada.

(3) An agreement authorized by subsection (1) must require each government that is a party to the agreement to keep any information or written statement disclosed to it in accordance with the agreement in the same manner as if it were obtained directly from the operator under the mining royalty legislation applicable in that government's jurisdiction. 2016, c. 3, s. 136.

Investigation by Minister or authorized person

138 (1) The Minister, or a person authorized by the Minister, may make an investigation into any administrative matter to which this Act applies and, for the purpose of the investigation, the Minister or the person making it has all the powers, privileges and immunities of a commissioner appointed under the *Public Inquiries Act*.

(2) Upon completion of an investigation, the Minister, or the person authorized by the Minister, may

- (a) accept, either in whole or in part, any application previously refused or rejected;
- (b) amend and adjust the mineral rights of the mineral right holders in dispute;
- (c) adjust the rights of any persons in dispute;
- (d) order any mineral right holder to cease any or all operations;
- (e) make such further order for the disposal of the matter as appears to be just; and
- (f) refer any question or issue to the Supreme Court of Nova Scotia for hearing and consideration. 2016, c. 3, s. 137.

Conversion of decision or order of Minister to Court order

139 Any decision or order made by the Minister, an officer or a conservation officer under this Act may be filed with the Supreme Court of Nova Scotia in accordance with the *Civil Procedure Rules* and, upon being filed, is enforceable in the same manner as a judgment of that Court. 2016, c. 3, s. 138.

Appeals to Court

140 (1) Unless otherwise provided by this Act, any person aggrieved by a decision of the Minister or a person appointed by the Minister, may, within 30 days from the date of the decision, appeal to a judge of the Supreme Court of Nova Scotia.

(2) Subject to subsection (3), a decision of the judge of the Supreme Court of Nova Scotia is final.

(3) An appeal of the decision of the judge of the Supreme Court of Nova Scotia lies to the Nova Scotia Court of Appeal upon a question of law. 2016, c. 3, s. 139.

Confidentiality

141 (1) Notwithstanding the *Freedom of Information and Protection of Privacy Act* and except as otherwise provided in this Act and the regulations, all feasibility studies, financial data, mine and mill design studies, plans and equipment specifications in respect of a mine and information submitted under Section 70 are to remain confidential for the life of the relevant mineral lease or non-mineral registration.

(2) Notwithstanding subsection (1), the Minister may release information referred to in subsection (1)

(a) if, notwithstanding any enactment, there is a grave environmental danger involving the mine to which the information pertains; or

(b) for the purpose of providing statistics regarding mineral production, employment, municipal taxes or economic impacts on the Province, if the statistics are general in nature and do not disclose financial or technical data that would result in undue financial gain or loss to the mineral right holder, the registrant or another person.

(3) An assessment work report is confidential for two years from the date of submission, unless the exploration licence expires and is not renewed before the two-year period expires, in which case the report submitted and held in confidence may be released upon the expiry of the licence.

(4) Notwithstanding subsections (1) and (3),

(a) the mineral right holder or registrant may, upon application to the Registrar in writing, request an extension of the period of confidentiality granted under this Section, and the Registrar may grant such extension if satisfied that the application shows reasonable cause for the extension;

(b) the period of confidentiality may be terminated if

(i) the mineral right holder or registrant agrees to a release of the information, or

(ii) the mineral right or non-mineral registration is surrendered, cancelled or forfeited or has expired; and

(c) the Minister may use confidential information with the consent of the owner of the information. 2016, c. 3, s. 140.

OFFENCES AND PENALTIES

Restriction on Government employees and Ministers

142 (1) No person holding an office or employment with the Government shall, while holding such office or employment, directly or by any other person, acquire or hold any mineral right in the Province without the consent of the Governor in Council.

(2) Notwithstanding subsection (1), a member of the Executive Council, the Minister or an individual holding an office or employment with the Government and engaged in any activities related to this Act shall not, while holding such office or employment, directly or by any other person, acquire or hold any mineral right in the Province.

(3) No employee of or person under contract to the Department, or person employed under subsection 13(3), and no former employee of, or person formerly under contract to, the Department shall divulge or use any confidential information, including any information the confidentiality of which is protected by an enactment or information the release or use of which creates a benefit to the person who uses or divulges the same, unless the release or use of such information

(a) has been authorized by each person to whom it pertains;

(b) is required for the enforcement or administration of this Act or the regulations; or

(c) is permitted by the expiration of the confidentiality period provided by the enactment.

(4) A person who contravenes this Section is guilty of an offence and, in addition to any penalty imposed, is subject to disciplinary action including loss of office or employment with the Government. 2016, c. 3, s. 141.

Entry or working on Crown lands without consent

143 (1) A person who enters upon and works Crown lands without the consent required under Section 24, or fails to meet any terms or conditions of such consent, is guilty of an offence.

(2) Where a person is convicted of an offence under this Section and the Crown has, as a result of the commission of the offence, suffered damage caused by the person convicted, the court may, on the application of the Crown, determine the amount of the damage and order restitution by the person convicted. 2016, c. 3, s. 142.

Entry or working on private land without consent or permit

144 (1) A person who enters upon or performs surface work on private land without the consent of the owner or occupier of the land if required under Section 25, or surface access rights under Section 26, is guilty of an offence.

(2) Where a person is convicted of an offence under this Act and another person has, as a result of the commission of the offence, suffered damage caused by the person convicted, the court may, on the application of the person who suffered the damage, determine the amount of the damage and order restitution by the person convicted. 2016, c. 3, s. 143.

Mining without mineral lease or non-mineral registration

145 A person who mines without the appropriate mineral lease or non-mineral registration is guilty of an offence. 2016, c. 3, s. 144.

Mining after forfeiture of mineral lease or non-mineral registration

146 A person who continues to operate a mine after the forfeiture of the mineral lease or the cancellation of the non-mineral registration is guilty of an offence. 2016, c. 3, s. 145.

Obstruction and failure to assist

147 (1) No person shall hinder, obstruct, molest or interfere with a conservation officer, officer, employee of the Department or person appointed by the Minister under this Act, or a person assisting any of them, in the exercise of a power or the performance of a duty under this Act or the regulations, or incite another to do so.

(2) No person shall knowingly furnish the Minister, a conservation officer, officer, employee of the Department or person appointed by the Minister under this Act, or a person assisting any of them, with false information or neglect or refuse to furnish information required by any of them in the exercise of a power or the performance of a duty under this Act or the regulations.

(3) A person who

(a) wilfully delays the Minister, a conservation officer, officer, employee of the Department or person appointed by the Minister under this Act, or a person assisting any of them, in the exercise of a power or the performance of a duty under this Act or the regulations;

(b) fails to comply with a direction or summons of any of the persons referred to in clause (a) given under this Act or the regulations; or

(c) fails to produce any certificate or document that the person is required by this Act or the regulations to produce,

is guilty on summary conviction of obstructing the Minister, conservation officer, officer, employee of the Department or person appointed by the Minister under this Act, or a person assisting any of them, as the case may be, in the exercise of the person's power or the performance of the person's duty under this Act.

(4) A person shall furnish all necessary means in that person's power to facilitate any entry, inspection, examination, testing or inquiry by a conservation officer, officer, employee of the Department or person appointed by the Minister under this Act, or a person assisting any of them, in the exercise of a power or the performance of a duty under this Act or the regulations. 2016, c. 3, s. 146.

Removal of sign or notice

148 A person who, without legal justification, removes a sign or notice posted by the Department is guilty of an offence. 2016, c. 3, s. 147.

Offences

- 149 (1)** An operator who
- (a) makes or participates in the making of a false statement in any return filed or made under this Act or the regulations;
 - (b) evades payment of a royalty imposed under this Act or the regulations;
 - (c) destroys, alters, mutilates or otherwise disposes of any record required to be kept under this Act or the regulations; or
 - (d) fails to keep records or accounts required to be kept under this Act or the regulations,

is guilty of an offence.

(2) An operator required to pay royalties under this Act who fails to pay royalties within the time required is guilty of an offence.

(3) An operator who fails to deliver to the Minister an annual return within the time required is guilty of an offence. 2016, c. 3, s. 148.

Order to cease offence

150 Where the Minister, a person authorized to act on behalf of the Minister or a conservation officer is satisfied that a person has committed or is committing an offence under this Act, the Minister, authorized person or conservation officer may issue a verbal or written order to refrain from or cease committing the offence. 2016, c. 3, s. 149.

Failure to comply

151 A person who fails to comply with this Act or the regulations or with an order made under this Act or the regulations is guilty of an offence. 2016, c. 3, s. 150.

Penalties

152 (1) A person who is guilty of an offence under this Act is liable on summary conviction

- (a) in the case of a corporation, to a fine not exceeding the prescribed penalty or, where no penalty is prescribed, \$100,000; or
- (b) in the case of an individual, to a fine not exceeding the prescribed penalty or, where no penalty is prescribed, \$50,000, or to imprisonment for a term of not more than six months, or to both.

(2) Where an offence under this Act or the regulations is committed or continued on more than one day, the person who committed the offence is liable to be convicted for a separate offence for each day on which the offence is committed or continued.

(3) Where a person has been convicted of an offence under this Act or the regulations and the court is satisfied that monetary benefits accrued to the person as a result of the commission of the offence,

(a) the court may order the person to pay an additional fine in an amount equal to the court's estimation of the amount of the monetary benefits; and

(b) for greater certainty, the additional fine may exceed the maximum amount of any fine that may otherwise be imposed under this Act. 2016, c. 3, s. 151.

Offences by employees or agents

153 (1) In a prosecution for an offence under this Act, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused, whether or not the employee or agent is identified or has been prosecuted for the offence, unless the accused establishes that the offence was committed without the knowledge or consent of the accused.

(2) Where a corporation has committed an offence under this Act, an officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is a party to and guilty of the offence and is liable on summary conviction to the punishment provided for the offence, whether or not the corporation has been prosecuted. 2016, c. 3, s. 152.

Court orders relating to penalty

154 Where a person is convicted of an offence, the court may, in addition to any punishment imposed and having regard to the nature of the offence and the circumstances surrounding its commission, make an order containing one or more of the following prohibitions, directions or requirements:

(a) prohibiting the person from doing any act or engaging in any activity that could, in the opinion of the court, result in the continuation or repetition of the offence;

(b) directing the person to take any action that the court considers appropriate to remedy or to prevent any adverse effect that resulted or may result from the commission of the offence;

(c) directing the person to post a bond or to pay into court an amount of money that the court considers appropriate for the purpose of ensuring compliance with any prohibition, direction or requirement under this Section;

(d) requiring the person to undertake remedial action to control, reduce or mitigate the contravention. 2016, c. 3, s. 153.

Limitation period

155 (1) Proceedings by way of summary conviction in respect of an offence under this Act may not be commenced more than two years after the later of

(a) the date on which the offence was committed; or

(b) the date on which evidence of the offence first came to the attention of the Minister.

(2) A document purporting to have been issued by the Minister certifying the date on which the Minister became aware of evidence of the offence is admissible without proof of the signature or the official character of the individual appearing to have signed the document and, in the absence of evidence to the contrary, is proof of the matter certified. 2016, c. 3, s. 154.

Recovery of costs

156 In addition to any penalty imposed under this Act, the court may impose the full cost or any portion of the cost or expense incurred by the Crown with respect to remedying any situation that resulted from the contravention. 2016, c. 3, s. 155.

REGULATIONS

Regulations

- 157 (1) The Governor in Council may make regulations
- (a) respecting the assignment of work, responsibilities, rights and duties to officers, employees and other persons appointed under this Act and to conservation officers;
 - (b) respecting the registry and records that are filed or kept in the registry, and the manner in which they are to be filed, kept and maintained;
 - (c) respecting confidentiality of any information filed with the Department;
 - (d) respecting the appointment or establishment, and authority, of a commissioner appointed or board established under Section 22;
 - (e) respecting security, including its form and terms, and determining its amount, including a method of calculating its amount;
 - (f) governing the mining and production of any minerals, mineral-bearing substance, gypsum or limestone;
 - (g) respecting exploration drilling;
 - (h) respecting the use of mineral resources;
 - (i) respecting the method of applying for exploration licences, mineral leases, non-mineral registrations, letters of authorization and consents to surrenders, transfers and assignments;
 - (j) respecting the content, terms and conditions of exploration licences, mineral leases, non-mineral registrations and letters of authorization;
 - (k) respecting returns, plans, records and statements to be submitted, revised or maintained by a mineral right holder, registrant or prospector, including prescribing the contents of such returns, plans, records and statements and the manner in which such returns, plans, records and statements must be made;
 - (l) respecting the kind and quantity of assessment work required for a renewal of an exploration licence, the evidence of such work and the manner in which the evidence must be submitted;

- (m) defining categories of acceptable assessment work and specifying work credit that a licensee may receive for work in each category;
- (n) respecting the submission of excess assessment work as work credit for a later application to renew an exploration licence and the period allowed for the submission;
- (o) respecting payments in lieu of assessment work and refunds of such payments;
- (p) respecting service, including prescribing the manner of service, and defining what is sufficient service, of any document or notice referred to or required by this Act or the regulations;
- (q) respecting the method of submission and the recording, content, terms and conditions of excavation registrations, and the circumstances under which an excavation registration may be refused;
- (r) respecting the circumstances under which a letter of authorization may be refused;
- (s) prohibiting certain activities without a mineral lease or letter of authorization;
- (t) prescribing that certain words and phrases are deemed to be contained in exploration licences, mineral leases, excavation registrations, non-mineral registrations and letters of authorization and that certain words therein have an extended meaning;
- (u) respecting conditions for opening, closing, reopening and abandoning mines and for rendering mines inaccessible;
- (v) respecting reports that must be made under this Act, including prescribing the contents of such reports and the manner in which such reports must be made;
- (w) prescribing fees and rents payable under this Act;
- (x) respecting the restoration, reclamation and rehabilitation of land affected by exploration or mining activities;
- (y) respecting requirements relating to reclamation and rehabilitation of mines;
- (z) respecting safety and unsightliness of property to which Section 91 applies;
- (aa) respecting the establishment of boundaries of mineral lands;
- (ab) governing the survey of a mineral right;
- (ac) respecting appeals to the Minister under this Act;
- (ad) respecting the administration, payment, rate and terms of royalties, including a method of calculating royalties;
- (ae) prescribing interest rates, including establishing, from time to time, a formula by which interest rates may be calculated;

(af) requiring from the mineral right holder, a person who is exploring or mining or the operator of a mine, statistical information respecting work or operations;

(ag) respecting the content of instruments, documents or notices referred to or required by this Act or the regulations;

(ah) respecting access to municipal water supply watershed lands;

(ai) respecting penalties for offences;

(aj) prescribing anything that by this Act is to be prescribed;

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

(al) respecting any matter or thing that 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*. 2016, c. 3, s. 156.

MISCELLANEOUS AND TRANSITIONAL MATTERS

Other civil remedies unaffected

158 Nothing in this Act limits or interferes with the right of any person to bring and maintain a civil action for damages occasioned by exploration or mining. 2016, c. 3, s. 157.

Continuation of applications

159 (1) Subject to subsections (2) and (3) and Sections 159 and 160, an application made under the former Act and not conclusively dealt with as of December 18, 2018, including an application for a renewal, is to be dealt with as if made under this Act.

(2) An application for a special lease made under the former Act and not conclusively dealt with as of December 18, 2018, including such an application for a renewal of a special lease, is deemed to be an application for a mineral lease or for the renewal of a mineral lease, as the case may be, made under this Act.

(3) An application for a special licence made under the former Act and not conclusively dealt with as of December 18, 2018, including such an application for a renewal of a special licence, is deemed to be refused. 2016, c. 3, s. 158.

Existing exploration licence

160 (1) An exploration licence issued under the former Act and in good standing immediately before December 18, 2018, continues to be subject to the terms and conditions of the former Act until its expiry date.

(2) On or before the expiry date of an exploration licence referred to in subsection (1), subject to the submission of an application and the payment of

the prescribed fees, the licensee may renew the exploration licence by submission of an assessment work report, by application of work credits or, if eligible, by payment in lieu of assessment work, in accordance with the requirements under the former Act.

(3) Where the requirements for renewal under the former Act and this Section are met on or before the expiry date referred to in subsection (1), the exploration licence is, on the next day following the expiry date, to be renewed as an exploration licence issued under this Act.

(4) The assessment work required for the renewal of the replacement licence issued under this Section is that prescribed for a two-year term determined by the Registrar based on the date when the original licence was first issued. 2016, c. 3, s. 159.

Existing special licence

161 (1) Where a special licence issued under the former Act and in good standing immediately before December 18, 2018, includes a specified expiry date, the licence continues in force as if the former Act were not repealed, and continues to be subject to the terms and conditions of the former Act for the remainder of its fixed term.

(2) The holder of a special licence referred to in subsection (1) may, at any time after the completion of the assessment work requirement for the special licence during the fifth year of the licence, apply to renew the licence as an exploration licence.

(3) Where a special licence issued under the former Act and in good standing immediately before December 18, 2018, does not include a specified expiry date, the licence is, on December 18, 2018, to be replaced by an exploration licence issued under this Act that contains all the terms and conditions of the special licence.

(4) Where a special licence is renewed under subsection (2) or replaced under subsection (3), the assessment work required for the renewal of the exploration licence issued under this Section is that prescribed for a two-year term determined by the Registrar based on the date the original licence was first issued. 2016, c. 3, s. 160.

Excess assessment work

162 Any excess assessment work that was recorded by the Department to the credit of an exploration licence, including a special licence, issued under the former Act, that is in good standing immediately before December 18, 2018, may be applied to the assessment work requirements of an exploration licence issued or renewed under this Act. 2016, c. 3, s. 161.

Existing mineral lease

163 (1) A mineral lease issued under the former Act and in good standing immediately before December 18, 2018, is deemed to be a mineral lease issued under this Act for the remainder of its term.

(2) For greater certainty, a special lease granted under the former Act and in good standing immediately before December 18, 2018, is deemed to be a mineral lease issued under this Act for the remainder of its term, subject to any terms or conditions in the lease. 2016, c. 3, s. 162.

Existing non-mineral registration

164 A non-mineral registration issued under the former Act and in good standing immediately before December 18, 2018, is deemed to be a non-mineral registration issued under this Act. 2016, c. 3, s. 163.

Existing letter of authorization

165 A letter of authorization granted under the former Act and in good standing immediately before December 18, 2018, is deemed to be a letter of authorization granted under this Act. 2016, c. 3, s. 164.

Existing excavation registration

166 An excavation registration submitted and recorded under the former Act and in good standing immediately before December 18, 2018, is deemed to be an excavation registration submitted and recorded under this Act. 2016, c. 3, s. 165.

Existing drilling notification

167 A drilling notification filed under the regulations made under the former Act and in good standing immediately before December 18, 2018, is deemed to be a drilling notification filed under the regulations made under this Act. 2016, c. 3, s. 166.

Existing declaration

168 A declaration made under Section 5 of the former Act or under Section 5 of Chapter 286 of the Revised Statutes, 1989, the *Mineral Resources Act*, continues in force and has the same force and effect as if made under Section 6 of this Act. 2016, c. 3, s. 167.

Existing designation

169 A designation made under Section 8A of the former Act continues in force and has the same force and effect as if made under Section 10 of this Act. 2016, c. 3, s. 168.

Deemed restriction

170 Lands restricted from prospecting, exploration, development or mining under Section 21 of the former Act immediately before December 18, 2018, are mineral resources deemed to be restricted from prospecting, exploration, development or mining under Section 58 of this Act. 2016, c. 3, s. 169.

Deemed withdrawal

171 Lands withdrawn under Section 22 of the former Act immediately before December 18, 2018, are deemed to be withdrawn under Section 59 of this Act. 2016, c. 3, s. 170.

CHAPTER M-27

**An Act Respecting
Miners Relief Societies**

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Short title

1 This Act may be cited as the *Miners Relief Societies Act*. R.S., c. 287, s. 1.

Contribution from General Revenue Fund

2 (1) Whenever it appears to the satisfaction of the Governor in Council that

(a) any person or company operating a coal mine and the workers employed by such person or company have agreed to co-operate to establish or provide a society or fund for the relief of such workers in case of sickness, and for the relief of their dependants in case of the death of such workers;

(b) the workers employed by such person or company have established or are about to establish such society or provide such fund; or

(c) such person or company has provided or is about to provide such fund,

the Governor in Council may, out of the General Revenue Fund, contribute to such society or fund such amount as the Governor in Council may determine.

(2) Every such contribution is on such terms and subject to such conditions as the Governor in Council may prescribe, but no such contribution may

be made to any fund out of which payments are provided for any sickness or death in respect of which compensation is payable under the *Workers' Compensation Act*. R.S., c. 287, s. 2.

Approval

3 The constitution and bylaws of any society to which such contribution may be made under this Act are subject to approval by the Governor in Council and the conditions under which payments are to be made out of any fund provided by any person or company as aforesaid are subject to like approval. R.S., c. 287, s. 3.

Exemption from attachment or execution

4 The relief given by any society or fund established under the authority of this Act is exempt from attachment and from levy under execution for debt of any kind. R.S., c. 287, s. 4.

Liability preserved

5 Nothing in this Act affects the liability of any person or corporation for damages or penalty resulting from any wrongful act, neglect or default. R.S., c. 287, s. 5.

Regulations

6 The Governor in Council is authorized to make such regulations as the Governor in Council considers necessary or desirable for the carrying out of any of the provisions of this Act. R.S., c. 287, s. 6.

Establishment of fund

7 (1) Where no relief association or fund is established or in operation in connection with any mine, it is lawful for a majority of the workers employed in or in connection with such mine to authorize the employer to deduct from the wages of each worker the sum of 25¢ per month as a contribution towards a fund to be used for the purpose hereinafter provided.

(2) If a majority of such workers authorize the employer to make such deductions it is binding upon all the workers of such employer engaged in or in connection with such mine, and the employer shall thereafter deduct from the wages of each worker 25¢ for each calendar month or fraction of such month that a worker works for such employer. R.S., c. 287, s. 7.

Contribution by employer

8 The employer shall, in such event, contribute an amount equal to the deductions made from the wages of the workers. R.S., c. 287, s. 8.

Payment to Workers' Compensation Board

9 The amount so deducted from the wages of the workers and the amount to be contributed by the employer must be paid by the employer to the Workers' Compensation Board. R.S., c. 287, s. 9.

Contribution from General Revenue Fund

10 (1) Wherever it appears to the satisfaction of the Governor in Council that a fund has been established in accordance with Sections 7 to 9 and following Sections, the Governor in Council may out of the General Revenue Fund contribute to such fund such amount as the Governor in Council may determine.

(2) Such contribution must be on such terms and subject to such conditions as the Governor in Council may prescribe, and the amount of such contribution must be paid to the Workers' Compensation Board. R.S., c. 287, s. 10.

Use of fund

11 The fund so created when paid to the Workers' Compensation Board must be used to pay relief money, according to the scale set forth in Part I of the *Workers' Compensation Act*,

(a) to any worker, contributing to such fund, who, while on the worker's employer's working premises, in the worker's capacity as a worker, or while in the course of the worker's employment away from such working premises, receives personal injury by accident under circumstances which would not entitle the worker to compensation under Part I of the *Workers' Compensation Act*;

(b) to the worker's dependants where death results from such injury;

(c) where death results from such injury, for the necessary expenses of the burial of the worker, not exceeding \$75. R.S., c. 287, s. 11.

Entitlement of injured worker

12 An injured worker entitled to compensation out of such fund is entitled to medical and surgical aid, hospital and skilled nursing services and artificial appliances, to the same extent as a worker within the scope of Part I of the *Workers' Compensation Act*. R.S., c. 287, s. 12.

Fund insufficient

13 If the fund is not sufficient for the purposes mentioned, the Board may reduce or suspend the amount of compensation payments, and in such case the worker is not entitled to medical aid or the other benefits hereinbefore mentioned, but should the fund in the opinion of the Board subsequently permit, the amounts withheld may in whole or in part be paid. R.S., c. 287, s. 13.

Liability of Board

14 The Board is not liable to make any payments except in so far as the fund will permit. R.S., c. 287, s. 14.

Common fund for mines

15 If the fund is created in connection with more than one mine, all contributions must go into one common fund and such fund must be used for the benefit of all workers contributing to such fund and their dependants. R.S., c. 287, s. 15.

Excess in fund

16 If it should subsequently appear to the satisfaction of the Governor in Council that the fund is more than sufficient for the purposes mentioned, additional benefits may by order in council be paid out of such fund. R.S., c. 287, s. 16.

Accident prior to fund

17 A majority of the workers of any mine may authorize the employer to make deductions from the wages of the workers for the purpose of extending the benefits herein provided to any worker or dependants, where the accident or death arose before the creation of such fund, whether before or after the passage of this Act, and in such case the authorization of a majority of the workers is binding upon all the workers, the employer shall make an equal contribution and the Governor in Council may out of the General Revenue Fund contribute for such special purpose such amount as the Governor in Council may determine. R.S., c. 287, s. 17.

CHAPTER M-28

**An Act Respecting Easements
for Mining Companies**

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

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Short title

1 This Act may be cited as the *Mining Companies Easements Act*. R.S., c. 288, s. 1.

Acquisition of land or easement

2 When lands, lakes, streams or lands covered with water or easements or rights therein are required for any of the purposes set out in Section 70 of Chapter 286 of the Revised Statutes, 1989, the *Mineral Resources Act*, or for the purpose of laying and maintaining pipelines, tubes or conduits by any company incorporated for the purpose of mining or drilling for oil or gas, and which company is the owner or lessee of mineral or oil rights other than as lessee from the Crown under the *Mineral Resources Act*, such lands, lakes, streams or lands covered with water or easements or rights therein may be acquired by said company to the same extent and in the same manner as if said company were a lessee from the Crown under the *Mineral Resources Act* and for said purposes such company is considered to be a lessee within the meaning of Section 70 of Chapter 286 of the Revised Statutes, 1989, the *Mineral Resources Act*. R.S., c. 288, s. 2.

Construction

3 Any such company may construct roads, subways, pipelines or conduits over, along, under and across any brooks, rivers and streams, not being navigable water, and any highway, subject to regulations to be made by the Governor in Council. R.S., c. 288, s. 3.

CHAPTER M-29

An Act Respecting Missing Persons

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

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Short title

1 This Act may be cited as the *Missing Persons Act*. 2012, c. 47, s. 1.

Interpretation

2 In this Act,

“missing person” means an individual whose whereabouts are unknown and continue to be unknown despite reasonable efforts having been made to locate the person, whose safety and welfare are reasonably feared for given the circumstances surrounding the individual’s absence and who there is a reasonable urgency or necessity to locate;

“person” includes a partnership, an unincorporated association, a public body as defined in the *Freedom of Information and Protection of Privacy Act* and a custodian as defined in the *Personal Health Information Act*;

“police agency” has the same meaning as “agency” in the *Police Act*;

“vulnerable person” means an individual

(a) for whom a representative has been appointed under the *Adult Capacity and Decision-making Act*; or

(b) who is found to be an adult in need of protection by the Minister of Community Services or a court under the *Adult Protection Act*. 2012, c. 47, s. 2; 2017, c. 4, s. 85.

Act binds the Crown

3 This Act binds the Crown in right of the Province. 2012, c. 47, s. 3.

Application for search order or record-access order

4 (1) A member of a police agency may apply for a search order or record-access order if the police agency is conducting a missing person investigation.

(2) An application for a search order or record-access order may be made to a justice, without notice, in the manner prescribed by the regulations. 2012, c. 47, s. 4.

Search order

5 Upon application for a search order, a justice who is satisfied, on considering information provided under oath, that there are reasonable grounds to believe that a missing person who is a minor or a vulnerable person may be in a dwelling or other premises may make an order authorizing members of a police agency to enter, by force if necessary, the dwelling or other premises and search for the missing person. 2012, c. 47, s. 5.

Record-access order

6 (1) Upon application for a record-access order, a justice who is satisfied that access to and, where requested, copies of any of the records set out in subsection (2)

(a) may assist a police agency in locating the missing person; and

(b) are in the possession or under the control of a person,

may make an order requiring the person to provide members of a police agency access to and, where requested, copies of the records set out in the order in respect of the missing person or, where subsection (3) applies, a person who may be accompanying the missing person.

(2) A record-access order may be made in respect of

(a) records containing contact or identification information;

(b) telephone and other electronic communication records, including

(i) records related to signals from a wireless device that may indicate the location of the wireless device,

(ii) cell phone records,

(iii) inbound and outbound text messaging records, and

(iv) Internet browsing-history records;

(c) global-positioning system tracking records;

(d) video records, including closed-circuit television footage;

(e) records containing employment information;

(f) records containing personal health information as defined in the *Personal Health Information Act*;

- (g) records from a school, university or other educational institution containing attendance information;
- (h) records containing travel and accommodation information;
- (i) records containing financial information; and
- (j) any other records specified in the order that the justice considers appropriate.

(3) Where the missing person is a minor or a vulnerable person and there are reasonable grounds to believe that the missing person may be in the company of another person, the justice may order that members of the police agency be given access to and, where requested, copies of any of the records set out in the order in respect of the person who may be accompanying the missing person.

(4) In a record-access order, the justice may impose any restrictions or limits on the records to be produced that the justice considers appropriate.

(5) The justice may include a provision in a record-access order requiring a person to provide members of the police agency with an accounting of the efforts made by the person to locate any records that cannot be found. 2012, c. 47, s. 6.

Use of information and records

7 (1) Notwithstanding Section 32 of the *Freedom of Information and Protection of Privacy Act* and subsection 578(1) of the *Municipal Government Act*, information and records obtained by a police agency under this Act may be used only for

- (a) the purpose of locating a missing person or a use consistent with that purpose; or
- (b) a purpose for which the information may be disclosed under Section 8.

(2) Where the missing person investigation becomes a criminal investigation, this Section does not prevent information and records obtained by a police agency under this Act from being used in the criminal investigation. 2012, c. 47, s. 7.

Disclosure of information and records

8 (1) Any information or record obtained by a police agency under this Act is confidential and may not be disclosed except in accordance with this Section.

(2) Notwithstanding Section 33 of the *Freedom of Information and Protection of Privacy Act*, subsection 578(2) of the *Municipal Government Act* and clause 38(1)(l) and subsection 45(2) of the *Personal Health Information Act*, information and records obtained by a police agency under this Act may be disclosed only

- (a) for the purpose of locating a missing person or a use consistent with that purpose;

- (b) when required by law;
- (c) to another law-enforcement agency in Canada or a law-enforcement agency in another country under an arrangement, written agreement, treaty or legislative authority but only to the extent necessary to further the missing person investigation;
- (d) if the person the information or record is about has consented to the disclosure; or
- (e) in accordance with subsections (3) to (6).

(3) For the purpose of furthering its missing person investigation, a police agency may release the following information obtained under this Act in respect of the missing person to the public through a media release, by posting the information on a website or in any other manner the police agency considers appropriate:

- (a) the missing person's name;
 - (b) a physical description of the missing person;
 - (c) a photograph of the missing person;
 - (d) information about any medical condition of the missing person that poses a serious or immediate threat to the person's health;
 - (e) pertinent vehicle information;
 - (f) the location where the missing person was last seen;
- and
- (g) the circumstances surrounding the disappearance of the missing person.

(4) A police agency may publicly announce that a missing person has been located.

(5) A police agency may disclose information and records obtained under this Act to other police agencies, law-enforcement agencies and government departments or agencies to the extent necessary to coordinate investigations and other activities respecting missing persons.

(6) Where a missing person investigation becomes a criminal investigation, this Section does not prevent the disclosure of information and records obtained under this Act for the purpose of the criminal investigation. 2012, c. 47, s. 8.

Information or record subject to legal privilege

9 Nothing in this Act compels the disclosure of any information or record that is restricted from disclosure by a legal privilege. 2012, c. 47, s. 9.

Effect on Privacy Review Officer and police agencies

10 For greater certainty, nothing in this Act is to be construed as

- (a) limiting the powers and duties of the Privacy Review Officer appointed under the *Privacy Review Officer Act*; or

(b) restricting any authority that a police agency otherwise has to collect any information or records. 2012, c. 47, s. 10.

Offence and penalty

11 Any person who wilfully contravenes Section 7 or 8 is guilty of an offence and liable on summary conviction to a fine of not more than \$10,000. 2012, c. 47, s. 11.

No action lies

12 No action or proceeding may be brought against a member of a police agency or any other person in respect of anything done or omitted to be done in good faith under this Act. 2012, c. 47, s. 12.

Regulations

13 (1) The Governor in Council may make regulations

(a) respecting applications for search orders and record-access orders made under this Act;

(b) respecting the collection, use and retention of information and records obtained under this Act;

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

(d) respecting any matter or thing that 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*. 2012, c. 47, s. 13.

CHAPTER M-30

**An Act Respecting
Loans from Money-lenders**

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

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Short title

1 This Act may be cited as the *Money-lenders Act*. R.S., c. 289, s. 1.

Interpretation

2 In this Act,

“interest” includes discount and also includes charges in respect of which the Legislature has not power in this behalf;

“loan” includes money advanced on account of a person in any transaction that, whatever form it takes, is substantially a loan to such person, or one securing the repayment by such person of the money advanced;

“money-lender” includes any person carrying on a loaning business, and any person who engages in any transaction referred to in the definition of “loan” and any person who carries on the business of money-lending, or advertises or announces or purports to be in any way as carrying on that business, and who makes a practice of lending money at a higher rate than 10% per year, but does not include a registered pawnbroker or a bank;

“rate permitted” means a rate that is a legal and valid rate in respect of the loan and is not in contravention of any Act heretofore or hereafter enacted by the Parliament of Canada. R.S., c. 289, s. 2.

Application of Act

3 This Act applies in respect of any loan made after the enactment of this Act and to any loan whenever made not wholly discharged before the enactment of this Act. R.S., c. 289, s. 3.

Relief where action already pending

4 Where in any action or proceeding in a court of competent jurisdiction in respect of any loan from a money-lender, the court finds that the amount of the charges for commission, expenses, inquiries, fines, bonus and renewals in

respect of which the Legislature has power in this behalf, and any other such charges, together with the amount of the interest, exceeds the amount of the interest calculated at the rate permitted, or that any conveyancing in connection therewith was unnecessary, or the charges therefor excessive, or that insurance other than that reasonably proper for security for the loan was required by the money-lender, the court has jurisdiction and power to

- (a) reopen the transaction and take an account between the creditor and the debtor;
- (b) notwithstanding any statement or settlement of account or any agreement purporting to close previous dealings and create a new obligation, reopen any account already taken and relieve the debtor from payment of either the whole or any part of any sum in excess of the sum adjudged by the court to be due for principal and interest;
- (c) order the creditor to repay any such excess if the same has been paid or allowed on account by the debtor; or
- (d) except in respect of interest, set aside, either wholly or in part, or revise or alter any security given or agreement made in respect of the loan and, if the creditor has parted with the security, order the creditor to indemnify the debtor. R.S., c. 289, s. 4; 2018, c. 43, s. 22.

Relief where action not pending

5 Where no such action or proceeding is pending, or where such action or proceeding is pending before any other court or before a justice or justices of the peace, any debtor who would be entitled to relief under Section 4 if such action or proceeding were pending in a court of competent jurisdiction, may apply in a summary way to the court on such notice as the court or a judge directs, for any of the relief provided by Section 4 and such court or judge has jurisdiction and power to grant any or all of such relief. R.S., c. 289, s. 5; 2018, c. 43, s. 23.

Effect of Act

6 Nothing in this Act affects the rights of a good faith assignee or holder for value without notice, and the jurisdiction and power given or conferred by this Act is in addition to the existing jurisdiction and powers of the court. R.S., c. 289, s. 6; 2018, c. 43, s. 24.

CHAPTER M-31

**An Act Respecting the Licensing
and Qualifications of, and Practice Standards for,
Mortgage Lenders, Mortgage Brokerages,
Mortgage Brokers, Associate Mortgage Brokers
and Mortgage Administrators**

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Short title

1 This Act may be cited as the *Mortgage Regulation Act*. 2012, c. 11, s. 1.

Interpretation

- 2 (1) In this Act,
- “associate mortgage broker” means an individual who acts as a mortgage broker on behalf of a mortgage brokerage and under the supervision of a designated mortgage broker, as an employee or otherwise;
 - “borrower” includes a prospective borrower;
 - “Court” means the Supreme Court of Nova Scotia;
 - “Deputy Registrar” means an individual appointed by the Minister as Deputy Registrar of Mortgage Regulation under this Act;
 - “employee” includes an agent and a contract employee;
 - “financial institution” means a bank or authorized foreign bank within the meaning of section 2 of the *Bank Act* (Canada), a credit union to which the *Credit Union Act* applies, or a corporation registered under the *Trust and Loan Companies Act*;
 - “lawyer” has the same meaning as in the *Legal Profession Act*;
 - “licence” means a valid licence issued pursuant to this Act;
 - “licensee” means a person who holds a licence;
 - “Minister” means the member of the Executive Council charged by Governor in Council with the administration of this Act;
 - “mortgage” means any charge on real property or on real and personal property for securing money or money’s worth;

“mortgage administrator” means a person who, on behalf of an investor, engages in one or more of the following activities:

- (a) receiving mortgage payments made by a borrower and remitting those payments to the investor;
- (b) monitoring the performance of a borrower with respect to the borrower’s obligations under the mortgage;
- (c) indicating, by advertisement, notice or sign, that the person is a mortgage administrator;
- (d) undertaking any other prescribed activity;

“mortgage broker” means a person who

- (a) functions for a fee as an intermediary between a borrower and a lender in securing a mortgage from a lender;
- (b) by advertisement, notice or sign, indicates that the person is a mortgage broker; or
- (c) undertakes any other prescribed activity;

“mortgage brokerage” means a corporation, partnership or sole proprietorship that engages or employs mortgage brokers or associate mortgage brokers to carry on the business of brokering mortgages;

“mortgage lender” means a person who

- (a) as a business or in the course of business extends credit secured by real property, and includes the person’s agent or assignees; or
- (b) by advertisement, notice or sign, indicates that the person is a mortgage lender;

“person” includes a partnership;

“prescribed” means prescribed by the regulations;

“Registrar” means the person appointed by the Minister as Registrar of Mortgage Regulation under this Act;

“trust money” means any money received by a mortgage brokerage or a mortgage administrator, but does not include money that is clearly received as payment to the mortgage brokerage or mortgage administrator for fees or other remuneration earned by the mortgage brokerage or mortgage administrator, as the case may be;

“trust property” means

- (a) trust money; and
- (b) a mortgage held in the name of a mortgage administrator, but only if another person
 - (i) holds an interest in that mortgage, or
 - (ii) is entitled to share in the proceeds of that mortgage.

(2) For the purpose of this Act, a person is considered to be carrying on business in the Province if

(a) the person solicits, provides, promotes, advertises, markets, sells or distributes any products or services by any means that cause communication from the person or the person's agents or representatives to reach a person in the Province;

(b) the person has a resident agent or representative or maintains an office or place of business in the Province;

(c) the person purports to carry on business in the Province; or

(d) the person otherwise carries on business in the Province. 2012, c. 11, s. 2.

Act does not apply

3 (1) This Act does not apply to a person or class of persons exempted by the regulations.

(2) An exemption from the requirement to be licensed created by the regulations may be limited so as to allow the persons or classes of persons exempted to engage, without being licensed, only in prescribed types of transactions. 2012, c. 11, s. 3.

Registrar

4 (1) The Minister shall, in accordance with the *Civil Service Act*, appoint a person to be the Registrar of Mortgage Regulation.

(2) The Registrar is responsible to the Minister for the administration of this Act and the regulations. 2012, c. 11, s. 4.

Deputy Registrar

5 (1) The Minister shall, in accordance with the *Civil Service Act*, appoint a person to be a Deputy Registrar of Mortgage Regulation.

(2) The Minister may, in accordance with the *Civil Service Act*, appoint such additional Deputy Registrars as may be required to assist the Registrar in the performance of the Registrar's duties.

(3) A Deputy Registrar appointed under subsection (1) or (2) may perform any of the duties and exercise any of the powers of the Registrar as directed by the Registrar and shall perform such other duties as directed by the Minister. 2012, c. 11, s. 5.

Experts

6 With the permission of the Minister, the Registrar may engage accountants, actuaries and other professionally or technically qualified persons to assist the Registrar in the administration and enforcement of this Act and the regulations. 2012, c. 11, s. 6.

Registers

7 (1) The Registrar shall create and maintain a public register or registers of mortgage lenders, mortgage brokerages, mortgage brokers, associate mortgage brokers and mortgage administrators.

(2) The register or registers referred to in subsection (1) must contain the prescribed information.

(3) Unless restricted by the regulations, a person may examine or make a copy of the contents of any register referred to in subsection (1). 2012, c. 11, s. 7.

MORTGAGE TERMS AND CONDITIONS

Prepayment

8 (1) For the purpose of this Section, “prepayment” means the prepayment in full or in part of the outstanding indebtedness secured by the mortgage before the completion of the term.

(2) Every mortgage entered into or renewed on or after June 30, 1985, must state whether the mortgage may be prepaid in full or in part and, where the mortgage may be prepaid, the mortgage must state the terms of prepayment.

(3) Where a mortgage is silent with respect to prepayment, it may be prepaid without penalty at any time. 2012, c. 11, s. 8.

Right to assignment

9 Notwithstanding any stipulation to the contrary, where a mortgagor is entitled to redeem the mortgage or where the mortgagee demands payment of the mortgage by the mortgagor, the mortgagor, upon payment of any balance outstanding in respect of the mortgage, may require the mortgagee, instead of giving a release of mortgage, to assign the mortgage to such third person as the mortgagor directs, and the mortgagee is bound to assign the mortgage accordingly. 2012, c. 11, s. 9.

Effect of failure to comply

10 Failure to comply with the provisions of this Act does not affect the validity of a charge on real property secured by a mortgage. 2012, c. 11, s. 10.

Prescribed terms and conditions

11 Every mortgage is subject to the prescribed terms and conditions. 2012, c. 11, s. 11.

LICENSING

Licences

12 (1) The following classes of licence may be issued by the Registrar:

- (a) mortgage lender;
- (b) mortgage brokerage;

- (c) mortgage broker;
- (d) associate mortgage broker;
- (e) mortgage administrator.

(2) Every mortgage lender, mortgage brokerage, mortgage broker, associate mortgage broker and mortgage administrator carrying on business in the Province must hold a valid licence under this Act unless exempted from the requirement to have such a licence. 2012, c. 11, s. 12.

Eligibility

13 Only an individual is eligible to apply for a mortgage broker licence or associate mortgage broker licence. 2012, c. 11, s. 13.

Application for licence

14 (1) An application for a licence to carry on business in the Province under this Act as a mortgage lender, mortgage brokerage, mortgage broker, associate mortgage broker or mortgage administrator must be made to the Registrar, in the form provided by the Registrar.

(2) Upon receipt of an application for a licence or the renewal of a licence and upon payment of the prescribed fee, the Registrar shall issue a licence to the applicant or renew the applicant's licence if the Registrar is satisfied that the applicant satisfies all the requirements of this Act and the regulations respecting licensing.

(3) Where the Registrar is not satisfied that an applicant satisfies all the requirements of this Act and the regulations respecting licensing or where the Registrar is of the opinion that it is not in the public interest to issue a licence to the applicant or renew the applicant's licence, the Registrar may, subject to Section 24, refuse to issue the licence to the applicant or renew the applicant's licence. 2012, c. 11, s. 14.

Effect of licence

15 (1) A mortgage brokerage licence authorizes the licensee to engage or employ mortgage brokers.

(2) A mortgage broker licence authorizes the licensee to broker mortgages on behalf of the mortgage brokerage named on the licence.

(3) An associate mortgage broker licence authorizes the licensee to broker mortgages on behalf of the mortgage broker named on the licence while acting under the supervision of a licensed mortgage broker.

- (4) A mortgage administrator licence authorizes the licensee to
- (a) carry on the business of administering mortgages; and
 - (b) receive and hold trust property in the course of that business.

(5) A mortgage lender licence authorizes the licensee to carry on the business of lending money on the security of mortgages. 2012, c. 11, s. 15.

Licence terms and conditions

16 (1) Subject to Section 24, at the time a licence is issued, renewed or reinstated, the Registrar may attach any terms and conditions to the licence that the Registrar considers necessary.

(2) Subject to Section 24, at any time after a licence is issued, renewed or reinstated, the Registrar may do all or any of the following:

- (a) amend, modify or vary the terms and conditions attached to the licence;
- (b) attach new terms and conditions to the licence;
- (c) repeal the terms and conditions and substitute new terms and conditions in their place.

(3) A licensee shall comply with the terms and conditions attached to the licensee's licence. 2012, c. 11, s. 16.

Suspension or cancellation of licence

17 (1) The Registrar may, in accordance with this Act and the regulations, suspend or cancel a licence

- (a) on any ground on which the Registrar might have refused to issue the licence pursuant to subsection 14(3);
- (b) if a licensee has failed to comply with this Act or the regulations; or
- (c) in accordance with Section 18.

(2) Where the Registrar considers it appropriate to do so, and on receipt of any prescribed reinstatement fee, the Registrar may reinstate a licence that has been suspended. 2012, c. 11, s. 17.

Automatic suspension

18 (1) A licence issued to a mortgage brokerage is automatically suspended if the mortgage brokerage ceases to have at least one mortgage broker authorized to broker mortgages on its behalf.

(2) A licence issued to a mortgage broker or an associate mortgage broker is automatically suspended if

- (a) the mortgage broker or associate mortgage broker ceases to be authorized to act on behalf of the mortgage brokerage named on the licence; or
- (b) the mortgage brokerage named on the licence has its licence suspended or cancelled.

(3) In the circumstances referred to in subsections (1) and (2), the Registrar may

- (a) reinstate the suspended licence if the prescribed circumstances are met and any prescribed reinstatement fee has been paid; or

(b) cancel the licence if it has not been reinstated within the prescribed period. 2012, c. 11, s. 18.

Licence not transferable or assignable

19 A licence issued or reinstated pursuant to this Act is not transferable or assignable. 2012, c. 11, s. 19.

Request for further information or material

20 (1) At any time, the Registrar may

(a) require an applicant or a licensee to submit to the Registrar such further information or material as the Registrar considers reasonably necessary; and

(b) require verification, by affidavit or otherwise, of any information or material submitted to the Registrar pursuant to clause (a).

(2) An applicant or licensee who receives a request from the Registrar pursuant to subsection (1) shall comply with that request within the period specified by the Registrar. 2012, c. 11, s. 20.

Notice of change of information

21 A licensee shall immediately notify the Registrar in writing of any change to a business address, facsimile number or electronic address provided in an application pursuant to Section 14. 2012, c. 11, s. 21.

Notice of change of circumstances

22 An applicant or licensee shall, within the prescribed period, notify the Registrar in writing of any change of circumstances. 2012, c. 11, s. 22.

No action to enforce payment unless licensed

23 No person shall commence an action or proceeding for a fee, commission or to be otherwise remunerated for services related to mortgage brokering or administering in the Province, unless, at the time the person was providing such services, the person was licensed to do so or was not required to be licensed to do so. 2012, c. 11, s. 23.

Opportunity to be heard

24 (1) In this Section, “action” means

(a) an action that the Registrar may take pursuant to subsection 14(3), Section 16 or clause 17(1)(a) or (b); or

(b) an order that the Registrar may make pursuant to subsection 73(1), 75(2) or 77(1), (2) or (3).

(2) Before taking an action, the Registrar shall give the person who is the subject of the action a written notice

(a) setting out the action proposed to be taken by the Registrar and the grounds that, in the Registrar’s opinion, justify the proposed action; and

(b) informing the person of the person's right to make representations to the Registrar respecting why the action should not be taken.

(3) A person to whom a notice is sent pursuant to subsection (2) may, within 15 days after receiving that notice, advise the Registrar that

(a) the person requests an oral hearing; or

(b) the person wishes to make written representations to the Registrar respecting why the action should not be taken.

(4) A person who requests an oral hearing pursuant to clause (3)(a) shall, within seven days after requesting the hearing, contact the Registrar and arrange a date, time and place for the hearing.

(5) Written representations made pursuant to clause (3)(b) must be received by the Registrar within 30 days after the person receives the notice pursuant to subsection (2).

(6) The Registrar may take the actions stated in the notice without considering any representations of the person if the person fails to

(a) advise the Registrar in accordance with subsection (3);

(b) meet the requirements of subsection (4) or (5) within the required time; or

(c) appear on the date and at the time and place arranged for the hearing without the prior approval of the Registrar.

(7) The Registrar may extend the periods referred to in subsection (3), (4) or (5) if, in the Registrar's opinion, it is appropriate to do so.

(8) Nothing in this Section requires the Registrar to give an oral hearing to any person who has made written representations in accordance with this Section.

(9) Notwithstanding subsection (2), where the Registrar considers it necessary and in the public interest to take immediate action, the Registrar may immediately do any of the things described in Section 16, clause 17(1)(a) or (b) or subsection 75(2) without giving the person an opportunity to be heard, but the Registrar shall give the person an opportunity to make written representations or attend a hearing before the Registrar within 15 days after the date on which the Registrar takes the action.

(10) Upon holding a hearing or receiving a person's written representations pursuant to this Section, the Registrar shall, within a reasonable period

(a) consider the submissions and make a decision;

(b) notify the person, in writing, of the Registrar's decision;

(c) provide written reasons for the Registrar's decision;

and

(d) provide the person with information respecting the right of appeal pursuant to Section 78. 2012, c. 11, s. 24.

MORTGAGE LENDERS

Compliance officer

25 (1) Every mortgage lender shall designate an individual who satisfies the prescribed criteria to act as a compliance officer.

(2) A compliance officer shall

(a) act as a liaison or contact person with the Registrar at all times; and

(b) ensure that the mortgage lender is acting at all times in compliance with this Act and the regulations. 2012, c. 11, s. 25; 2017, c. 9, s. 35.

Duty to ensure compliance

26 Every mortgage lender shall ensure that every employee and agent authorized to act on the mortgage lender's behalf complies with all applicable requirements established pursuant to this Act. 2012, c. 11, s. 26.

Duty to provide prescribed information

27 Every mortgage lender shall provide to a borrower, within the prescribed period, the prescribed information in the prescribed manner. 2012, c. 11, s. 27.

BROKERING MORTGAGES

Principal broker

28 (1) Every mortgage brokerage shall designate one individual who

(a) has a mortgage broker licence; and

(b) satisfies any other prescribed criteria,

to act as a principal broker.

(2) A principal broker shall

(a) designate a mortgage broker to act as a supervisor for each associate mortgage broker authorized to act on behalf of the mortgage brokerage;

(b) ensure that no associate mortgage broker brokers mortgages except under the supervision of a mortgage broker designated pursuant to clause (a);

(c) ensure that the mortgage brokerage is acting at all times in compliance with this Section and Sections 29 to 33; and

(d) exercise any other prescribed powers and perform any other prescribed duties. 2012, c. 11, s. 28.

Prohibitions re brokering mortgages

29 No mortgage brokerage shall

(a) authorize or allow an unlicensed individual, or an individual whose licence is under suspension, to broker mortgages on the mortgage brokerage's behalf; or

(b) authorize or allow a mortgage broker or associate mortgage broker to act on the mortgage brokerage's behalf if the mortgage broker or associate mortgage broker has another mortgage brokerage named on the mortgage broker's licence. 2012, c. 11, s. 29.

Duty to ensure compliance

30 Every mortgage brokerage shall ensure that every mortgage broker and associate mortgage broker authorized to act on the mortgage brokerage's behalf complies with all applicable requirements established pursuant to this Act. 2012, c. 11, s. 30.

Duty to act in borrower's best interests

31 Subject to Section 33, every mortgage brokerage shall act in the best interests of the borrower. 2012, c. 11, s. 31.

Duties owed to borrower

32 (1) Every mortgage brokerage required to act in the best interests of a borrower pursuant to Section 31 shall

(a) provide to the borrower, within the prescribed period, the prescribed information, in the prescribed manner;

(b) determine the mortgage loan that is most suitable for the borrower in accordance with the prescribed criteria;

(c) subject to subsection (2), provide to the borrower, in the prescribed manner, a written assessment of the determination made pursuant to clause (b) that contains the prescribed information at least one business day before the earlier of

(i) the day on which the borrower commits to entering into the mortgage, and

(ii) the day on which the borrower makes any payment in connection with the mortgage, including any application fee paid by the borrower in connection with the mortgage; and

(d) obtain a written acknowledgement from the borrower indicating that the written assessment referred to in clause (c) was provided to the borrower.

(2) The borrower may, having received legal advice, waive the requirement that the written assessment required to be provided pursuant to clause (1)(c) be provided at least one business day before the earlier of days referred to in subclauses (1)(c)(i) and (ii). 2012, c. 11, s. 32; 2017, c. 9, s. 36.

Duty to act in private investor's best interests

33 (1) A mortgage brokerage shall act in the best interests of the private investor if the mortgage brokerage

- (a) solicits the private investor to make an investment in a mortgage;
- (b) negotiates or arranges an investment in a mortgage by the private investor; or
- (c) provides advice to the private investor with respect to the appropriateness of making a particular investment in a mortgage.

(2) A mortgage brokerage that is required to act in the best interests of a private investor pursuant to subsection (1) shall ensure that the borrower is represented by another mortgage brokerage. 2012, c. 11, s. 33.

Restrictions on mortgage brokers and associate mortgage brokers

34 (1) No mortgage broker shall act on behalf of a mortgage brokerage other than the mortgage brokerage named on the mortgage broker's licence.

(2) No associate mortgage broker shall act on behalf of a mortgage brokerage other than the mortgage brokerage named in the associate mortgage broker's licence. 2012, c. 11, s. 34.

MORTGAGE ADMINISTRATORS

Compliance officer

35 (1) Every licensed mortgage administrator shall designate one individual who satisfies the prescribed criteria to act as a compliance officer.

- (2) A compliance officer shall
- (a) act as a liaison or contact person with the Registrar at all times;
 - (b) ensure that the mortgage administrator is acting at all times in compliance with this Act and the regulations. 2012, c. 11, s. 35; 2017, c. 9, s. 37.

Duty to ensure compliance

36 Every mortgage administrator shall ensure that every employee and agent authorized to act on the mortgage administrator's behalf complies with all applicable requirements established pursuant to this Act. 2012, c. 11, s. 36.

Duty to provide prescribed information

37 Every mortgage administrator shall provide to a lender and a borrower, within the prescribed period, the prescribed information in the prescribed manner. 2012, c. 11, s. 37.

Written agreement required

38 No mortgage administrator shall administer a mortgage on behalf of a private investor unless the mortgage administrator has entered into a written agreement with that private investor that

- (a) includes the prescribed terms and conditions; and
- (b) contains the prescribed information. 2012, c. 11, s. 38.

Duty to act in private investor's best interests

39 Every mortgage administrator that administers a mortgage on behalf of a private investor must act in the best interests of the private investor. 2012, c. 11, s. 39.

Disclosure to private investor

40 (1) Before entering into an agreement with a private investor in accordance with Section 38, a mortgage administrator shall provide the private investor with a statement in the prescribed manner disclosing the prescribed information.

(2) Where, at any time, there is a change to any of the information required to be disclosed pursuant to subsection (1), the mortgage administrator shall provide the private investor with an additional statement in accordance with subsection (1) within the prescribed period. 2012, c. 11, s. 40.

Copy of agreement to be provided

41 Where a mortgage administrator and a private investor enter into an agreement in accordance with Section 38, the mortgage administrator shall provide a copy of the agreement to the private investor within 10 days. 2012, c. 11, s. 41.

REGULATION OF MORTGAGE LENDERS,
MORTGAGE BROKERAGES, MORTGAGE BROKERS,
ASSOCIATE MORTGAGE BROKERS
AND MORTGAGE ADMINISTRATORS

Duty to maintain records

42 (1) In this Section, "record" means a writing, or any information in a form that can be converted into a writing, 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,

respecting the finances or business of a mortgage lender, mortgage brokerage, mortgage broker, associate mortgage broker or mortgage administrator.

(2) Every mortgage lender, mortgage brokerage and mortgage administrator shall ensure that the following records are kept:

- (a) complete and accurate financial records of the licensee's operations in the Province that include the prescribed information;
- (b) complete and accurate records respecting all the information to be disclosed and documentation to be provided to borrowers or private investors pursuant to this Act;
- (c) complete and accurate records respecting all written agreements that the mortgage brokerage or mortgage administrator has entered into;

- (d) in the case of a mortgage administrator, the records required pursuant to Sections 47 and 48;
 - (e) any other prescribed records.
- (3) Every mortgage lender, mortgage brokerage and mortgage administrator shall
- (a) retain the records referred to in this Section
 - (i) for the prescribed period,
 - (ii) in the prescribed manner, and
 - (iii) at the prescribed location; and
 - (b) make available for inspection by the Registrar the records referred to in this Section during regular business hours
 - (i) at the place of business of the mortgage lender, mortgage brokerage or mortgage administrator in the Province, or
 - (ii) at any other location approved by the Registrar.
- 2012, c. 11, s. 42.

Prohibition against unfair or deceptive act or practice

43 No licensee shall engage in any unfair or deceptive act or practice with respect to a transaction or proposed transaction involving a mortgage. 2012, c. 11, s. 43.

Prohibition against guarantee of investment in mortgage

44 No licensee shall directly or indirectly offer any guarantee with respect to an investment in a mortgage. 2012, c. 11, s. 44.

Prescribed requirements and prohibitions

45 (1) Every licensee shall comply with any other prescribed requirements.

(2) No licensee shall contravene any other prescribed prohibitions. 2012, c. 11, s. 45.

TRUST PROPERTY

“record” defined

46 In Sections 47 and 48, “record” has the same meaning as in subsection 42(1). 2012, c. 11, s. 46.

Prohibition against receiving or holding trust property

47 No licensee may receive or hold trust property unless it is licensed to carry on business as a mortgage administrator under this Act. 2012, c. 11, s. 47.

Requirements re records

48 In addition to the requirements set out in Section 42, every mortgage administrator shall

- (a) ensure that the records that are kept distinguish between
 - (i) money and assets pertaining to the operation of the business, and
 - (ii) money and mortgages received or held in trust by the business;
- (b) ensure that records are kept showing, for each mortgage administered by the licensee, particulars of all transactions connected with that mortgage;
- (c) ensure that any other prescribed records are
 - (i) kept, reviewed and reconciled in the prescribed manner, and
 - (ii) retained in accordance with subsection 42(3). 2012, c. 11, s. 48.

Records relating to trust property

49 Unless otherwise authorized in writing by the Registrar, every mortgage administrator shall keep records of all transactions involving trust property received or held on behalf of residents of the Province separate and apart from records of those transactions relating to trust property received or held on behalf of residents of other jurisdictions. 2012, c. 11, s. 49.

Trust property to be kept separate

50 Every mortgage administrator that receives or holds trust property shall keep all trust property separate and apart from all other money and property belonging to the licensee or its employees. 2012, c. 11, s. 50.

Receipt of trust money

- 51** Every mortgage administrator receiving trust money shall
- (a) deposit the money into a trust account that is
 - (i) held with a prescribed financial institution in the Province,
 - (ii) held in the name of the licensee as shown on its licence,
 - (iii) designated as a trust account by the financial institution,
- within the prescribed period; and
- (b) comply with Sections 47 to 50, this Section and Sections 52 to 53 and the regulations made pursuant to those Sections. 2012, c. 11, s. 51.

Administration of trust money

52 Where a mortgage administrator receives trust money in the form of periodic payments with respect to a mortgage administered by the mortgage administrator on behalf of a private investor, the mortgage administrator

- (a) shall pay that money to the private investor within 30 days after receiving it; and
- (b) shall not pay any interest earned on that money to the private investor. 2012, c. 11, s. 52.

Administration of trust account

53 (1) No mortgage administrator shall

- (a) without the prior approval of the Registrar
 - (i) open a new trust account,
 - (ii) move an existing trust account,
 - (iii) close a trust account, or
 - (iv) open or maintain more than one trust account with respect to trust money held on behalf of residents of the Province;
- (b) withdraw any money from a trust account that would result in a negative balance in an individual account in its trust ledger;
- (c) withdraw any money from a trust account except in accordance with the trust agreement relating to that money;
- (d) authorize a financial institution to deduct from a trust account any service charge or any other charge; or
- (e) pay any personal or general office expense from a trust account.

(2) Every mortgage administrator shall keep trust money held on behalf of residents of the Province separate and apart from any trust money held on behalf of residents of other jurisdictions. 2012, c. 11, s. 53.

ANNUAL FILING REQUIREMENTS**Annual return**

54 Every licensee shall provide the Registrar with an annual return within the prescribed period that contains the prescribed information. 2012, c. 11, s. 54.

Financial statement

55 In each fiscal year, every mortgage administrator shall provide the Registrar with a financial statement for the preceding fiscal year that

- (a) contains and is accompanied by the prescribed information and documentation; and
- (b) is delivered to the Registrar within the prescribed period after the end of the fiscal year to which it relates. 2012, c. 11, s. 55.

Interim financial statements

56 Every mortgage administrator licensed pursuant to this Act shall, upon request, provide the Registrar with interim financial statements

- (a) for the period specified by the Registrar;
 - (b) containing any information the Registrar considers necessary;
- and
- (c) within the period specified by the Registrar. 2012, c. 11, s. 56.

Financial reporting standards

57 (1) Subject to subsection (2),

(a) every financial statement prepared for the purpose of this Act or the regulations must be prepared in accordance with generally accepted accounting principles as set out in the CPA Canada Handbook, as amended from time to time; and

(b) every auditor who makes an examination and prepares a report for the purpose of this Act or the regulations must conduct the examination and prepare the report in accordance with generally accepted auditing standards as set out in the CPA Canada Handbook, as amended from time to time.

(2) Any modification established by the Registrar to the principles, standards or practices referred to in clauses (1)(a) and (b) must be taken into account in the preparation of the documents referred to in clauses (1)(a) and (b). 2012, c. 11, s. 57; 2015, c. 30, s. 151.

ADVERTISING AND COMMUNICATIONS

Advertising

58 (1) No licensee shall advertise, or otherwise indicate that the licensee is a mortgage lender, mortgage brokerage, mortgage broker, associate mortgage broker or mortgage administrator, using a name other than the name set out on the licensee's licence.

(2) No mortgage lender, mortgage brokerage or mortgage administrator shall advertise the business or any products or services offered by that business unless the advertisement

- (a) shows the name of the business as set out on its licence; and
- (b) contains the prescribed information.

(3) No mortgage broker or associate mortgage broker shall advertise any product or service offered by the mortgage broker or associate mortgage broker unless the advertisement

- (a) indicates the name of the mortgage brokerage for which the broker or associate mortgage broker is authorized to act; and
- (b) contains the prescribed information. 2012, c. 11, s. 58.

False or misleading advertisement

59 (1) No licensee shall make any false, misleading or deceptive statements in any advertisement, circular, pamphlet or similar material.

(2) Where, in the opinion of the Registrar, a licensee has made a false, misleading or deceptive statement in any advertisement, circular, pamphlet or similar material, the Registrar may order that licensee to stop using that material immediately.

(3) No licensee shall fail to comply with an order of the Registrar issued pursuant to subsection (2). 2012, c. 11, s. 59.

Information to be disclosed in correspondence

60 (1) Subject to subsection (2), every licensee shall disclose the prescribed information in all correspondence and other written material prepared or used in the course of the business.

(2) Subsection (1) does not apply to an advertisement. 2012, c. 11, s. 60.

POWERS OF THE REGISTRAR

Proceedings before Registrar

61 (1) In this Section, “record” includes any information that is recorded or stored in any medium or by means of any device, including a computer or electronic media.

(2) For the purpose of exercising the Registrar’s functions under this Act, the Registrar has all the powers, privileges and immunities of a commissioner appointed under the *Public Inquiries Act*.

(3) The Registrar may issue a summons if the Registrar considers it necessary in order to determine whether a person is complying with a requirement established pursuant to this Act.

(4) Where a person summoned as a witness pursuant to subsection (3) fails or refuses to attend, answer questions or produce records or property in that person’s custody or possession, the person is liable, on application to the Court by the Registrar, to be committed for contempt by the Court in the same manner as if that person were in breach of an order or judgment of the Court.

(5) The Registrar may accept any evidence that is relevant to the inquiry or investigation and is not bound by the rules of law respecting evidence applicable to judicial proceedings.

(6) The Registrar may prescribe the rules, forms and procedures to be followed in proceedings before the Registrar. 2012, c. 11, s. 61.

Provision of information or materials

62 (1) At any time, the Registrar may direct any person to provide the Registrar with any information or material the Registrar reasonably requires for the purpose of this Act and the regulations.

(2) The Registrar may determine a reasonable period within which a person shall provide the information or materials directed to be provided pursuant to subsection (1). 2012, c. 11, s. 62.

Right to receive notice

63 (1) Unless exempted from doing so in the regulations, every licensee and former licensee shall immediately inform the Registrar in writing of any action or proceeding brought in respect of the business or activities that the licensee is, or was, or the former licensee was, authorized to carry on under its licence.

(2) The Registrar is entitled to appear and to be heard, in person or by counsel, in any action or proceeding referred to in subsection (1).

(3) A licensee or former licensee shall provide the Registrar with a copy of any order or judgment of a court with respect to an action or proceeding referred to in subsection (1) as soon as is practicable after the order or judgment is made. 2012, c. 11, s. 63.

Publication of information

64 Notwithstanding the *Freedom of Information and Protection of Privacy Act*, the Registrar may authorize the publication of, or make available to the public and to officials in other jurisdictions, the following information:

- (a) any information appearing on a licence;
- (b) the address of the place of business and mailing address and address for service of a licensee;
- (c) the name of the principal broker designated by a mortgage brokerage licensed pursuant to this Act;
- (d) any other information referred to in Section 62 if, in the opinion of the Registrar, it is in the public interest to do so;
- (e) any decision or order of the Registrar, including the Registrar's written reasons for making the decision or order if, in the Registrar's opinion, it is in the public interest to do so. 2012, c. 11, s. 64.

Additional powers

65 The Registrar may

- (a) conduct studies, inquiries and surveys for the purpose of obtaining information as to what persons are conducting any activities for which persons require licences under this Act, concerning their methods and practices of carrying on business, and to keep informed of developments and changes in those methods and practices;
- (b) consult with and co-operate with licensees and other interested persons and organizations to assist in the attainment of the purpose of this Act;
- (c) establish *ad hoc* advisory committees to inquire into or investigate any matter relating to the administration of this Act or any matter falling within the provisions of this Act or the regulations and to assist or advise

the Registrar with respect to any matter referred to a committee by the Registrar;

(d) consult with any other government or regulatory authority for the purpose of administering or enforcing this Act. 2012, c. 11, s. 65.

INSPECTIONS, INVESTIGATIONS AND ENFORCEMENT

Interpretation of Sections 67 to 77

66 In Sections 67 to 77,

(a) “Act” includes the regulations and any orders or directions of the Registrar issued pursuant to this Act;

(b) “property” includes computer software;

(c) “record” has the same meaning as in subsection 61(1). 2012, c. 11, s. 66.

Inspections

67 (1) The Registrar may make inquiries and conduct examinations of the business and activities of each licensee to ensure that the licensee is complying with the requirements established pursuant to this Act.

(2) Where, in the Registrar’s opinion, a person who is not a licensee is or was required to have a licence, the Registrar may make such inquiries and conduct such examinations of the business and activities of the person as the Registrar considers appropriate in the circumstances.

(3) Subject to Sections 4 to 14 of the *Summary Proceedings Act*, the Registrar may do all or any of the following things in the course of making an inquiry or conducting an examination:

(a) enter at any reasonable time and inspect any commercial premises used by a person required to be licensed pursuant to this Act;

(b) enter at any reasonable time premises containing any records or property required to be kept pursuant to this Act or related to the administration of this Act and inspect those records or that property;

(c) require the person and any agent, representative, partner, director, officer or employee of the person to

(i) answer any questions that may be relevant to the inspection, and

(ii) provide the Registrar with all reasonable assistance, including using any computer hardware or software or any other data storage, processing or retrieval device or system to produce information;

(d) in order to produce information, use any computer hardware or software or any other data storage, processing or retrieval device or system that is used in connection with the business or activities of any person required to be licensed pursuant to this Act;

(e) remove for examination and copy anything that may be relevant to the inquiry or examination, including removing any computer hardware or software or any other data storage, processing or retrieval device or system in order to produce information.

(4) The Registrar may serve a written demand on any person requiring that person to produce any records or property

- (a) required to be kept pursuant to this Act; or
- (b) related to the administration of this Act.

(5) No person on whom a written demand is served pursuant to this Section shall fail to produce the records or property referred to in the written demand within the period specified in the written demand.

(6) Where the Registrar demands any records or property pursuant to this Section, the Registrar may examine the records or property and make copies of the records with reasonable dispatch and promptly return the originals of the records to the person who produced them.

(7) Where the Registrar requires a person to answer questions, to produce a record or other property or to provide assistance in accordance with this Section, the person shall do so in the manner and within the period specified by the Registrar.

(8) The Registrar shall

- (a) give a receipt for anything that the Registrar removes for examination and copying;
- (b) promptly return anything removed pursuant to this Section to the place from which it was removed or any other place agreed to by the Registrar and the person who furnished it; and
- (c) take all reasonable steps to ensure that, where a record is taken, a copy of the record is left at the premises to allow business to be carried on. 2012, c. 11, s. 67.

Travel costs

68 (1) Where the Registrar or any person engaged, appointed or retained by the Registrar for the purpose of assisting the Registrar in carrying out an inspection or investigation is required to travel outside the Province to conduct an inspection or investigation of a person, the Registrar may direct the person being inspected or investigated to pay all of the reasonable costs associated with the inspection or investigation.

(2) No person shall fail to pay an amount that the person is directed to pay pursuant to subsection (1). 2012, c. 11, s. 68.

Offences and penalties

69 (1) Every person who contravenes this Act or the regulations or who fails to comply with an order or direction given by the Registrar pursuant to this Act is guilty of an offence.

(2) Every person who makes a false or misleading statement in any application or in any proceeding or in response to any inspection or investigation pursuant to this Act is guilty of an offence.

(3) Every person who is guilty of an offence is liable on summary conviction

(a) in the case of an individual, to a fine of not more than \$500,000 or to imprisonment for a term of not more than one year, or to both a fine and imprisonment; or

(b) in the case of a corporation, to a fine of not more than \$1,000,000.

(4) Where a corporation contravenes this Act or the regulations, a director or officer of the corporation who authorized, allowed or acquiesced in the contravention is also guilty of an offence and liable on summary conviction to the penalties set out in subsection (3), regardless of whether the corporation has been prosecuted or convicted. 2012, c. 11, s. 69.

Compliance orders and restitution

70 Where a court convicts a person of an offence, the court may, in addition to any penalty it may impose, do all or any of the following:

(a) order that person to comply with the provision of this Act with respect to which that person was convicted;

(b) where the court is satisfied that the convicted person has acquired any monetary benefits or that monetary benefits have accrued to the convicted person or to another person associated with or related to the convicted person,

(i) order the convicted person to pay an additional fine in an amount equal to the amount of the monetary benefits,

(ii) order the convicted person to pay compensation or make restitution to any person to whom the monetary benefits should be paid. 2012, c. 11, s. 70.

Offences re hindering inspection, investigation or proceeding

71 (1) No person shall, or shall attempt to, destroy, alter, conceal or withhold any information, property or thing reasonably required for an inspection, investigation or proceeding pursuant to this Act.

(2) No person shall hinder or interfere with the Registrar, or any employee, appointee or agent of the Registrar, in the performance of the Registrar's powers, functions and duties pursuant to this Act.

(3) A person contravenes subsection (1) if the person knows or ought reasonably to know that an inspection, investigation or proceeding is to be conducted and takes any action referred to in subsection (1) before the inspection, investigation or proceeding. 2012, c. 11, s. 71.

Limitation on prosecution

72 (1) A prosecution for an offence under this Act or the regulations may not be commenced more than three years after the later of

- (a) the date on which the offence was committed; and
- (b) the date on which evidence of the offence first came to the attention of the Registrar.

(2) Where the Registrar imposes an administrative penalty on a person, a prosecution for an offence under this Act for the same contravention must not be brought against the person. 2012, c. 11, s. 72; 2018, c. 43, s. 25.

Administrative penalties

73 (1) Subject to subsection (3) and Sections 24 and 74, where the Registrar is satisfied that a person has contravened a provision of this Act, the Registrar may make an order imposing all or any of the following penalties:

- (a) in the case of an individual, an administrative penalty of not more \$5,000;
- (b) in the case of a corporation, an administrative penalty of not more than \$50,000;
- (c) a private or public reprimand;
- (d) a penalty obliging the person to pay the cost of producing material specified by the Registrar to promote education or knowledge in areas related to activities of mortgage lenders, mortgage brokerages, mortgage brokers, associate mortgage brokers or mortgage administrators, provided that the total penalty for the same contravention will not exceed the maximum amount specified in clause (a) or (b), as applicable.

(2) Before the Registrar imposes an administrative penalty on a person, the Registrar shall consider the following:

- (a) previous enforcement actions for contraventions of a similar nature by the person;
- (b) the gravity and magnitude of the contravention;
- (c) the extent of the harm to others resulting from the contravention;
- (d) whether the contravention was repeated or continuous;
- (e) whether the contravention was deliberate;
- (f) any economic benefit derived by the person from the contravention;
- (g) the person's efforts to correct the contravention.

(3) The written notice required to be provided to the person pursuant to subsection 24(2) must, in addition to the requirements set out in that subsection,

- (a) set out the facts and circumstances that, in the Registrar's opinion, render the person liable to a penalty; and

(b) specify the amount of the penalty that the Registrar considers appropriate in the circumstances.

(4) Upon holding a hearing or receiving a person's written representations pursuant to Section 24, the Registrar shall, in addition to the requirements set out in subsection 24(10), provide a notice to the person who is the subject of the order that sets out a date by which the penalty must be paid in full.

(5) Any penalty imposed pursuant to this Section is a debt due to and recoverable by the Crown in right of the Province and may be recovered in any manner authorized by law.

(6) Where the time for filing an appeal of an order of the Registrar made pursuant to this Section has passed and there is no appeal or where an appeal has been dismissed, the order may, for the purpose of enforcement of the order, be registered with the Court and may be enforced in the same manner as a judgment of that Court. 2012, c. 11, s. 73.

Limitations on administrative penalties

74 (1) A penalty must not be assessed by the Registrar more than two years after the date on which the alleged contravention occurred.

(2) A person who has been charged with an offence under this Act shall not be subject to an administrative penalty in respect of the circumstances that gave rise to the charge. 2012, c. 11, s. 74.

Power of Registrar to order compliance

75 (1) The Registrar may issue an order pursuant to subsection (2) if the Registrar is satisfied that it is in the public interest or that the person is not complying with this Act.

(2) Subject to Section 24, in the circumstances referred to in subsection (1), the Registrar may order a person to do all or any of the following:

- (a) cease doing an act or cease failing or neglecting to do an act;
- (b) comply with this Act. 2012, c. 11, s. 75.

Power of Court to order compliance

76 (1) Where the Registrar is of the opinion that a person has failed to comply with this Act, the Registrar may apply to the Court for all or any of the following:

- (a) an order directing the person to comply with this Act or restraining the person from contravening this Act;
- (b) an order directing the directors and officers of a corporation or the partners of a partnership to comply with this Act or restraining the directors and officers or partners from contravening this Act.

(2) On an application pursuant to subsection (1), the Court may make any order that the Court considers necessary. 2012, c. 11, s. 76.

Costs

77 (1) Subject to Section 24, after conducting a proceeding respecting a person, including an inspection or investigation pursuant to this Act, the Registrar may order the person to pay the costs of or related to the proceeding if the Registrar is satisfied that the person whose affairs were the subject of the proceeding has not complied with a provision of this Act.

(2) For the purpose of subsection (1), the costs that the Registrar may order the person to pay include all or any of the following:

- (a) costs incurred with respect to services provided by a person engaged, appointed or retained by the Registrar for the purpose of the proceeding;
- (b) costs of obtaining a warrant;
- (c) costs of matters preliminary to the proceeding;
- (d) costs for time spent by the Registrar, by any members of the public service of the Province employed in the office of the Registrar or by any persons engaged, appointed or retained by the Registrar;
- (e) fees paid to a witness;
- (f) costs of legal services provided to the Registrar.

(3) Where a person is convicted of an offence pursuant to this Act, the Registrar may, subject to Section 24, order the person to pay the costs of any investigation carried out with respect to that offence, including any costs incurred with respect to either or both of the following:

- (a) the provision of services by persons engaged, appointed or retained by the Registrar;
- (b) the appearance of any witnesses.

(4) An order of the Registrar made pursuant to this Section may, for the purpose of enforcement of the order, be registered with the Court and may be enforced in the same manner as a judgment of that Court.

(5) The *Civil Procedure Rules* respecting costs do not apply to costs referred in this Section.

(6) No provision of this Act is to be interpreted as precluding a court from ordering costs payable to the Registrar.

(7) Where costs are awarded to the Registrar in any proceeding, the costs of the Registrar must not be disallowed or reduced because the lawyer representing the Registrar is a member of the public service of the Province. 2012, c. 11, s. 77.

APPEALS**Appeal to Court**

78 (1) A decision or order of the Registrar made pursuant to this Act is final.

(2) Any person who is directly affected by an order or decision of the Registrar made pursuant to this Act may appeal the order or decision to the Court only on the ground of an error of law.

(3) An appeal must not be conducted as a trial *de novo*.

(4) An appeal must be made within 30 days after receiving a decision or order of the Registrar.

(5) An appellant shall serve a notice of appeal on the Registrar and any other person who the Court orders to be served. 2012, c. 11, s. 78.

Appeal documents

79 On receipt of a notice of appeal pursuant to subsection 78(5), the Registrar shall file with the Court true copies of

- (a) all documents and materials that were before the Registrar when the Registrar made the decision or order;
- (b) the Registrar's decision or order; and
- (c) the Registrar's written reasons for the decision or order. 2012, c. 11, s. 79.

Decision by Court

80 (1) On hearing an appeal pursuant to Section 78, the Court may

- (a) dismiss the appeal;
- (b) allow the appeal;
- (c) allow the appeal subject to terms and conditions;
- (d) vary the decision or order of the Registrar;
- (e) refer the matter back to the Registrar for
 - (i) further consideration, and
 - (ii) a decision or order; or
- (f) make any other order that the Court considers appropriate.

(2) The Court may make any order as to costs on an appeal that the Court considers appropriate. 2012, c. 11, s. 80.

No automatic stay

81 The commencement of an appeal pursuant to Section 78 does not stay the effect of the decision or order appealed from, unless a judge of the Court orders otherwise. 2012, c. 11, s. 81.

GENERAL

Power to review, rescind, amend or vary order

82 (1) Upon the request of any person directly affected by an order of the Registrar or on the Registrar's own initiative, the Registrar may review any

order made by the Registrar, and, where the Registrar considers that it would not be prejudicial to the public interest, the Registrar may rescind or amend the order or make additional orders for the purpose of

- (a) correcting the original order;
- (b) ensuring compliance with the original order;
- (c) dealing with any material change in circumstances since the original order was issued; or
- (d) interpreting the original order.

(2) Before rescinding or amending an order or making an additional order pursuant to subsection (1), the Registrar shall serve a written notice on persons directly affected by the original order and on any other persons the Registrar considers interested in the original order. 2012, c. 11, s. 82.

No action lies

83 No action or other proceeding lies, and an action or other proceeding must not be instituted, against

- (a) the Crown in right of the Province, the Minister, the Registrar or any member of the public service of the Province employed in the office of the Registrar;
- (b) any representative of the Registrar; or
- (c) any person engaged, appointed or retained by the Registrar to make or conduct any inspection or investigation or to do any other thing pursuant to this Act,

if the person referred to in clause (a), (b) or (c) is acting pursuant to the authority of this Act, for anything in good faith done, caused, allowed or authorized to be done, attempted to be done or omitted to be done pursuant to, or in the exercise or supposed exercise of, any power conferred by this Act or the regulations or in the carrying out, or supposed carrying out, of any function or duty imposed by this Act or the regulations. 2012, c. 11, s. 83.

Registrar and others not compellable witnesses

84 Except in the case of a prosecution respecting a contravention of this Act or the regulations,

- (a) the Registrar or any member of the public service employed in the office of the Registrar;
- (b) any representative of the Registrar; and
- (c) any person engaged, appointed or retained by the Registrar to make or conduct any inspection or investigation or to do any other thing pursuant to this Act,

are not compellable to give evidence in a court or in a proceeding of a judicial nature to which the Registrar is not a party concerning any information obtained by them or that came to their attention in the exercise of the powers or carrying out of the functions or duties of the Registrar pursuant to this Act. 2012, c. 11, s. 84.

Certificate of Registrar as evidence

- 85 (1)** A certificate of the Registrar certifying that
- (a) a person named in the certificate was or was not licensed;
 - (b) a licence was issued to a person on a date set out in the certificate;
 - (c) the licence of a person was suspended, cancelled or reinstated at a particular time; or
 - (d) a licence issued to a person was made subject to terms and conditions,

is admissible in evidence as proof, in the absence of evidence to the contrary, of the facts stated in the certificate without proof of the signature or appointment of the Registrar.

- (2)** A record certified by the Registrar to be a copy of an original record
- (a) is admissible in evidence without proof of the signature or appointment of the Registrar; and
 - (b) has the same probative value as the original record.
- 2012, c. 11, s. 85.

Evidence of carrying on business without licence

86 Where, in a prosecution or proceeding involving an alleged contravention of this Act, it is alleged that a person carried on business as a mortgage lender, mortgage brokerage, mortgage broker, associate mortgage broker or mortgage administrator without a licence, evidence of the person having engaged in one transaction is prima facie evidence that the person is carrying on the business of a mortgage lender, mortgage brokerage, mortgage broker, associate mortgage broker or mortgage administrator, as the case may be. 2012, c. 11, s. 86.

Service

- 87 (1)** Any notice or other document that is required to be served pursuant to this Act or in any proceeding or matter under the jurisdiction of the Registrar may be served
- (a) by personal service made
 - (i) in the case of an individual, on the individual,
 - (ii) in the case of a partnership, on any partner, or
 - (iii) in the case of a corporation, on any officer or director of the corporation;
 - (b) by registered mail addressed to the last known address of the person to be served;
 - (c) in the case of a notice to the public, or to persons who are too numerous to be served individually, by publishing the notice in any manner that the Registrar may direct; or
 - (d) by any other prescribed means.

(2) A notice or document sent by registered mail is deemed to be served on the seventh day following the date of its mailing unless the person to whom it was mailed establishes that, through no fault of the person, the person did not receive the notice or document or received it at a later date.

(3) Service of a notice or document to be sent by any other prescribed means is to be proved in the prescribed manner.

(4) A notice or other document required to be served on the Registrar may be served by

- (a) leaving it at the office of the Registrar with any person appearing to have authority to accept the notice or document;
- (b) registered mail addressed to the address of the office of the Registrar; or
- (c) any other prescribed means.

(5) Any person entitled to be served with a notice or a document may at any time waive, in writing, service of the notice or document.

(6) Service of any notice or document may be proved by affidavit or oral evidence of the person claiming to have served it. 2012, c. 11, s. 87.

Registering order

88 (1) To register an order of the Registrar with the Court pursuant to subsection 73(6) or 77(4), the Registrar may make a certified copy of the order, upon which is the following endorsement, signed by the Registrar:

Register the within with the Supreme Court of Nova Scotia.
Dated this day of , 20. .

.....
Registrar of Mortgage Regulation

(2) The Registrar may forward the certified copy referred to in subsection (1) so endorsed, to a prothonotary of the Court who shall, on receipt of the certified copy, enter it as a record and it is thereupon registered with and enforceable in the same manner as a judgment of that Court. 2012, c. 11, s. 88.

Regulations by Governor in Council

89 (1) The Governor in Council may make regulations

- (a) prescribing the fees to be paid for the issuance of licences, the reinstatement of licences that have been suspended and any other fees for services in connection with the administration of this Act and the regulations, including prescribing and requiring the payment of annual fees for continuous licences;
- (b) authorizing the Registrar to waive all or part of the prescribed fees and prescribing the circumstances in which the Registrar may do so;
- (c) prescribing any matter or thing required or authorized by this Act to be prescribed in the regulations;

(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 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*, 2012, c. 11, s. 89.

Regulations by Minister

90 (1) The Minister may make regulations

(a) prescribing activities for the purpose of the definition of “mortgage administrator”;

(b) prescribing activities for the purpose of the definition of “mortgage broker”;

(c) exempting persons or classes of persons from any or all provisions, in whole or in part, of this Act and the regulations and prescribing the type of transactions to which such persons or classes of persons are limited to engaging in without being licensed;

(d) prescribing the information to be contained in registers created and maintained by the Registrar;

(e) prescribing restrictions on the examination or copying of the contents of a register;

(f) prescribing mortgage terms and conditions;

(g) exempting a mortgage lender, mortgage brokerage, mortgage broker, associate mortgage broker or mortgage administrator carrying on business in the Province from the requirement that the person hold a valid licence under this Act;

(h) prescribing requirements that are to be met and criteria that are to be satisfied respecting applicants for licences, including establishing, with respect to persons or categories of persons to whom the Registrar has issued a licence, standards of conduct, competence and proficiency and standards of training and education, including additional and mandatory continuing training and education requirements and authorizing the Registrar to determine if the requirements have been met and criteria satisfied;

(i) respecting errors and omissions insurance, including prescribing the minimum amount of errors and omissions insurance and the scope of that insurance that an applicant is required to obtain, requiring that the errors and omissions insurance be maintained at all times by a licensee, and requiring proof of that insurance at the time of licensing, or at any time thereafter;

(j) respecting capital requirements, including prescribing the manner of determining the amount of capital that an applicant or licensee is required to maintain, including prescribing

(i) the various classes of capital,

- (ii) the amounts of each class of capital that an applicant or licensee is required to have for various purposes, and
- (iii) the manner of determining the amount of each class of capital;
- (k) prescribing the circumstances that are to be met before the Registrar may reinstate a licence pursuant to Section 18, including prescribing the period within which a licence may be reinstated;
- (l) prescribing changes in circumstances for the purpose of Section 22;
- (m) prescribing the criteria that are to be met by a mortgage lender's compliance officer;
- (n) prescribing the information to be provided to a borrower by a mortgage lender, including prescribing the manner in which and time within which that information is to be provided;
- (o) prescribing the criteria that are to be met by a principal broker and prescribing the powers and duties of a principal broker;
- (p) for the purpose of Section 32, prescribing
 - (i) the information that is to be provided to a borrower, including prescribing the manner in which and the time within which that information is to be provided,
 - (ii) the criteria in accordance with which a mortgage brokerage is to determine the mortgage loan that is most suitable for a borrower, and
 - (iii) the information that is to be contained in the written assessment, including prescribing the manner in which the written assessment is to be provided to the borrower;
- (q) prescribing the criteria that is to be met by a mortgage administrator's compliance officer;
- (r) prescribing the information to be provided to a lender and a borrower by a mortgage administrator, including prescribing the manner in which and time within which that information is to be provided;
- (s) prescribing terms and conditions and other information that are required to be included in an agreement made between a private investor and a mortgage administrator;
- (t) prescribing the information to be provided to a private investor by a mortgage administrator, mortgage brokerage or mortgage lender, including prescribing the manner in which that information is to be provided and the time within which any change to that information is to be provided;
- (u) prescribing information to be included in financial and other records that are required to be maintained by a licensee;
- (v) prescribing the time for, manner in and location at which records are to be maintained by a licensee;

- (w) prescribing any other
 - (i) requirements with which a licensee is required to comply, or
 - (ii) prohibitions that a licensee is required not to contravene,

including prescribing various classes of licensees or activities and prescribing the requirements or prohibitions for those classes of licensees or activities;

- (x) prescribing records that are required to be kept with respect to transactions relating to trust property and respecting the process for making, reviewing and reconciling those records, including requiring that a person or class of persons conduct the review and reconciliation of those records at prescribed intervals;

- (y) prescribing
 - (i) the period within which a licensee is required to deposit trust money into a trust account, and
 - (ii) the financial institutions in which a licensee is allowed to hold a trust account;

- (z) prescribing the information that is required to be contained in an annual return, including prescribing the time within which a licensee is required to provide the annual return to the Registrar;

- (aa) prescribing the information and documentation that is required to be contained in, or accompany, a financial statement, including prescribing the period within which that information and documentation is required to be provided;

- (ab) prescribing the information that is required to be contained in an advertisement;

- (ac) prescribing information that is required to be disclosed in all correspondence and other written material prepared or used by a licensee;

- (ad) respecting the service of documents;

- (ae) prescribing forms required for the administration of this Act;

- (af) requiring that some or all records or documents required pursuant to this Act be stored, retained or submitted in electronic or other form;

- (ag) prescribing the manner in which documents may be electronically stored, retained or submitted;

- (ah) respecting any matter necessary to accommodate changes in technology.

(2) The exercise by the Minister of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*, 2012, c. 11, s. 90; 2017, c. 9, s. 38.

Fees paid under Mortgage Brokers' and Lenders' Registration Act

91 Fees paid for permits under Chapter 291 of the Revised Statutes, 1989, the *Mortgage Brokers' and Lenders' Registration Act*, may be credited toward licensing fees under this Act. 2012, c. 11, s. 91.

CHAPTER M-32

**An Act to Provide for
the Regulation of Motor Carriers**

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

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Short title

1 This Act may be cited as the *Motor Carrier Act*. R.S., c. 292, s. 1.

Interpretation

2 In this Act,

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

“highway” means a highway as defined in the *Motor Vehicle Act*;

“licence” means a licence issued under this Act;

“Minister” means the Minister of Public Works;

“motor carrier” means a person operating, either personally or by another, a motor vehicle with or without trailer attached, as a public passenger vehicle;

“motor vehicle” means a vehicle propelled by any power other than muscular power except steam road rollers and such vehicles as run only on rails or tracks;

“passenger vehicle” means a motor vehicle with a seating capacity of 16 or more persons or a public passenger vehicle;

“public passenger vehicle” means a motor vehicle operated by or on behalf of a person carrying on upon any highway the business of a public carrier of passengers, or passengers and freight, for gain, and includes a school bus;

“school bus” includes a motor vehicle, operated by or under an arrangement with an education entity as defined in the *Education Act*, for transporting pupils and teachers to and from school or for any school purposes, including the transportation of pupils and teachers to and from school social, dramatic, musical or athletic functions or competitions, teachers’ institutes and similar activities;

“trailer” means a vehicle without motive power designed to carry property or passengers wholly on its own structure and to be drawn by a motor vehicle;

“vehicle” means a device in, upon or by which a person or property is or may be transported or drawn upon a highway, and includes a trailer. R.S., c. 292, s. 2; 1990, c. 35, s. 1; 1992, c. 23, s. 1; 1994, c. 23, s. 1; 2011, c. 8, s. 11; 2018, c. 1, Sch. A, s. 123.

Tax on public passenger vehicles

3 (1) Subject to subsection (2), and except as to the payment of fees and taxes in respect of the operation of a public passenger vehicle outside a city or incorporated town, the provisions of this Act do not apply to a public utility as defined in the *Public Utilities Act*.

(2) Every motor carrier, whether a public utility or not, shall, in respect of the operation of any public passenger vehicle within a city or town, pay to such city or town a tax at such rate as is fixed by resolution of the council of the city or town, not exceeding one fifteenth of one cent per unit of seating capacity of every public passenger vehicle for every mile travelled by any such vehicle within such city or town. R.S., c. 292, s. 3; 1994, c. 23, s. 2.

Interpretation of Act

4 This Act is to be construed and held to be in addition to the *Motor Vehicle Act* and the *Public Highways Act*. R.S., c. 292, s. 4.

Agreement

5 (1) With the approval of the Governor in Council, the Minister, on behalf of the Government of the Province, may make reciprocal arrangements and enter into agreements with the government of any other province or of any state of the United States of America

(a) respecting the registration and licensing of commercial motor vehicles and public passenger vehicles, or any of them, and providing for exemptions from such registration and licensing;

(b) prescribing fees to be paid in respect of such registration and licensing and providing for the payment and apportionment of those fees;

(c) providing for any other related matters that may be considered necessary or advisable.

(2) The provisions of this Act and the *Motor Vehicle Act* and regulations made under both Acts with respect to registration and licensing of vehicles are subject to any agreement entered into under this Section.

(3) Where an agreement has been entered into under this Section with the government of another province or a state,

(a) a licence issued by that province or state or an agency of it, authorizing the use of a vehicle as a public passenger vehicle is deemed to be a licence issued under this Act authorizing the same use;

(b) a registration made and licence or permit issued by that province or state authorizing the operation of the vehicle on the highways, is deemed to be a registration and licence made and issued under the *Motor Vehicle Act*; and

(c) the provisions of this Act and the *Motor Vehicle Act* respecting the cancellation or suspension of registrations, licences or permits apply in so far as the registration, licence or permit is effective in the Province.

(4) Every agreement made under this Section must be tabled in the House of Assembly within 20 days after it is made or, if the House is not then in session, within 20 days of the commencement of the next session of the House. R.S., c. 292, s. 5; 1994, c. 23, s. 4.

Exception for school bus

6 Subsection 3(2), Sections 19, 21 and 22 and clauses 23(1)(a) and 26(a) and (b) do not apply to school buses or to persons who operate school buses. R.S., c. 292, s. 6.

Licence and compliance required

7 (1) Except as herein provided, no person, either as principal or by an agent or employee, shall operate a public passenger vehicle upon a highway within the Province

(a) without holding a licence issued by the Board allowing the vehicle to be so operated; or

(b) in a manner, at a place or for a purpose that is not authorized by the terms of the person's licence.

(2) No motor carrier shall operate a public passenger vehicle under the licence issued to the motor carrier other than a public passenger vehicle designated in such licence. R.S., c. 292, s. 7; 1992, c. 23, s. 4; 1994, c. 23, s. 5.

Temporary authority

8 (1) Notwithstanding any other provision of this Act or the regulations, when it is made to appear to the Board that there is an immediate or special need for the provision of a service in the transporting of passengers, the Board, in the discretion of the Board, and without advertisement, public hearing or other proceedings, may grant a temporary authority or trip permit to a person to provide the service on such terms and conditions as the Board prescribes.

(2) A temporary authority granted under this Section authorizes the person to whom it is granted to provide the service specified in the authority for or within the time specified in the authority, not exceeding 90 days, but it must not create a presumption that a corresponding permanent authority or licence will be granted thereafter.

(3) A temporary authority granted pursuant to this Section may be extended by the Board for a period not exceeding 90 days beyond the time specified in the authority.

(4) A trip permit must specify the trip and vehicle to which it applies.

(5) No more than six trip permits may be issued to one person within any 12-month period.

(6) A violation of or failure to conform to a term or condition of a temporary authority or trip permit granted under this Section constitutes a violation of this Act. R.S., c. 292, s. 9; 1990, c. 35, s. 2; 1992, c. 23, s. 6; 1994, c. 23, s. 7.

Effect of licence

9 (1) No licence confers any perpetual or exclusive right.

(2) No licence may be sold, assigned, leased or transferred except with the approval of the Board. R.S., c. 292, s. 10; 1992, c. 23, s. 7; 1994, c. 23, s. 8.

Licence application and hearing

10 (1) An application for a licence or for the approval of the Board of the sale, assignment, lease or transfer of a licence must be in writing in such form and containing such information as the Board may require.

(2) The Board is empowered to hold a hearing in conjunction with the transport board or equivalent regulatory body of another jurisdiction for consideration of any application pursuant to the *Motor Vehicle Transport Act* (Canada) or this Act and the Board may hold the hearing in any such jurisdiction.

(3) The Board may authorize one or more of its commissioners to hear any application under subsection (2) and the decision of such commissioner or commissioners is the decision of the Board.

(4) Notwithstanding the *Legal Profession Act*, a lawyer who is qualified to practise in a province may appear and act for a client whose application is to be heard in the Province pursuant to subsection (2). R.S., c. 292, s. 11; 1992, c. 23, s. 8; 1994, c. 23, s. 9.

Public hearing procedure

11 (1) On receipt of an application for a licence for the operation of a public passenger vehicle, for an amendment to an operating authority contained in a licence or for the approval of the sale, assignment, lease or transfer of such a licence, the Board shall

(a) cause a notice of the application to be published in the Royal Gazette and in such other manner as it considers appropriate; and

(b) provide notice in writing of the application to the Minister.

(2) Subject to subsection (4), the Board may not grant an application referred to in subsection (1) without a public hearing.

(3) The Board shall set the time and place for a hearing of the application and shall notify

(a) the applicant;

(b) the Minister, if the Board is advised in writing of the Minister's intention to participate in the hearing; and

(c) any person objecting in writing to the granting of the application,

of the time and place so set.

(4) If, within seven days after publication in the Royal Gazette of the notice of an application, the Board has not received a written objection to the granting of the application, the Board may grant the application without a hearing if the Board is satisfied that the application meets the requirements of the Act.

(5) The Board may refuse an application pursuant to subsection (1) without a hearing where, after consideration of the application in accordance with Section 12, the Board is of the opinion that granting the application would not be in the public interest.

(6) The Board shall give written reasons for refusing an application pursuant to subsection (5).

(7) This Section does not apply to applications respecting licences for the operation of school buses. R.S., c. 292, s. 12; 1990, c. 35, s. 3; 1992, c. 23, s. 9; 2011, c. 8, s. 12; 2012, c. 45, s. 9.

Factors considered

12 Upon an application for a licence for the operation of a public passenger vehicle or for approval of the sale, assignment, lease or transfer of such a licence, the Board may take into consideration

(a) any objection to the application made by any person already providing transport facilities whether by highway, water, air or rail, on the routes or between the places that the applicant intends to serve, on the ground that suitable facilities are, or, if the licence were issued, would be in excess of requirements, or on the ground that any of the conditions of any other licence held by the applicant have not been complied with;

(b) the general effect on other transport service, and any public interest that may be affected by the issue of the licence or the granting of the approval;

(c) the quality and permanence of the service to be offered by the applicant and the fitness, willingness and ability of the applicant to provide proper service;

(d) the impact the issue of the licence or the granting of the approval would have on regular route public passenger service;

(e) any other matter that, in the opinion of the Board, is relevant or material to the application. R.S., c. 292, s. 13; 1990, c. 35, s. 4; 1992, c. 23, s. 10.

Determination by Board

13 After public hearing or without public hearing, as the case may be, the Board shall issue the licence applied for or grant the approval sought, or refuse to issue or grant the same, or issue a licence for the partial exercise only of the privilege applied for. R.S., c. 292, s. 14; 1992, c. 23, s. 12; 1994, c. 23, s. 11.

Terms and conditions of licence

14 The Board may attach to the exercise of the privileges granted by a licence for the operation of a public passenger vehicle such terms and conditions as in the judgment of the Board public convenience and necessity require. R.S., c. 292, s. 16; 1992, c. 23, s. 14.

Weight restrictions

15 A licence or authorization issued under this Act does not authorize the operation on a highway of a public passenger vehicle having a weight, either with or without load, in excess of the weight at which any other law permits it to be operated or at a weight at which any other law prohibits its operation. R.S., c. 292, s. 17; 1994, c. 23, s. 12.

Cancellation of licence

16 Notwithstanding Sections 17 and 22, the Board without public hearing may

(a) cancel any licence authorizing the operation of a public passenger vehicle if the Board is satisfied that the licensee has not, within 60 days of the issue of the licence, provided the service authorized by the licence to be provided by the licensee;

(b) cancel any licence authorizing the operation of a school bus, if the Board is satisfied that the service authorized by the licence is not being provided. R.S., c. 292, s. 18; 1992, c. 23, s. 15.

Variation or suspension or cancellation of licence

17 (1) The Board may, at any time or from time to time, amend or suspend any licence or may, for cause, and after a hearing upon such notice as the Board may direct, cancel any licence.

(2) When deciding whether to amend, suspend or cancel a licence pursuant to subsection (1), the Board shall take into consideration the factors enumerated in Section 12. R.S., c. 292, s. 19; 1990, c. 35, s. 5; 1992, c. 23, s. 16; 1994, c. 23, s. 13.

No operation of vehicle while prohibited

18 No person, either as principal or by an agent or employee, shall operate any public passenger vehicle after the licence issued to the person by the Board has been cancelled, or during any period of suspension of the licence by the Board or during any prohibited period under the *Motor Vehicle Act* or *Public Highways Act* without permission as therein prescribed. R.S., c. 292, s. 20; 1992, c. 23, s. 17; 1994, c. 23, s. 14.

Sign on vehicle required

19 Every motor carrier shall attach to each public passenger vehicle operated under the licence issued to the motor carrier in such manner as to be plainly visible, such distinctive marking or sign as the Board may require, and no motor carrier shall operate or have under the motor carrier's control or in the motor carrier's charge any public passenger vehicle on any highway unless such distinctive marking or sign is attached thereto. R.S., c. 292, s. 21; 1992, c. 23, s. 18; 1994, c. 23, s. 15.

Failure to comply

20 A motor carrier shall operate and furnish service in conformity with the licence issued to the motor carrier and in conformity with this Act and all orders, rules, regulations and schedules made hereunder, and the failure of a motor carrier so to conform is, in addition to constituting an offence against this Act, good and sufficient cause for the suspension or cancellation or both by the Board of the licence issued to the motor carrier, or for the suspension or cancellation by the Board of part of the licence or of any authorization issued to the motor carrier. R.S., c. 292, s. 22; 1992, c. 23, s. 19; 1994, c. 23, s. 16.

Passenger or baggage charge

21 (1) All charges made by a motor carrier for any service rendered or to be rendered in the transportation of passengers or baggage or in connection therewith, must be in accordance with the schedules fixed and approved by the Board to be charged by such motor carrier and any charge not made in accordance with the schedules is prohibited and declared to be unlawful.

(2) Every motor carrier, who carries on the business of a carrier of freight on a public passenger vehicle, shall file with the Board schedules of the rates and charges charged by the motor carrier for the carriage of freight or parcel express and for services rendered by the motor carrier in connection therewith, and upon changing or varying any such rates or charges shall, within 15 days of the effective date of such schedule, file with the Board a schedule of the changes and variations, and the rates and charges shown thereon is deemed to be legally in effect from the effective date shown in each such schedule. R.S., c. 292, s. 23; 1990, c. 35, s. 6; 1992, c. 23, s. 20.

Abandonment of service or cancellation of licence

22 (1) No motor carrier shall abandon or discontinue any service provided for in the motor carrier's licence for the operation of a public passenger vehicle without an order of the Board, which may be granted only after a hearing upon such notice as the Board may direct.

(2) When the Board authorizes a motor carrier to abandon or discontinue a service, the Board shall cancel the licence of the motor carrier or shall vary the licence in accordance with the terms of the authorization.

(3) When a motor carrier has been authorized by the Board to abandon or discontinue any such service or when the motor carrier's licence has been cancelled, the motor carrier shall remove from the vehicles operated by the motor carrier pursuant to the motor carrier's licence such distinctive marking or markings or sign as has been placed thereon in compliance with this Act. R.S., c. 292, s. 24; 1992, c. 23, s. 21.

Insurance

23 (1) No motor carrier shall operate a public passenger vehicle on any highway in the Province unless the motor carrier

(a) effects or places and maintains in full force and effect

(i) a motor vehicle liability policy of insurance satisfactory to the Board in such sums as the Board, by regulation, prescribes for the protection of passengers, property and freight carried by the motor carrier or as the Governor in Council prescribes for the protection of freight carried by the motor carrier, respectively, and

(ii) such other policies of insurance of whatever nature and in such sums as the regulations prescribe; and

(b) has filed with the Board certificates of insurance in such forms as are prescribed by the Board signed by the insurers certifying that the motor vehicle liability insurance and other insurance of whatever nature and in such sums as are required by this Act and the regulations or by the Board have been effected in respect of such vehicle and containing undertakings by the insurers that they will notify the clerk of the Board in writing of any cancellation, alteration or expiry of any insurance policy referred to therein at least 15 days before the effective date of the cancellation, alteration or expiry and that if such notice is not given the policy must, notwithstanding any provision in the policy, including any provision as to the term thereof, remain in full force and effect and unaltered until 15 days after the

date when a notice in writing of such cancellation, alteration or expiry is given to the clerk of the Board.

(2) Every insurer shall notify the clerk of the Board in writing of any cancellation, alteration or expiry of any policy required by or under this Act or the regulations at least 15 days before the effective date of the cancellation, alteration, or expiry and, if such notice is not given, the policy, notwithstanding any provision of any other Act of the Legislature and notwithstanding any provision in the policy, including any provision as to the term thereof, remains in full force and effect and unaltered until 15 days after the date when a notice in writing of such cancellation, alteration or expiry is given to the clerk of the Board by the insurer.

(3) To the extent of the limits prescribed by the regulations, subsection 168(11) of the *Insurance Act* does not apply to any policy for the protection of passengers of a public passenger vehicle required by or under this Act or the regulations.

(4) Notwithstanding subsection (1), when a motor carrier satisfies the Board that

(a) the motor carrier has and maintains an accident reserve or a separate insurance fund for the purpose of satisfying liabilities that the carrier may incur resulting from the death of or bodily injuries to any person or damage to or loss of property occasioned by or arising out of the ownership, maintenance, operation or use of a motor vehicle by the carrier or the carrying on of the motor carrier's business as a motor carrier; and

(b) the reserve or fund is adequate to satisfy such liabilities to such limits as are prescribed with respect to insurance policies to be maintained by motor carriers,

the Board may exempt the carrier from the duty of effecting or placing and maintaining the insurance policies and of filing the insurer's certificate required by or under this Act or the regulations.

(5) A motor carrier who has been granted an exemption pursuant to subsection (4) shall file with the Board not later than February 1st and August 1st in each year, a report showing the standing of the accident reserve or insurance fund of the carrier and, whenever requested by the Board shall supply the Board with any information requested by the Board respecting the reserve and fund.

(6) The Board may revoke an exemption granted to a carrier under subsection (4) if the Board at any time is not satisfied that the accident reserve or insurance fund of a motor carrier is being fully maintained or is adequate to meet liabilities of the carrier of the type described in clause (4)(a). R.S., c. 292, s. 25; 1990, c. 35, s. 7; 1992, c. 23, s. 22; 1994, c. 23, s. 17.

Regulations respecting taxes or fees

24 (1) The Governor in Council may make regulations prescribing the taxes, tolls or fees to be paid by a motor carrier for any particular vehicle or for any class or classes of vehicles, and prescribing the time or times and the methods by which the tax, tolls or fees are to be paid.

(2) Where a motor carrier makes default in paying any tax, tolls or fees under this Section, the Board may suspend or cancel the licence or licences of the carrier.

(3) Tax, tolls or fees imposed under this Act must be paid to the Board and must be remitted by the Board to the Minister of Finance and Treasury Board. R.S., c. 292, s. 26; 1992, c. 23, s. 23; 1994, c. 23, s. 18.

Waiver of taxes, tolls and fees

25 (1) The Governor in Council may waive, to the extent the Governor in Council considers advisable, any taxes, tolls or fees prescribed under Section 24.

(2) A waiver made under subsection (1) may be retroactive in its operation to a date not earlier than March 22, 2020. 2022, c. 20, s. 1.

Power and authority of Board

26 (1) The Board has power and authority to

(a) grant to any person a licence to operate or cause to be operated a public passenger vehicle over specified routes or in respect of specified points or geographic areas or generally throughout the Province, either as a regular or an irregular service;

(b) fix the rates, fares or charges or the maximum and minimum or maximum or minimum rates, fares or charges that a motor carrier is authorized to charge for the transportation of passengers, baggage and parcel express and the schedules and service that a motor carrier must observe and provide;

(c) with the approval of the Governor in Council, make regulations

(i) for the purpose of these regulations, classifying public passenger vehicles and motor carriers,

(ii) exempting any class or classes of motor carriers in respect of public passenger vehicles or public passenger vehicles or any classes of public passenger vehicles wholly or partially from this Act or these regulations,

(iii) regulating and controlling motor carriers in respect of public passenger vehicles,

(iv) regulating and controlling the operating of public passenger vehicles on public highways under licences issued pursuant to this Act,

(v) providing that any of these regulations shall apply to any class or classes of motor carriers in respect of public passenger vehicles or to any class or classes of public passenger vehicles and providing different regulations for different classes of motor carriers in respect of public passenger vehicles and public passenger vehicles;

(d) do such other acts and things as are necessary or advisable for the more effective exercise of its powers and the more effective administration of this Act and the regulations.

(2) The Governor in Council may make regulations

(a) requiring the filing of returns, reports and other data by motor carriers;

(b) for the purpose of these regulations, classifying motor carriers;

(c) regulating and controlling drivers of public passenger vehicles;

(d) for the effective execution of the duties of the Board;

(e) for the regulation of the practice and procedure with respect to matters over which the Board has jurisdiction;

(f) prescribing the type, amount and conditions of insurance coverage required to be held by a motor carrier.

(3) The exercise by the Board and the Governor in Council of the authority contained in clause (1)(c) and by the Governor in Council of the authority contained in subsection (2) is a regulation within the meaning of the *Regulations Act*.

(4) The Governor in Council may make regulations adopting by reference a document or incorporating by reference, as amended from time to time, any Act of the Parliament of Canada or regulations made pursuant to such an Act or any classification, standard, procedure or other specification.

(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*. R.S., c. 292, s. 27; 1992, c. 23, s. 24; 1994, c. 23, s. 19; 2022, c. 20, s. 2.

Public hearing

27 The Board may, on its own motion, and shall, when requested by the Governor in Council, hold a public hearing on any matter respecting public passenger vehicles that, in the opinion of the Board or the Governor in Council, as the case may be, is necessary to better carry out the intent and purpose of this Act. 1990, c. 35, s. 8; 1992, c. 23, s. 25.

Training program

28 (1) The Governor in Council may establish a compulsory training program for school bus drivers and may make regulations necessary or advisable for the effective administration of the program.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. R.S., c. 292, s. 28.

Enforcement powers of Board

29 The Board has power and authority by general order or otherwise to give effect to the rules, regulations or decisions respecting motor carriers, public passenger vehicles and passenger vehicles other than public passenger vehicles. R.S., c. 292, s. 29; 1992, c. 23, s. 26; 1994, c. 23, s. 20.

Public Utilities Act

30 Except where inconsistent with this Act or the regulations, the provisions of the *Public Utilities Act* relating to the constitution, powers, procedures and practices of the Board apply to and in respect of the Board when acting under this Act. R.S., c. 292, s. 30.

Proof of rule, regulation or order of Board

31 (1) Evidence of any rule, regulation or order made or issued by the Board under this Act may be given in any court in the Province, and in all or any legal proceedings of any kind in the Province by the production of a copy of or extract from such rule, regulation or order purporting to be certified to be a true copy by the clerk or acting clerk of the Board and purporting to be sealed with the seal of the Board without proof of the official character of the clerk or acting clerk of the Board or of the signature of the clerk or acting clerk of the Board or of the said seal, and the copy or extract so produced is prima facie proof of the matters set out therein.

(2) A certificate purporting to be signed by the clerk or acting clerk of the Board and to be sealed with the seal of the Board

(a) stating that a person was or was not the holder of a licence on a date or during a period stated in the certificate;

(b) setting out the terms or conditions, or some of them, of any licence; or

(c) stating that a person had or had not made or filed any report, return, policy of insurance, certificate or other document or matter required to be made or filed under this Act or the regulations,

is admissible in evidence without proof of the signature or official position of the person who purported to sign the certificate and without proof of the seal and is prima facie proof of the facts stated in the certificate. R.S., c. 292, s. 31; 1992, c. 23, s. 27; 1994, c. 23, s. 21.

Investigation by Board

32 (1) The Board at any time, of its own motion or upon the complaint of the Minister or any other person, may inquire into and investigate whether any person has operated any motor vehicle in violation of this Act or the regulations in respect of public passenger vehicles.

(2) Notice of the time when and the place where such inquiry and investigation will be held must be given to the person in respect of whom the inquiry and investigation is to be made by the clerk of the Board mailing at the Halifax Regional Municipality, at least six days before the day fixed for such inquiry and investigation, a registered letter, postage prepaid, directed to the registered address of such person as such address appears in the motor vehicle records of the Department of Service Nova Scotia.

(3) The Board, in conducting any such inquiry or investigation, may proceed therewith in the absence of the person in respect of whom the inquiry and investigation is being made, provided that subsection (2) has been complied with.

(4) If, after making such inquiry and investigation, the Board finds and determines that a motor vehicle has been operated in violation of this Act or the regulations, or that a person in respect of whom the inquiry and investigation has been made has violated a provision of this Act or the regulations, it shall make and issue a certificate to such effect and shall cause the certificate to be transmitted to the Registrar of Motor Vehicles. R.S., c. 292, s. 32; 1992, c. 23, s. 28; 2011, c. 8, s. 13.

Revocation by Registrar of Motor Vehicles

33 (1) Upon the receipt by the Registrar of Motor Vehicles of a certificate issued under Section 32, the Registrar of Motor Vehicles may revoke the permit issued in respect of the motor vehicle operated in violation of this Act or the regulations and may cancel the driver's licence or the owner's permit, if any, of the person who so operated or caused the operation of the motor vehicle, and the revocation or cancellation has the same force and effect as a revocation of permit or cancellation of licence would have if made under the *Motor Vehicle Act*.

(2) The Registrar of Motor Vehicles, upon receipt of a certificate signed or purporting to be signed by a judge of the provincial court or clerk of a court that a person has been convicted of a violation of this Act or the regulations, may revoke the permit issued in respect of any motor vehicle used by such person in violation of this Act or the regulations and may cancel the licence or permit, if any, issued to that person as a licensed driver or as owner of the motor vehicle, and such revocation or cancellation has the same force and effect as a revocation of permit or cancellation of licence would have if made under the *Motor Vehicle Act*.

(3) A certificate purporting to be signed by the Registrar of Motor Vehicles and to bear the seal of the Department of Service Nova Scotia that the permit issued in respect of a motor vehicle has been revoked or that the licence issued to a person as a licensed driver or owner of a motor vehicle, as the case may be, has been cancelled is admissible in evidence in all courts, without proof of the seal or of the signature or of the official character of the person appearing to have signed the same, and is prima facie proof that the permit has been duly and lawfully revoked or the licence has been duly and lawfully cancelled, as the case may be.

(4) Any revocation of permit or cancellation of licence in this Section provided for may be rescinded by the Registrar of Motor Vehicles with the approval of the Minister of Service Nova Scotia upon the petition of the owner of the motor vehicle or upon the petition of the licensee.

(5) There is payable to the Minister of Service Nova Scotia, as a fee for the rescission mentioned in subsection (4), the sum of \$10, which forms part of the Provincial Highways Fund under the *Public Highways Act*. R.S., c. 292, s. 33; 2011, c. 8, s. 14.

Inspector

34 (1) The Minister may appoint a person or persons in the public service to act as inspector or inspectors under this Act.

(2) The inspector or inspectors shall enforce the provisions of this Act and the regulations that pertain to the conduct of motor carriers and shall take all necessary measures under this Act to prevent the operation of any motor carrier without such motor carrier having first complied with the terms and provisions of this Act and the regulations, and shall perform such other duties as the Minister may determine. R.S., c. 292, s. 34; 1992, c. 23, s. 29; 2011, c. 8, s. 15.

Power to stop vehicle and require inspection

35 (1) For the purposes of ascertaining whether or not this Act or the regulations is being violated, an inspector may require the driver of a motor vehicle to stop the vehicle, and may detain, examine and test the vehicle and its contents and equipment.

(2) A person who resists or wilfully obstructs an inspector in the execution of the inspector's duty or the exercise of the inspector's powers under this Act or the regulations is guilty of an offence against this Act and liable to the penalties prescribed by Section 38.

(3) An inspector may require the operator of a passenger vehicle, within a time specified by the inspector and at the expense of the owner of the vehicle, to cause the vehicle to be examined and tested by a competent motor vehicle mechanic and to submit to the inspector a certificate of such a mechanic setting out the results of the examination and stating the qualifications of the mechanic.

(4) A person who fails or refuses to comply with a direction of an inspector given under subsection (3) is guilty of an offence under this Act.

(5) In this Section, "inspector" includes a member of the Royal Canadian Mounted Police. R.S., c. 292, s. 35; 1994, c. 23, s. 22.

Further powers of inspector

36 (1) An inspector may require the owner or operator of a passenger vehicle to submit the vehicle for inspection and testing by the inspector and the owner or operator shall provide such facilities and assistance as the inspector considers necessary.

(2) If, on inspection, a passenger vehicle is found to be deficient or defective, the owner shall take immediate steps to remedy the deficiencies and defects within the time specified by the inspector.

(3) If, in the opinion of an inspector, the condition of a passenger vehicle is such that its continued operation would endanger the safety of the passengers carried therein or of the public, the inspector may make an order that the vehicle is not to be operated.

(4) With the approval of the Governor in Council, the Minister may make regulations respecting the inspection of passenger vehicles. R.S., c. 292, s. 36; 2011, c. 8, s. 16.

Production of authority or permit

37 (1) The driver of a motor vehicle that is being operated pursuant to a temporary authority or trip permit granted or issued pursuant to this Act shall

carry or keep, in a readily accessible place in the vehicle, the authority or a copy thereof or the permit, as the case may be, and on the demand of an inspector shall produce such authority or copy thereof or permit, as the case may be, for inspection.

(2) Every person who fails to comply with this Section is guilty of an offence and liable to the penalties prescribed by Section 38. 1990, c. 35, s. 9; 1992, c. 23, s. 30; 1994, c. 23, s. 23.

Offence and penalty

38 Any motor carrier who

(a) violates or fails to observe any provision of this Act or any order, rule or regulation made under this Act;

(b) demands, collects or receives any compensation for any service performed by the motor carrier other than that set out and contained in the schedule of rates, tolls, fares or charges fixed and approved pursuant to this Act, or filed with the Board, as the case may be, for services performed by such motor carrier; or

(c) fails to observe or to comply with a term or condition of the motor carrier's licence,

is guilty of an offence and liable for the first offence to a penalty of not less than \$250 and not more than \$5,000, and for any subsequent offence to a penalty of not less than \$500 and not more than \$5,000, and in default of payment to imprisonment not exceeding 60 days or to both penalty and imprisonment. R.S., c. 292, s. 37; 1990, c. 35, s. 10; 1992, c. 23, s. 31.

Summary Proceedings Act

39 (1) Subject to subsection (2), the penalties and imprisonment prescribed in Section 38 must be recovered or enforced under the *Summary Proceedings Act*.

(2) Any pecuniary penalty, either with or without imprisonment prescribed in Section 38, may, in lieu of being recovered under the *Summary Proceedings Act*, be recovered with costs by civil action or proceedings by and in the name of the Minister in any court having jurisdiction in cases of simple contract to the amount of the pecuniary penalty, but the imprisonment prescribed, if any, may not be imposed or enforceable in such action, and such action may be brought and prosecuted by the Minister in the Minister's name of office and may be continued by the Minister's successor in office as if no change had occurred. R.S., c. 292, s. 38.

Administration expenses

40 (1) All costs, charges and expenses incurred in the administration of this Act must be paid out of the General Revenue Fund.

(2) The costs of and incidental to any application, hearing or proceeding before the Board is in the discretion of the Board and may be fixed in any case at a sum certain or may be taxed, the Board may order by whom and to whom the same are to be taxed and allowed, and the Board may prescribe a scale under which the costs must be taxed. R.S., c. 292, s. 39.

Existing certificate

41 Notwithstanding the repeal of Chapter 183 of the Revised Statutes, 1954, every certificate to a motor carrier issued by the Board under that Chapter and in effect on September 1, 1959, is deemed to be a licence issued under this Act and continues in effect until terminated, modified or varied under this Act. R.S., c. 292, s. 40.

CHAPTER M-33

**An Act in Relation to the Registration
and Identification of Motor Vehicles
and the Use of the Public Highways
by such Vehicles**

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

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Short title

1 This Act may be cited as the *Motor Vehicle Act*. R.S., c. 293, s. 1.

INTERPRETATION

Interpretation

2 In this Act,

“accessible taxicab” means a vehicle with a seating capacity of eight passengers or less, excluding the driver, designed and manufactured, or converted, for the purpose of transporting for compensation passengers with physical disabilities, providing ease of entry to and egress from the vehicle in a safe and dignified manner by means of an on-board lift or ramp, and conforming to all sections of *Canadian Standard Association D409: Motor Vehicles for the Transportation of Persons with Physical Disabilities*;

“all-terrain vehicle” means a wheeled or tracked vehicle designed for the transportation of persons, property or equipment exclusively on marshland, open country or other unprepared surfaces, but does not include a snow vehicle;

“approved container” means an approved container as defined in section 320.11 of the *Criminal Code* (Canada);

“approved drug screening equipment” means approved drug screening equipment as defined in section 320.11 of the *Criminal Code* (Canada);

“approved instrument” means an approved instrument as defined in section 320.11 of the *Criminal Code* (Canada);

“approved screening device” means an approved screening device as defined in section 320.11 of the *Criminal Code* (Canada);

“authorized insurer” means an insurance company lawfully authorized or permitted to carry on its business in the Province;

“automated flagger assistance device” means a self-contained, portable traffic control signal, conforming to the specifications in the latest edition of the Nova Scotia Temporary Workplace Traffic Control Manual, used by a traffic control person to control alternating traffic at a temporary work area;

“bicycle” means

(a) a vehicle propelled by human power upon which or in which a person may ride and that has two tandem wheels either of which is 350 millimetres or more in diameter or that has four wheels any two of which are 350 millimetres or more in diameter but does not include a wheelchair; or

(b) a vehicle propelled by human and mechanical power that is fitted with pedals that are operable at all times to propel the

bicycle, that has the same wheel requirements as set out in clause (a) and that has an attached motor driven by electricity not producing more than 500 watts or with a piston displacement of not more than 50 cubic centimetres and is incapable of providing further assistance when the vehicle attains a speed of 30 kilometres per hour on level ground;

“bicycle lane” means a marked lane on a roadway designated by a traffic sign for the use by bicyclists;

“Bridges patrol officer” means a person employed as a patrol officer with the Halifax-Dartmouth Bridge Commission and appointed as a special constable pursuant to the *Police Act* to enforce this Act and the bylaws of the Halifax-Dartmouth Bridge Commission on the Bridges as defined in the *Halifax-Dartmouth Bridge Commission Act*, when acting in the course of that employment;

“bus” means a motor vehicle operated by or on behalf of a person carrying on upon a highway the business of a public carrier of passengers for compensation, and includes any motor vehicle when used for such purpose that the Department shall determine;

“business district” means a territory contiguous to a highway upon which 50% or more of the frontage for a distance of not less than 100 metres is occupied by business premises, and includes a section of a highway so designated by the traffic authority by the erection of appropriate signs;

“certificate” means a certificate issued by the Minister, the Registrar or the Department, and includes a certificate of registration;

“commercial motor vehicle” means a motor vehicle having attached thereto a truck or delivery body, and includes an ambulance, hearse, casket wagon, fire apparatus, police patrol, motor bus and other motor vehicles used for the transportation of goods;

“crossing guard” means a person appointed by a regional municipality, town or municipality of a county or district and employed to direct the movement of children along or across highways going to or from school while so employed;

“crosswalk” means that portion of a roadway ordinarily included within the prolongation or connection of curb lines and property lines at intersections or any other portion of a roadway clearly indicated for pedestrian crossing by lines or other markings on the surface;

“cyclist” means a person operating a bicycle;

“danger zone” means an area or space upon a highway that is so marked or indicated under the provisions of this Act by the proper signs plainly visible;

“dealer” means a person who carries on or conducts, either for the whole or part of the dealer’s time, the business of buying, selling or dealing in motor vehicles, trailers or semi-trailers;

“Department” means the Department of Public Works acting directly or through its duly authorized officers and agents;

“driver” means a person driving or in charge of a vehicle, and includes the operator of a motor vehicle;

“driver’s licence” means a licence issued under this Act to drive a motor vehicle upon the highway;

“drug recognition evaluation” means an evaluation, test or analysis in relation to drugs conducted in accordance with section 320.28 of the *Criminal Code* (Canada) and the regulations;

“electric kick-scooter” means a vehicle that is operated in a standing position and has

(a) two wheels placed along the same longitudinal axis, a steerable wheel placed at the front of the vehicle and non-steerable wheel at the rear;

(b) wheels with a diameter of not less than 185 millimetres and not greater than 430 millimetres;

(c) a platform for standing between the two wheels;

(d) a steering handlebar that acts directly on the steerable wheel; and

(e) an electric motor not exceeding 500 watts that provides a maximum speed of 32 kilometres per hour;

“essential parts” means all integral parts and body parts, the removal, alteration or substitution of which will tend to conceal the identity or substantially alter the appearance of the vehicle;

“examiner” means a person appointed by the Minister to examine into and pass upon the qualifications of a person applying for a driver’s licence;

“farm tractor” means a motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines and other implements of husbandry and not so constructed as to carry a load other than a part of the weight of a vehicle and load drawn by it, and includes such a motor vehicle equipped front or rear with attachments designed and used for agricultural purposes, loaded or without a load;

“farm wagon” means a trailer equipped with two axle groups of which the front axle group is steerable and designed and used to carry farm products or farm supplies;

“fictitious number plate” means a number plate not furnished and issued by the Department or not furnished and issued for the current registration year, or that is attached to a vehicle other than that for which it was issued by the Department but does not include number plates on foreign vehicles lawfully operated in the Province or number plates issued to an owner of a vehicle and being used on a vehicle within 30 days of purchase of that vehicle;

“foreign vehicle” means a motor vehicle, trailer or semi-trailer that is brought into the Province otherwise than in the ordinary course of business by or through a manufacturer or dealer and that has not been registered in the Province;

“garage” means a place or premises where motor vehicles are received for housing, storage or repairs for compensation;

“hack” means a horse-drawn vehicle used to transport passengers for compensation;

“highway” means

(a) a public highway, street, lane, road, alley, park, beach or place, including the bridges thereon; and

(b) private property that is designed to be and is accessible to the general public for the operation of a motor vehicle;

“implement of husbandry” means a vehicle, with or without motive power, that is designed and used for agricultural purposes, and includes

(a) farm machinery;

(b) a farm wagon;

(c) a trailer when towed by a farm tractor or when towed unloaded by any other motor vehicle to or from a farm equipment dealer or repair facility or to or from a field or farm; and

(d) a farm tractor;

“intersection” means the area embraced within the prolongation or connection of the lateral curb lines or, if none, then of the lateral boundary lines of two or more highways that join one another at an angle, whether or not one highway crosses the other;

“licensed dealer” means a dealer licensed under this Act;

“licensed garage” means a garage licensed under this Act;

“licensed learner” means a person who has been issued a driver’s licence of the following classes as set out in regulations made pursuant to Section 68:

(a) class 6, when operating a motor vehicle other than a motorcycle or farm tractor;

(b) class 7, when operating a motor vehicle other than a farm tractor;

(c) class 8, when operating a motor vehicle other than a farm tractor if the person is at least 16 years of age;

“local authority” means a council of a city or town;

“metal tires” means tires the surface of which in contact with the highway is wholly or partly of metal or other hard, non-resilient material;

“Minister” means the Minister of Public Works;

“mobile-communication support employee” means a person employed with the Department of Service Nova Scotia with employment duties that include providing mobile-radio communication equipment and support to assist first responders, when acting in the course of that employment;

“motor vehicle” means a vehicle, as herein defined, that is propelled or driven otherwise than by muscular power and does not include a bicycle, personal transporter or an electric kick-scooter;

“motorcycle” means a motor vehicle having

(a) a design to travel on not more than three wheels in contact with the ground;

- (b) a seat height unladen greater than 700 millimetres above the level surface on which the motor vehicle stands;
- (c) a wheel-rim diameter greater than 250 millimetres;
- (d) a wheelbase greater than one metre; and
- (e) a capability of maintaining a speed of 70 kilometres per hour when laden;

“newly licensed driver” means a person who holds a driver’s licence issued pursuant to this Act that authorizes the person to operate a motor vehicle subject to the conditions set out in subsection 80(4);

“non-resident” means a person who is not a resident of the Province;

“novice driver” means a person who has the status of a novice driver under Section 82;

“number plate” includes any proof of registration issued by the Department and required to be affixed to a motor vehicle or trailer;

“nurse practitioner” means a nurse practitioner as defined in the *Nursing Act*, whose name appears on the Nurse Practitioners Register pursuant to that Act and whose registration is not suspended or revoked;

“occupational therapist” means a person licensed to practise occupational therapy under the *Occupational Therapists Act* and whose licence is not suspended or revoked;

“official traffic signals” means signals not inconsistent with this Act, placed or erected by authority of a public body or official having jurisdiction, for the purpose of directing, warning or regulating traffic;

“official traffic signs” means signs, markings and devices, other than signals, not inconsistent with this Act, placed or erected by authority of a public body or official having jurisdiction, for the purpose of guiding, directing, warning or regulating traffic;

“one-way street” means a highway designated and marked by the Department or traffic authority upon which vehicles may be operated in one direction only;

“operator” means a person driving a motor vehicle on the highway or who has the care or control of the motor vehicle on a highway whether in motion or not;

“optometrist” means a person licensed to practise optometry under the *Optometry Act* and whose licence is not suspended or revoked;

“owner’s permit” means a permit issued to a registered owner of a motor vehicle;

“parking” means the standing of a vehicle whether occupied or not, upon a roadway, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading, or in obedience to traffic regulations or traffic signs or signals;

“peace officer” includes a police officer as herein defined;

“pedestrian” means a person afoot, and includes a person in a wheelchair and a person riding on a motorized cart designed for and being used to transport golfers and equipment over a golf course while travelling from one

part of it to another in a crosswalk marked for the purpose on the roadway and approved by a traffic authority appointed pursuant to this Act;

“pedestrian-activated beacon” means a flashing amber light activated by a pedestrian to indicate to drivers of vehicles on a roadway that the pedestrian is crossing, or waiting or about to cross, the roadway;

“permit” means a permit issued under this Act;

“person” includes a body corporate or politic, and party;

“personal transporter” means a self-balancing electric vehicle with two side-by-side wheels and designed for the personal transportation of a single person and, for greater certainty, includes a Segway;

“physical coordination test” means a physical coordination test in accordance with paragraph 320.27(1)(a) of the *Criminal Code* (Canada);

“pneumatic tires” means tires inflated with compressed air;

“pole trailer” means a vehicle without motive power that is designed to be drawn by another vehicle and to be attached to the towing vehicle by means of a reach or pole, or by being boomed or otherwise secured to the towing vehicle and is ordinarily used for transporting poles, pipes, structural members or other long or irregularly shaped loads that are capable of sustaining themselves as beams between the supporting connections;

“police” or “police officer” means a member of the Royal Canadian Mounted Police, a police officer appointed by a city, town or municipality, a police officer appointed by the Attorney General, or a motor vehicle inspector;

“private road or driveway” means a road or driveway not open to the use of the public for purposes of vehicular traffic;

“proof of financial responsibility” means a certificate of insurance or certificate of the Superintendent of Insurance for the Province given pursuant to Section 295;

“provincial highway” means a highway outside the limits of a city or incorporated town;

“public-safety officer” means

- (a) a Bridges patrol officer;
- (b) a mobile-communication support employee;
- (c) a sheriff; or
- (d) a person in a class of persons prescribed by the regulations;

“public-safety vehicle” means a vehicle operated by a public-safety officer;

“qualified medical practitioner” means a medical practitioner as defined in the *Medical Act*;

“reconstructed vehicle” means a vehicle assembled or constructed largely by means of new or used essential parts, derived from other vehicles or that, if originally otherwise constructed, has been materially altered by the

removal of essential parts or by the addition or substitution of new or used essential parts, derived from other vehicles;

“registered owner” means a person in whose name a vehicle is registered under this Act;

“registered psychologist” means a person whose name is on the Register of Psychologists established under the *Psychologists Act* and whose registration is not suspended or cancelled;

“registered weight” means the weight in kilograms stated upon the permit for a vehicle;

“Registrar” means the Registrar of Motor Vehicles, appointed under this Act, and includes the Deputy Registrar of Motor Vehicles appointed under this Act;

“registration year” means the calendar year unless the Minister otherwise determines or the period ending on the date specified when the vehicle is registered under the staggered system of vehicle registration;

“residence district” means the territory contiguous to a highway not comprising a business district when the frontage on the highway for a distance of 100 metres or more is mainly occupied by dwellings or by dwellings and business premises, and includes any section of a highway so designated by the traffic authority by the erection of appropriate signs;

“resident” includes a person who

- (a) for more than 30 days in any year is employed or engaged in any activity for gain in the Province;
- (b) is attending school or college in the Province;
- (c) is in the Province and whose children attend school in the Province;
- (d) lives in the Province for more than 90 days in any year;

“right of way” means the privilege of the immediate use of the highway;

“road tractor” means a motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon independently or any part of the weight of a vehicle or load so drawn;

“roadway” means that portion of a street or highway between the regularly established curb lines or that part improved and intended to be used for vehicular travel;

“safety zone” means the area or space officially set apart within a highway for the exclusive use of pedestrians and that is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone;

“school bus” means a school bus as defined in the *Motor Carrier Act*, and includes a school bus marked or designated as such as provided by the regulations;

“semi-trailer” means a vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests upon or is carried by another vehicle;

“serial number” includes an identification number assigned to or placed on a vehicle by its manufacturer as a manufacturer’s number and vehicle number;

“sheriff” means a person employed as a sheriff with the Department of Justice with employment duties that include transporting prisoners, providing court security and serving civil processes, when acting in the course of that employment;

“sidewalk” means that portion of a highway between the curb line and the adjacent property line or any part of a highway especially set aside for pedestrian travel and separated from the roadway;

“solid rubber tire” means a tire made of rubber other than a pneumatic tire;

“specially constructed vehicle” means a vehicle that was not originally constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles;

“state” means any state in the United States of America and includes the District of Columbia;

“street car” means every device propelled by electricity travelling exclusively upon rails when upon or crossing a street;

“supervising driver” means a person who

(a) meets the qualifications to act as a supervising driver set out in subsection 78(1); and

(b) has agreed to supervise a licensed learner or a newly licensed driver who is driving a motor vehicle;

“taxicab” means a motor vehicle other than a bus used to transport passengers for compensation;

“temporary number” means a number issued by the Department under this Act to be used temporarily until replaced by a permanent number issued in accordance with this Act;

“temporary workplace signer” means a person qualified and accredited by the Provincial Traffic Authority to assess conditions and prepare, implement and review traffic control plans within an area designated as a temporary workplace for the purpose of construction, maintenance or utility operation;

“traffic” includes pedestrians, herded animals, vehicles, street cars and other conveyances either singly or together while using any street for purposes of travel;

“traffic control person” means a person qualified and accredited by the Provincial Traffic Authority to direct the movement of traffic along or across a highway within an area designated as a temporary work area for the purpose of construction, maintenance or utility operation;

“traffic control signal” means a device whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and to proceed;

“trailer” means a vehicle without motive power designed to carry property or passengers wholly on its own structure and to be drawn by a

motor vehicle, and includes self-contained commercial units, such as compressors, generators, welders or other utility equipment or farm machinery, designed to be drawn by a motor vehicle;

“transit bus” means a motor vehicle operated by or subsidized by a municipality or a regional transit authority;

“Treasurer” means the Minister of Finance and Treasury Board;

“trolley coach” means a motor vehicle operated with electricity as the motive power through contact with overhead wires;

“truck” includes a motor vehicle designed, used or maintained primarily for the transportation of goods, materials or property;

“truck tractor” means a motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn;

“used vehicle” means a motor vehicle that has been sold, bargained, exchanged, or given away or of which title has been transferred from the person who first acquired it from the manufacturer or importer, dealer or agent of the manufacturer or importer, and so used as to have become what is commonly known as “second-hand” within the ordinary meaning thereof;

“vehicle” means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting a motorized wheelchair and devices moved by human power or used exclusively upon stationary rails or tracks. R.S., c. 293, s. 2; 1994, c. 24, s. 1; 1994-95, c. 12, s. 1; 1995-96, c. 23, s. 1; 2001, c. 12, s. 2; 2002, c. 20, s. 1; 2004, c. 42, s. 1; 2006, c. 35, s. 1; 2007, c. 45, s. 1; 2008, c. 21, s. 1; 2010, c. 59, s. 1; 2011, c. 35, s. 10; 2014, c. 20, s. 1; 2014, c. 53, s. 1; 2015, c. 45, s. 1; 2015, c. 46, s. 1; 2018, c. 3, s. 46; 2022, c. 21, s. 1; 2023, c. 20, s. 1.

Owner of vehicle

3 (1) Subject to subsections (2) and (3), in this Act, “owner” of a vehicle means

(a) where a permit is issued for the vehicle, the person who holds the permit for the vehicle; or

(b) where no permit is issued for the vehicle, the person who holds the certificate of registration for the vehicle.

(2) Where this Act or the regulations requires that the owner of a vehicle be notified that the vehicle may be sold under the authority of this Act, “owner” means any person who holds a permit for the vehicle and any person who holds a certificate of registration for the vehicle.

(3) In this Act, where no permit and no certificate of registration have been issued for a vehicle or for the purpose of obtaining a certificate of registration for a vehicle, the owner of the vehicle is any person who, alone or jointly with one or more others, has the right to transfer property in the vehicle.

(4) For greater certainty, where a person who is the owner of a vehicle enters into an agreement under which the person transfers an interest in the vehicle to a creditor to secure payment or performance of an obligation, the person

transferring the interest rather than the creditor is the owner of the vehicle. 2011, c. 35, s. 11.

Registrar of Motor Vehicles

4 The Minister shall appoint a person to be Registrar of Motor Vehicles for the Province, who shall perform such duties as are prescribed by this Act, and the Registrar must receive such remuneration as is determined in accordance with the *Civil Service Act*. R.S., c. 293, s. 3.

Deputy Registrar of Motor Vehicles

5 (1) The Minister may appoint a person in the public service to be Deputy Registrar of Motor Vehicles who shall perform such functions and duties as are prescribed by the Minister.

(2) In the absence or incapacity of the Registrar or when the office of Registrar is vacant, the Deputy Registrar shall perform the functions and duties and has the powers and authorities of the Registrar.

(3) The Deputy Registrar may, upon the direction of the Minister or Registrar, perform the functions or duties or exercise the powers and authorities of the Registrar. R.S., c. 293, s. 4.

Director of Highway Safety

6 (1) The Minister may appoint a person in the public service to be Director of Highway Safety who shall perform such functions and duties as are conferred upon the person by or under this Act or are prescribed by the Minister.

(2) The Director of Highway Safety has and may exercise the functions and powers of the Registrar under Sections 261, 285, 290, 291, 298, 314 and 354, clause 356(c) and Sections 358, 359, 360, 362, 364 and 365, and any certificate or document issued by the Director has the same force and effect for all purposes as if it had been signed or executed by the Registrar. R.S., c. 293, s. 5.

Motor vehicle inspectors

7 (1) The Minister may appoint motor vehicle inspectors whose duty it is to enforce this Act.

(2) An inspector shall be furnished with a certificate of appointment and, on inspecting any document or vehicle, the inspector shall, if requested, produce the certificate of appointment.

(3) The owner or person who has the charge, management or control of any vehicle inspected pursuant to this Act shall give an inspector all reasonable assistance to enable the inspector to carry out the duties and functions of an inspector.

(4) No person shall, while an inspector is exercising the powers or carrying out the duties and functions of an inspector,

(a) fail to comply with any reasonable request of the inspector;

(b) knowingly make false or misleading statements, either verbally or in writing, to the inspector; or

(c) otherwise obstruct or hinder the inspector. R.S., c. 293, s. 6; 1996, c. 34, s. 1.

Speedometer testers and engineers

8 (1) The Minister of Justice may appoint one or more qualified persons as testers of the speedometers on motor vehicles and of other devices used for or in connection with establishing the speed of vehicles.

(2) In any prosecution under this Act, a certificate purporting to be issued by a tester appointed under subsection (1), bearing a date thereon not more than 30 days before or after the date of an alleged offence charged in the information or complaint, signed by the tester, and stating therein the results of a test of the speedometer on the motor vehicle or other device mentioned therein, is admissible in evidence as prima facie proof of the accuracy of the speedometer or other device as stated in the certificate on the date of the alleged offence in the information or complaint.

(3) Where markings for the purpose of indicating distances are painted on a highway, a certificate purporting to be signed by an engineer employed by the Department and certifying the measured distance between such markings must be admitted in evidence as prima facie proof of the facts stated therein without proof of the signature or official character of the person signing the certificate. R.S., c. 293, s. 7; R.S., c. 376, s. 4.

Medical Advisory Committee

9 (1) There is a Medical Advisory Committee composed of such medical doctors, optometrists, psychologists and other licensed healthcare professionals appointed by the Minister as the Minister considers necessary for the functions and duties assigned to the Committee pursuant to this Act.

- (2)** The Minister may
- (a) set the term of appointment; and
 - (b) determine the remuneration,

of the members of the Medical Advisory Committee.

(3) The Medical Advisory Committee shall perform the duties and functions assigned to it by this Act.

(4) The Medical Advisory Committee or a member of the Committee shall, when requested by the Registrar, provide any information, recommendations and opinions required by the Registrar for the purpose of this Act.

- (5)** Subject to subsection (6), no person shall disclose
- (a) any information related to a request that is referred to the Medical Advisory Committee by the Registrar; or
 - (b) any information, recommendations or opinions provided to the Registrar by the Committee.

(6) A person may disclose information described in subsection (5) if the disclosure is required to

- (a) administer this Act or the regulations; or
- (b) carry out a responsibility imposed or exercise a power conferred by this Act or the regulations. 2011, c. 67, s. 1.

Motor Vehicle Appeal Board

10 (1) There is a Motor Vehicle Appeal Board composed of three or more persons appointed by the Minister.

- (2) The Minister may
 - (a) set the term of appointment; and
 - (b) determine the remuneration,

of the members of the Motor Vehicle Appeal Board.

(3) The Minister may designate a member of the Motor Vehicle Appeal Board as Chair.

(4) The Motor Vehicle Appeal Board shall perform the duties and functions assigned to it by this Act.

(5) The Motor Vehicle Appeal Board shall hear appeals with respect to

- (a) decisions by the Registrar pursuant to Section 339 to sustain orders of suspension issued pursuant to Section 338; or
- (b) orders to impound motor vehicles issued by the Registrar pursuant to Sections 367 to 373.

(6) The Motor Vehicle Appeal Board is not required to hold an oral hearing unless the appellant requests an oral hearing at the time of filing the appeal and pays the fee prescribed by the regulations.

(7) An appeal to the Motor Vehicle Appeal Board may be conducted in writing or, at the request of the appellant, may be conducted in person.

(8) Where an appeal to the Motor Vehicle Appeal Board is conducted in person, the hearing must be conducted in camera and may be attended by

- (a) the appellant and the appellant's representative, if any; and
- (b) any person granted permission by the Board to attend.

(9) No person other than the appellant or the appellant's representative shall publicly disclose

- (a) any information concerning the appellant that is referred to or heard by the Motor Vehicle Appeal Board for the purpose of the appeal; or
- (b) the appeal decision of the Board.

(10) A decision of the Motor Vehicle Appeal Board is final and not subject to any further appeal or review.

(11) The Minister may make regulations respecting appeals to the Motor Vehicle Appeal Board, including regulations

- (a) prescribing the form and manner of filing an appeal;
- (b) prescribing the fees for filing an appeal;
- (c) prescribing the manner or place for conducting an appeal;
- (d) respecting requirements for evidence provided for an appeal;
- (e) setting the quorum for the Board;
- (f) respecting the form of appeal decisions; and
- (g) respecting such other matters as are necessary for the administration of appeals.

(12) The exercise by the Minister of the authority contained in subsection (11) is a regulation within the meaning of the *Regulations Act*. 2011, c. 67, s. 1.

Division of Act

11 The division of this Act into Parts is for convenience only. R.S., c. 293, s. 8.

Certain exemptions for trolley coaches

12 Sections 50, 51 and 141, clause 181(1)(d) and Sections 323 to 328 do not apply to any motor vehicle that is a trolley coach. R.S., c. 293, s. 9.

PART I

REGISTRATION OF VEHICLES

Classification of vehicles

13 (1) Subject to the approval of the Governor in Council, the Minister may make regulations dividing vehicles into various classes, prescribing conditions governing the registration and operation of each class, providing for the number of number plates to be affixed to each vehicle in each class, providing for the location of the number plates to be affixed to each vehicle in each class and providing penalties for violation of such regulations.

(2) Such regulations upon publication in the Royal Gazette have the same force and effect as if the regulations were contained in this Act. R.S., c. 293, s. 10.

Prohibited vehicles

14 The Department shall not register, and no person shall operate on a highway, a miniature motor vehicle, an all-terrain vehicle, an air-cushioned vehicle, a “go-kart”, a “mini-bike”, a motorized vehicle designed to be driven exclusively or

chiefly on snow or ice or both, or any motorized vehicle of a like nature. R.S., c. 293, s. 11.

Serial numbers

15 (1) The Department may not register a new vehicle where the serial number of the vehicle indicates that it is of a different model year than the model year shown in the application for registration of the vehicle.

(2) Notwithstanding subsection (1), where there is a serial number for the chassis and the body of a vehicle indicating a different model year, the later year must be shown as the model year for the vehicle. R.S., c. 293, s. 12; 1994-95, c. 12, s. 2.

Registration by owner

16 (1) Every owner of a motor vehicle, trailer or semi-trailer intended to be operated upon a highway in the Province shall, before the same is so operated, apply to the Department for and obtain the registration thereof, except as provided in Sections 26(6), 29 and 33 or regulations made under Section 28.

(2) Notwithstanding subsection (1), a non-resident who becomes a resident and who is the owner of a motor vehicle, trailer or semi-trailer that is licensed or registered in the non-resident's home province or country may operate the same upon highways in the Province for a period of 30 days from the date upon which the non-resident became a resident of the Province or 90 days where residency is determined pursuant to clause (d) of the definition of "resident" in Section 2.

(3) Notwithstanding subsections (1) and (2), a non-resident who becomes a resident and who is the owner of a motor vehicle, trailer or semi-trailer that is licensed or registered in the owner's home province or country may operate the same upon highways in the Province for six months for non-business purposes so long as the owner is a member of the Canadian Forces within the Province on a temporary posting for training purposes, and for 90 days thereafter.

(4) The Minister may make and enforce regulations providing that a vehicle may be operated upon the highways under a temporary permit issued by the Department or by a person so authorized by the Department. R.S., c. 293, s. 13; 2004, c. 42, s. 2; 2008, c. 61, s. 1.

Application for registration

17 (1) Application for the registration of a vehicle required to be registered hereunder must be in such form as the Minister determines and must be accompanied by such evidence as satisfies the Registrar that the applicant is the owner of the vehicle.

(2) Where the vehicle for which registration is applied is a specially constructed, reconstructed or foreign vehicle, that fact must be stated in the application, and with reference to every foreign vehicle that has been formerly registered outside of this Province, the owner shall exhibit to the Department the certificate of title or registration or other evidence of former registration as may be in the applicant's possession or control or such other evidence as will satisfy the Department that the applicant is the lawful owner of the vehicle.

(3) No vehicle may be registered in the name of a person under the age of 16 years.

(4) Where the vehicle for which registration is applied is a foreign vehicle, the Department may require the owner to surrender the certificate of title or registration, the number plates and any other evidence of former registration as may be in the owner's possession. R.S., c. 293, s. 14.

Registration and appeal from refusal

18 Subject to this Act, the Department when satisfied as to the genuineness and regularity of an application, and that the applicant is entitled thereto, shall register the vehicle therein described and the owner thereof in suitable records under a distinctive registration number hereinafter referred to as the "registration number", provided, however, that the Registrar may refuse or withhold registration of any vehicle and in case of such refusal or withholding an appeal may be taken to the Minister whose decision is final. R.S., c. 293, s. 15.

Permit

19 (1) Subject to this Act, the Department upon registering a vehicle shall issue to the owner a permit which must contain the registration number assigned to the owner, the name and address of the owner, a description of the registered vehicle that includes the serial number thereof, such other particulars as may be required by the Department, and a statement that the operation of the vehicle is thereby authorized under this Act, and where the permit is subject to any special conditions authorized under this Act or under any regulations made pursuant to this Act, the permit must also contain a brief statement of the conditions, and no person shall operate such a vehicle in violation of or contrary to any such special conditions.

(2) Notwithstanding anything in this Act, a permit may be issued under subsection (1) in respect of a commercial motor vehicle for any period less than a registration year and defined by dates that the Governor in Council may approve, and such permit must state upon the face thereof the date upon which it expires.

(3) Notwithstanding subsection (1), the Department, upon registering a vehicle, may issue to the owner an interim permit under the same terms and conditions as provided for a permit issued pursuant to subsection (1), which is valid until a vehicle registration permit is issued pursuant to subsection (1). R.S., c. 293, s. 16.

Non-payment of tax

20 Upon receipt of a report from the Provincial Tax Commissioner that

(a) a person, who has applied for registration of a vehicle required to be registered pursuant to this Act, has not paid the tax required to be paid pursuant to Parts I and II of the *Revenue Act*; or

(b) a person, who holds a permit or registration issued pursuant to this Act, has not paid the tax required to be paid pursuant to Parts I and II of the *Revenue Act* in respect of a vehicle registered pursuant to this Act,

the Registrar shall refuse the application for registration or suspend the permit and registration, as the case may be, until the Commissioner reports that the tax has been paid. R.S., c. 293, s. 17.

Duty to carry permit

21 (1) Subject to subsections (2) and (3), an unexpired permit for a vehicle must at all times while the vehicle is being operated upon a highway within this Province be in the possession of the driver thereof or carried in the vehicle and subject to inspection by any peace officer.

(2) It is not necessary for an unexpired permit for a farm tractor to be in the possession of the driver thereof or carried in the farm tractor.

(3) Where a vehicle is registered in another province of Canada or in a state, an unexpired proof of registration for the vehicle issued by that other province or that state must at all times while the vehicle is being operated upon a highway within this Province be in the possession of the driver thereof or carried in the vehicle and subject to inspection by any peace officer and subsection (1) does not apply. R.S., c. 293, s. 18; 2004, c. 6, s. 21.

Number plate

22 (1) The Department shall also furnish to every owner whose vehicle is registered the number of number plates assigned to the owner in the regulations.

(2) Every number plate must have displayed upon it the registration number assigned to the owner and such other matter as the Minister may determine.

(3) The Registrar may require the return to the Department by the owner of all number plates and permits upon the termination of the lawful use thereof under this Act, and the owner shall return the same forthwith to the Department when so requested. R.S., c. 293, s. 19.

Display of number plate

23 (1) Number plates assigned to an owner and required to be attached to a vehicle must be attached thereto and displayed as prescribed by the regulations.

(2) Every number plate assigned to an owner and required to be attached to a vehicle must at all times be securely fastened to the vehicle so as to prevent the plate from swinging and at a height not less than 300 millimetres from the ground, measuring from the bottom of the plate, in a place and position to be clearly visible, and must be maintained free from foreign materials and in a condition to be clearly legible. R.S., c. 293, s. 20.

Expiry and renewal of registration

24 (1) Every vehicle registration under this Act expires on the date specified or determined by the regulations.

(2) A vehicle registration under the staggered system of registration expires on the date specified when the vehicle is registered.

(3) A vehicle registration is renewed by the owner upon application and payment of the required fees. R.S., c. 293, s. 21; 1995-96, c. 22, s. 1.

Extension of vehicle registrations

25 (1) Notwithstanding Section 24, the Governor in Council may by order declare that vehicle registrations under this Act do not expire until a day named in the order.

(2) When the Governor in Council makes an order pursuant to subsection (1) every permit and the number plates relating to a vehicle registration for that year that have not been renewed, suspended, revoked or cancelled or that have not expired through transfer of ownership are deemed to be valid until the day named in the order notwithstanding that an expiry date is stated in the permit or other document relating to the vehicle registration or on the number plates.

(3) Where any other provisions of this Act are in conflict with the provisions of this Section with respect to the current registration year, the provisions of this Section prevail. R.S., c. 293, s. 22.

Effect of vehicle transfer

26 (1) Whenever a vehicle as registered under the foregoing provisions of this Act is sold or disposed of, any permit issued respecting the vehicle thereupon terminates and the registration of the vehicle is deemed to be suspended from the date of the sale or disposal until the transferee has obtained a permit as provided by subsection (5).

(2) Notwithstanding subsection (1), whenever a vehicle is sold or disposed of, the vehicle is deemed to be registered under the name of the new purchaser or transferee providing there is displayed valid plates assigned to that person for a period not exceeding 30 days from the time of the sale or the disposition.

(3) Notwithstanding any sale, disposal or transfer of a vehicle, the number plates originally assigned to the seller are to be removed by the seller and maintained until the expiry date of those number plates for reassignment to a new vehicle the seller may purchase unless returned to or required to be returned by the Department.

(4) When a vehicle registered pursuant to this Act is sold, the seller shall complete the notice of sale portion of the certificate of registration and immediately forward it to the Department.

(5) In the event the Department does not receive the notice of sale portion of the certificate of registration properly endorsed, as provided in subsection (4), the Department may register the vehicle provided it is satisfied as to the genuineness and regularity of the transfer.

(6) In the event of the transfer by the operation of law of the title or interest of an owner in and to a vehicle by reason of the bankruptcy of the owner, execution sale, repossession upon default in performing the terms of a conditional

sale agreement or otherwise, the registration thereof expires and the vehicle must not be operated upon the highways until and unless the persons entitled thereto apply for and obtain the registration thereof, excepting that trustee or other representative of the owner or a sheriff or other officer repossessing the vehicle under the terms of a conditional sale contract, lease, chattel mortgage or other security or the assignee or other representative of such person may operate or cause to be operated the vehicle upon the highways from the place of repossession or place where formerly kept by the owner to a garage, warehouse or other place of keeping or storage while displaying upon the vehicle the number plates issued to the former owner.

(7) Immediately upon the death of a registered owner, the vehicle is deemed to be registered in the name of the estate of the deceased registered owner for a period of 60 days unless an application for other registration of the vehicle is sooner made.

(8) Where a registered owner dies intestate or dies leaving an estate that is not subject to a grant of probate, the Department may determine and recognize a person as the personal representative of the deceased registered owner, and the priorities prescribed by clauses 32(1)(a) to (e) of the *Probate Act* apply with necessary changes to the determination.

(9) Where the Department is unable to determine and recognize a personal representative of a deceased registered owner under subsection (8), the Department may recognize as the personal representative of the deceased registered owner any person that the Department considers fit to act as the personal representative.

(10) The personal representative of a deceased registered owner of a vehicle, as recognized by the Department under subsection (8) or (9), may apply to the Department for and obtain the registration of the vehicle.

(11) Where no application for registration is sooner made, the vehicle of a deceased registered owner is deemed to be unregistered at the expiration of 60 days following the registered owner's death and any number plates assigned to the deceased owner must be returned to the Department.

(12) Subsections (7), (10) and (11) do not affect the title or interest of any person in the vehicle or the protection provided by the *Insurance Act* upon the death of an insured vehicle owner.

(13) In any proceedings where the question arises as to whether the requirements of subsection (1) have been complied with, the burden of proof that the transferee has complied with the requirements of subsection (1) is upon the transferee.

(14) When a vehicle registered under the Act is sold or disposed of or the title or interest of an owner in and to a vehicle is transferred by the operation of law and an application for the registration of the vehicle is made to the Department, the Registrar may refuse to register the vehicle unless the applicant files with the Department proof, in a form satisfactory to the Registrar, that any tax required to be paid under Part II of the *Revenue Act* in respect of the vehicle has been paid.

(15) No action or other proceeding for damages lies against the Registrar, any employee of the Department or the Crown in right of the Province for

any act done in good faith in the execution or intended execution of a power or duty under this Section or for any alleged neglect or default in the execution in good faith of that power or duty. R.S., c. 293, s. 23; 1994-95, c. 12, s. 3; 2015, c. 45, s. 2.

Notice of transfer by dealer

27 (1) Every dealer, upon transferring a motor vehicle, trailer or semi-trailer, whether by sale, lease or otherwise, to any person other than a dealer, shall immediately give written notice of the transfer to the Department upon the official form provided by the Department.

(2) Every such notice must contain the date of the transfer, the names and addresses of the transferor and transferee and such description of the vehicle as may be called for in the official form.

(3) The Registrar may direct that the notice be given weekly, monthly or otherwise as the Registrar may determine. R.S., c. 293, s. 24.

Exemption and interprovincial trucking

28 (1) Subject to the approval of the Governor in Council, the Minister may make regulations exempting from registration such vehicles as the Minister thinks proper and prescribing the restrictions, terms and conditions, if any, under which such vehicles shall be exempt.

(2) Subject to the approval of the Governor in Council, the Minister may make regulations providing for the implementation of a mileage prorated motor vehicle registration plan for interprovincial trucking in accordance with agreements made with other jurisdictions.

(3) Whenever the Minister has made regulations under subsection (1) or (2) and any person claims exemption from registration thereunder, the burden of proof that such person is entitled to the exemption is upon the person so claiming the exemption. R.S., c. 293, s. 25.

DEALERS' NUMBER PLATES

Dealer number plate

29 (1) A dealer licensed under this Act, and such other persons as the Minister may determine owning or operating any vehicle upon any highway, in lieu of registering each vehicle may obtain from the Department upon application therefor upon the proper official form and payment of the fees required by law and attach to each vehicle one number plate which must bear thereon a distinctive number, and such other matter as the Minister may determine, and plates so issued may, during the calendar year for which issued, be transferred from one such vehicle to another owned or operated by the dealer, who shall keep a written record of the vehicles upon which the dealer's number plates are used, which record must be open to inspection by any peace officer or any officer or employee of the Department.

(2) No dealer in motor vehicles, trailers or semi-trailers shall cause or permit any such vehicle owned by such person or persons to be operated or moved upon a highway without there being displayed upon the vehicle a number plate or plates issued to such person, either under Section 22 or under this Section except as otherwise provided in subsection 16(4) and Section 33.

(3) When first taking possession of a vehicle already registered under this Act, any dealer may, without registering the vehicle, operate or move, or cause to be operated or moved, any such vehicle upon a highway if there is in force in respect of the vehicle a valid certificate of registration and if the certificate has been assigned to the dealer and is in possession of the driver of the vehicle and there is displayed a valid dealer number plate assigned to that dealer.

(4) Notwithstanding Section 23, a dealer or person using upon a vehicle a number plate issued under this Section shall attach the plate to the rear of the vehicle. R.S., c. 293, s. 26.

Use of dealer number plate

30 (1) No person shall operate or move upon a highway a vehicle to which a dealer's number plate is attached when the vehicle is being used for the transportation of persons for gain or the transportation of goods or when the vehicle is being rented.

(2) Notwithstanding subsection (1) but subject to all other provisions of this Act, a commercial vehicle to which a dealer's number plate is attached may be operated

(a) for a period not exceeding one day with or without a load for demonstration purposes while the dealer or an agent or employee of the dealer is in the vehicle; or

(b) for the period required to transport the vehicle with or without a load owned by the dealer from the manufacturer's premises to the dealer's premises or from the dealer's premises to the premises of the dealer's sub-dealer while the dealer or an agent or employee of the dealer is in the vehicle.

(3) No dealer shall use any dealer's number plate issued to the dealer upon any vehicle unless

(a) the vehicle is a new vehicle and the dealer has filed with the Department a certificate, satisfactory to the Registrar, from the manufacturer of the vehicle or from a dealer not having an established place of business in this Province or from another dealer having authority to issue such a certificate in respect of a vehicle of that make, that the dealer has a franchise or sales contract authorizing the dealer to sell vehicles of that make;

(b) a certificate of registration has been issued in respect of the vehicle and the certificate of registration is in the name of the dealer or has been assigned to the dealer; or

(c) the dealer can show that the dealer has made application in the dealer's own name for a certificate of registration in respect of the vehicle. R.S., c. 293, s. 27.

Dealer permit

31 (1) The Department shall issue a dealer's permit in respect to each dealer's number plate.

(2) Every dealer's permit must state thereon the number of one of the dealer's number plates and it is an offence for the driver or person in charge of a vehicle displaying a dealer's number plate to fail to produce, on the request of a peace officer, a dealer's permit bearing the same number as the number plate.

(3) Every dealer's permit must state thereon the number of the dealer's licence, the number of the number plate and such other matter as the Minister may determine and the permit and the plate to which it refers, when not in actual use upon a highway, must be kept at the place of business for which the dealer's licence was issued.

(4) Where the Registrar is satisfied that a dealer's number plate is being used for purposes not related to the business of the dealer or person, the Registrar may, by order, cancel the dealer's permit issued in respect of the dealer's number plate and require the return of the dealer's number plate. R.S., c. 293, s. 28.

Dealer number plate for transporting vehicles

32 (1) The Department may issue dealers' number plates to a person who is engaged in the business of transporting vehicles whether or not the person is a dealer licensed under this Act.

(2) Dealers' number plates issued under subsection (1) may be attached to a vehicle that is being transported with or without load to a point of delivery within the Province.

(3) The provisions of Section 31 and the other provisions of this Act apply in respect of each number plate except that, if the person is not a dealer licensed under this Act, the provisions relating to a dealer licensed under this Act do not apply.

(4) A dealer's permit issued in respect of a dealer's number plate issued under this Section must, in addition to any matter required to be stated, state that the dealer's number plate may be used only while the vehicle is being transported to a point of delivery within the Province. R.S., c. 293, s. 29.

Temporary numbers and in-transit permits

33 (1) Notwithstanding the foregoing provisions of this Act in regard to the issuing and displaying of number plates, the Minister may authorize dealers and other persons designated by the Minister, to issue temporary numbers in a form to be approved by the Minister pending the issue of number plates and a permit as required by this Act, subject to such conditions as the Minister may cause to be stated on the temporary numbers, the owner of any vehicle legally displaying temporary numbers is deemed to have complied with this Act in regard to the display of number plates and it is an offence for any person to fail to comply with any conditions stated on the temporary numbers.

(2) The Minister may authorize dealers and other persons to issue in-transit permits in a form approved by the Minister and containing such conditions as the Minister prescribes.

(3) Upon payment of the prescribed fee an in-transit permit may be issued in respect of a vehicle that is not registered or for which no permit or number plates have been issued.

(4) Notwithstanding any other provision of this Act, an in-transit permit authorizes the vehicle in respect of which it is issued to be operated or moved on a highway without load for a single trip from a place to another place named in the permit and in accordance with the conditions stated in or on the permit.

(5) The person to whom an in-transit permit is issued shall display it in the lower right hand corner of the windshield of the vehicle in respect of which it was issued and shall remove the permit and destroy it immediately after the vehicle has completed the trip for which the permit was issued.

(6) It is an offence for a person to fail to observe or comply with any provision of this Section or with any provision or condition of an in-transit permit issued to the person. R.S., c. 293, s. 30.

Regulations respecting dealer number plates

34 Subject to this Act, the Minister may make regulations governing the withholding, refusal to issue, cancellation and use of dealer's number plates and may delegate to the Registrar such authority as the Minister considers expedient and it is an offence against this Act for any person to violate any provision of those regulations. R.S., c. 293, s. 31.

Regulations respecting dealers

35 (1) Subject to the approval of the Governor in Council, the Minister may make regulations

(a) defining or classifying dealers or determining who is a dealer for the purpose of this Act or the regulations;

(b) prescribing or fixing the standards to be maintained by any dealer in respect of the dealer's premises, equipment, service or any of them;

(c) governing the issuing, withholding and revocation of licences for dealers or any class of dealers;

(d) providing for the bonding of dealers and specifying the amount and terms and conditions of bonds;

(e) for the more effective administration of this Act in relation to the buying, selling or dealing in motor vehicles, trailers or semi-trailers.

(2) Any regulations made under the authority of this Section may be general in their application or may be made applicable to any class or classes of dealers.

(3) It is an offence for any person to violate any provision of any such regulation.

(4) Where the regulations made under the authority of this Section relate to a matter for which provision is made in this Act the regulations may provide that the particular Section or Sections of this Act do not apply. R.S., c. 293, s. 32.

Motor Vehicle Safety Act (Canada) standards

36 No person who deals in new vehicles shall sell or offer to sell a new vehicle that does not conform to standards required under the *Motor Vehicle Safety Act* (Canada). R.S., c. 293, s. 33.

GENERAL PROVISIONS IN REGARD TO REGISTRATION AND NUMBER PLATES

Responsibility respecting errors, custody, loss or damage

37 (1) Any owner or dealer who discovers an error in the owner's or dealer's permit or number plates shall return the permit or number plates to the Department within 24 hours of the discovery.

(2) Every owner or dealer is responsible for the custody of the number plates issued to the owner or dealer for the current year and it is an offence for the owner or dealer to fail to immediately notify the Department when such number plates are no longer in the owner's or dealer's possession.

(3) In the event that any number plate or permit issued hereunder is lost, mutilated or has become illegible, the person who is entitled thereto shall make immediate application for and obtain a duplicate or substitute therefor upon furnishing information of such fact satisfactory to the Department and upon payment of the required fees. R.S., c. 293, s. 34.

Finding or removal of number plate

38 (1) Any person who finds any number plate or number plates of any motor vehicle of the current year not issued to the person shall immediately deliver them to the Registrar or to a peace officer and the peace officer may deliver the number plate or number plates to any person who the peace officer is satisfied is the owner of the motor vehicle for which the number plate or number plates were issued or shall, within 24 hours, notify the Registrar that the peace officer holds the number plate or number plates.

(2) Any peace officer may remove any number plate or number plates from any motor vehicle when the motor vehicle is apparently abandoned or when the number plate or number plates have been or are being used illegally and shall forward them to the Registrar with a statement of the reason for the removal. R.S., c. 293, s. 35.

Publication of description of plates and numbers

39 (1) The Minister may at any time publish in one or more issues of the Royal Gazette a brief description of the number plates and temporary numbers that will be or have been issued by the Minister in respect of any registration year under this Act.

(2) The production of a copy of the Royal Gazette containing such description is prima facie evidence of the matters stated in the description. R.S., c. 293, s. 36.

Offences respecting registration

40 (1) It is an offence against this Act for any person to commit any of the following acts:

(a) to operate or for the owner thereof to permit the operation upon a highway of any motor vehicle, trailer or semi-trailer that is not registered or that does not have attached thereto and displayed thereon the number plate or plates assigned to the owner by the Department for the current registration year, subject to Sections 29 and 33 and any regulation made under Section 28;

(b) to display or cause or permit to be displayed or to have in possession any permit or registration number plate knowing same to have been cancelled, revoked or suspended;

(c) subject to subsection 26(2), to display or cause or permit to be displayed upon a vehicle any registration number plate issued in respect of another vehicle or not issued in respect of the vehicle upon which it is so displayed;

(d) to lend or permit the use of, by one not entitled thereto, any permit or registration number plate issued to the person so lending or permitting the use thereof;

(e) to fail or refuse to surrender to the Department, upon demand, any permit or registration number plate that has been suspended, cancelled or revoked as in this Act provided;

(f) to use a false or fictitious name or address in any application for the registration of any vehicle or for any renewal or duplicate thereof, or to make a false statement or to conceal a material fact in any such application;

(g) to operate or have under the person's control or in the person's charge any motor vehicle on which motor vehicle there is displayed any fictitious number plate, or any number plate that is defaced or altered or any number plate other than as provided in this Act or in any regulations.

(2) In this Section, "number plate" and "permit" include a number plate or permit issued in respect of a vehicle registered in another province of Canada or in a state. R.S., c. 293, s. 37; 2004, c. 6, s. 22.

Identification or registration

41 (1) Notwithstanding any other provision of this Act, the Minister may, subject to the approval of the Governor in Council, make regulations prescribing

(a) the means of identification or proof of registration to be attached to motor vehicles or trailers; and

(b) the method by which and the manner in which the means of identification or proof of registration must be attached to motor vehicles or trailers.

(2) Every motor vehicle and every trailer while being driven on any highway must have attached thereto such means of identification or proof of registration thereof as the Minister may prescribe.

(3) The means of identification or proof of registration must be attached by such method and in such manner as the Minister may prescribe. R.S., c. 293, s. 38.

PART II

ANTI-THEFT PROVISIONS

Application of Sections 43 to 49

42 Sections 43 to 49 inclusive apply to every motor vehicle required to be registered with the Department under this Act except any vehicles owned by the Dominion Government or by the Province or any incorporated city or town and excepting also any traction engine or road roller. R.S., c. 293, s. 39.

Conditions for registration or transfer and operation

43 (1) The Department shall not register a new vehicle or transfer the registration of any motor vehicle, unless and until the owner thereof makes application for and is granted an official certificate of registration for the vehicle.

(2) The owner of a motor vehicle registered in the Province shall not operate or permit the operation of the vehicle upon any highway without first obtaining a certificate of registration therefor from the Department nor shall any person operate a motor vehicle upon the highways knowing or having reason to believe that the owner has failed to obtain a certificate of registration therefor and any person violating this subsection shall be punished as provided in Section 378. R.S., c. 293, s. 40.

Form of application for registration

44 (1) The application for a certificate of registration must be made upon the appropriate form furnished or approved by the Department and must contain a full description of the motor vehicle that includes the name of the maker, serial number and any distinguishing marks thereon and whether the vehicle is new or used, and the applicant shall also furnish evidence satisfactory to the Registrar that the applicant is the owner of the motor vehicle and such other information as the Department may require.

(2) Whenever a new motor vehicle is purchased from a dealer, the application for a certificate of registration must include a statement of transfer by the dealer.

(3) Every person who makes a false statement in any application for a certificate of registration is guilty of an offence against this Act. R.S., c. 293, s. 41.

Certificate of registration

45 (1) The Department when satisfied that the applicant is the owner of a vehicle, shall thereupon issue in the name of the owner a certificate of registration bearing a serial number and the signature of the Registrar or other officer and

the seal of the Department and setting forth the date issued and a description of the vehicle as determined by the Department, and the certificate of registration must also contain, upon the reverse side, forms for assignment of the owner's interest in the motor vehicle.

(2) The certificate is good for the life of the vehicle so long as the same is owned or held by the original holder of the certificate.

(3) A certificate of registration may not be issued to a person under the age of 16 years. R.S., c. 293, s. 42; 1994-95, c. 12, s. 4.

Transfer of vehicle

46 (1) The owner of a motor vehicle for which a certificate of registration is required hereunder shall not sell or transfer the owner's interest in or to the vehicle unless the owner has obtained a certificate of registration thereto nor unless having procured a certificate of registration the owner in every respect complies with the requirements of this Section and any person who violates this Section is guilty of an offence.

(2) Whenever a certificate of registration has been issued in respect of a motor vehicle the owner who sells or transfers the owner's interest in or to the motor vehicle shall execute an assignment of the owner's interest in or to the motor vehicle in the form provided on the reverse side of the certificate of registration for the vehicle and the owner shall deliver the certificate of registration to the purchaser or transferee at the time of delivering the vehicle.

(3) The transferee except as provided in subsection (4) shall thereupon present the certificate endorsed and assigned as aforesaid to the Department and make application for and obtain a new certificate of registration for the vehicle.

(4) When the transferee of a vehicle is a dealer who holds the same for resale, or when the transferee does not drive the vehicle nor permit the vehicle to be driven upon the highways, the transferee is not required to forward the certificate of registration to the Department, as provided in subsection (3), but the transferee upon transferring the transferee's interest to another person shall execute an assignment of the transferee's interest upon the form provided on the reverse side of the certificate of registration and deliver the same to the person to whom the transfer is made.

(5) Whenever the ownership of any motor vehicle passes otherwise than by voluntary transfer, the new owner may obtain a certificate of registration therefor from the Department upon application therefor and payment of the prescribed fee accompanied by such evidence as shall satisfy the Registrar that the applicant is entitled to a certificate of registration, and the Registrar, when satisfied of the genuineness and regularity of the transfer, shall issue a new certificate of registration to the person entitled thereto.

(6) Every person who makes a false statement in an assignment of the person's interest in or to a motor vehicle is guilty of an offence against this Act. R.S., c. 293, s. 43.

Refusal or cancellation of registration

47 (1) Where the Registrar determines that an applicant for a certificate of registration of a motor vehicle is not entitled thereto, the Registrar may refuse to issue the certificate or to register the vehicle, and in that event, unless the Registrar reverses the decision or the Registrar's decision is reversed by the Minister, the applicant has no further right to apply for a certificate of registration or registration on the statements in the application, and the Registrar may for a like reason after notice and hearing cancel a registration already acquired or revoke any outstanding certificate of registration and the notice must be served in person or by registered mail.

(2) An appeal lies from any refusal of the Registrar to issue a certificate of registration or from any revocation of an outstanding certificate of registration to the Minister whose decision is final. R.S., c. 293, s. 44.

Loss of registration or permit

48 In the event of the loss of a certificate of registration or permit, the loss of which is accounted for to the satisfaction of the Department, a duplicate or substitute may be issued. R.S., c. 293, s. 45.

Offence

49 Any person who alters any certificate of registration issued by the Department under this Act or who alters any assignment thereof, or who holds or uses any such certificate or assignment knowing the same to have been altered, or falsified, is guilty of an offence. R.S., c. 293, s. 46.

Alteration of vehicle

50 (1) Until application therefor has been made to and permission for same has been granted by the Department, no person shall operate a motor vehicle after any of the following alterations have been made:

- (a) replacing the chassis by another;
- (b) replacing the body by another;
- (c) converting the type of the motor vehicle into another type.

(2) When the replacing of the body or chassis of a motor vehicle includes the replacing of the part of the body or chassis bearing the manufacturer's serial number the application must mention that fact.

(3) No person shall drive or permit to be driven on a highway a motor vehicle manufactured, or modified after its manufacture, such that nitrous oxide may be delivered into the fuel mixture unless

- (a) the part of the fuel system that may connect to a canister, bottle, tank or pressure vessel capable of containing nitrous oxide can be clearly seen by looking at the interior or exterior of the motor vehicle;
- (b) there is no canister, bottle, tank or pressure vessel connected to that part; and

(c) either

(i) where that part is located inside the passenger compartment, there is no canister, bottle, tank or pressure vessel capable of containing nitrous oxide in the passenger compartment,

or

(ii) that part is completely disconnected from the part of the system that connects to the engine,

(iii) the disconnection can be clearly seen by looking at the interior or exterior of the motor vehicle, and

(iv) the disconnected part cannot be reconnected from inside the passenger compartment. R.S., c. 293, s. 47; 2007, c. 45, s. 4.

Replacement of serial number

51 (1) When a vehicle has been altered or rebuilt and its serial number has been removed or when no such number can be found on a vehicle, the Department may authorize that the original number be replaced or reproduced or may assign a special number for the vehicle.

(2) When the Department assigns a special number to a vehicle the owner of the vehicle shall pay the Department a fee of \$2.15 and shall stamp the number upon the vehicle as directed by the Department and, upon receipt by the Department of a certificate of a peace officer that the peace officer has inspected the vehicle and found the number stamped upon it as directed, the special number becomes the serial number of the vehicle. R.S., c. 293, s. 48; 2013, c. 3, s. 9; 2015, c. 6, s. 30.

Offence

52 Except as provided in Section 51 any person who defaces, destroys or alters the serial number of a vehicle or places or stamps a serial number upon a vehicle is guilty of an offence. R.S., c. 293, s. 49.

Serial number on bicycle, electric kick-scooter or personal transporter

53 No person shall deface, destroy or alter the serial or identification number of a bicycle, an electric kick-scooter or a personal transporter. R.S., c. 293, s. 50; 2015, c. 46, s. 2; 2022, c. 21, s. 2.

Vehicle with altered number or stolen vehicle

54 (1) No person shall, unless with the written permission of the Registrar, operate or have in the person's possession or buy, sell, wreck or otherwise deal with any motor vehicle, the serial number of which has been altered, removed or defaced or that shows evidence of any attempt to destroy any marks of identification on such motor vehicle.

(2) Any official of the Department or any peace officer upon discovery of any motor vehicle, the serial number of which has been altered, removed or defaced, shall immediately take the motor vehicle into custody in the name of the Department, and shall forward to the Registrar a complete report.

(3) The Registrar may authorize the seizure of any motor vehicle, when in the Registrar's judgment the Registrar has reason to believe that the motor vehicle has been stolen and to retain the same in the name of the Department until such time as the identity of ownership is established.

(4) Whenever a motor vehicle is seized, impounded or taken into custody under this Section or whenever a stolen motor vehicle comes into the possession of the Registrar by seizure or otherwise, the burden of proof as to the ownership of the motor vehicle is upon any person who claims ownership, and, after 90 days from the date the motor vehicle was so taken into custody, and no person having established proof of ownership, the motor vehicle is deemed to be a stolen motor vehicle, and may be sold as provided in Section 328.

(5) No official of the Department or peace officer is personally liable for any act done in the performance of the official's or peace officer's duty under this Section. R.S., c. 293, s. 51.

Report of vehicle stolen or recovered

55 Every chief of police or peace officer of every jurisdiction, upon receiving information that a motor vehicle has been stolen or unlawfully taken or that a motor vehicle having been stolen or unlawfully taken has been recovered shall immediately report the information to the Department. R.S., c. 293, s. 52.

PART III

DEALERS' LICENCES

Dealer licence required

56 (1) No person shall carry on or conduct the business of buying, selling or dealing in motor vehicles, trailers or semi-trailers, either directly or through a sub-dealer or agent, unless the person is licensed under this Act and unless the person has complied with all the other provisions of this Act and of the regulations.

(2) For the purposes of subsection (1), a person carries on or conducts the business of buying, selling or dealing in motor vehicles, trailers or semi-trailers who in any period of 12 consecutive months sells or trades more than four motor vehicles or more than four trailers or semi-trailers without the permission in writing of the Registrar.

(3) Application for a dealer's licence must be made on such form and must contain such information as the Department may prescribe.

(4) Every person who makes a false statement in an application to the Department for any such licence is guilty of an offence and is liable to the penalty mentioned in Section 383. R.S., c. 293, s. 53; 2002, c. 10, s. 10.

Issue and expiry of dealer licence

57 (1) The Department upon receiving an application for a dealer's licence accompanied by the proper fee may, if satisfied that the applicant is of good character and that the applicant has complied with this Act and all the regulations,

issue the licence applied for, and every such licence expires on December 31st in the year in which it is issued.

(2) Any licensee before removing any one or more of the licensee's places of business or opening any additional place of business shall apply to the Department for and obtain a supplemental licence. R.S., c. 293, s. 54.

Form, validity and display of dealer licence

58 Every dealer's licence must be in such form as the Minister determines and is valid only in the county or counties for which it is issued, and every dealer shall apply for and obtain a separate licence for each county in which the dealer maintains an established place of business but may obtain a licence in any county, whether the dealer maintains a place of business there or not, and the licence must be conspicuously posted up in the place of business for which it is issued. R.S., c. 293, s. 55.

Dealer record and proof of ownership

59 (1) Every licensed dealer shall maintain a record in the form as prescribed by the Department of every motor vehicle, trailer or semi-trailer bought, sold or exchanged by the dealer or received or accepted by the dealer for sale or exchange, which record must contain a description of every said vehicle that includes the name of the maker, type, serial number and other distinguishing marks and whether any numbers thereon have been defaced, destroyed or changed, and must state with reference to each such vehicle the name and address of the person from whom purchased or received and, when sold or otherwise disposed of by the dealer, the name and address of the person to whom sold or delivered.

(2) Every licensed dealer shall have in the dealer's possession and in the dealer's name a separate certificate of registration or an assignment thereof or other documentary evidence of interest in or to every motor vehicle in the dealer's possession. R.S., c. 293, s. 56.

GARAGE LICENCES

Regulations respecting garage licence

60 Subject to the approval of the Governor in Council, the Minister may make such rules and regulations and prescribe such fees and penalties as the Minister considers necessary or expedient for the licensing and regulating of garages. R.S., c. 293, s. 57.

Report by garage

61 Every garage keeper shall transmit to the Department within 14 days on a form prescribed by the Department, a report of all second-hand or used motor vehicles bought, sold, wrecked or junked. R.S., c. 293, s. 58.

Right of entry

62 Any official of the Department, any peace officer or any person authorized by the Registrar may enter into any place where motor vehicles that are expected to be driven on a public highway are stored for the purpose of inspecting the mechanical fitness of the motor vehicle. 1999, c. 11, s. 1.

Regulations respecting dealer licence

63 Subject to this Act, the Minister may make regulations governing the issuing, withholding and revocation of dealers' licences, and the regulations may delegate to the Registrar such authority as the Minister considers expedient and it is an offence to violate such regulations. R.S., c. 293, s. 60.

FOR RENT CARS

Record of rentals

64 (1) Every person engaged in the business of renting motor vehicles without drivers who rents a vehicle without a driver, otherwise than as part of a bona fide transaction involving the sale of the motor vehicle, shall maintain a record of the identity of the person to whom the vehicle is rented and the exact time the vehicle is the subject of the rental or in possession of the person renting and having the use of the vehicle and every such record must be open to inspection by the Registrar, an officer of the Royal Canadian Mounted Police, a chief of police, an inspector of motor vehicles, or by any other person upon signed order of any such official, and it is an offence for any such owner to fail to make or have in the owner's possession or to refuse an inspection of the record as required in this Section.

(2) Where the Registrar prescribes a form for the keeping of the record provided for in this Section, the owner shall use that form. R.S., c. 293, s. 61.

DRIVER TRAINING SCHOOLS

Regulations respecting driver training schools

65 (1) Subject to the approval of the Governor in Council, the Minister may make regulations for the licensing and regulation of driver training schools and of persons who for hire provide instruction in the operation of motor vehicles or hold themselves out as being capable and willing to provide such instruction.

(2) Without restricting the generality of subsection (1), the Minister by such regulations may

- (a) prescribe the form, content and duration of licences;
- (b) provide for revocation or suspension of licences;
- (c) prescribe fees for licences;
- (d) prescribe standards of competency and of equipment of licence holders;
- (e) prescribe courses of instruction;
- (f) exempt persons or classes of persons from the application of the regulations.

(3) No person shall

- (a) conduct a driver training school;
- (b) for hire provide, or offer to provide, instruction in the operation of a motor vehicle; or

(c) purport to be capable and willing to provide for hire instruction in the operation of motor vehicles, contrary to regulations made under this Section. R.S., c. 293, s. 63.

PART IV

DRIVERS' LICENCES

Licence required to drive on highway

66 Subject to Section 67 and subsection 88(6), no person shall operate any motor vehicle upon a highway in the Province unless such person has a valid driver's licence under the provisions of this Act for the type or class of vehicle being driven. R.S., c. 293, s. 64.

Licensed non-resident

67 (1) A non-resident who is 16 years of age or over and who has been duly licensed under a law requiring the examination and licensing of drivers in the non-resident's home province or country and who has in the non-resident's immediate possession a valid driver's licence issued to the non-resident in the non-resident's home province or country is permitted without examination or licence under this Act to drive a motor vehicle of a type or class authorized to be driven by such licence upon the highways of the Province during a period of 90 days from the date such non-resident first entered the Province, and subject to the foregoing may drive a motor vehicle registered in the province or country that issued the non-resident's driver's licence during such period of time and under such conditions as such motor vehicle is exempt from registration in the Province by any regulations made under Section 28.

(2) Any non-resident or other person whose driver's licence or right or privilege to operate a motor vehicle in the Province has been suspended or revoked under this Act shall not operate a motor vehicle in the Province under a licence, permit or registration certificate issued by any other jurisdiction, or otherwise operate a motor vehicle in the Province during the period of such suspension or revocation.

(3) A non-resident who is 16 years of age or over and who has a valid driver's licence issued to the non-resident in the non-resident's home province or country and who becomes a resident of the Province, may, without examination or licence under this Act, drive a motor vehicle of a type or class authorized to be driven by such driver's licence upon the highways during a period of 90 days from the date upon which the non-resident became a resident of the Province.

(4) A member of the Canadian Forces who has a valid driver's licence issued to the member in the member's home province and who enters the Province, may, without examination or licence under this Act, drive a motor vehicle of a type or class authorized to be driven by such a driver's licence upon the highways during a period of 90 days from the date on which the member first entered the Province.

(5) Notwithstanding subsections (3) and (4), a non-resident who is 16 years of age or over and who has a valid driver's licence issued to that person in that person's home province or country and who becomes a resident of the

Province, may, without examination or licence under this Act, drive a motor vehicle of a type or class authorized to be driven by such driver's licence upon the highways for six months so long as the owner is a member of the Canadian Forces within the Province on a temporary posting for training purposes, and for 90 days thereafter.

(6) Subject to the approval of the Governor in Council, the Minister may make regulations

- (a) allowing classes of persons
 - (i) licensed in another jurisdiction to drive a motor vehicle, and
 - (ii) designated by the regulations,

to drive a motor vehicle upon a highway within the Province without examination or licence under this Act; and

- (b) prescribing terms and conditions that apply to any such classes.

(7) The regulations made pursuant to subsection (6) may prescribe different terms and conditions for different classes of persons.

(8) The exercise by the Minister of the authority contained in subsection (6) is a regulation within the meaning of the *Regulations Act*. R.S., c. 293, s. 65; 2008, c. 61, s. 2; 2009, c. 22, s. 1.

Regulations

68 The Governor in Council may make regulations

- (a) prescribing classes of drivers' licences;
- (b) prescribing the form, content and duration of drivers' licences;
- (c) prescribing qualifications of competency and fitness for drivers in the issuance and renewal of drivers' licences or any class or classes of drivers' licences;
- (d) designating by classification the entitlement of a driver to operate various types, sizes, classes or combinations of vehicles. R.S., c. 293, s. 66.

Minister's decision final

69 The Minister's decision is final if any question arises as to whether a person requires a driver's licence of one class or another to operate a motor vehicle. R.S., c. 293, s. 66.

Refusal to issue and restoration of driver's licence

70 (1) The Department, with the approval of the Minister, may refuse to issue a driver's licence to any person.

(2) The Department may refuse to issue a driver's licence to any person whom the Registrar determines to have provided misleading information to the Department in the course of applying for the driver's licence.

(3) The Department, with the approval of the Minister, may refuse to issue a driver's licence to any person who, being the holder of a licence like a driver's licence issued to the person in another province or country, refuses to surrender the licence to the Department.

(4) The Department shall not issue a licence to a person if a decision has been made to suspend or revoke the person's licence in the person's previous jurisdiction of residence and the suspension or revocation has not yet taken place.

(5) The Department shall not issue a driver's licence

(a) for the operation of any motor vehicle other than a farm tractor to a person who is under the age of 16 years; or

(b) for the operation of a farm tractor to a person who is under the age of 14 years.

(6) The Department shall not issue a driver's licence to any person whose driver's licence has been revoked under Sections 330 and 331, or to any person who has been convicted in the Province of any of the offences mentioned in Sections 330 and 331 until the period of revocation set forth in subsection 71(1) has elapsed or until any order of prohibition made by a court pursuant to section 320.24 of the *Criminal Code* (Canada) has expired. R.S., c. 293, s. 67; 1994-95, c. 12, s. 5; 2004, c. 42, s. 3; 2015, c. 45, s. 3; 2018, c. 3, s. 47.

Application for restoration of driver's licence

71 (1) No application for restoration of a driver's licence or the privilege of obtaining a driver's licence may be made until there has expired from the date of the revocation a period of

(a) six months, where the revocation was for a violation of section 334 of the *Criminal Code* (Canada) respecting theft of gasoline or diesel oil as defined in the *Revenue Act*;

(b) six months in the case of a first revocation or two years in the case of a subsequent revocation where the revocation was for a violation of the *Criminal Code* (Canada) referred to in clause 330(1)(e);

(c) one year in the case of a first revocation, three years in the case of a second revocation and indefinitely in the case of a third or subsequent revocation where the revocation was for a violation of subsection 320.14(1) or (4), subsection 320.15(1) or section 320.18 of the *Criminal Code* (Canada), if the prohibition referred to in section 320.18 of that Act was occasioned by an impairment-related offence and the offence involves the operation of a motor vehicle;

(d) two years in the case of a first revocation and five years in the case of a subsequent revocation where the revocation was for a violation of subsection 320.13(1) or 320.16(1) of the *Criminal Code* (Canada) and the offence involved the operation of a motor vehicle;

(e) five years in the case of a first revocation and indefinitely in the case of a subsequent revocation where the revocation was for a violation of section 220, 221 or 236, subsection 320.13(2)

or (3), 320.14(2) or (3), 320.16(2) or (3) or section 320.17 of the *Criminal Code* (Canada) and the offence involves the operation of a motor vehicle;

(f) two years in the case of a first revocation or five years in the case of a subsequent revocation where the revocation was for a violation of section 333.1 of the *Criminal Code* (Canada), for the theft of a motor vehicle in violation of section 334 of the *Criminal Code* (Canada) or for a violation of section 335 of the *Criminal Code* (Canada);

(g) one year in the case of a first revocation or two years in the case of a subsequent revocation where the revocation was for a violation of subsection 363(1);

(h) except as provided in subsection (9), one year in the case of a first revocation or two years in the case of a subsequent revocation where the revocation was for a violation of section 320.18 of the *Criminal Code* (Canada), if the offence involves the operation of a motor vehicle and the prohibition referred to in that section was in relation to an offence other than an impairment-related offence, or subsection 363(2) of this Act, the new revocation period to be concurrent with any period of revocation provided in this subsection, or any prohibition or suspension that may be in effect at the time of the revocation; or

(i) time determined by the Governor in Council for any offence designated pursuant to clause 330(1)(d).

(2) Notwithstanding clause (1)(c), an application may be made for restoration, before the expiry of the time periods referred to in clause (1)(c), of a person's driver's licence or privilege of obtaining a driver's licence by a person where the revocation was for a violation of

(a) subsection 320.14(1) or 320.15(1) of the *Criminal Code* (Canada), if the violation involved alcohol; or

(b) section 320.18 of the *Criminal Code* (Canada), if the prohibition under that subsection was occasioned by an impairment-related offence involving alcohol,

and the Registrar permits the person to participate in an ignition interlock program established by the regulations.

(3) The driver's licence of a person that has been restored upon application pursuant to subsection (2) is restored only for the purpose of that person's participation in an ignition interlock program established by the regulations and for all other purposes the licence remains revoked.

(4) Where, following a review under Section 345, the Registrar is satisfied that a child was present at the time of an offence under section 253, 254 or 255 of the *Criminal Code* (Canada), if the offence was committed before the repeal of those provisions, or section 320.14 or 320.15 of that Act and the person is convicted of, pleads guilty to or is found guilty of the offence, an application for restoration of the person's driver's licence or privilege of obtaining a driver's licence may not be made until 12 months after the end of the time period that must other-

wise elapse, as set out in this Section, before an application for restoration can be considered under this Section.

(5) For the purpose of clause (1)(c), a revocation is a second or subsequent revocation where the driver's licence or the privilege of obtaining a driver's licence of the applicant was revoked for the same or any other offence mentioned in clause (1)(c) within the previous 10 years.

(6) For the purpose of clause (1)(d), a revocation is a subsequent revocation where the driver's licence or the privilege of obtaining a driver's licence of the applicant was revoked for the same or another offence mentioned in clause (1)(d) within the previous five years.

(7) For the purpose of clause (1)(e), a revocation is a second or subsequent revocation where the driver's licence or the privilege of obtaining a driver's licence of the applicant was revoked for the same or any other offence referred to in clause (1)(e) within the previous 10 years.

(8) For the purpose of clauses (1)(b), (f) and (g), a revocation is a subsequent revocation where the driver's licence or the privilege of obtaining a driver's licence of the applicant was revoked for the same offence within the previous five years.

(9) For the purpose of clause (1)(h), a revocation is a subsequent revocation where the driver's licence or the privilege of obtaining a driver's licence of the applicant was revoked for the same or another offence mentioned in clause (1)(h) within the previous five years. R.S., c. 293, s. 67; 1998, c. 32, s. 1; 1999, c. 11, s. 2; 2001, c. 44, s. 1; 2002, c. 20, s. 2; 2002, c. 30, s. 14; 2004, c. 42, s. 3; 2005, c. 32, s. 3; 2005, c. 38, s. 1; 2006, c. 36, s. 1; 2007, c. 45, s. 5; 2008, c. 21, s. 2; 2010, c. 20, s. 1; 2011, c. 22, s. 1; 2013, c. 10, s. 10; 2018, c. 3, s. 47.

Restoration after certain offences

72 (1) Notwithstanding any other provisions of this Act, the Registrar may restore the driver's licence of a person convicted of driving while the person's licence was suspended for a speeding offence under Section 125, 126, 127 or 129, upon application made after the expiration, from the date of the conviction for driving while suspended, of a period of 30 days where the speeding suspension was for seven days, or two months where the speeding suspension was for 15 days, or four months where the speeding suspension was for 30 days.

(2) The Registrar shall require that a person whose driver's licence or privilege of obtaining a driver's licence has been revoked for an impairment-related offence involving alcohol or suspended pursuant to Section 338 for an impairment-related offence involving alcohol participate in such alcohol rehabilitation program as may be prescribed by regulation made by the Governor in Council before the person is entitled to reinstatement of the person's licence.

(3) The Registrar may require that a person whose driver's licence or privilege of obtaining a driver's licence has been revoked on one or more occasions for an impairment-related offence involving alcohol participate in such ignition interlock program as may be prescribed by regulation made by the Governor in Council as a condition of the restoration of the person's licence. R.S., c. 293, s. 67; 1996, c. 34, s. 2; 1998, c. 32, s. 1; 2002, c. 20, s. 2; 2005, c. 54, s. 1; 2006, c. 36, s. 1; 2018, c. 3, s. 47.

Application and interpretation of Sections 70 to 74

73 (1) In this Section and Sections 70 to 72 and 74, “impairment-related offence” means

(a) an offence under section 253, 254 or 255 of the *Criminal Code* (Canada) committed before those provisions were repealed; or

(b) an offence under section 320.14 or 320.15 of the *Criminal Code* (Canada).

(2) For the purpose of this Section and Sections 70 to 72 and 74, the Governor in Council may establish and define “alcohol rehabilitation program” and “ignition interlock program” and make regulations concerning the same, including regulations prescribing offences and penalties for breach of the regulations.

(3) Regulations made by the Governor in Council pursuant to this Section and Sections 70 to 72 and 74 may be made applicable to all or any part of the Province.

(4) Where a person pleads guilty to or is found guilty of an offence under section 220, 221, 320.13, 320.14, 320.15, 320.16 or 320.17 of the *Criminal Code* (Canada) and an order directing that the accused be discharged is made under section 730 of the *Criminal Code* (Canada), this Section and Sections 70 to 72 and 74 apply in the same manner as if the person were convicted of the offence. R.S., c. 293, s. 67; 1996, c. 34, s. 2; 1999, c. 11, s. 2; 2004, c. 42, s. 3; 2005, c. 54, s. 1; 2006, c. 36, s. 1; 2007, c. 45, s. 5; 2010, c. 20, s. 1; 2018, c. 3, s. 47.

Restoration of licence

74 (1) Upon application being made to the Registrar for restoration of a driver’s licence by the person whose driver’s licence was revoked, the Registrar may recommend that such licence be restored and that the Department issue such person with a driver’s licence and, where the revocation was the result of an impairment-related offence, the Registrar may require that the restoration of the driver’s licence be subject to such conditions and requirements as the Registrar considers necessary.

(2) Before any person applies to the Registrar for restoration of the person’s driver’s licence the person shall cause to be served on the Registrar a notice of the person’s intention to so apply, which notice must state the name and address of the applicant and the date on which the applicant’s licence was revoked, and the notice must be served at least 30 clear days prior to the application and may be served by sending the same in a prepaid registered letter addressed to the Registrar at Halifax.

(3) Notwithstanding Section 53 of the *Summary Proceedings Act*, where a driver’s licence is revoked indefinitely, no application may be made pursuant to this Section for the restoration of the driver’s licence until 10 years has elapsed from the date of the revocation or subsequent conviction for an offence involving the operation of the motor vehicle.

(4) The Department shall not issue a driver’s licence to any person whose driver’s licence has been suspended, during the period for which the licence was suspended.

(5) The Department shall not issue a driver's licence to any person when, in the opinion of the Department, the person is sufficiently illiterate or is afflicted with or suffering from such physical or mental disability or disease as will serve to prevent the person from exercising reasonable and ordinary control over a motor vehicle while operating the same upon the highways, nor shall a licence be issued to any person who is unable to understand highway warning or direction signs in the English language. R.S., c. 293, s. 67; 1994-95, c. 12, s. 5; 1998, c. 32, s. 1; 1999, c. 11, s. 2; 2001, c. 44, s. 1; 2002, c. 20, s. 12; 2004, c. 42, s. 3; 2007, c. 45, s. 5; 2014, c. 53, s. 2; 2018, c. 3, s. 47.

Restoration for non-resident

75 (1) Notwithstanding clause 71(1)(c), application may be made for restoration of a person's driver's licence or privilege of obtaining a driver's licence by a person where the revocation was for a violation of subsection 320.14(1) or 320.15(1) of the *Criminal Code* (Canada), where the violation involved alcohol, or section 320.18 of that Act, where the prohibition referred to in section 320.18 of that Act was occasioned by an impairment-related offence, as defined in subsection 73(1), involving alcohol, before the expiry of the time periods referred to in clause 71(1)(c), and the Registrar may approve the application if the Registrar is satisfied that

- (a) the person is not a resident of the Province at the time of the application;
- (b) the person has applied for participation in an alcohol ignition interlock program in another province of Canada; and
- (c) the province where the person applied has advised the Registrar that it is prepared to accept the person into its alcohol ignition interlock program.

(2) A decision of the Registrar under subsection (1) is final and is not subject to appeal.

(3) A person whose licence or privilege of obtaining a licence has been restored pursuant to this Section has the status of an unlicensed driver.

(4) Where the Registrar grants a change of status to a person pursuant to this Section and the person is not issued a licence in the province of Canada referred to in the application within 30 days of the Registrar's approval of the application, the person's licence status in the Province is deemed to be revoked and any conditions of restoration that were applicable before the status was changed to unlicensed continue to apply. 2010, c. 20, s. 2; 2013, c. 10, s. 11; 2018, c. 3, s. 48.

Reinstatement fee

76 (1) An applicant for the restoration of a driver's licence or privilege of obtaining a driver's licence following a revocation for an impairment-related offence, as defined in Section 73, shall pay a reinstatement fee of \$124.60.

(2) In addition to the restoration fee referred to in subsection (1), the applicant may be required to pay the costs of any alcohol rehabilitation program the applicant is required to complete pursuant to this Act.

(3) The costs referred to in subsection (2) are those costs set out in regulations made by the Governor in Council. R.S., c. 293, s. 68; 1994, c. 24, s. 2; 2007, c. 9, s. 30; 2008, c. 2, s. 27; 2009, c. 5, s. 24; 2011, c. 8, s. 17; 2013, c. 3, s. 10; 2015, c. 6, s. 31; 2018, c. 3, s. 49.

Age limits for certain vehicles

77 (1) Notwithstanding any other provisions of this Act, no person, who is under the age of 19 years, shall drive a motor vehicle while it is in use as a passenger carrying vehicle for hire.

(2) No person, who has attained the age of 65 years, shall drive a bus after the last day of the month in which the person attains that age.

(3) Notwithstanding subsection (2), the Registrar may issue a chauffeur's licence permitting a person who has attained the age of 65 years to operate a bus where that person satisfies any special conditions stated by the Registrar upon the licence.

(4) No person who is under the age of 16 years shall operate a personal transporter on a highway except

- (a) a person at least 14 years of age participating in a tour if the tour operator has the written consent of the person's parent; or
- (b) under such circumstances as are prescribed by the regulations.

(5) No person who is under the age of 14 years shall operate an electric kick-scooter.

(6) A parent or guardian of a person who is under the age of 14 years shall not permit the person to operate an electric kick-scooter.

(7) The owner of an electric kick-scooter shall not permit a person who is under the age of 14 years to operate the electric kick-scooter. R.S., c. 293, s. 69; 2015, c. 46, s. 3; 2022, c. 21, s. 3.

Supervising driver

78 (1) A person is qualified to act as a supervising driver for the purpose of this Section and Sections 79 and 80 if the person

- (a) holds a valid driver's licence for the class of vehicle being driven; and
- (b) is not a novice driver.

(2) No person occupying a front seating position of a motor vehicle being operated by a licensed learner or newly licensed driver shall directly or indirectly imply to a peace officer that the person is a supervising driver unless the person is qualified to act as a supervising driver. 2014, c. 53, s. 3.

Learners class driver's licence

79 (1) The Department, upon receiving from any person over the age of 16 years an application for a learners class driver's licence, may, in its discretion,

issue such a licence entitling the applicant, while having the licence in the applicant's possession, to drive a motor vehicle upon the highways when accompanied by a person who

(a) is a supervising driver; and

(b) is actually occupying a front seating position and there is no other person in the vehicle.

(2) Notwithstanding subsection (1), more than one examiner may be in a motor vehicle that is being driven by a person who is a licensed learner.

(3) Notwithstanding subsection (1), where a motor vehicle that is being driven by a person who is a licensed learner is equipped with dual brake and clutch controls and the supervising driver accompanying the driver is an instructor approved by the Department, not more than three persons may occupy the back seat of the motor vehicle for the purpose of receiving instructions in driving.

(4) A person who has a learners class driver's licence shall not drive a motorcycle on a highway except for the purpose of being examined by an examiner and when the person is within sight of an examiner.

(5) A licensed learner may, while the licence is in force, apply to an examiner for a certificate that the licensed learner has qualified for a driver's licence

(a) at any time if the person held a class 1, 2, 3, 4 or 5 driver's licence as set out in regulations made pursuant to Section 68 or an equivalent licence in another province, state or country;

(b) where the person has successfully completed a driver education or training program approved by the Department

(i) at any time after the completion of nine months as a licensed learner, or

(ii) where the person is a licensed learner immediately prior to April 1, 2016, at any time after the completion of three months as a licensed learner;

(c) at any time after the completion of 12 months as a licensed learner or, where the person is a licensed learner immediately prior to April 1, 2016, at any time after the completion of six months as a licensed learner.

(6) For the purpose of clause (5)(b) or (c), a licensed learner whose driver's licence or privilege of obtaining a driver's licence has been revoked pursuant to Sections 330 and 331 or whose driver's licence or privilege of obtaining a driver's licence has been suspended pursuant to Section 117, 118, 261, 285, 334, 337, 338, 341, 349, 351, 358 or 359 shall, upon restoration of the driver's licence, be required to complete the total period as a licensed learner required pursuant to clause (5)(b) or (c), as the case may be, from the date of restoration.

(7) A learners class driver's licence issued pursuant to this Section expires at the end of the month and year endorsed on the licence.

(8) Notwithstanding any other provision of this Act, the holder of a learners class driver's licence may drive a motorcycle or a farm tractor on a highway for the purpose of being examined by an examiner and when the person is within sight of an examiner.

(9) Where a licensed driver occupying a motor vehicle operated by a licensed learner on any highway fails on request of a peace officer to produce then and there for the officer's inspection the licence issued by the Department, such person is guilty of an offence against this Act.

(10) A licensed learner shall not permit any other person to use the driver's licence issued to the licensed learner by the Department.

(11) Notwithstanding subsection (1), the Department may issue an interim learners class driver's licence to a person under the same terms and conditions as provided for a licence issued pursuant to subsection (1), which is valid

- (a) for a term of 30 days from the date of issue; or
- (b) until a learners class driver's licence is issued pursuant to subsection (1),

whichever is the shorter period. 1994, c. 24, s. 3; 2004, c. 42, s. 4; 2014, c. 53, s. 4; 2018, c. 3, s. 50.

Newly licensed driver

80 (1) A person who qualifies for a driver's licence of class 1, 2, 3, 4, 5 or 6 as set out in the regulations made pursuant to Section 68, having less than two years experience as a licensed driver, excluding experience while holding a class 7 or 8 driver's licence, has the status of a newly licensed driver.

(2) A person may apply to have the status of a newly licensed driver removed when the following conditions have been satisfied:

- (a) the person has completed two years experience as a licensed driver under this Act, other than as the holder of a class 7 or 8 driver's licence, or two years experience as a licensed driver in another province or country recognized by the Department as equivalent experience or a combination of experience as a licensed driver under this Act and as a licensed driver in another province or country; and
- (b) the person has successfully completed a driver improvement program recognized by the Department.

(3) A newly licensed driver whose driver's licence or privilege of obtaining a driver's licence has been revoked pursuant to Sections 330 and 331 or whose driver's licence or privilege of obtaining a driver's licence has been suspended pursuant to Section 117, 118, 261, 285, 334, 337, 338, 341, 349, 351, 358 or 359 shall, upon restoration of the driver's licence, be required to complete a minimum two-year period as a newly licensed driver from the date of restoration.

(4) A person issued a driver's licence as a newly licensed driver in accordance with subsection (1) may drive a motor vehicle upon the highways subject to the following conditions:

(a) every passenger in the vehicle must be in a sitting position with a seat belt available to that passenger;

(b) notwithstanding clause (a), no more than one passenger in addition to the driver, shall occupy a front seating position;

(c) between midnight and 5:00 a.m. only when accompanied by a person who

(i) is a supervising driver,

(ii) holds a valid driver's licence of class 1, 2, 3, 4 or 5 as set out in regulations made pursuant to Section 68 and of the class required for the class of vehicle being operated, and

(iii) is actually occupying a front seating position, and when there is no other person in the vehicle.

(5) A newly licensed driver may apply to the Department for an exemption from the requirements of clause (4)(c) as prescribed by regulations made by the Governor in Council.

(6) When an exemption is approved pursuant to subsection (5), the Department may impose such operating conditions as it considers necessary.

(7) Any newly licensed driver who fails to comply with the provisions of this Section is guilty of an offence.

(8) The Registrar shall not issue a driver's licence that permits a newly licensed driver to operate types, sizes, classes or combinations of vehicles requiring class 1, 2, 3 or 4 driver's licences as set out in regulations made pursuant to Section 68, except as a learner. 1994, c. 24, s. 3; 1999, c. 11, s. 3; 2011, c. 67, s. 3; 2014, c. 53, s. 5; 2015, c. 45, s. 5; 2018, c. 3, s. 51.

Driver's licence for motorcycle as learner

81 (1) The Department may issue a driver's licence valid for the operation of a motorcycle as a learner.

(2) While operating a motorcycle under a licence issued pursuant to this Section, the driver shall not drive the motorcycle upon a highway

(a) when a person in addition to the driver is riding or being carried on the motorcycle; and

(b) during the period from a half hour after sunset to a half hour before sunrise.

(3) A person may, while the person's driver's licence is in force, apply to an examiner for a certificate that the person has qualified for a driver's licence valid for the operation of a motorcycle

(a) at any time after holding a licence issued pursuant to this Section for not less than three months if the person has completed a motorcycle training program recognized by the Department;

(b) at any time after holding a licence issued pursuant to this Section for not less than six months; or

(c) notwithstanding clauses (a) and (b), if a person is not a novice driver and has held a licence issued pursuant to this Section for not less than one month, if the person has completed a motorcycle training program recognized by the Department or for not less than three months if such a program has not been completed. 1994, c. 24, s. 3; 2014, c. 53, s. 6.

Novice driver

82 A person has the status of a novice driver if the person

(a) is a licensed learner;

(b) is a newly licensed driver; or

(c) holds a driver's licence of class 1, 2, 3, 4, 5 or 6 as set out in the regulations made pursuant to Section 68 and has been the holder of

(i) such a driver's licence for less than two years after the day on which the person ceased to be a newly licensed driver, or

(ii) driver's licences of more than one such class for a combined period of less than two years after the day on which the person ceased to be a newly licensed driver. 2015, c. 45, s. 6.

Application for driver's licence and change of address

83 (1) Every application for a driver's licence must be made upon the approved form furnished by the Department and the matters set forth in the application must if required be verified by the affidavit of the applicant or by a declaration under the *Canada Evidence Act*.

(2) Every application must state the name, age and residence address of the applicant, and such other information as such form or the Department may require.

(3) Every person who holds a driver's licence shall give notice to the Registrar of any change in the person's residence address within one month of the change. R.S., c. 293, s. 71.

Disclosure of information for War Amps Key Tag Service

84 (1) The Department may disclose the name and address of every person who is issued a driver's licence to The War Amputations of Canada for the purpose of allowing The War Amputations of Canada to conduct its Key Tag Service program.

(2) The disclosure of information pursuant to subsection (1) is subject to such terms and conditions as the Minister considers appropriate.

(3) Where a person requests of the Department that the person's name and address not be disclosed pursuant to subsection (1), the Department shall cease to disclose the person's name and address to The War Amputations of Canada. 2012, c. 52, s. 2.

Licence to person under 18 years

85 (1) The Department shall not issue a driver's licence to a person under the age of 18 years unless the person's application for the licence is signed by

(a) a parent or guardian of the applicant having custody of the applicant;

(b) the employer of the applicant if the applicant's mother and father are dead and the applicant has no guardian; or

(c) the spouse of the applicant if the spouse is over the age of 18 years.

(2) Where the person who signs an application for a driver's licence pursuant to subsection (1) makes a request in writing to the Registrar, and the person who makes the application is then under the age of 18 years, the Registrar may cancel any driver's licence that has been issued to the person who made the application.

(3) The Registrar may require the person making the request to furnish such information or reasons as the Registrar may require.

(4) While a person who holds a driver's licence is under the age of 18 years, the Department may forward copies of correspondence sent to the driver to the person who signed the application for the licence. R.S., c. 293, s. 72; 1994, c. 24, s. 4.

Examination of applicant

86 (1) The Department shall examine every applicant for a driver's licence before issuing any such licence, except as otherwise provided in subsections (3) and (4).

(2) The Department shall examine the applicant as to the applicant's physical and mental qualifications to operate a motor vehicle in such manner as not to jeopardize the safety of persons or property and as to whether any facts exist that would bar the issuance of a licence under Sections 70 to 74.

(3) Notwithstanding subsection 87(2), an examination of the applicant's visual acuity or a written examination of the applicant's understanding of traffic rules and traffic signs may be administered by any person whom the Registrar directs to administer the examination.

(4) The Department may, in its discretion, waive the examination of any person applying for the renewal of a driver's licence issued under this Act.

(5) The Department may, in its discretion, issue a driver's licence under this Act, without examination, to any person applying therefor who is of sufficient age, as required by Sections 70 to 74 to receive the licence applied for and who at the time of the application has a valid unrevoked licence of like nature issued to the person in another province or country under a law requiring the licensing and examination of drivers. R.S., c. 293, s. 73; 2015, s. 45, s. 7.

Examiners

87 (1) The Minister is authorized to designate or to appoint persons to act for the Department for the purpose of examining applicants for drivers' licences.

(2) The persons so designated or appointed shall be known as "examiners" and it is the duty of every examiner to conduct examinations of applicants for drivers' licences under this Act and to make a written report of findings and recommendations upon the examination to the Department. R.S., c. 293, s. 74.

Issue of driver's licence

88 (1) The Department shall issue to every person licensed as a driver a driver's licence authorizing the holder of the licence to operate a motor vehicle or the class of motor vehicle specified in the licence.

(2) Every driver's licence must bear thereon the distinguishing number assigned to the licensee and such other matters as the Minister may determine.

(3) Every driver's licence is and remains the property of the Crown and must be returned to the Department by the licensee whenever required by the Minister or the Registrar.

(4) The Department, upon determining after an examination that an applicant is mentally and physically qualified to receive a licence, may issue to the applicant a temporary driver's licence entitling the applicant while having such licence in the applicant's immediate possession to drive a motor vehicle or the class of motor vehicle specified in the licence upon the highways for a period of 30 days, before issuance to the applicant of a driver's licence.

(5) The Registrar may cause special conditions to be stated upon a driver's licence and it is an offence for any person to fail to comply with such special conditions when so stated upon the licence.

(6) Notwithstanding subsection (1), the Department may issue an interim driver's licence to a person under the same terms and conditions as provided for a licence issued pursuant to subsection (1), which is valid until a driver's licence is issued pursuant to subsection (1). R.S., c. 293, s. 75.

Operation of motorcycle on highway

89 Except for the purpose of taking a driving examination, no person shall drive a motorcycle on the highway unless the person holds a licence that authorizes the operation of a motorcycle. R.S., c. 293, s. 76.

Loss or destruction of driver's licence

90 In the event that a driver's licence issued under this Act is lost or destroyed, the person to whom the same was issued may obtain a duplicate or substitute thereof upon furnishing proof satisfactory to the Department that the licence has been lost or destroyed and upon payment of the prescribed fees. R.S., c. 293, s. 77.

Duties of driver respecting licence

91 (1) Every person licensed as a driver shall write the person's usual signature with pen and ink in the space provided for that purpose on the licence issued to the person immediately upon receipt of the licence, and the licence is not valid until it is so signed.

(2) Every person shall have a valid driver's licence in the person's immediate possession at all times when driving a motor vehicle and shall display the same at all reasonable times on demand of a peace officer. R.S., c. 293, s. 78.

Expiry and renewal of driver's licence

92 Every driver's licence expires on the date specified or determined by the regulations and may be renewed only upon application and payment of the prescribed fee. R.S., c. 293, s. 79; 1995-96, c. 22, s. 2.

Offences respecting licence

93 It is an offence for any person to commit any of the following acts:

(a) to display or cause or permit to be displayed or to have in possession any driver's licence that is shown to be fictitious or to have been cancelled, revoked, suspended or altered;

(b) to lend or permit the use of, by one not entitled thereto, any driver's licence issued to the person so lending or permitting the use thereof;

(c) to display or to represent as one's own any driver's licence not issued to the person so displaying the same;

(d) to fail or refuse to surrender to the Department upon demand, any driver's licence that has been suspended, cancelled or revoked;

(e) to use a false or fictitious name or give a false or fictitious address in any application for a driver's licence, or any renewal or duplicate thereof, or to make a false statement or to conceal a material fact in the application;

(f) to attempt to mislead a peace officer by falsely representing that the person is licensed under this Act as a driver when the person is not so licensed. R.S., c. 293, s. 80.

Seizure of licence pending prosecution

94 Where a peace officer has reason to believe that a person has committed an offence mentioned in Section 93 and that the commission of the offence involves a driver's licence, the peace officer may seize the driver's licence and retain the same until the disposition of the prosecution for the offence or until a court or a judge otherwise orders. R.S., c. 293, s. 81.

Permitting operation of vehicle

95 Subject to Sections 67 and 79, a person shall not allow or permit a motor vehicle owned by the person or under the person's control or in the person's charge to be operated upon a highway by a person who does not hold a valid driver's licence authorizing that person to operate such motor vehicle. R.S., c. 293, s. 82.

PART V

TRAFFIC ON THE HIGHWAY

Direction of peace officer or traffic sign or signal

96 (1) It is an offence for any person to refuse or fail to comply with any order, signal or direction of any peace officer.

(2) It is an offence for the driver of any vehicle or for the operator of any street car to disobey the instructions of any official traffic sign or signal placed in accordance with this Act, unless otherwise directed by a peace officer. R.S., c. 293, s. 83.

Working on highway

97 Sections 176, 181 and 194 do not apply to persons, teams, motor vehicles and other equipment while actually engaged in work upon the surface of a highway but apply to such persons and vehicles when travelling to or from such work. R.S., c. 293, s. 84.

Bicycle, electric kick-scooter, animal, push-cart or wheelbarrow

98 (1) Every cyclist, every operator of an electric kick-scooter and every person riding an animal upon a highway and every person driving any animal is subject to the provisions of this Act applicable to a driver of a vehicle, except those provisions that by their very nature can have no application.

(2) Every person propelling any push-cart or wheelbarrow upon a highway is subject to the provisions of this Act applicable to the driver of a vehicle except those provisions with reference to the equipment of vehicles, and except those provisions that by their vary nature can have no application. R.S., c. 293, s. 85; 2010, c. 59, s. 2; 2022, c. 21, s. 4.

Operation of personal transporter

99 (1) For the purpose of this Act, where a personal transporter is operated on a roadway, the operator of the personal transporter is deemed to be a cyclist and, where a personal transporter is operated on a sidewalk, the operator is deemed to be a pedestrian.

(2) Every person shall at all times when operating a personal transporter exercise care and caution.

(3) Every person must have identification in the person's possession at all times when operating a personal transporter on a highway and shall

(a) display the same; and

(b) provide the person's address and date of birth,

at all reasonable times on the demand of a peace officer.

(4) Sections 112 and 113, except the requirement to exhibit a driver's licence, apply to the operator of a personal transporter whether the personal transporter is being operated on a roadway or on a sidewalk.

(5) Sections 153 and 156 and subsection 213(4) do not apply to the operator of a personal transporter on a highway. 2015, c. 46, s. 4.

Operation of electric kick-scooter

100 (1) Subject to this Section, for the purpose of this Act, where an electric kick-scooter is operated on a roadway, the operator of the electric kick-scooter is deemed to be a cyclist.

(2) Every person shall at all times when operating an electric kick-scooter exercise care and caution.

(3) Every person must have identification in the person's possession at all times when operating an electric kick-scooter and shall

- (a) display the same; and
- (b) provide the person's address and date of birth,

at all reasonable times on the demand of a peace officer.

(4) Sections 112 and 113, except the requirement to exhibit a driver's licence, apply to the operator of an electric kick-scooter.

(5) The operator of an electric kick-scooter shall

(a) where the electric kick-scooter is not equipped with turn signal lights, signify

- (i) a left turn by extending the person's left hand and arm horizontally from the electric kick-scooter, and
- (ii) a right turn by either

(A) extending the person's left hand and arm out and upward from the electric kick-scooter so that the upper and lower parts of the arm are at right angles, or

(B) extending the person's right hand and arm out horizontally from the electric kick-scooter;

(b) where the electric kick-scooter is equipped with red, white, yellow or amber turn signal lights that are visible from behind and in front of the electric kick-scooter, signify a right or left turn by either

- (i) activating the appropriate turn signal light, or
- (ii) extending the person's hand and arm as described in clause (a); and

(c) signify a stop or decrease in speed by extending the person's left hand and arm out and downward from the electric kick-scooter so that the upper and lower parts of the arm are at right angles, unless the electric kick-scooter is equipped with a visible red light at the rear that is activated when the person operating the electric kick-scooter applies the brakes. 2022, c. 21, s. 5.

TRAFFIC AUTHORITY AND SIGNS AND SIGNALS

Traffic authorities

101 (1) The Registrar or a person appointed by the Minister is the Provincial Traffic Authority.

(2) The Minister may appoint a person in the public service to be Deputy Provincial Traffic Authority who shall perform such functions and duties as are prescribed by the Minister.

(3) The Minister may appoint district traffic authorities who shall perform such functions and duties and have such powers and authorities as are prescribed by the Minister.

(4) In the absence or incapacity of the Provincial Traffic Authority, or when the office of Provincial Traffic Authority is vacant, the Deputy Provincial Traffic Authority shall perform the functions and duties and has the powers and authorities of the Provincial Traffic Authority.

(5) The Deputy Provincial Traffic Authority may, upon the direction of the Minister or the Provincial Traffic Authority, perform the functions or duties or exercise the powers and authorities of the Provincial Traffic Authority.

(6) A document that purports to be signed by the Deputy Provincial Traffic Authority must be received in evidence without proof of the signature or the official character of the person appearing to have signed the document.

(7) The council of a city or town may appoint the city or town manager, the chief of police, or some other official of the city or town, to be the traffic authority for the city or town.

(8) The council of a city or town may appoint a member of the police force, or some other official of the city or town to be deputy traffic authority who, in the absence or incapacity of the traffic authority or in the event of the traffic authority's death or ceasing to hold the office, shall perform the duties and has all the authority of the traffic authority of the city or town.

(9) The clerk of a city or town shall forthwith send to the Provincial Traffic Authority any resolution of the council passed under subsection (7) or (8).

(10) When there is no traffic authority and no deputy traffic authority for a city or town the Minister may appoint a traffic authority to hold office until the council has appointed a traffic authority.

(11) Where it is made to appear to the Minister that the traffic authority of a city or town is not carrying out the traffic authority's duties or performing the traffic authority's functions under this Act, the Minister, by letter to the mayor or clerk of the city or town, may cancel the appointment of the traffic authority.

(12) The Provincial Traffic Authority has, with respect to all provincial highways and highways within a city or town for which there is no traffic

authority and no deputy traffic authority, all the powers conferred upon a traffic authority by or under this Act.

(13) Subject to subsection (14), the traffic authority for a city or town has, with respect to all highways within the city or town, all the powers conferred upon a traffic authority by or under this Act.

(14) When the Minister has determined that a highway or part of a highway within a city or town is a main travelled or through highway, the traffic authority for the city or town shall not exercise any powers as a traffic authority with respect to that highway or part without the approval of the Provincial Traffic Authority. R.S., c. 293, s. 86; 1995-96, c. 23, s. 2.

Classification and signing of highway and signals

102 (1) The Department is authorized to classify, designate and mark all highways lying within the boundaries of the Province and to provide a uniform system of marking and signing the highways under the jurisdiction of the Province.

(2) The Department may determine the character or type of and place or erect upon provincial highways traffic control signals at places where the Department considers necessary for the safe and expeditious control of traffic and, so far as practicable, all such traffic control signals must be uniform as to type and location.

(3) No traffic control signals may be erected or maintained upon any provincial highway by any authority other than the Department. R.S., c. 293, s. 87.

Signs and signals

103 (1) Signs and signals erected and maintained under this Act must state or represent thereon such matters as the Minister shall determine.

(2) The fact that the sign or signal has been erected and maintained is prima facie evidence that the sign or signal is erected in compliance with this Act and that the matter stated or represented on the sign complies with that determined by the Minister.

(3) The Minister shall publish in one or more issues of the Royal Gazette a description or specification of the signs that may be erected by the Department or a traffic authority under this Act for the purpose of regulating or controlling traffic, and the production of a copy of the Royal Gazette containing such description or specification is prima facie evidence of the matters stated or represented in the description or specification.

(4) The Minister may order the removal of any sign, marking or traffic control signal that has not been erected, located or placed in accordance with this Act or the regulations or that does not comply with the specifications or with any order made by the Minister, and the Minister may authorize any official of the Department or a peace officer to remove any such sign, marking or traffic control signal.

(5) No provisions of this Act for which signs are authorized or required may be enforced against an alleged violator if, at the time and place of the

alleged violation, the sign therein authorized or required is not in proper position or not discernible by an ordinarily observant person, and whenever a particular Section does not state that signs are authorized or required, the Section is effective without signs being erected. R.S., c. 293, s. 88.

Erection of signs and signals by traffic authority

104 (1) Subject to such authority as may be vested in the Minister, the Registrar or the Department, traffic authorities in regard to highways under their respective authority may cause appropriate signs to be erected and maintained designating business and residence districts and railway grade crossings and such other signs, markings and traffic control signals as considered necessary to direct and regulate traffic and to carry out the provisions of this Act.

(2) The Department has general supervision with respect to the erection by traffic authorities of official traffic signs and signals, for the purpose of obtaining, so far as practicable, uniformity as to type and location of official traffic signs and signals throughout the Province, and no traffic authority shall place or erect any traffic signs, signals or markings unless of a type or conforming to specifications approved by the Department.

(3) The Department may prescribe conditions under which a traffic control signal must be used and when conditions have been so prescribed, it is an offence for the traffic authority to fail to comply with them.

(4) Notwithstanding subsections (1) to (3) or any other provision of this Act, a temporary workplace signer may erect an automated flagger assistance device used in accordance with the latest edition of the Nova Scotia Temporary Workplace Traffic Control Manual. R.S., c. 293, s. 89; 2023, c. 20, s. 2.

Crosswalks, prohibited turns, etc. and parades

105 (1) The traffic authority may establish and designate and may maintain, or cause to be maintained, by appropriate devices, marks or lines upon the surface of the highways, crosswalks at intersections where, in the traffic authority's opinion, there is particular danger to pedestrians crossing the highway, and at such other places as the traffic authority considers necessary.

(2) The traffic authority may set apart an area on a highway as a safety zone and cause signs to be erected and maintained designating such area when so set apart, and may display pavement markings showing the limits of the safety zone.

(3) The traffic authority may also mark lanes for traffic on street pavements at such places as the traffic authority considers advisable, consistent with this Act and may erect traffic signals consistent with this Act to control the use of lanes for traffic.

(4) The traffic authority may erect and maintain signs prohibiting altogether or between specified hours, either left turns or right turns or both at any intersection or prohibiting turning around in any block or specified area of the highway.

- (5) The traffic authority may
- (a) erect and maintain signs exempting public transit vehicles from compliance with signs erected and maintained pursuant to subsection (4);
 - (b) mark lanes on street pavement for exclusive traffic by public transit vehicles;
 - (c) exclude from traffic on specified streets or specified portions of streets vehicles other than public transit vehicles or vehicles specified by the traffic authority.

(6) The traffic authority may establish and designate one-way streets where vehicular traffic may move only in one direction, and the traffic authority shall erect and maintain signs at every intersection where movement of such traffic is so restricted.

(7) No parade, procession or walkathon shall march, occupy or proceed along any highway within the boundaries of a city or town unless a permit has been granted by the traffic authority of the city or town prescribing the route to be followed and the time when the parade, procession or walkathon may take place.

(8) No parade, procession or walkathon shall march, occupy or proceed along any highway not included within the boundaries of a city or town unless a permit has been granted by the Provincial Traffic Authority prescribing the route to be followed and the time when the parade, procession or walkathon may take place.

(9) No person shall participate in a parade, procession or walkathon upon any highway except on a route and at a time prescribed in a permit issued under subsection (7) or (8).

(10) Subsections (7), (8) and (9) do not apply to funeral processions. R.S., c. 293, s. 90; 2004, c. 42, s. 6.

Danger zone

106 The Department may set apart an area on a highway as a danger zone and may cause signs to be erected and maintained designating such area when so set apart. R.S., c. 293, s. 91.

Tow-away zone

107 The traffic authority may set apart an area of a highway as a tow-away zone and may cause signs to be erected and maintained designating such area when so set apart. R.S., c. 293, s. 92.

Traffic signals

108 (1) When traffic at an intersection or on a highway is controlled by traffic signals that are illuminated devices, the traffic signals must be one or a combination of the following:

- (a) green light or flashing green light;
- (b) green arrow light;

- (c) yellow or amber light;
- (d) yellow or amber arrow light;
- (e) red light;
- (f) flashing red light;
- (g) flashing yellow or amber light;
- (h) “walk” light;
- (i) “don’t walk” light;
- (j) transit priority signal with a vertical white bar;
- (k) green bicycle signal;
- (l) yellow or amber bicycle signal;
- (m) red bicycle signal.

(2) The drivers of vehicles, pedestrians, and all other traffic approaching or at an intersection or on a part of the highway controlled by any of the traffic signals mentioned in subsection (1) shall act in obedience to the traffic signals in accordance with the following instructions:

(a) *green light or flashing green light* — all vehicular traffic facing this signal may proceed unless otherwise directed by a traffic sign or a peace officer but shall yield the right of way to pedestrians lawfully in the crosswalk and other vehicles lawfully in an intersection and, unless otherwise directed by a traffic sign or signal, pedestrians may proceed on a green light only in a crosswalk towards the sign or signal and shall not proceed on a flashing green light;

(b) *green arrow light* — all vehicular traffic facing this signal may proceed but only in a direction indicated by an arrow unless otherwise directed by a peace officer but shall yield the right of way to pedestrians lawfully in a crosswalk and other vehicles lawfully in an intersection, and pedestrians may proceed only in a crosswalk towards the signal unless otherwise directed by a traffic sign or signal;

(c) *yellow or amber light* — all traffic facing this signal shall stop before entering an intersection at the place marked or the nearest side of the crosswalk but not past the signal unless the stop cannot be made in safety;

(d) *yellow or amber arrow light* — all traffic facing this signal shall stop before entering an intersection at the place marked or the nearest side of the crosswalk, but not past the signal, unless the stop cannot be made in safety and then proceed, but only in the direction indicated by the arrow, unless otherwise directed by a peace officer;

(e) *red light* — all traffic facing this signal shall stop at the place marked or the nearest side of the crosswalk but not past the signal and shall remain stopped while facing this signal, provided that vehicular traffic may

- (i) if a green arrow light is also exhibited, proceed in the direction indicated by an arrow,

(ii) if a stop is first made and the movement can be made in safety and is not prohibited by sign, proceed to make a right turn,

(iii) if a stop is first made and the movement can be made in safety and is not prohibited by sign, proceed to make a left turn from a one-way highway into a one-way highway,

(iv) if a transit priority signal is also exhibited and if the vehicle is a transit bus, the vehicle is permitted to proceed and make turns through the intersection, or

(v) if a green bicycle signal is also exhibited, a cyclist facing the signal is permitted to proceed and make turns through the intersection,

but, in each case, vehicular traffic shall yield the right of way to pedestrians lawfully in a crosswalk and all other traffic lawfully proceeding through an intersection or on a highway;

(f) *flashing red light* — all traffic facing this signal shall stop before entering the intersection at the place marked or the nearest side of the crosswalk but not past the signal and shall yield the right of way to pedestrians lawfully in a crosswalk and to other vehicles within an intersection or approaching so closely on an intersecting highway as to constitute an immediate hazard, and having so yielded may proceed;

(g) *flashing yellow or amber light* — all traffic facing this signal shall proceed with caution and shall yield the right of way to all other traffic within an intersection or approaching so closely on an intersecting highway as to constitute an immediate hazard;

(h) *“walk” light* — pedestrian traffic facing this signal may proceed but only in a crosswalk and all other traffic shall yield the right of way to such pedestrian traffic;

(i) *“don’t walk” light* — pedestrian traffic facing this signal, either flashing or solid, shall not start to cross the roadway in the direction of the signal;

(j) *green bicycle signal* — all bicycle traffic facing this signal may proceed unless otherwise directed by a traffic sign or a peace officer but shall yield the right of way to pedestrians lawfully in the crosswalk and other vehicles lawfully in an intersection;

(k) *yellow or amber bicycle signal* — all bicycle traffic facing this signal shall stop before entering an intersection at the place marked or the nearest side of the crosswalk but not past the signal unless the stop cannot be made in safety;

(l) *red bicycle signal* — all bicycle traffic facing this signal shall stop at the place marked or the nearest side of the crosswalk but not past the signal and shall remain stopped while facing this signal, provided that a cyclist may, if a stop is first made and the movement can be made in safety and is not prohibited by sign, proceed to make a right turn, but shall yield the right of way to pedestrians lawfully in a crosswalk and all other traffic lawfully proceeding through an intersection or on a highway;

(m) in the event of signal failure where no traffic signal indication is given, the intersection shall be treated as a multi-way stop, all vehicles shall stop and the driver of a vehicle shall yield the right of way to a vehicle that has entered the intersection and, when two vehicles enter an intersection at approximately the same time, the driver of the vehicle on the left shall yield to the driver on the right.

(3) Whenever a street or highway is divided into clearly marked lanes for traffic and the use of the lanes by traffic is controlled by traffic signals that are illuminated devices, the traffic signals must be one or a combination of the following:

- (a) green arrow light;
- (b) red X light.

(4) The drivers of vehicles and all other traffic on a highway controlled by the traffic signals mentioned in subsection (1) shall act in obedience to the traffic signals in accordance with the following instructions:

- (a) *green arrow light* — subject to Section 144, drivers of vehicles facing this signal may proceed in the lane to which the signal relates unless otherwise directed by a traffic sign or another traffic signal;
- (b) *red X light* — drivers of vehicles facing this signal shall not drive in the lane to which the signal relates.

(5) For the purpose of Sections 96 and 163, the traffic signals mentioned in subsection (1) or (3) are official traffic signals and the instructions contained in subsection (2) or (4) are the instructions of the signals.

(6) This Section does not apply in the case of police and fire department vehicles and ambulances when the same are operating in emergencies and the drivers sound audible signal by bell, siren, compression or exhaust whistle, but this proviso does not relieve the driver of a police or fire department vehicle or ambulance from the duty to drive with due regard for the safety of all persons using the highway. R.S., c. 293, s. 93; 2001, c. 44, s. 2; 2004, c. 41, s. 1; 2004, c. 42, s. 7; 2005, c. 54, s. 2; 2007, c. 45, s. 6; 2021, c. 32, s. 1.

Offences respecting sign or signal

109 (1) It is an offence for any person to place or maintain or to display upon or in view of any highway any unofficial sign, signal or device that purports to be or is an imitation of or resembles an official traffic sign or signal or that attempts to direct the movement of traffic, or that hides from view or interferes with the effectiveness of any official traffic sign or signal, and no person shall erect or maintain upon any highway any traffic or highway signal or sign bearing thereon any commercial advertising.

(2) Every prohibited sign, signal or device is declared to be a public nuisance, and the authority having jurisdiction over the highways is empowered to remove the same, or cause it to be removed without notice.

(3) For greater certainty, it is not an offence under subsection (1) for a temporary workplace signer to erect or maintain an automated flagger assis-

tance device, and display traffic control signals as part of the device, at a temporary workplace if the device and erection of the device are consistent with the standards contained in the latest edition of the Nova Scotia Temporary Workplace Traffic Control Manual. R.S., c. 293, s. 94; 2023, c. 20, s. 3.

Glaring light

110 (1) No person shall place or maintain any artificial light of any kind so as to project a glaring or dazzling light to drivers of motor vehicles on a highway.

(2) Any person who violates this Section is liable to a penalty. R.S., c. 293, s. 95.

Defacing, knocking down or removing sign or signal

111 Any person who defaces, injures, knocks down or removes any official traffic sign or signal placed or erected as provided in this Act is guilty of an offence. R.S., c. 293, s. 96.

ACCIDENTS

Duty to stop at accident and to report

112 (1) The driver of a vehicle directly or indirectly involved in an accident shall immediately stop the vehicle at the scene of the accident.

(2) Where a person violates subsection (1) and there is injury or death or damage to property resulting from the accident, the person violating subsection (1) shall upon conviction be punished as provided in Section 383.

(3) The driver of a vehicle involved in an accident resulting in injury or death to any person or damage to property shall also give the driver's name, address and the registration number of the driver's vehicle and exhibit the driver's driver's licence to the person struck or to the driver or occupants of any vehicle collided with or to a witness and shall render to any person injured in the accident reasonable assistance, including the carrying of such person to a physician or surgeon for medical or surgical treatment if it is apparent that such treatment is necessary or is requested by the injured person.

(4) When an accident results in damage to an unattended vehicle or to property upon or adjacent to a highway, the driver of every vehicle involved in the accident shall take reasonable steps to locate and notify the owner of, or a person who has control over, the unattended vehicle, or the property, of the circumstances of the accident, and give to the person the name and address of the driver, the registration number of the vehicle and the number of the driver's licence.

(5) Where the driver of the vehicle involved in an accident is unable to locate and notify the owner or person who has control over the unattended vehicle or the property, the driver shall within 24 hours after the accident give to the chief of police or any regular member of the police force, in the case of an accident occurring in a city or town, or the nearest detachment of the Royal Canadian Mounted Police, in the case of an accident occurring elsewhere, the information required by subsection (4) together with a description of the unattended vehicle or the property. R.S., c. 293, s. 97; 2002, c. 10, s. 11.

Accident report

113 (1) The driver of a vehicle involved in an accident resulting in injury or death to any person, or property damage to an apparent extent of \$2,000 or more, shall, within 24 hours,

(a) if the accident takes place within a city or incorporated town, forward a written report of the accident, or report the accident in person to the Registrar, or to the nearest detachment of the Royal Canadian Mounted Police, or to the chief of police or any regular member of the police force of the city or incorporated town;

(b) if the accident takes place other than within a city or incorporated town, forward a written report of the accident or report the accident in person to the Registrar or to the nearest detachment of the Royal Canadian Mounted Police.

(2) Where such person is physically incapable of making a report, and there is another occupant of the vehicle, such occupant shall make the report.

(3) Copies of any such report made to the Royal Canadian Mounted Police, or to a chief of police, or to a regular member of the police force of any city or incorporated town, must be transmitted to the Registrar and to the Provincial Traffic Authority by such Royal Canadian Mounted Police or chief of police or regular member of the police force of any city or incorporated town, as the case may be, within 24 hours of receiving the report.

(4) Any peace officer who is a witness to or who investigates any accident in which a vehicle upon a highway is involved, whether or not required to be reported under this Section, shall forward to the Registrar, in addition to any other report that may be required under this Section, a report setting forth full particulars of the accident, the names and addresses of the persons involved, the extent of the personal injuries or property damage, if any, and such other information as may enable the Registrar to determine whether any driver involved in or contributing to the accident should be prosecuted, and where the peace officer or any other person has laid an information against a driver of a vehicle in connection with such accident, such fact must be stated in the report.

(5) The Registrar may require any person involved in an accident, or having knowledge of an accident, or the parties thereto, or of any personal injuries or property damage resulting therefrom, to furnish, and any peace officer to secure, such additional information and make such supplementary reports of the accident as the Registrar considers necessary to complete the Registrar's records, and to establish, as far as possible, the cause of the accident, the persons responsible, and the extent of the personal injuries and property damage, if any, resulting therefrom.

(6) Except as provided in subsections (7) and (9), all reports made pursuant to the provisions of this Section are for the information only of

(a) the Registrar;

(b) the Department;

(c) where there is no vehicle safety division of the Department, the vehicle safety division of any department of the Government;

- (d) the police force to which the reports are made; or
- (e) the vehicle safety division of the municipality to which the reports are made,

and no such report or any part thereof or any statement contained therein is open to public inspection or admissible in evidence in any trial, civil or criminal, arising out of such accident except as evidence that such a report has been made or in connection with a prosecution for making a false statement therein in violation of subsection (13).

(7) Where a person, an insurance company or the Crown in right of the Province has paid or may be liable to pay for damages resulting from an accident in which a motor vehicle is involved, the person, the insurance company or a public officer responsible for risk management for the Government of the Province, as the case may be, and any solicitor, agent or other representative of the person, company or public officer authorized by the person, company or public officer in writing, may obtain from the Registrar a copy of any report made pursuant to this Section and, in furnishing a copy of any such report, the Registrar is authorized, subject to subsection (8), to disclose any personal information contained in the report.

(8) Before furnishing a copy of a report pursuant to subsection (7), the Registrar shall remove from the report any personal information that the Registrar considers to be appropriate to remove.

(9) The Registrar may provide data derived from reports made pursuant to this Section to any person conducting research respecting traffic safety or motor vehicle safety.

(10) A medical examiner or other official performing like functions shall make a report to the Registrar with respect to any death found to have been the result of a motor vehicle accident.

(11) The Registrar may require an insurer or other person who pays damages for injury to person or property caused by a motor vehicle to report the same to the Department within seven days after the date of such payment and to furnish proof thereof if required by the Department.

(12) Any person who fails to report or furnish any information or written statement required by this Section is guilty of an offence.

(13) Every person who knowingly makes any false statement in any report made pursuant to this Section is liable to a penalty. R.S., c. 293, s. 98; 1994-95, c. 12, s. 6; 2013, c. 10, s. 12; 2015, c. 45, s. 8.

Duty of garage to report damaged vehicle

114 (1) The person in charge of any garage or repair shop to which is brought a motor vehicle that shows evidence of having been involved in a serious accident or struck by any bullet shall report to the nearest police station or peace officer within 24 hours after such motor vehicle is received, giving the make, serial number, registration number and the name and address of the owner or operator of the vehicle and of the person who brought it to or left it in the garage or repair shop.

(2) An additional report need not be made under this Section if the owner of the vehicle is also the owner of the garage or repair shop and such owner has made a report under Section 113 that includes the information required by this Section. R.S., c. 293, s. 99.

Salvage or non-repairable vehicle

115 (1) In this Section,

“non-repairable vehicle” means a vehicle that is incapable of operation or use on the highway and that has no resale value except as a source of parts or scrap;

“rebuilt vehicle” means any salvage vehicle that has been rebuilt and that has been inspected for the purpose of registration;

“salvage vehicle” means any vehicle that is damaged by collision, fire, flood, accident, trespass or other occurrence to the extent that the cost of repairing the vehicle for legal operation on the highway exceeds its fair market value immediately before the damage.

(2) Where

(a) an insurer has paid a claim in respect of damage to a vehicle; and

(b) the insurance adjuster who examined the vehicle has certified that it is a salvage vehicle or a non-repairable vehicle,

the insurer shall, within five days of the date of payment of the claim, report the particulars thereof to the Registrar in such form and manner as the Registrar may determine.

(3) Where an insurer takes physical possession of a vehicle for the purpose of disposal, the insurer shall enter on the certificate of registration for the vehicle the designation “salvage” or “non-repairable”, as the case may be.

(4) Where the owner of a self-insured fleet of vehicles declares a vehicle to be a salvage vehicle or a non-repairable vehicle, the owner shall report the particulars thereof to the Registrar within five days in such form as the Registrar may determine.

(5) Where a vehicle suffers such serious damage as to render the vehicle a salvage vehicle or a non-repairable vehicle, the owner shall report the particulars thereof to the Registrar within five days of the damage being suffered.

(6) Where a salvage vehicle has been rebuilt and has passed the inspection required by this Act for registration as a rebuilt vehicle, the Registrar shall, on payment of the prescribed fee, enter the designation “rebuilt” on the certificate of registration for that vehicle.

(7) A person who fails to report or furnish any information required by this Section is guilty of an offence. 1999, c. 11, s. 4.

PRUDENT DRIVING AND SPEED RESTRICTIONS

Duty to drive carefully

116 (1) Every person driving or operating a motor vehicle on a highway or any place ordinarily accessible to the public shall drive or operate the same in a careful and prudent manner having regard to all the circumstances.

(2) Any person who fails to comply with this Section is guilty of an offence.

(3) The court or judge by whom a person is convicted of a violation of this Section may, in addition to any other penalty that may be imposed, make an order suspending the driver's licence or the privilege of having a driver's licence of the person convicted for such period, not exceeding one year, as the court or judge thinks proper.

(4) When a court or judge has made an order under subsection (3) the person whose licence is suspended by the order shall forthwith deliver the licence to the court or judge.

(5) When an order has been made under subsection (3) the clerk of the court or the judge shall forthwith transmit to the Registrar a true copy of the order and any licence that has been delivered to the court or judge pursuant to subsection (4).

(6) Where an order is made under subsection (3), the order is stayed pending the determination of any appeal as provided in Section 361. R.S., c. 293, s. 100.

Consumption of alcohol by novice drivers

117 (1) Where a peace officer believes on reasonable and probable grounds that any person who is a novice driver

(a) is operating or having care and control of a motor vehicle, whether it is in motion or not; or

(b) at any time within the preceding two hours, has operated or had care and control of a motor vehicle, whether it was in motion or not,

having consumed alcohol in such a quantity that the concentration in the person's blood exceeds zero milligrams of alcohol in 100 millilitres of blood, the peace officer may make a demand pursuant to subsection (2).

(2) Where a peace officer believes that subsection (1) applies with respect to a person, the peace officer may, by demand made to that person forthwith or as soon as practicable, require that person to provide then or as soon thereafter as is practicable

(a) such samples of the person's breath as in the opinion of a qualified technician; or

(b) where the peace officer has reasonable and probable grounds to believe that, by reason of any physical condition of the person,

(i) the person may be incapable of providing a sample of the person's breath, or

(ii) it would be impracticable to obtain a sample of the person's breath,

such samples of the person's blood, under the conditions referred to in subsection (3), as in the opinion of the qualified medical practitioner or qualified technician taking the samples,

are necessary to enable proper analysis to be made in order to determine the concentration, if any, of alcohol in the person's blood, and to accompany the peace officer for the purpose of enabling such samples to be taken.

(3) Samples of blood may be taken from a person pursuant to a demand made by a peace officer pursuant to subsection (2) only if the samples are taken by or under the direction of a qualified medical practitioner and the qualified medical practitioner is satisfied that the taking of those samples would not endanger the life or health of the person.

(4) Where, upon demand by a peace officer made pursuant to section 320.27 of the *Criminal Code* (Canada), a driver who is a novice driver provides a sample of the person's breath that, on an analysis by an approved screening device, registers "Pass" but the peace officer reasonably suspects that the driver has alcohol in the driver's body, the peace officer may, for the purpose of subsection (2), demand that the driver provide, within a reasonable time, such further sample of breath as, in the opinion of the peace officer or qualified technician, is necessary to enable the proper analysis of the breath to be made by means of an approved instrument and, if necessary, to accompany the peace officer for the purpose of enabling such a sample of breath to be taken. 1994, c. 24, s. 5; 1999, c. 11, s. 5; 2014, c. 53, s. 8; 2018, c. 3, s. 52.

24-hour revocation and suspension of licence

118 (1) In this Section,

"provincially approved screening device" means a device prescribed by the regulations;

"qualified technician" means a qualified technician as defined in section 320.11 of the *Criminal Code* (Canada).

(2) Subsection (3) applies and subsection (4) does not apply if a peace officer making a demand of a novice driver uses one screening device for the purpose of this Section and another screening device for the purpose of Section 341, and subsection (4) applies and subsection (3) does not apply if the peace officer uses one screening device for the purpose of both this Section and Section 341.

(3) A peace officer may request a novice driver to surrender the person's licence if, upon demand of the officer made pursuant to Section 117, the novice driver fails or refuses to provide a sample of breath or provides a sample of breath that, on analysis by a provincially approved screening device, produces a result indicating, in the manner prescribed by the regulations, the presence of alcohol.

(4) A peace officer may request a novice driver to surrender the person's licence if, upon demand made by the peace officer under section 320.27 of the *Criminal Code* (Canada), the driver

- (a) fails or refuses to provide a sample of breath; or
- (b) provides a sample of breath that, on analysis, produces a result indicating, in the manner prescribed by the regulations, the presence of alcohol.

(5) A novice driver whose licence has been requested pursuant to subsection (3) or (4) shall surrender the licence to the peace officer requesting it forthwith and, whether or not the novice driver is unable or fails to surrender the licence to the peace officer, the licence is suspended and the novice driver's driving privilege is suspended for a period of 24 hours from the time the request is made.

(6) Notwithstanding subsection (3), (4) or (5), where a licence is suspended under this Section for a period of 24 hours,

- (a) a peace officer may not request the licence be surrendered;
- (b) a novice driver whose licence is suspended is not required to surrender the licence; and
- (c) for greater certainty, notwithstanding the licence not being surrendered, the licence is suspended and the novice driver's driving privilege is suspended for a period of 24 hours.

(7) Where an analysis of the breath of a novice driver is made under Section 117 or subsection (4) and produces a result indicating, in the manner prescribed by the regulations, the presence of alcohol, the novice driver may require a further analysis to be made by means of a provincially approved screening device, in which case the result obtained on the second analysis governs and any revocation and suspension resulting from an analysis under Section 117 or subsection (4) continues or terminates accordingly.

(8) Where an analysis of the breath of a novice driver is made pursuant to Section 117 or subsection (4) and produces a test result indicating, in the manner prescribed by the regulations, the presence of alcohol, the peace officer who made the demand for the sample of breath shall advise the novice driver of the right under subsection (7) to a further analysis. 1998, c. 32, s. 2; 2004, c. 42, s. 8; 2014, c. 53, s. 9.

Effect of suspension

119 (1) The revocation of a licence and the suspension of a driving privilege pursuant to Section 118 are in addition to and not in substitution for any other proceeding or penalty arising from the same circumstances.

(2) Every peace officer who requests the surrender of a licence from a novice driver pursuant to Section 118 or 341 shall

- (a) keep a written record of the suspension with the name, address and licence number of the novice driver and the date and time of the suspension;

(b) provide the novice driver with a written statement setting out the time at which the suspension takes effect, the length of the period during which the licence is suspended and the place where the licence may be recovered upon the termination of the suspension and acknowledging receipt of the licence that is surrendered; and

(c) forward to the Registrar forthwith a written report setting out the name, address and licence number of the novice driver and such particulars respecting the taking of the sample of breath and the conduct and results of the analysis as the Registrar may require in relation to the matter.

(3) Where the motor vehicle driven by a novice driver whose licence is suspended and whose driving privilege is suspended pursuant to Section 118 is in a location from which, in the opinion of a peace officer, it should be removed and there is no person easily available who may lawfully remove the vehicle with the consent of the novice driver, the peace officer may remove and store the vehicle or cause it to be removed and stored and shall notify the novice driver of its location.

(4) The costs and charges incurred in moving and storing a vehicle pursuant to subsection (3) must be paid, before the vehicle is released, by the person to whom the vehicle is released. 1998, c. 32, s. 2; 2004, c. 42, s. 8; 2014, c. 53, s. 9.

Evidence

120 (1) Where an analysis of the sample of breath of a novice driver has been made for the purpose of Section 118 or 341 by means of any device prescribed by the regulations for the purpose of this subsection and has produced a result indicating, in the manner prescribed by the regulations, the presence of alcohol, that result is, in the absence of evidence to the contrary, proof that the novice driver has breached a condition of a licence referred to in Section 80.

(2) Subsection (1) is not to be construed by any person, court, tribunal or other body to limit the generality of the nature of proof that a novice driver has breached a condition of a licence referred to in Section 79 or 80, as the case may be. 1998, c. 32, s. 2; 1999, c. 11, s. 6; 2014, c. 53, s. 9.

Regulations

121 The Governor in Council may make regulations prescribing

(a) devices for the purpose of the definition “provincially approved screening device” in subsection 118(1);

(b) the manner in which the analysis results produced by provincially approved screening devices or other screening devices may indicate the presence of alcohol in samples of breath;

(c) devices for the purpose of subsection 120(1). 1998, c. 32, s. 2.

Intention of suspension

122 The suspension of a licence or the suspension of a driving privilege resulting from a conviction of a breach of a condition of a licence referred to in Section 79 or 80 or by reason of the operation of Sections 118 to 121 is intended

(a) to ensure that the novice driver acquire experience and develop or improve safe driving skills in controlled conditions; and

(b) to safeguard the holder of the licence and the public. 1998, c. 32, s. 2; 2004, c. 42, s. 9; 2014, c. 53, s. 10.

Cellular telephones

123 (1) It is an offence for a person to use a hand-held cellular telephone or engage in text messaging on any communications device while operating a vehicle or an electric kick-scooter on a highway or operating a personal transporter on a roadway or a sidewalk.

(2) This Section does not apply to a person who uses a hand-held cellular telephone or other communications device to report an immediate emergency situation. 2007, c. 45, s. 7; 2015, c. 46, s. 5; 2022, c. 21, s. 6.

Careful and prudent speed

124 A person operating or driving a vehicle on a highway shall operate or drive the same at a careful and prudent rate of speed not greater than is reasonable and proper, having due regard to the traffic, surface and width of the highway and of all other conditions at the time existing, and a person shall not operate or drive a vehicle upon a highway at such a speed or in such a manner as to endanger the life, limb or property of any person. R.S., c. 293, s. 101.

Prima facie speed limit

125 (1) Subject to Sections 124 and 127 and except where a lower rate of speed is specified in this Act or the regulations made thereunder, it is prima facie lawful for the driver of a vehicle to drive the same at a rate of speed not exceeding the rate in subsection (2), and it is prima facie unlawful to exceed such rate of speed.

(2) The rate of speed referred to in subsection (1) is 50 kilometres per hour

(a) when passing a church or the grounds thereof while the congregation is going to or leaving the church;

(b) when approaching and within 30 metres of a grade crossing of a steam, electric or street railway;

(c) in a danger zone as defined in this Act;

(d) in a business district as defined in this Act;

(e) upon approaching within 15 metres in traversing an intersection or highways where the driver's view in either direction along any intersecting highway within a distance of 60 metres is obstructed, except when travelling upon a through street or highway or at traffic controlled intersections;

(f) in a residence district as defined in this Act; or

(g) in public parks within cities or towns unless a different rate of speed is indicated by local authorities or traffic authorities and duly posted. R.S., c. 293, s. 102; 1994-95, c. 12, s. 7; 2011, c. 46, s. 2.

School area and school bus

126 (1) Subject to the regulations, a traffic authority may designate a school area on a portion of a highway by placing traffic signs to indicate the beginning and end of the school area.

(2) Where a traffic authority designates a school area, the traffic authority shall

(a) reduce the speed limit in the school area to

(i) 30 kilometres per hour, if the speed limit in effect immediately before the start of the school area is 50 kilometres per hour, or

(ii) 50 kilometres per hour, if the speed limit in effect immediately before the start of school area is greater than 50 kilometres per hour;

(b) place a traffic sign at the beginning of the school area to notify drivers of the reduced speed limit in the school area; and

(c) place a traffic sign at the end of the school area to notify drivers of the speed limit in effect immediately after the school area ends.

(3) A driver shall not exceed the speed limit in a school area by

(a) between one and 15 kilometres per hour, inclusive;

(b) between 16 and 30 kilometres per hour, inclusive; or

(c) 31 kilometres per hour or more.

(4) The speed limits fixed pursuant to this Section are subject to any regulations limiting the application of school area speed limits by times, dates or other conditions.

(5) The Minister may make regulations

(a) setting conditions that must exist before a traffic authority may designate a portion of a highway as a school area;

(b) requiring a traffic authority to designate a school area on a portion of a highway that is specifically identified in the regulations or that meets the specifications for a mandatory school area set out in the regulations;

(c) limiting the application of the school area speed limits in this Section by times, dates or other conditions;

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

(e) respecting any matter or thing the Minister considers necessary or advisable to effectively carry out the intent and purpose of this Section.

(6) The exercise by the Minister of the authority contained in subsection (5) is a regulation within the meaning of the *Regulations Act*.

(7) Notwithstanding any other provision of this Act, the driver of a vehicle shall stop the vehicle before passing a school bus that is exhibiting flashing red lights and is stopped on or near a highway and shall remain stopped until the school bus proceeds.

(8) When a school bus is equipped with and exhibits flashing amber lights, the driver of a motor vehicle intending to pass the school bus shall proceed with caution.

(9) For the purpose of subsections (7) and (8), “exhibiting flashing red lights” and “exhibits flashing amber lights” have the meaning determined by the Governor in Council by regulation. R.S., c. 293, s. 103; 1995-96, c. 23, s. 3; 2011, c. 46, s. 3.

Fixing maximum speed rate

127 Notwithstanding Sections 124 and 125, but subject to Section 126, the Minister or a traffic authority with the approval of the Provincial Traffic Authority may fix such maximum rates of speed as the Minister or traffic authority may see fit to approve for motor vehicles traversing any part or portion of a highway and may erect and maintain signs containing notification of such rate of speed so fixed and approved by the Minister or traffic authority, and thereafter while such signs remain so erected and displayed the operator or driver of any vehicle exceeding the rate of speed so fixed and approved is guilty of an offence. R.S., c. 293, s. 104; 1994-95, c. 12, s. 8; 2011, c. 46, s. 4.

Posted higher rate of speed

128 (1) The speed limitations provided in subsection 125(2) do not apply where the traffic authority has indicated a higher rate of speed by erecting and maintaining appropriate signs giving notice of such increased rate of speed.

(2) The traffic authority is authorized to erect and maintain such signs upon through highways or upon highways or portions thereof where there are no intersections or between widely spaced intersections. R.S., c. 293, s. 105.

Maximum speed limit

129 (1) Notwithstanding any other provision of this Act, but subject to subsection (2) and Section 142, no person shall drive a motor vehicle at a speed in excess of 80 kilometres per hour on any highway at any time.

(2) The Minister or the Provincial Traffic Authority may fix rates of speed in excess of 80 kilometres per hour, but not in excess of 110 kilometres per hour, for certain highways and may erect and maintain signs containing notification of such rate of speed, and the driver of a motor vehicle who exceeds the rate of speed so fixed is guilty of an offence.

(3) No person shall at any time operate a personal transporter at a speed in excess of

- (a) 20 kilometres per hour on a roadway; or
- (b) seven kilometres per hour on a sidewalk.

(4) No person shall at any time operate an electric kick-scooter on a municipal highway at a speed in excess of the lower of

- (a) 32 kilometres per hour; and
 - (b) the maximum speed prescribed by municipal bylaw.
- R.S., c. 293, s. 106; 1996, c. 34, s. 3; 2015, c. 46, s. 6; 2022, c. 21, s. 7.

Exceeding speed limit

130 A person commits an offence who contrary to Section 127 or 129 exceeds the speed limit by

- (a) between one and 15 kilometres per hour, inclusive;
- (b) between 16 and 30 kilometres per hour, inclusive; or
- (c) 31 kilometres per hour or more. 2001, c. 12, s. 3.

Temporary work area

131 (1) A person commits an offence who exceeds the speed limit in a temporary work area by

- (a) between one and 15 kilometres per hour, inclusive;
- (b) between 16 and 30 kilometres per hour, inclusive; or
- (c) 31 kilometres per hour or more.

(2) The Governor in Council may make regulations defining a temporary work area and its limits or the manner in which a temporary work area is to be designated for the purpose of this Section. 2007, c. 45, s. 8; 2009, c. 20, s. 1.

Sign for temporary work area

132 The Minister or the traffic authority shall erect a sign in or approaching a temporary work area advising drivers that the fines under this Act for speeding in a temporary work area are double. 2008, c. 22, s. 1.

Interpretation of Sections 135 and 136

133 (1) In Sections 135 and 136, “emergency vehicle” means

- (a) an ambulance;
- (b) a police vehicle;
- (c) a public-safety vehicle;
- (d) a tow truck at the scene of a fire or an accident or while assisting a vehicle;
- (e) a fire department vehicle or fire patrol vehicle, including a fire suppression vehicle or fire vehicle operated by the Department of Natural Resources and Renewables;
- (f) a vehicle being used by the chief or deputy chief of a volunteer fire department when acting in an emergency arising from a fire or an accident;
- (g) a vehicle being used by a conservation officer appointed under an enactment when the conservation officer is performing the officer’s duties as a conservation officer;

(h) a vehicle being used by a motor vehicle inspector or a motor carrier inspector when the inspector is performing the inspector's duties as an inspector;

(i) any other vehicle designated by the regulations made pursuant to this Section.

(2) The Minister may make regulations

(a) designating a vehicle as an emergency vehicle;

(b) defining any word or expression used but not defined in subsection (1).

(3) The exercise by the Minister of the authority contained in subsection (2) is a regulation within the meaning of the *Regulations Act*. 2009, c. 20, s. 2; 2014, c. 20, s. 2; 2018, c. 15, s. 1.

Regulations

134 (1) The Minister may make regulations prescribing a class of persons who are public-safety officers.

(2) The exercise by the Minister of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2014, c. 20, s. 3.

Speed limit when passing emergency vehicle

135 (1) No person shall drive a vehicle on a highway past an emergency vehicle, that is stopped on the roadway or a shoulder adjacent to it and exhibiting a flashing light, at a speed in excess of

(a) the speed limit but for this Section; or

(b) 60 kilometres per hour,

whichever is less.

(2) A person commits an offence who contrary to subsection (1) exceeds the speed limit referred to in clause (1)(a) or (b) by

(a) between one and 15 kilometres per hour, inclusive;

(b) between 16 and 30 kilometres per hour, inclusive; or

(c) 31 kilometres per hour or more.

(3) Where a highway is divided into separate roadways by a median, this Section only applies to a vehicle being driven on the same roadway as the emergency vehicle is stopped on or beside. 2009, c. 20, s. 2.

Lane use when passing emergency vehicle

136 (1) The driver of a vehicle that is approaching an emergency vehicle, that is stopped and exhibiting a flashing light, shall not

(a) drive in a traffic lane occupied, or partly occupied, by the emergency vehicle; or

(b) drive in the traffic lane closest to the emergency vehicle and not occupied, or partly occupied, by the emergency vehicle, if there is another traffic lane, for traffic moving in the same direction as the vehicle and further from the emergency vehicle, into which the vehicle can move safely.

(2) Where the traffic on a highway is divided into separate roadways by a median, this Section only applies to a vehicle being driven on the same roadway as the emergency vehicle is stopped on or beside. 2009, c. 20, s. 2.

Exemption of public safety vehicle

137 (1) Where the driver of a public-safety vehicle is displaying the vehicle's flashing lights and operating the vehicle's siren, the driver of the public-safety vehicle is not required to obey Section 108 with respect to traffic signals, Section 171 with respect to stop signs or any of the speed limitations in this Act if it is reasonable and safe in the circumstances not to do so.

(2) Notwithstanding any other provision of this Act, the driver of a public-safety vehicle shall

(a) drive with due regard for the safety of all persons using the highway; and

(b) obey the directions of a peace officer on a highway. 2014, c. 20, s. 4.

Slow driving

138 (1) Except when necessary for safe operation or to comply with this Act, no person shall drive a motor vehicle at such a slow speed as to impede or block the normal and reasonable flow of traffic.

(2) Where a person is driving a motor vehicle at such a slow speed as to impede or block the normal and reasonable flow of traffic, the person shall stop where it is reasonably safe to do so and permit traffic so impeded or blocked to pass the person's motor vehicle.

(3) The Minister may fix minimum rates of speed for motor vehicles traversing any part or portion of a highway and may erect and maintain signs containing notification of such rate of speed so fixed, and thereafter while such signs remain so erected and displayed, the driver of any vehicle who wilfully drives at a rate of speed less than such minimum rate of speed is guilty of an offence. R.S., c. 293, s. 107.

Signage for temporary work area and Department vehicle

139 Notwithstanding anything contained in this Act,

(a) where a portion of a highway is designated as a temporary work area by the erection of signs, regulatory signs may be placed on temporary sign supports adjacent to the travelled portion of the highway; and

(b) the driver of a vehicle shall stop the vehicle and remain stopped when approaching a Department vehicle exhibiting flashing red lights and an illuminated "STOP DO NOT PASS" sign. 2001, c. 44, s. 3.

Traffic control person

140 (1) A traffic control person may direct traffic only at a temporary work area in a manner consistent with standards contained in the latest edition of the Nova Scotia Temporary Workplace Traffic Control Manual.

(2) It is an offence for the driver of a vehicle to fail to obey a traffic control person directing traffic within a temporary work area.

(3) It is an offence for the driver of a vehicle to fail to obey an automated flagger assistance device within a temporary work area. 2001, c. 44, s. 3; 2023, c. 20, s. 4.

Restrictions on bridge

141 (1) No person shall drive a vehicle whose combined weight and load exceed 11,000 kilograms upon any bridge while a commercial motor vehicle or other heavy laden vehicle is already upon the bridge.

(2) The Department may erect and maintain signs upon any bridge, causeway or viaduct or on the approaches thereto, requiring the drivers of vehicles or any class or classes of vehicles to stop before entering such bridge, causeway or viaduct or setting forth the maximum speed at which drivers of vehicles or any class or classes of vehicles may drive over such bridge, causeway or viaduct.

(3) It is an offence for the driver of a vehicle to fail to comply with a direction set forth on a sign erected and maintained pursuant to subsection (2). R.S., c. 293, s. 108.

Exemption of police or emergency vehicle

142 (1) The speed limitations as set forth in this Act do not apply to vehicles when operated with due regard to safety under the direction of the police in the chase or apprehension of violators of the law or of persons charged with or suspected of any such violation, nor to fire departments or fire patrol vehicles when travelling in response to a fire alarm, nor to public or private ambulances when travelling in emergencies and the drivers thereof sound audible signal by bell, siren or exhaust whistle.

(2) This Section does not relieve the driver of any such vehicle from the duty to drive with due regard for the safety of all persons using the highway, nor shall it protect the driver of any such vehicle from the consequences of a reckless disregard of the safety of others. R.S., c. 293, s. 109.

RULES OF THE ROAD**Duty to drive on right**

143 (1) Upon all highways of sufficient width, except upon one-way streets, the operator or driver of a vehicle shall operate or drive the same upon the right half of the highway and, subject to Section 169, shall drive a slow-moving vehicle as closely as possible to the right-hand edge or curb of such highway, unless it is impracticable to travel on such side of the highway except when overtaking and passing another vehicle subject to the rules applicable in overtaking and passing set forth in Section 149.

(2) In approaching any bridge, viaduct or tunnel, if the bridge, viaduct or tunnel is less than six metres in width or approaching or crossing a railroad right of way or an intersection of highways, the driver of a vehicle shall at all times cause the vehicle to travel on the right half of the highway unless the right half is out of repair and for such reason impassable.

(3) Subsection (2) does not apply upon a one-way street.

(4) In driving upon a one-way street the driver shall drive as closely as practicable to the right-hand edge or curb of the highway except when overtaking or passing or travelling parallel with another vehicle or when placing a vehicle in position to make a left turn. R.S., c. 293, s. 110; 2010, c. 59, s. 3.

Rules for laned traffic

144 Whenever a street or highway has been divided into clearly marked lanes for traffic, drivers of vehicles shall obey the following regulations:

(a) a vehicle must normally be driven in the lane nearest the right-hand edge or curb of the highway when such lane is available for travel except when overtaking another vehicle or in preparation for a left turn or as permitted in clause (d);

(b) a vehicle must be driven as nearly as is practicable entirely within a single lane and may not be moved from such lane until the driver has first ascertained that the movement can be made with safety;

(c) upon a highway that is divided into three lanes a vehicle may not be driven in the centre lane except when overtaking and passing another vehicle or in preparation for a left turn or unless the centre lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is sign-posted to give notice of such allocation;

(d) the traffic authority may designate right-hand lanes for slow-moving traffic and inside lanes for traffic moving at the speed indicated for the district under this Act, and when such lanes are sign-posted or marked to give notice of such designation a vehicle may be driven in any lane allocated to traffic moving in the direction the vehicle is proceeding, but when travelling within the inside lanes vehicles must be driven at approximately the speed authorized in such lanes, and speed must not unnecessarily be decreased so as to block, hinder or retard traffic. R.S., c. 293, s. 111.

Rule for lane merge

145 (1) Where two lanes of a street or highway merge into one lane, the driver of a vehicle in the left lane shall yield the right of way to a vehicle in the right lane unless the driver of the vehicle in the right lane is directed by a sign to yield to the vehicle in the left lane.

(2) For greater certainty, nothing in subsection (1) applies to vehicles in merging from an entrance ramp. 2008, c. 23, s. 1.

Highway divided into two separate roadways

146 (1) Where a highway is divided into two separate roadways, no person shall

(a) drive or park a vehicle upon the left-hand roadway, having regard to the direction in which the vehicle is being driven;

(b) drive a vehicle from one roadway to the other roadway except at an intersection.

(2) Clause (1)(b) does not apply to police, fire or emergency vehicles, public safety vehicles or vehicles operated by employees of the Department while acting in the course of their employment or to vehicles designated by the regulations.

(3) The Minister may make regulations designating classes of vehicles to which clause (1)(b) does not apply.

(4) The exercise by the Minister of the authority contained in subsection (3) is a regulation within the meaning of the *Regulations Act*.

(5) Where a highway is divided in the manner described in subsection (1), the Registrar may erect appropriate signs in the highway or require the traffic authority of the city or town in which the highway lies to erect appropriate signs at the entrances to the highway that is so divided. R.S., c. 293, s. 112; 2008, c. 62, s. 1; 2014, c. 20, s. 5.

Passing in opposite directions

147 Subject to clause 152(1)(b), drivers of vehicles proceeding in opposite directions shall pass each other to the right, each giving to the other at least one half of the main travelled portion of the roadway as nearly as possible. R.S., c. 293, s. 113.

Overtaking and passing

148 (1) Except as otherwise provided in Section 149, the following rules govern the overtaking and passing of vehicles:

(a) the driver of a vehicle overtaking another vehicle proceeding in the same direction shall not pass until after the driver has given a suitable and audible signal, and shall pass to the left of the overtaken vehicle at a safe distance and shall not again drive to the right side of the highway until safely clear of the overtaken vehicle;

(b) the driver of an overtaken vehicle shall give way to the right in favour of the overtaking vehicle on suitable and audible signal and shall not increase the speed of the driver's vehicle, until completely passed by the overtaking vehicle;

(c) in the event vehicles on a street or highway are moving in two or more substantially continuous lines, clauses (a) and (b) must not be considered as prohibiting the vehicles in one such line overtaking or passing the vehicles in another such line either upon the right or the left, nor are clauses (a) and (b) to be construed to prohibit a driver overtaking and passing upon the right another vehicle that is making or about to make a left turn.

(2) Notwithstanding Section 98 and clause (1)(a), a cyclist operating on the far right side or the right-hand shoulder of the roadway may pass to the right of the overtaken vehicle if it is safe to do so. R.S., c. 293, s. 114; 2010, c. 59, s. 4.

Driving on left of centre line

149 (1) The driver of a vehicle shall not drive to the left side of the centre line of a highway

(a) when overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit the overtaking and passing to be completely made without impeding the safe operation of any vehicle approaching from the opposite direction or of any overtaken vehicle;

(b) when upon a grade in the highway or approaching the crest of a grade in the highway where in either case the driver's view along the highway is obstructed within a distance of 150 metres; or

(c) when approaching or upon a curve in the highway where in either case the driver's view along the highway is obstructed within a distance of 150 metres.

(2) Notwithstanding subsection (1) and subject to subsection (3), where a highway is divided into lanes for the movement of vehicles in the opposite direction by lines upon the highway, and

(a) where the highway is marked with a solid double line, the driver of a vehicle shall drive the vehicle to the right of the line only;

(b) where the highway is marked with a double line consisting of a broken line and a solid line,

(i) the driver of a vehicle proceeding along the highway on the side of the broken line shall drive the vehicle to the right of the double line, except when passing a vehicle proceeding in the same direction, and

(ii) the driver of the vehicle proceeding along the highway on the side of the solid line shall drive the vehicle to the right of the double line; and

(c) where the highway is marked with one single line, broken or solid, the driver of a vehicle shall drive the vehicle to the right of the line, except only when passing a vehicle proceeding in the same direction.

(3) Subsection (2) does not apply

(a) where a vehicle is entering or leaving the highway at a place other than an intersection;

(b) where a vehicle is completing a passing manoeuvre begun in accordance with subsection (2); or

(c) where the lines are not clearly visible or where it is reasonable and prudent to drive to the left of the lines due to weather or other conditions. R.S., c. 293, s. 115.

Sign or mark prohibiting passing

150 Notwithstanding Section 148 or 149, a vehicle on a highway is prohibited from overtaking or passing another vehicle headed in the same direction, either on the left or right, where a sign is posted or the pavement is marked in a manner approved by the Minister to indicate that passing is prohibited. R.S., c. 293, s. 116.

Minimum following distance and slow-moving vehicle

151 (1) The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard to the speed of such vehicles and the traffic upon and condition of the highway.

(2) The driver of a commercial motor vehicle other than a police patrol or the driver of a vehicle towing a trailer or a mobile home when travelling upon a highway outside of a business or residence district shall not follow another vehicle within 60 metres except for the purpose of overtaking and passing the other vehicle.

(3) No person shall drive upon a highway a farm tractor unless the farm tractor has exhibited in the rear of the tractor or a vehicle drawn by the tractor a sign, emblem or device prescribed by the Minister warning motorists of the slow movement of the vehicle.

(4) No person shall drive upon a highway a motor vehicle that is not capable of maintaining a rate of speed in excess of 40 kilometres per hour under normal conditions unless the motor vehicle has exhibited in the rear of the motor vehicle or a vehicle drawn by the motor vehicle a sign, emblem or device prescribed by the Minister warning motorists of the slow movement of the vehicle.

(5) No person shall drive upon a highway at a rate of speed in excess of 40 kilometres per hour a farm tractor or other motor vehicle exhibiting at the rear of the farm tractor or motor vehicle or of a vehicle drawn by the farm tractor or motor vehicle a sign, emblem or device prescribed by the Minister warning motorists of the slow movement of a vehicle. R.S., c. 293, s. 117; 2006, c. 35, s. 2.

Rules respecting intersection

152 (1) Wherever practicable the driver of a vehicle intending to turn at an intersection shall do so as follows:

(a) approach for a right turn must be made in the lane for traffic nearest to the right-hand side of the highway and the right turn must be made as closely as practicable to the right-hand curb or edge of the highway;

(b) approach for a left turn must be made in the lane for traffic to the right of and nearest to the centre line of the highway and the left turn must be made by passing to the right of the centre line where it enters the intersection, and upon leaving the intersection by passing to the right of the centre line of the highway then entered and when practicable by making the left turn in the portion of the intersection to the left of the centre of the intersection;

(c) where one or more of the highways is a one-way street, approach for a left turn in the extreme left lane or part of the highway lawfully available to traffic moving in the same direction and, after

entering the intersection, turn left into the extreme left lane or part of the highway lawfully available to traffic moving in the same direction on the highway being entered.

(2) Traffic authorities may, by placing markers, buttons or signs within intersections, require and direct that a course be travelled by vehicles turning left different from that specified in clause (1)(b), and it is an offence for the driver of a vehicle to make a left turn otherwise than so directed and required by such markers, buttons or signs. R.S., c. 293, s. 118.

Signal required

153 (1) The driver of any vehicle upon a highway before starting, stopping or turning from a direct line shall first see that such movement can be made in safety and if any pedestrian may be affected by such movement shall give a clearly audible signal by sounding the horn if the vehicle is required to be equipped with a horn under this Act, and, whenever the operation of any other vehicle may be affected by such movement, shall give a signal as required in this Section plainly visible to the driver of such other vehicle of the intention to make such movement.

(2) The signal required by this Section must be given either by means of the hand and arm in the manner specified in subsection (3) or by a mechanical or electrical signalling device, but when a vehicle is so constructed or loaded

(a) as to prevent the hand and arm signal from being visible both to the front and rear of the vehicle; or

(b) that any portion of the body or load of the vehicle extends more than 600 millimetres to the left of the centre of the steering wheel of the vehicle,

the signal must be given by a mechanical or electrical signalling device.

(3) When a driver of a vehicle gives a signal by the hand and arm the driver shall do so from the left side of the vehicle and shall signify the driver's intention

(a) to turn left, by extending the driver's hand and arm horizontally from the vehicle;

(b) to turn right, by extending the driver's hand and arm out and upward from the vehicle;

(c) to stop or decrease speed, by extending the driver's hand and arm out and downward from the vehicle. R.S., c. 293, s. 119.

Backing and turning around

154 (1) The driver of a vehicle shall not back the vehicle unless such movement can be made in safety.

(2) The driver of a vehicle shall not turn the vehicle around so as to proceed in the opposite direction upon a curve or upon the approach to or near the crest of a grade or at any place upon a highway where the view of the vehicle is obstructed within a distance of 150 metres along the highway in either direction.

(3) It is an offence for the driver of a vehicle within a business or residence district to turn the vehicle so as to proceed in the opposite direction unless such movement can be made in safety and without backing or otherwise interfering with other traffic.

(4) It is an offence for the driver of any vehicle to fail to comply with the directions displayed on signs prohibiting right or left turns at intersections or prohibiting turning around in any block or specified area of the highway. R.S., c. 293, s. 120.

Prohibited use of exit ramp

155 No person shall turn a vehicle across a roadway at an interchange for the purpose of using an exit ramp intended solely for the use of vehicles proceeding in the opposite direction to the turning vehicle. R.S., c. 293, s. 121.

Right of way or left turn at intersection

156 (1) The driver of a vehicle approaching an intersection shall yield the right of way to a vehicle that has entered the intersection, and when two vehicles enter an intersection at approximately the same time, the driver of the vehicle on the left shall yield to the driver on the right.

(2) The driver of a vehicle who has stopped as required by law at the entrance to a through highway shall yield to other vehicles within the intersection or approaching so closely on the through highway as to constitute an immediate hazard, but said driver having so yielded may proceed, and other vehicles approaching the intersection on the through highway shall yield to the vehicle so proceeding into or across the through highway.

(3) The driver of a vehicle within an intersection intending to turn to the left shall yield to any vehicle approaching from the opposite direction that is within the intersection or so close thereto as to constitute an immediate hazard, but said driver having so yielded and having given a signal when and as required by law may make the left turn, and other vehicles approaching the intersection from the opposite direction shall yield to the driver making the left turn.

(4) The driver of a vehicle on a highway intending to turn to the left, other than within an intersection, shall yield to any vehicle approaching from the opposite direction that is so close to the driver's vehicle as to constitute an immediate hazard, but, said driver having so yielded and having given a signal when and as required by law may make the left turn, and the drivers of other vehicles approaching the turning vehicle from the opposite direction shall yield to the driver making the left turn.

(5) Subject to subsection (3), no driver shall enter an intersection or a marked crosswalk except to make a left or a right turn unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle the driver is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic-control signal indication to proceed. R.S., c. 293, s. 122.

Entering a highway and emergency vehicles

157 (1) The driver of a vehicle entering a highway shall yield the right of way to all vehicles approaching on the highway.

(2) The driver of a vehicle upon a highway shall yield the right of way to a police or fire department vehicle, public-safety vehicle or ambulance if the driver of any such vehicle is displaying the vehicle's flashing lights and operating the vehicle's bell, siren or exhaust whistle.

(3) Subsection (2) does not operate to relieve the driver of a police or fire department vehicle, public-safety vehicle or ambulance from the duty to drive with due regard for the safety of all persons using the highway, nor does it protect the driver of any such vehicle from the consequence of an arbitrary exercise of such right of way. R.S., c. 293, s. 123; 2014, c. 20, s. 6.

Duty on approach of emergency vehicle

158 (1) Upon the approach of a police or fire department vehicle or ambulance giving audible signal by bell, siren or exhaust whistle, the driver of every other vehicle shall immediately drive the same to a position as near as possible and parallel to the right-hand edge or curb of the highway, clear of any intersection of highways, and shall stop and remain in that position unless otherwise directed by a peace officer until the police or fire department vehicle or ambulance has passed, and the operator of every street car shall immediately stop such car clear of any intersection and keep it in that position until the police or fire department vehicle or vehicles or ambulance has passed unless otherwise directed by a peace officer.

(2) Upon the approach of a public-safety vehicle that has the vehicle's flashing lights displayed and siren operating, the driver of every other vehicle shall immediately drive the same to a position as near as possible and parallel to the right-hand edge or curb of the highway, clear of any intersection of highways, and shall stop and remain in that position unless otherwise directed by a peace officer until the public-safety vehicle has passed. R.S., c. 293, s. 124; 2014, c. 20, s. 7.

Duty respecting transit bus

159 (1) In this Section, "transit bus" means a transit bus of a class prescribed by the regulations.

(2) The driver of a vehicle on a highway with a speed limit of 60 kilometres per hour or less shall yield the right of way to allow a transit bus that is stopped, standing or parked at or immediately adjacent to the edge of the roadway to enter the closest lane of traffic flow adjacent to the right-hand edge of the roadway if

- (a)** the driver of the transit bus has signalled an intention to enter the lane of traffic;
- (b)** the transit bus is displaying the signage prescribed by the regulations; and
- (c)** yielding to the transit bus does not constitute an immediate hazard.

(3) Subsection (2) does not apply to the driver of an emergency vehicle, as defined in Section 133, when the emergency vehicle is exhibiting a flashing light.

(4) Nothing in this Section relieves a driver of a transit bus from the duty to drive with due regard for the safety of all persons using the highway.

(5) The Minister may make regulations

(a) prescribing classes of transit buses for the purpose of this Section;

(b) prescribing standards, specifications and locations of signs or signals for the purpose of this Section;

(c) respecting any matter or thing the Minister considers necessary or advisable to carry out effectively the intent and purpose of this Section.

(6) The exercise by the Minister of the authority contained in subsection (5) is a regulation within the meaning of the *Regulations Act*, 2010, c. 63, s. 1.

PEDESTRIANS

Pedestrian and vehicle rights of way

160 (1) Where pedestrian movements are not controlled by traffic signals,

(a) the driver of a vehicle shall yield the right of way to a pedestrian lawfully within a crosswalk or stopped facing a crosswalk; or

(b) where the traffic on a highway is divided into separate roadways by a median, the driver of a vehicle shall yield the right of way to a pedestrian lawfully within a crosswalk or stopped facing the crosswalk on the roadway on which the vehicle is travelling.

(2) Where a vehicle has stopped at a crosswalk to yield to a pedestrian pursuant to subsection (1), it is an offence for the driver of any other vehicle approaching from the rear to overtake and pass the stopped vehicle.

(3) A pedestrian shall not leave a curb or other place of safety and walk or run into the path of a vehicle that is so closely approaching that it is impractical for the driver of the vehicle to stop.

(4) Where a pedestrian is crossing a roadway at a crosswalk that has a pedestrian-activated beacon, the pedestrian shall not leave a curb or other place of safety unless the pedestrian-activated beacon has been activated.

(5) A pedestrian crossing a roadway at any point other than within a crosswalk shall yield the right of way to vehicles upon the roadway.

(6) This Section does not relieve a pedestrian or a driver of a vehicle from the duty to exercise due care. 2007, c. 45, s. 9.

Crossing guard

161 (1) A crossing guard may direct children across a roadway only at a marked crosswalk and as part of the crossing guard's employment.

(2) Before directing children across a roadway, a crossing guard shall

(a) display an approved stop sign in an upright position so that it is visible to all approaching vehicular traffic;

(b) enter into the middle of the intersection while continuing to display the stop sign; and

(c) ensure that all approaching vehicles have stopped.

(3) When a stop sign is displayed as required by subsection (2), the driver of any vehicle approaching the crosswalk shall stop no closer than five metres from the crosswalk.

(4) It is an offence for a driver of a vehicle to fail to obey a crossing guard who is directing children in a crosswalk. 2001, c. 12, s. 5.

Surrender and revocation of licence

162 (1) Where a peace officer is satisfied that a motor vehicle is being or has been operated in the course of committing an offence contrary to subsection 160(1) or (2) or 161(3) or (4), the peace officer shall request that the person surrender the person's driver's licence.

(2) Upon a request being made under subsection (1), the person to whom the request was made shall forthwith surrender the person's driver's licence to the peace officer and, whether or not the person is unable or fails to surrender the person's driver's licence to the peace officer, the person's driver's licence is revoked and the person's driving privilege is suspended for a period of seven days from the time the request is made.

(3) The suspension of a driver's licence or the suspension of a driving privilege pursuant to this Section is in addition to and not in substitution for any proceeding or penalty arising from the same circumstances.

(4) Where a driver's licence is suspended or a driving privilege is suspended pursuant to this Section, the peace officer who requested the surrender of the driver's licence shall

(a) keep a written record of the suspension with the name and address of the person and the date and time of the suspension; and

(b) provide the person with a written statement of the time at which the suspension takes effect, the length of the period during which the person's driver's licence or driving privilege is suspended, the place where the driver's licence may be recovered upon the termination of the suspension and acknowledging receipt of the driver's licence that is surrendered. 2007, c. 45, s. 10.

Offence to disobey traffic signal

163 At an intersection where traffic is controlled by traffic signals, it is an offence for a pedestrian to disobey the instruction of any traffic signal placed in accordance with this Act unless otherwise directed by a peace officer. R.S., c. 293, s. 126.

Movement of pedestrians

164 (1) Pedestrians shall move whenever practicable upon the right half of crosswalks.

(2) Where sidewalks are provided it is unlawful for any pedestrian to walk along and upon an adjacent highway.

(3) Where sidewalks are not provided, any pedestrian walking along and upon a highway shall, when practicable, walk only on the left side of the roadway or its shoulder facing traffic that may approach from the opposite direction. R.S., c. 293, s. 127.

Standing in roadway to hitchhike or board street car

165 (1) It is an offence for a person to stand in a roadway for the purpose of soliciting a ride from the driver of a private vehicle.

(2) It is an offence for a person about to board a street car to stand upon the roadway either within or without a crosswalk except when a safety zone has been established, until the street car that the person is about to board has been brought to a standstill. R.S., c. 293, s. 128.

STREET CARS AND VEHICLES

Boarding, alighting from or riding in vehicle

166 (1) It is an offence for the driver of a vehicle to stop the vehicle on the street or highway for the purpose of letting off or taking on any person or persons, other than at the curb or side of the road or highway, or knowingly to permit any person or persons to alight from or to enter upon the vehicle while the same is in motion.

(2) No person shall board or alight from a vehicle while the vehicle is in motion.

(3) It is an offence for a person to ride or for the driver to permit a person to ride on a vehicle upon any portion thereof not designed or intended for the use of passengers when the vehicle is in motion.

(4) Subsection (3) does not apply

(a) to an employee engaged in the necessary discharge of a duty; or

(b) in the case of persons being transported in trucks in space intended for merchandise if the trucks have secure seating accommodation and all such persons are seated while being so transported.

(5) It is an offence for a person to ride or for the driver of the towing vehicle to permit a person to ride in a travel trailer or mobile home while the travel trailer or mobile home is being towed on the highway.

(6) It is an offence for a person to ride or for the driver to permit a person to ride in a truck camper while the truck camper is being operated on the highway except in a regular passenger seat or in a seat permanently mounted on the lower part of the body of the truck camper.

(7) No person shall drive a motor vehicle on a highway if

(a) the control of the driver over the driving mechanism of the vehicle; or

(b) the view of the driver to the front or sides of the vehicle,

is obstructed or interfered with by reason of the load or the number of persons in the front seat.

(8) It is an offence for a passenger in a vehicle to ride in such position as to interfere with the driver's or operator's view ahead or to the sides, or to interfere with the driver's or operator's control over the driving mechanism of the vehicle. R.S., c. 293, s. 129.

No driving bus with open door

167 The driver of a bus or a trolley coach shall not knowingly operate the bus or trolley coach while a door of the bus or trolley coach is open. R.S., c. 293, s. 130.

SAFETY ZONES AND COMPULSORY STOPS

Safety zone

168 The driver of a vehicle shall not at any time drive through or over a safety zone as defined in Section 2. R.S., c. 293, s. 131.

Bicycle lanes

169 The driver of a vehicle shall not operate the vehicle in a bicycle lane unless

(a) it is necessary to do so to go around a vehicle or a bicycle immediately in front of the driver's vehicle that has signalled its intention to turn left;

(b) it is necessary to do so to complete a lawful manoeuvre; or

(c) the driver has encountered a condition on the roadway, including a fixed or moving object, parked or moving vehicle, pedestrian, animal or surface hazard that makes it impracticable not to do so,

but in that event shall yield the right of way to any cyclist lawfully in the bicycle lane. 2010, c. 59, s. 5.

Railway crossing

170 (1) Whenever a person driving a vehicle approaches a highway and railway grade crossing and a clearly visible or positive signal gives warning of the immediate approach of a railway engine, train or car, it is an offence for the driver of the vehicle to fail to stop the vehicle before traversing such grade crossing.

(2) No driver shall enter a highway and railway grade crossing unless there is sufficient space on the other side to accommodate the vehicle the driver is operating without obstructing the passage of railroad trains. R.S., c. 293, s. 132.

Stop sign

171 (1) Subject to Section 101, the traffic authority may designate main travelled or through highways by erecting at the entrances thereto from intersecting highways signs notifying drivers of vehicles to stop before entering or crossing such designated highways, or may designate particular intersections and erect stop signs at one or more entrances thereto, and whenever any such signs have been so erected it is an offence for the driver of a vehicle or the operator of a street car to fail to stop in obedience thereto, except where directed to proceed by a peace officer or traffic control signal.

(2) Such signs must be placed as nearly as practicable to, and the stop must be made at, the place where the cross street meets the prolongation of the nearest property line of the through highway.

(3) Every such sign must bear the word “stop” in letters of a size to be clearly legible from a distance of at least 30 metres and shall be illuminated at night or so placed as to be illuminated by the headlights of an approaching vehicle or by street lights.

(4) This Section does not apply in the case of police and fire department vehicles and ambulances when the same are operating in emergencies and the drivers sound an audible signal by bell, siren, compression or exhaust whistle, but this proviso does not operate to relieve the driver of a police or fire department vehicle or ambulance from the duty to drive with due regard for the safety of all persons using the highway. R.S., c. 293, s. 133; 2014, c. 20, s. 8.

Yield sign

172 (1) Subject to Section 101, a traffic authority may erect at any intersection a yield sign or signs.

(2) A yield sign must be of such design and specification as may be determined by the Minister pursuant to Section 103 and must be of a size to be clearly discernible from a distance of 30 metres and must be illuminated at night or so placed as to be illuminated by the headlights of an approaching vehicle or by street lights.

(3) The driver of a vehicle approaching an intersection at which there is a yield sign and facing the sign shall enter the intersection with caution and shall yield the right of way to all other traffic within the intersection or approaching so closely on the intersecting highway as to constitute an immediate hazard. R.S., c. 293, s. 134.

Rotary or roundabout

173 (1) The driver of a vehicle entering a roadway in or around a rotary or roundabout shall yield the right of way to traffic already on the roadway in the circle and approaching so closely to the entering highway as to constitute an immediate hazard.

(2) The driver of a vehicle passing around a rotary or roundabout shall drive the vehicle in a counter-clockwise direction around the island or the centre of the circle. 2004, c. 42, s. 10.

Driveway

174 (1) The driver of a vehicle within a business or residence district emerging from an alley, driveway or building shall stop the vehicle immediately prior to driving on a sidewalk or on the sidewalk area extending across an alleyway.

(2) The driver of a vehicle entering an alley, driveway or building or driving across a sidewalk shall yield the right of way to a pedestrian who is crossing the entrance to the alley, driveway or building or who is on the sidewalk at the point where the vehicle is crossing. R.S., c. 293, s. 136.

Application of Sections 168 to 174

175 (1) In Section 168 and Sections 170 to 174, “vehicle” includes a bicycle, a personal transporter and an electric kick-scooter and “driver” includes a cyclist, the operator of a personal transporter and the operator of an electric kick-scooter.

(2) For greater certainty, Section 169 does not apply to bicycles, personal transporters, electric kick-scooters or their operators. 2022, c. 21, s. 8.

PARKING**Parking on highway**

176 (1) No person shall park or leave standing a vehicle, whether attended or unattended, upon the paved or improved or main travelled portion of any highway, outside of a business or residence district, when it is practicable to park or leave the vehicle standing off the paved or improved or main travelled portion of the highway, provided, in no event shall any person park or leave standing a vehicle, whether attended or unattended, upon any highway unless a clear and unobstructed width of not less than 4.5 metres upon the main travelled portion of the highway opposite the standing vehicle must be left for free passage of other vehicles thereon, nor unless a clear view of the vehicle may be obtained from a distance of 60 metres in each direction upon the highway.

(2) Whenever a peace officer finds a vehicle standing upon a highway in violation of this Section, the peace officer may move the vehicle or require the driver or person in charge of the vehicle to move the vehicle to a position permitted under this Section.

(3) This Section does not apply to the driver of a vehicle that is disabled while on the paved or improved or main travelled portion of a highway in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving the vehicle in such position. R.S., c. 293, s. 138.

Winter parking

177 (1) Notwithstanding Section 176, no person shall wilfully park or leave standing a vehicle whether attended or unattended, upon a highway or any part thereof in such manner that it might interfere with or obstruct snow removal or winter maintenance operations on the highway.

(2) Where a vehicle is parked or left standing on a highway in such manner that it interferes with or obstructs snow removal or winter maintenance operations, the Department or a peace officer may cause the vehicle to be moved or towed to some other place.

(3) Any cost incurred by the Department or a peace officer in moving or towing a vehicle under subsection (2) may be recovered from the owner of the vehicle and such debt constitutes a lien against the vehicle. R.S., c. 293, s. 139.

Warning flare or reflector

178 (1) Notwithstanding any other provisions of this Act, where a commercial motor vehicle that has a registered weight of 3,500 kilograms or more or a travel trailer or a motorized home is so disabled on a highway outside a city or incorporated town at any time during the period from one half hour after sunset to one half hour before sunrise that it cannot be removed from the highway, the driver of the vehicle shall, while the vehicle is so disabled on the highway during the said period place and maintain a flare, of the “pot flame” type, so called, at the front of the vehicle and a similar flare at the rear of the vehicle.

(2) The driver of every commercial vehicle that has a registered weight of 3,500 kilograms or more or a travel trailer or a motorized home must have in the vehicle at all times when it is operated on the highway no less than two flares of the “pot flame” type, so called, both of which are charged with fuel and in good working order.

(3) Where a commercial vehicle of the class described in subsection (1) or (2) is equipped and is being used for the transportation of gasoline, fuel oil or other similar volatile inflammable substance the driver may have and if occasion requires may use portable red reflectors that are visible for a distance of 150 metres under normal atmospheric conditions, electric lamps or lights that are operated from a battery or batteries other than a battery of the vehicle in place of the flares described in those subsections. R.S., c. 293, s. 140.

Service truck

179 (1) Where a motor vehicle service, repair or towing truck, on which a crane is permanently mounted, is stopped on a highway outside a city or incorporated town at any time during the period from one half hour after sunset to one half hour before sunrise for the purpose of rendering service to a disabled motor vehicle or of taking a motor vehicle in tow from a position on or near the highway, the driver of the truck shall, while the truck is so stopped, place and maintain at least four retro-reflective pylons meeting specifications prescribed by the Minister at a sufficient distance to the front and the rear of the truck to give warning to approaching vehicles in time to enable them to stop before reaching the place where the truck is and the pylon farthest from the truck must be not less than 150 metres from the truck.

(2) The Minister shall publish in one or more issues of the Royal Gazette the specifications of pylons that may be used as required by this Section, and the production of a copy of the Royal Gazette is prima facie evidence of the matters stated or represented in the specifications. R.S., c. 293, s. 141.

Alternative to pot flame flare

180 Where by virtue of Section 178 or 179 a flare of the “pot flame” type is required to be used, a person may in lieu thereof use a red emergency reflector, lighted fuse or electrically operated red lantern. R.S., c. 293, s. 142.

No stopping, standing or parking

181 (1) It is an offence for the driver of a vehicle to stop, stand or park the vehicle, whether attended or unattended, except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or traffic control signal or sign, in any of the following places:

- (a) within an intersection;
- (b) on or within five metres of a crosswalk;
- (c) between a safety zone and the adjacent curb or within 10 metres of points on the curb immediately opposite the ends of a safety zone, unless local or traffic authorities indicate a different length by signs or markings;
- (d) within 7.5 metres from the intersection of curb lines, or, if none, then within five metres of the intersection of property lines at an intersection within a business or residence district, except at alleys;
- (e) within 10 metres upon the approach to any official flashing beacon, stop sign, yield sign or traffic control signal located at the side of the roadway;
- (f) within five metres of the driveway entrance to any fire station;
- (g) within five metres of a fire hydrant;
- (h) in front of a private driveway;
- (i) on a sidewalk;
- (j) alongside or opposite any street or highway excavation or obstruction when the stopping, standing or parking would obstruct traffic;
- (k) on the roadway side of any vehicle stopped or parked at the edge or curb of a highway;
- (l) at any place where official traffic signs have been erected prohibiting standing and parking;
- (m) within 15 metres of the nearest rail of a railway crossing;
- (n) on the crest of a grade where the view of an approaching driver is obstructed.

(2) It is an offence for the driver of a vehicle to park the vehicle, whether attended or unattended, in a bicycle lane, except in compliance with the directions of a peace officer. R.S., c. 293, s. 143; 2010, c. 59, s. 7.

Passenger or loading zone

- 182 (1) The traffic authority may determine
- (a) the location of passenger zones;
 - (b) the location of loading zones;
 - (c) the days and hours when the passenger zones and loading zones are in effect,

and may erect and maintain or cause to be erected and maintained appropriate signs indicating these zones and their effective times.

(2) Unless the sign erected and maintained by the traffic authority indicates otherwise, a passenger zone or a loading zone is in effect from 6:00 a.m. to 6:00 p.m. on Monday through Friday except holidays.

(3) It is an offence for the driver of a vehicle to stop, stand or park the vehicle in a place marked as a passenger zone for a period longer than is necessary for the expeditious loading or unloading of passengers.

(4) It is an offence for the driver of a vehicle to stop, stand or park the vehicle in a place marked as a loading zone for a period of time longer than is necessary for the expeditious loading or unloading of passengers or materials and in no case may the stop for loading or unloading of passengers or materials exceed 30 minutes.

(5) It is an offence for the driver of a vehicle to stop, stand or park the vehicle in a passenger zone or loading zone if passengers or materials are not being loaded or unloaded. R.S., c. 293, s. 144.

Parking by mobility disabled

- 183 (1) The Governor in Council may make regulations
- (a) defining “mobility-disabled person”;
 - (b) respecting issuance of an identification permit to a mobility-disabled person;
 - (c) recognizing an identification permit or number plate bearing the international symbol of access issued by a province, state or country;
 - (d) respecting the manner in which an identification permit must be displayed on a vehicle;
 - (e) respecting cancellation of an identification permit;
 - (f) respecting signs to be used for the designation of accessible-parking zones.

(2) The traffic authority may establish accessible-parking zones and every accessible-parking zone must be designated by an approved sign.

(3) A person who stops, leaves standing or parks a vehicle in an accessible-parking zone is guilty of an offence unless there is displayed on the vehicle an identification permit or number plate issued or recognized pursuant to the regulations.

(4) Where a parking place on private property is marked for use by a mobility-disabled person, by an approved sign, a person who stops, leaves standing or parks a vehicle in the parking place is guilty of an offence unless there is displayed on the vehicle an identification permit or number plate issued pursuant to the regulations.

(5) For the purpose of this Section, an identification permit or plate issued by a province or state that has a reciprocal agreement with the Province respecting accessible parking is deemed to be an identification permit or number plate issued pursuant to the regulations.

(6) 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. 293, s. 145; 1990, c. 36, s. 2; 1994-95, c. 12, s. 10.

Bus stop or taxi stand

184 (1) The traffic authority is authorized to establish bus stops, taxicab stands and hack stands on such highways in such places and in such number as the traffic authority determines to be of the greatest benefit and convenience to the public, and every such bus stop, taxicab stand or hack stand must be designated by appropriate signs.

(2) It is an offence for the driver of any vehicle other than a bus to stand or park in any officially designated bus stop, or for any vehicle other than a taxicab to stand or park in an officially designated taxicab stand, or for any vehicle other than a hack to stand or park in an officially designated hack stand, except that the driver of any passenger vehicle may temporarily stop in any such stop or stand for the purpose of and while actually engaged in the loading or unloading of passengers.

(3) Whenever the traffic authority has established bus stops, taxicab stands or hack stands as provided in this Section, it is an offence for the driver of any bus, taxicab or hack to stand or park upon any street in any business district at any place other than at a bus stop, taxicab stand or hack stand respectively, except that this provision does not prevent the driver of any such vehicle from temporarily stopping in accordance with other stopping or parking regulations at any place for the purpose of and while actually engaged in loading or unloading passengers. R.S., c. 293, s. 146.

Trolley coach stop

185 (1) The traffic authority shall establish such trolley coach stops on such highways, in such places and in such number as the Board of Commissioners of Public Utilities directs and every trolley coach stop must be designated by appropriate signs.

(2) It is an offence for the driver of any vehicle other than a trolley coach to stand or stop in any officially designated trolley coach stop, provided, notwithstanding the prohibition in this subsection contained, the traffic authority

may permit commercial vehicles to stop within the limits of any such trolley coach stop for the purpose of loading and unloading goods, wares and merchandise from and to business premises abutting on any such trolley coach stop, on such terms and conditions as the traffic authority may determine.

(3) For the purpose of this Section, "trolley coach" includes a bus operated in connection with a transit system that uses trolley coaches. R.S., c. 293, s. 147.

Business or residence district or alley

186 (1) It is an offence for any driver to stop, stand or park a vehicle upon a highway, other than an alley, within a business or residence district, in such a manner or under such conditions as to leave available less than three metres of the width of the roadway for free movement of vehicular traffic, except that a driver may stop temporarily during the actual loading or unloading of passengers or when necessary in obedience to traffic regulations or traffic signs or signals of a peace officer.

(2) It is an offence for any driver to park a vehicle within an alley in such a manner or under such conditions as to leave available less than three metres of the width of the roadway for the free movement of vehicular traffic. R.S., c. 293, s. 148.

Private property

187 (1) No person shall leave a vehicle standing on property of which the person is not the owner or tenant without the consent of the owner or tenant of the property.

(2) When a peace officer is satisfied that a vehicle has been left standing on property for one hour or longer in violation of subsection (1), the peace officer may, on the request of the owner or tenant of the property, remove the vehicle and detain it until the expense of removal and detention are paid to the peace officer. R.S., c. 293, s. 149.

Fire lane

188 (1) The traffic authority, with the permission of the owner of private property, may set apart an area of the private property as a fire lane and may cause signs to be erected and maintained designating the fire lane.

(2) Where an area of private property is marked as a fire lane by an approved sign, a person who stops, leaves standing or parks a vehicle in the fire lane is guilty of an offence. R.S., c. 293, s. 150.

Signs

189 The traffic authority is authorized to erect and maintain signs prohibiting or restricting the parking or leaving standing of vehicles upon sections of the highway, and it is an offence for the driver of a vehicle to fail to comply with the directions set forth on those signs. R.S., c. 293, s. 151.

Parking and parking meter regulations for city or town

190 (1) The traffic authority may make regulations prohibiting or restricting the parking or leaving standing of vehicles upon any highway or part thereof within the limits of the city or incorporated town for which the traffic authority is appointed.

(2) Such regulations may provide a system whereby a person who is alleged to have violated the regulations is given notice of the alleged violation and may pay a penalty of a fixed sum in lieu of prosecution but such payment is a full satisfaction, release and discharge of all penalties and imprisonments incurred by the person for the violation.

(3) Such regulations may prohibit or restrict the parking or leaving standing of vehicles except in accordance with a sign or device on a parking meter.

(4) The Governor in Council may exempt from the provisions of such regulations the stopping, parking or leaving standing of vehicles in respect of which identification permits have been issued pursuant to Section 183.

(5) Such regulations come into force upon and not before the approval thereof by the Minister and the publication thereof within one month of the Minister's approval thereof, once in the Royal Gazette, and twice in a newspaper circulating in such city or incorporated town, and the publication in the Royal Gazette is proof of approval by the Minister.

(6) Such regulations remain in force only until the expiry date if any be mentioned therein or the date of repeal thereof by the traffic authority or the date of revocation thereof by the Minister, whichever of the three said dates occurs first.

(7) Notice of any such repeal must be published forthwith in a newspaper circulating in such city or incorporated town and such repeal may be proved by production of a copy of any such newspaper containing such notice.

(8) Notice of any such revocation must be published forthwith in the Royal Gazette and such revocation may be proved by production of a copy of the Royal Gazette containing such notice.

(9) Any person who violates any such regulation is liable for a first offence to a penalty of not more than five dollars and in default of payment to imprisonment for a term of not more than two days, and for a subsequent offence to a penalty of not more than \$10 and in default of payment to imprisonment for a term of not more than four days. R.S., c. 293, s. 152.

Municipal parking meter bylaw

191 (1) Notwithstanding Section 190, the council of a city, town or municipality may by bylaw prohibit or restrict the parking or leaving standing of vehicles except in accordance with a sign or device on a parking meter.

(2) Where the council of a city, town or municipality makes a bylaw pursuant to subsection (1),

- (a) the traffic authority of the city or town shall not make parking meter regulations pursuant to Section 190;
- (b) the bylaw may repeal or amend parking meter regulations theretofore made by the traffic authority;
- (c) the bylaw may provide that a person commits a separate offence for each additional period of one hour that an offence continues;
- (d) the bylaw may provide that the owner of a motor vehicle incurs the fine provided for a violation of the bylaw unless at the time of such violation the motor vehicle was in the possession of some person other than the owner without the owner's consent, either expressed or implied, and may provide that the driver of a motor vehicle not being the owner also incurs the fine provided for a violation of the bylaw;
- (e) the bylaw may provide the penalty for each offence;
- (f) the bylaw may provide a system whereby a person who is alleged to have violated the bylaw is given a notice of the alleged violation and may pay a penalty of a fixed sum in lieu of prosecution;
- (g) subsection 190(4) applies with necessary changes to the bylaw. R.S., c. 293, s. 153; 1994-95, c. 12, s. 11; 1995-96, c. 22, s. 3.

Exemption from parking restrictions

192 A council of a city, town or municipality may make a bylaw exempting persons or vehicles from parking restrictions within the city, town or municipality and providing for permits to be issued to those who are exempted. R.S., c. 293, s. 154; 1995-96, c. 22, s. 4.

Vehicle parking time limit

193 (1) It is an offence for the driver of a vehicle to park or leave standing the vehicle on any highway for a period of time longer than 24 hours.

(2) It is an offence for any driver of a commercial motor vehicle having a registered weight in excess of 3,000 kilograms, to park or leave standing the vehicle on a highway within the limits of any city or incorporated town for a period of time longer than two consecutive hours in any one day. R.S., c. 293, s. 155.

Allowable manner of stopping, standing or parking

194 (1) Except when necessary in obedience to traffic regulations or traffic signs or signals, the driver of a vehicle shall not stop, stand or park the vehicle in a roadway other than parallel with the edge of the roadway, headed in the direction of traffic, and with the curb-side wheels of the vehicle within 150 millimetres of the edge of the roadway, except as provided in the following clauses:

- (a) upon those highways that have been marked or signed for angle parking, vehicles must be parked at the angle to the curb indicated by such marks or signs;
- (b) in places where, and at hours when, stopping for the loading or unloading of merchandise or materials is permitted, vehicles used for the transportation of merchandise or materials may back

into the curb to take on or discharge loads, when the owner of such vehicle holds a permit granting the owner such special privilege, and provided further that such permit is either in the possession of the driver or on the vehicle at the time such vehicle is backed against the curb to take on or discharge a load, and it is an offence for any owner or driver to violate any of the special terms or conditions of any such special permit.

(2) Nothing in this Section prevents the driver of a vehicle from backing the driver's vehicle into the curb for purposes of loading or unloading provided that the vehicle remains in such position for a period of time not greater than 15 minutes and provided that there is a clear and unobstructed width of not less than 4.5 metres upon the main travelled portion of the said highway between the vehicle and the opposite curb or edge of the roadway for the free passage of other vehicles thereon.

(3) The traffic authority shall determine upon what highways angle parking is permitted and shall mark or sign such highways or cause the same to be marked or signed.

(4) The traffic authority is authorized to issue to any owner of a vehicle used to transport merchandise or materials, a special permit, renewable annually, and to state therein the terms and conditions thereof, allowing the driver of such vehicle the privilege of loading and unloading while the vehicle is backed against the curb, if in the opinion of the traffic authority such privilege is reasonably necessary in the conduct of the owner's business and will not seriously interfere with traffic. R.S., c. 293, s. 156.

Exemption for emergency vehicle

195 The provisions of this Act respecting the parking and standing of vehicles do not apply to a police or fire department vehicle or an ambulance when the vehicle or ambulance is being used in an emergency. R.S., c. 293, s. 157.

Abandonment of vehicle

196 (1) Any person who wilfully abandons a motor vehicle or parts of a motor vehicle within the limits of a highway or upon property other than the person's own without the consent of the owner thereof for a period longer than 24 hours is guilty of an offence.

(2) Any official of the Department or any peace officer upon discovery of a motor vehicle apparently abandoned, whether situated within or without a highway of this Province, or of a motor vehicle without proper registration or of a motor vehicle that apparently has been involved in an accident and that is a menace to traffic, shall take the motor vehicle into the official's or peace officer's custody and may cause the same to be taken to and stored in a suitable place.

(3) There is no liability attached to such official or peace officer for any damages to such motor vehicle while in the official's or peace officer's custody. R.S., c. 293, s. 158.

Parking of vehicle displayed for sale

197 (1) It is an offence for a person to park upon a highway a vehicle displayed for sale.

(2) It is an offence for a person to park on a highway a vehicle for the primary purpose of displaying advertising. R.S., c. 293, s. 159.

Unattended vehicle

198 (1) No person having control or charge of a motor vehicle shall allow the vehicle to stand on any highway unattended without first effectively setting the brakes thereon and stopping the motor of the vehicle, and when standing upon any perceptible grade without turning the front wheels of the vehicle to the nearest curb or side of the highway.

(2) It is not a violation of this Section for a person having control or charge of a motor vehicle to allow it to stand unattended without first stopping the motor if the motor vehicle has tanks mounted upon it and the use of its motor is required for pumping liquids from those tanks for delivery and if the person having control or charge of it places adequate chocks against the rear wheels of the vehicle in addition to taking the precautions prescribed by this Section other than that of stopping the motor. R.S., c. 293, s. 160.

MISCELLANEOUS TRAFFIC PROVISIONS

Fire apparatus

199 (1) It is an offence for the driver of a vehicle other than one on official business to follow any fire apparatus travelling in response to a fire alarm closer than 150 metres or to drive into or park the vehicle within 150 metres of the place where fire apparatus has stopped in answer to a fire alarm.

(2) No street car or vehicle may be driven over any unprotected hose of a fire department when laid down on any street, private driveway or street-car track, to be used at any fire or alarm of fire, without the consent of the fire marshal or fire department official in command. R.S., c. 293, s. 161.

Coasting in neutral

200 The driver of a motor vehicle when travelling upon a down grade upon any highway shall not coast with the gears of the vehicle in neutral. R.S., c. 293, s. 162.

Racing, parade or sporting event

201 (1) Any person who operates a motor vehicle on a highway in a race, in a contest, while performing a stunt or on a bet or wager is guilty of an offence.

(2) Notwithstanding subsection (1), the Minister or a person designated by the Minister may close a highway for the purpose of the conduct of a parade or sporting event upon the highway.

(3) Notwithstanding any other provision of this Act or the regulations, the Minister or a person designated by the Minister may authorize a bicycle

race upon a highway that has not been closed for that purpose, and the Minister or a person designated by the Minister may prescribe terms and conditions with which the participants in the bicycle race and the organizers must comply. R.S., c. 293, s. 163; 1999, c. 4, s. 26; 2007, c. 45, s. 11.

Detention of vehicle and surrender and revocation of licence

202 (1) Where a peace officer is satisfied that a motor vehicle is being operated in the course of committing an offence contrary to Section 201, the peace officer shall

(a) detain the motor vehicle until it is impounded under Section 324; and

(b) request that the person surrender the person's driver's licence.

(2) Upon a request being made under clause (1)(b), the person to whom the request was made shall forthwith surrender the person's licence to the peace officer and, whether or not the person is unable or fails to surrender the person's driver's licence to the peace officer, the person's driver's licence is revoked and the person's driving privilege is suspended for a period of seven days from the time the request is made.

(3) The suspension of a driver's licence or the suspension of a driving privilege pursuant to this Section is in addition to and not in substitution for any proceeding or penalty arising from the same circumstances.

(4) Where a driver's licence is suspended or a driving privilege is suspended pursuant to this Section, the peace officer who requested the surrender of the driver's licence shall

(a) keep a written record of the suspension with the name and address of the person and the date and time of the suspension; and

(b) provide the person with a written statement of the time at which the suspension takes effect, the length of the period during which the person's driver's licence or driving privilege is suspended, the place where the driver's licence may be recovered upon the termination of the suspension and acknowledging receipt of the driver's licence that is surrendered. 2007, c. 45, s. 12.

Regulations

203 (1) The Governor in Council may make regulations

(a) defining "race", "contest" and "stunt" for the purpose of Section 201;

(b) exempting any class of persons or vehicles from Section 201;

(c) respecting any records or reports required by Section 202.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2007, c. 45, s. 12.

Driving on sidewalk

204 (1) Subject to subsections (2) and (3), the driver of a vehicle shall not drive within any sidewalk area except at a permanent or temporary driveway.

(2) Snow clearance equipment may be driven within any sidewalk area for the purpose of clearing snow or ice.

(3) When operating a personal transporter on a sidewalk, the operator shall yield to all pedestrians not riding on a personal transporter. R.S., c. 293, s. 164; 2015, c. 46, s. 8.

Driving into procession

205 (1) No person shall drive a vehicle or street car through or into a funeral procession or other lawful procession.

(2) This Section does not apply where traffic is controlled by traffic control lights or peace officers. R.S., c. 293, s. 165.

Vehicle in public park

206 The traffic authority may erect and maintain signs in public parks or the entrances thereto, prohibiting any vehicle or class of vehicles from entering the public park, or regulating the speed of vehicles or their operation or parking, and it is an offence for any person to fail to comply with the directions displayed upon any such sign. R.S., c. 293, s. 166.

Horse on highway or sidewalks

207 (1) No horse may be left unattended in any highway unless securely fastened or unless the wheels of the vehicle to which the horse is harnessed are securely tied, fastened or chained, and the vehicle is of sufficient weight to prevent it being dragged at a dangerous speed with the wheels so secured.

(2) No horse may be unbitted in any highway unless secured by a halter.

(3) No person shall remove a wheel, pole, shaft, whiffletree, swinglebar or any part of a vehicle or any part of a harness likely to cause an accident if the horse starts, without first unhitching the horse or horses attached to the vehicle.

(4) No person shall at any time fasten any horse or horses in such a manner that the tie rope, reins or lines are an obstruction to the free use of any sidewalk or crosswalk.

(5) No horse may be hitched or fastened to any shade tree or its protecting box or casing, nor to any water hydrant in any highway.

(6) No person shall run or race a horse on a highway, whether the running, racing or trotting be for trial of speed or for the purpose of passing another horse or vehicle.

(7) No person shall ride or lead a horse on any sidewalk except for the purpose of crossing the sidewalk. R.S., c. 293, s. 167.

Unattended animal on highway

208 (1) The owner of a domestic animal, other than a cat or a dog, shall not permit the animal to be unattended on a highway.

(2) In any prosecution under this Section, evidence that an animal is unattended on a highway is prima facie proof that its owner permitted it to be unattended on the highway. R.S., c. 293, s. 168.

Riding on frame or clinging to moving vehicle

209 (1) It is an offence for a cyclist or the operator of a motorcycle, when upon the street to carry any other person upon the handlebar, frame or tank of any such vehicle or side-saddle on any such vehicle, or for any person to so ride upon any such vehicle.

(2) It is an offence for any person travelling upon a bicycle, motorcycle, coaster, sled, roller skates, skis or any toy vehicle to cling to or attach the person or the person's vehicle to any other moving vehicle or street car upon a highway or for the driver of any such moving vehicle or street car to allow or permit any such person to cling to or attach the person or the person's vehicle to said moving vehicle or street car. R.S., c. 293, s. 169; 2010, c. 59, s. 8.

Headgear when riding motorcycle or motor scooter

210 (1) No person shall operate or ride as a passenger on a motorcycle or motor scooter on a highway unless the person is wearing adequate protective headgear of a kind prescribed by regulation of the Governor in Council.

(2) Regulations made under subsection (1) may adopt by reference or otherwise standards or specifications established or approved by the Canadian Standards Association or other testing organization with or without modifications or variations or may require that any headgear conform to the standards or specifications established or approved by the Canadian Standards Association or other testing organization or bear the approval of the Canadian Standards Association or other testing organization. R.S., c. 293, s. 170.

Helmet for bicycle, electric kick-scooter and personal transporter

211 (1) In this Section, "bicycle" includes any device designated to transport passengers and to be drawn by a bicycle and includes a personal transporter and an electric kick-scooter.

(2) No person shall ride on or operate a bicycle unless the person is wearing a bicycle helmet that complies with the regulations and the chin strap of the helmet is securely fastened under the chin.

(3) No parent or guardian of a person under 16 years of age shall authorize or knowingly permit that person to ride on or operate a bicycle unless the person is wearing a bicycle helmet as required by subsection (2).

(4) Every person who is 16 years of age or older who violates a provision of this Section is guilty of an offence.

(5) A peace officer may seize and detain, for a period not to exceed 30 days, a bicycle that is being ridden on or operated by a person not wearing a helmet as required by subsection (2).

- (6) The Governor in Council may make regulations
- (a) prescribing standards and specifications for helmets;
 - (b) providing for and requiring the identification and marking of helmets;
 - (c) exempting any person or class of persons from the requirements of this Section and prescribing conditions for exemptions.

(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*, 1996, c. 35, s. 1; 2002, c. 10, s. 12; 2006, c. 37, s. 1; 2015, c. 46, s. 9; 2022, c. 21, s. 9.

Helmet for scooter, skate board, in-line skates, roller skates, etc.

212 (1) No person shall ride on or operate a scooter, skate board, in-line skates, roller skates or other device prescribed by the regulations unless the person is wearing a helmet that complies with the regulations and the chin strap of the helmet is securely fastened under the chin.

(2) No parent or guardian of a person under 16 years of age shall authorize or knowingly permit that person to ride on or operate a scooter, a skate board, in-line skates, roller skates or other device prescribed by the regulations unless the person is wearing a helmet as required by subsection (1).

(3) For greater certainty, nothing in this Section authorizes any person to ride on or operate a scooter, a skate board, in-line skates, roller skates or other device prescribed by the regulations if otherwise prohibited by this Act or another enactment.

(4) Every person who is 16 years of age or older who violates a provision of this Section is guilty of an offence and liable on summary conviction to a fine of not less than \$25.

(5) A peace officer may seize and detain, for a period not to exceed 30 days, a scooter, a skate board, in-line skates, roller skates or other device prescribed by the regulations that is being ridden on or operated by a person not wearing a helmet as required by subsection (1).

- (6) The Governor in Council may make regulations
- (a) prescribing standards and specifications for helmets;
 - (b) providing for and requiring the identification and marking of helmets;
 - (c) prescribing devices for the purpose of this Section;
 - (d) exempting any person or class of persons from the requirements of this Section and prescribing conditions for exemptions.

(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*. 2002, c. 20, s. 3; 2006, c. 37, s. 2.

Prohibited conduct on or place to ride bicycle

213 (1) A cyclist shall not allow the same to proceed in a highway by inertia momentum, with the cyclist's feet removed from the pedals, nor shall a cyclist remove both hands from the handlebars while riding the bicycle nor practise any trick or fancy riding on a highway.

(2) No person shall ride a bicycle, tricycle or similar machine on a sidewalk, but nothing in this Section is to be deemed or construed to prevent the use of velocipedes or similar machines by children on a sidewalk in a public square, park, city or town.

(3) Where a roadway has a bicycle lane for bicycles travelling in the same direction that a cyclist is travelling, the cyclist shall ride in the bicycle lane unless it is impracticable to do so.

(4) A cyclist who is not riding in a bicycle lane shall ride as far to the right side of the roadway as practicable or on the right-hand shoulder of the roadway unless the cyclist is

- (a) in the process of making a left turn in the same manner as a driver of a motor vehicle;
- (b) travelling in a rotary or roundabout;
- (c) passing a vehicle on the vehicle's left; or
- (d) encountering a condition on the roadway, including a fixed or moving object, parked or moving vehicle, pedestrian, animal or surface hazard that prevents the person from safely riding to the right side of the roadway.

(5) A cyclist on a highway shall ride in the same direction as the flow of traffic.

(6) Except when passing another cyclist, cyclists on a highway shall ride in single file. R.S., c. 293, s. 171; 2010, c. 59, s. 9.

Designation of sidewalk as trail

214 Notwithstanding Section 213, a traffic authority appointed pursuant to Section 101 may

- (a) designate a sidewalk or any portion thereof as a trail; and
- (b) authorize and regulate the use of bicycles on such trails,

and, for greater certainty, a sidewalk so designated is subject to all other provisions of this Act. 1997, c. 5, s. 1.

Motor vehicle passing bicycle

215 (1) A driver of a vehicle shall not pass a bicycle travelling in the same direction as the vehicle that is being ridden to the far right of the driver of the vehicle on the roadway, on the shoulder or in an adjacent bicycle lane unless

- (a) there is sufficient space to do so safely; and
- (b) the driver leaves at least one metre open space between the vehicle and the cyclist.

(2) Notwithstanding subsection 149(2), a driver of a motor vehicle may cross a line to pass a bicycle in accordance with subsection (1) if the driver can do so safely as required by Section 116. 2010, c. 59, s. 10.

Roller skates or skate board

216 (1) Subject to subsection (2), it is an offence for a person upon roller skates or a skate board to go on a roadway except while crossing on a crosswalk or unless on a roadway authorized by the Minister.

(2) The council of a city or an incorporated town may exempt from subsection (1) any roadway within that city or town that is not a highway to which the *Public Highways Act* applies. R.S., c. 293, s. 172.

Operation of personal transporter

217 (1) Only one person at a time may be on a personal transporter while it is being operated.

(2) A person operating a personal transporter shall stand when the personal transporter is in motion.

(3) A personal transporter must not tow another person or vehicle or any device. 2015, c. 46, s. 10.

Restriction on operation

218 (1) A personal transporter must not be operated on

- (a) a roadway with a posted speed limit greater than 60 kilometres per hour;
- (b) a controlled-access highway;
- (c) a highway on which bicycles or on which personal transporters are prohibited by this Act or the regulations;
- (d) on a specified sidewalk or roadway within a municipality if not part of a highway to which the *Public Highways Act* applies and prohibited by a municipal bylaw; or
- (e) private property if it is prohibited.

(2) Where a sidewalk or roadway within a municipality is not part of a highway to which the *Public Highways Act* applies, the municipality may make a bylaw prohibiting the operation of a personal transporter on that sidewalk or roadway.

(3) A personal transporter must be operated

- (a) where a highway includes a sidewalk, on the sidewalk unless it is impracticable to do so;

(b) where the highway does not include a sidewalk or where it is impracticable to operate the personal transporter on the sidewalk, on the roadway in a bicycle lane travelling in the same direction that the operator of the personal transporter is travelling; or

(c) where the highway does not include a sidewalk or there is no bicycle lane for travelling in the same direction that the operator of the personal transporter is travelling or where it is impracticable to operate the personal transporter on the sidewalk or in the bicycle lane, on the far right side of the roadway.

(4) Subsections 164(2) and (3) and 204(1) do not apply to personal transporters.

(5) Except when passing a cyclist, an operator of another personal transporter or an operator of an electric kick-scooter, the operator of a personal transporter on a highway shall operate the personal transporter in a single file with bicycles, electric kick-scooters and other personal transporters.

(6) The operator of a personal transporter shall not make a left turn on a roadway except by crossing the roadway in a crosswalk and, for greater certainty, Section 160 applies to the operator as a pedestrian. 2015, c. 46, s. 10; 2022, c. 21, s. 10.

Operation of electric kick-scooter

219 (1) An operator of an electric kick-scooter shall not remove both hands from the handlebars while riding the electric kick-scooter nor practise any trick or fancy riding on a highway.

(2) Where a roadway has a bicycle lane for bicycles travelling in the same direction that a cyclist is travelling, the operator of an electric kick-scooter shall ride in the bicycle lane unless it is impracticable to do so.

(3) An operator of an electric kick-scooter who is not riding in a bicycle lane shall ride as far to the right side of the roadway as practicable or on the right-hand shoulder of the roadway unless the operator is

(a) in the process of making a left turn in the same manner as a driver of a motor vehicle;

(b) travelling in a rotary or roundabout;

(c) passing a vehicle on the vehicle's left; or

(d) encountering a condition on the roadway, including a fixed or moving object, parked or moving vehicle, pedestrian, animal or surface hazard that prevents the person from safely riding to the right side of the roadway.

(4) An operator of an electric kick-scooter on a highway shall ride in the same direction as the flow of traffic.

(5) Except when passing a cyclist, personal transporter or other electric kick-scooter, an operator of an electric kick-scooter on a highway shall ride in single file with bicycles, personal transporters and other electric kick-scooters. 2022, c. 21, s. 11.

Operation of electric kick-scooter

220 (1) Only one person at a time may be on an electric kick-scooter while it is being operated.

(2) A person operating an electric kick-scooter shall stand when the electric kick-scooter is in motion.

(3) An electric kick-scooter shall not tow another person or vehicle or any device.

(4) An electric kick-scooter being operated must be equipped with

(a) a brake system that acts independently on the steerable wheel and the back wheel using separate hand levers;

(b) an emergency stop switch to cut electrical supply to the motor in case of failure of the scooter's control system;

(c) a battery with terminals that are completely insulated and covered and that is securely fastened to the electric kick-scooter to prevent movement while in motion; and

(d) a headlamp and a rear light or reflector that meet the requirements set out in subsection 224(6). 2022, c. 21, s. 11.

Restriction on operation

221 No person shall operate an electric kick-scooter

(a) on a provincial highway;

(b) on a highway on which bicycles, electric kick-scooters or personal transporters are prohibited by this Act or the regulations;

(c) on a highway if electric kick-scooters are not permitted by municipal bylaw;

(d) if prohibited by an official traffic sign; or

(e) on private property if prohibited. 2022, c. 21, s. 11.

Throwing object at vehicle or on highway

222 (1) No person shall throw any object at a motor vehicle or at a person in a motor vehicle or on a highway that may cause injury to such vehicle or to any person therein.

(2) No person shall throw, deposit or knowingly leave on a highway any glass, nails, tacks, scraps of metal or other materials that are liable to injure tires of motor vehicles.

(3) Subsection (2) does not apply to a police officer when using hollow spike belts to stop a motor vehicle where other reasonable methods of pursuit and apprehension have failed.

(4) No person shall throw or otherwise deposit from any vehicle on the highway any litter, refuse, garbage, rubbish or other matter.

(5) In addition to any other penalty imposed by this Act, a person who violates any of the provisions of subsection (1), (2) or (4) is liable for the expense of removing the litter, refuse, garbage or other objects or material. R.S., c. 293, s. 173; 2002, c. 10, s. 13.

Selling or soliciting on a roadway

223 (1) No person, while on a roadway, shall stop, attempt to stop or approach a motor vehicle for the purpose of offering, selling or providing any commodity or service to or soliciting the driver or any other person in the motor vehicle.

(2) Subsection (1) does not apply to the offer, sale or provision of towing or repair services or any other commodity or service in an emergency.

(3) Subsection (1) does not apply to fund-raising activities that are

(a) permitted by a bylaw of the municipality in which the activities are conducted; and

(b) approved by the traffic authority responsible for the roadway on which the activities are conducted. 2007, c. 45, s. 13.

EQUIPMENT

Lights or reflector

224 (1) Except as provided in this Section, every vehicle upon a highway within this Province during the period from a half hour after sunset to a half hour before sunrise and at any other time when visibility is so limited by fog, rain, snow or other atmospheric condition or by insufficiency of light as to render not clearly discernible any person on the highway at a distance of 300 metres ahead must be equipped with lighted head lamps and lighted rear lamps as in this Section respectively required for different classes of vehicle and subject to exemption with reference to lights on parked vehicles as declared in subsection (10).

(2) Every motor vehicle other than a motorcycle, road-roller, road machinery or farm tractor must be equipped with not fewer than two head lamps, at the front of and on opposite sides of the motor vehicle, which head lamps must comply with the requirements and limitations set forth in Section 229 or any regulations that may be made under Section 256.

(3) Every motorcycle must be equipped with at least one and not more than two head lamps which must comply with the requirements and limitations set forth in Section 229 or any regulations that may be made under Section 256.

(4) Every motor vehicle and every trailer or semi-trailer that is being drawn at the end of a train of vehicles must be equipped at the rear with

(a) a lamp that exhibits a red light plainly visible under normal atmospheric conditions from a distance of 150 metres to the rear of the vehicle, and that is so constructed and placed that the number plate carried on the rear of the vehicle is, under the same conditions, so illuminated by a white light that it can be read from a distance of 15 metres to the rear of the vehicle; or

(b) a lamp that exhibits a red light plainly visible under normal atmospheric conditions from a distance of 150 metres to the

rear of the vehicle and a lamp that so illuminates with a white light the number plate carried on the rear of the vehicle that under the same conditions the number plate can be read from a distance of 15 metres to the rear of the vehicle.

(5) Every vehicle, other than a standard passenger motor vehicle, road-roller, road machinery or farm tractor, having a width at any part in excess of two metres must carry two clearance lamps on the left side of the vehicle, one located at the front and displaying a white or yellow light visible under normal atmospheric conditions, from a distance of 150 metres to the front of the vehicle, and the other located at the rear of the vehicle and displaying a red light visible under like conditions from a distance of 150 metres to the rear of the vehicle, a vehicle requiring clearance lamps hereunder may in lieu of such clearance lights be equipped with adequate reflectors conforming as to colour and marginal location to the requirements for clearance lights, and of a type that has been approved by the Department, and no such reflector is adequate unless it is so designed, located as to height and maintained as to be visible for at least 150 metres when opposed by a motor vehicle displaying lawful undimmed headlights at night on an unlighted highway.

(6) Every bicycle, electric kick-scooter and personal transporter must be equipped with a lighted lamp on the front thereof visible under normal atmospheric conditions from a distance of at least 100 metres in front of the bicycle or personal transporter and must also be equipped with a reflex mirror or lamp on the rear exhibiting a red light visible under like conditions from a distance of at least 60 metres to the rear of such bicycle or personal transporter.

(7) All vehicles not heretofore in this Section required to be equipped with specified lighted lamps must carry one or more lighted lamps or lanterns displaying a white light visible under normal atmospheric conditions from a distance of not less than 150 metres to the front and rear of the vehicle or displaying white lights to the front and a red light to the rear, each visible under like conditions from a distance of not less than 150 metres from the vehicle.

(8) The Department may by regulation permit a reflector of a type approved by the Minister to be substituted for the lighted lamps required by subsection (7).

(9) The Department may by regulation permit a reflector of a type approved by the Minister to be substituted for the lighted lamps required by this Section on any vehicle engaged in transporting inflammable or explosive loads provided that the driver of the vehicle shall at all times mentioned in subsection (1) carry a special permit issued by the Registrar, setting forth the conditions under which the vehicle may be operated with reflectors in place of lights.

(10) Whenever a vehicle is parked or stopped upon a highway whether attended or unattended during the times mentioned in subsection (1), there must be displayed upon the vehicle one or more lamps one of which must be on the roadway side and project a white, amber or yellow light visible under normal atmospheric conditions from a distance of 150 metres to the front of the vehicle and one of which lamps must project a red light visible under like conditions from a distance of 150 metres to the rear, except that no lights need be displayed upon a vehicle when parked upon a highway where there is sufficient light to reveal any person within a distance of 60 metres upon the highway.

(11) A vehicle exceeding seven and a half metres in length must display a white marker light of not to exceed four candela, or a white reflector, meeting the requirements as to visibility of subsection (4), on both the right and left sides, and any combinations of vehicles exceeding six metres in length must display on both the right and left sides such marker lights or reflectors at intervals of not to exceed six metres, and other vehicles may but are not required to display such marker lights or reflectors. R.S., c. 293, s. 174; 2015, c. 46, s. 11; 2022, c. 21, s. 12.

Lighted headlamps or daytime running lights

225 (1) Notwithstanding Section 224, every motor vehicle equipped with one or more headlamps must be equipped with lighted daytime running lights or lighted headlamps at all times while being operated upon a highway within the Province.

(2) Subsection (1) does not apply to a motor vehicle registered as an antique vehicle. 2008, c. 62, s. 2.

Seat belts

226 (1) In this Section,

“child restraint system” means a child’s car seat of a type prescribed for a child of a prescribed age, height or weight;

“prescribed” means prescribed by the regulations;

“seat belt” means the complete seat belt assembly or other restraint system for a seating position specified for the vehicle by the *Motor Vehicle Safety Act* (Canada) at the time the vehicle was manufactured, assembled or imported.

(2) While a motor vehicle is being operated on a highway other than in reverse, the driver of the motor vehicle shall wear a seat belt if a seat belt is available to the driver.

(3) No person shall operate a motor vehicle on a highway unless every passenger in the motor vehicle who is under 16 years of age is secured

(a) in the prescribed manner in a child restraint system, where the passenger is of an age, height or weight for which such a system is prescribed; or

(b) where the passenger is not of an age, height or weight for which a child restraint system is prescribed, in a seat belt if a seating position with a seat belt is available to that passenger.

(4) While a motor vehicle is being operated on a highway, every passenger in the motor vehicle who is 16 years of age or older shall wear a seat belt if a seating position with a seat belt is available to that passenger.

(5) Every registered owner of a motor vehicle shall maintain all seat belts for the vehicle in good condition.

(6) No person shall modify a seat belt in any way that reduces its effectiveness or remove a seat belt except for maintenance or if the seating position has been removed.

- (7) This Section does not apply to
- (a) a person who is unable to wear a seat belt or child restraint system because of the person's size, build or other physical characteristic, in respect of the use of a seat belt by that person;
 - (b) a person who in the opinion of a legally qualified medical practitioner is unable to wear a seat belt or child restraint system for medical reasons, in respect of the use of a seat belt by that person;
 - (c) a peace officer engaged in the lawful performance of the peace officer's duty;
 - (d) a firefighter while in or on a vehicle of a fire fighting organization;
 - (e) a driver operating a taxicab for hire, in respect of the use of a seat belt by the driver or a passenger;
 - (f) a driver operating a public transit bus of a bus line service operated or subsidized by a municipality or a regional transit authority;
 - (g) a medical attendant in an ambulance transporting a patient;
 - (h) a person while engaged in work that requires the person to leave and enter the person's seating position in the vehicle at frequent intervals.
- (8) The Governor in Council may make regulations
- (a) approving a child's car seat and prescribing the manner in which a child is to be secured in it;
 - (b) governing the type of child's car seat for children based on age, height or weight, or any combination of them;
 - (c) adopting by reference, in whole or in part, any code, standard or specification respecting child restraint systems;
 - (d) exempting from any of the provisions of this Section or the regulations made pursuant to this Section
 - (i) any class of motor vehicle,
 - (ii) any class of driver or passenger, or
 - (iii) drivers carrying any prescribed class of passenger,
 and prescribing conditions for any such exemption.
- (9) Every person who contravenes a provision of this Section is guilty of an offence. R.S., c. 293, s. 175; 2002, c. 10, s. 14.

Regulations respecting lighting equipment

227 The Governor in Council may make regulations prescribing or regulating the number, colour, type, strength, location, direction, focus, use and all other matters with reference to clearance lamps, reflectors, side-marker lamps and other

lighting equipment to be fitted, carried or displayed by all or any class or classes of motor vehicle. R.S., c. 293, s. 176.

Spot, fog, signal or brake lights

228 (1) Any motor vehicle may be equipped with not more than two spot lamps, except that a motorcycle must not be equipped with more than one spot lamp, and every lighted spot lamp must be so aimed and used upon approaching another vehicle that no part of the beam will be directed to the left of the centre of the highway nor more than 30 metres ahead of the vehicle.

(2) Any motor vehicle may be equipped with not more than two auxiliary driving lamps or fog lamps mounted on the front at a height not less than 300 millimetres above the level surface on which the vehicle stands, and every such lamp or lamps must meet the requirements and limitations set forth in subsection 229(3).

(3) All motor vehicles required to be registered under this Act except farm tractors must be equipped with electric turn signals that must indicate an intention to turn by flashing lights showing to the front and rear of a vehicle, or on a combination of vehicles, on the side of the vehicle or combination toward which the turn is to be made.

(4) The lamps showing to the front must be mounted on the same level and as widely spaced laterally as practicable and, when signalling, must emit white or amber light, or any shade of light between white and amber.

(5) The lamps showing to the rear must be mounted on the same level and as widely spaced laterally as practicable, and, when signalling, must emit a red or amber light, or any shade of colour between red and amber.

(6) Turn signal lamps on vehicles 2.05 metres or more in overall width must be visible from a distance of not less than 150 metres to the front and rear in normal sunlight.

(7) Turn signal lamps on vehicles less than 2.05 metres wide must be visible a distance of not less than 100 metres to the front and rear in normal sunlight.

(8) Turn signal lamps may, but need not be incorporated in other lamps on the vehicle.

(9) All motor vehicles required to be registered under this Act must be equipped with a stop lamp or lamps on the rear of the vehicle which must display a red light visible from a distance of not less than 100 metres to the rear in normal sunlight, and which must be actuated upon application of one braking system, and which may be incorporated with one or more other rear lamps.

(10) Any device, other than head lamps, spot lamps or auxiliary lamps, which projects a beam of light of an intensity greater than 25 candela, must be so directed that no part of the beam will strike the level of the surface on which the vehicle stands at a distance of more than 15 metres from the vehicle. R.S., c. 293, s. 177.

Type of light

229 (1) The head lamps of motor vehicles must be so constructed, arranged and adjusted that, except as provided in subsection (3), they will at all times mentioned in Section 224 and under normal atmospheric conditions and on a level road produce a driving light that is colourless and sufficient to render clearly discernible a person 60 metres ahead, but must not project a glaring or dazzling light to persons in front of the head lamp.

(2) Head lamps are deemed to comply with the foregoing provisions prohibiting glaring and dazzling lights if none of the main bright portion of the head lamp beams rises above a horizontal plane passing through the lamp centres parallel to the level road upon which the loaded vehicle stands, and in no case higher than one metre 20 metres ahead of the vehicle.

(3) Whenever a motor vehicle is being operated upon a highway, or a portion thereof, that is sufficiently lighted to reveal a person on the highway at a distance of 60 metres ahead of the vehicle it is permissible to dim the head lamps or to tilt the beams downward or to substitute therefor the light from an auxiliary driving lamp or pair of such lamps, subject to the requirement that the tilted head lamp or auxiliary lamp or lamps must give sufficient illumination under normal atmospheric conditions and on a level road to render clearly discernible a person 25 metres ahead, but must not project a glaring or dazzling light to persons in front of the vehicle, provided that at all times required in Section 224 at least two lights are displayed on the front of and on opposite sides of every motor vehicle other than a motorcycle, road-roller, road machinery or farm tractor.

(4) On approaching another vehicle proceeding in an opposite direction on any highway the driver of a motor vehicle shall, when within not less than 150 metres of the other vehicle, dim or depress the beam from the headlights of the driver's motor vehicle so that the main bright portion of the beam is not projected into the eyes of the driver of the other vehicle.

(5) On approaching another vehicle proceeding in the same direction on any highway the driver of a motor vehicle shall, while following within 60 metres of the other vehicle, dim or depress the beam from the headlights of the driver's motor vehicle so that the main bright portion of the beam is not projected on the other vehicle. R.S., c. 293, s. 178.

Red, blue or flashing lights

230 (1) No person shall drive or move on a highway a vehicle with a red light visible from directly in front of the vehicle unless the vehicle is

- (a) an ambulance or a school bus;
- (b) a police, fire department or fire patrol vehicle;
- (c) a public-safety vehicle;
- (d) a vehicle being used by the chief or deputy chief of a volunteer fire department when acting in an emergency arising from a fire or an accident; or
- (e) a vehicle being used by a conservation officer appointed pursuant to an enactment when the conservation officer is performing duties as a conservation officer.

(2) In this Section, “fire patrol vehicle” includes a fire suppression or fire vehicle operated by the Department of Natural Resources and Renewables.

(3) In this Section, “red light” includes a red reflector or other device that gives or is capable of giving the effect of a red light.

(4) No person shall drive or move on a highway a vehicle with a blue light visible in any direction unless the vehicle is a police vehicle, a public-safety vehicle used by a Bridges patrol officer or a sheriff or a vehicle being used by a conservation officer appointed pursuant to an enactment when the conservation officer is performing duties as a conservation officer.

(5) In this Section, “blue light” includes a blue reflector or other device that gives or is capable of giving the effect of a blue light.

(6) Subject to subsections (1) and (4), the display of flashing or revolving lights is permitted on vehicles driven upon a highway where the vehicle is

(a) an ambulance;

(b) a school bus;

(c) a police vehicle;

(d) a fire department or fire patrol vehicle;

(e) a public-safety vehicle;

(f) a vehicle being used by the chief or deputy chief of a volunteer fire department when acting in an emergency arising from a fire or an accident;

(g) a vehicle being used by a conservation officer appointed pursuant to an enactment when the conservation officer is performing duties as a conservation officer;

(h) a motor vehicle service, repair or towing truck that is equipped for lifting and towing vehicles, when engaged on the highway for the purpose of rendering service to a disabled motor vehicle or when towing a motor vehicle away from an accident or place at which it became disabled;

(i) a vehicle of the Department, a city or a town that is being used in connection with the maintenance or repair of a highway or the removal of snow therefrom;

(j) a vehicle transporting explosives;

(k) a motor vehicle towing a wide trailer; or

(l) a vehicle engaged in the construction, maintenance or repair of communication or power systems.

(7) The flashing or revolving lights permitted under subsection (6) must be designed to show only one color of light in all directions.

(8) Flashing or revolving lights on vehicles operated upon a highway are prohibited except as authorized or required by this Act or regulations made pursuant to this Act. R.S., c. 293, s. 179; 1993, c. 31, s. 1; 1994, c. 25, s. 1; 2014, c. 20, s. 9.

Regulations respecting lighting equipment

231 The Governor in Council may prescribe rules and regulations regarding lighting equipment and the use of lights, supplementing or curtailing the preceding Sections regarding lighting equipment. R.S., c. 293, s. 180.

Regulations respecting exterior vehicle equipment

232 (1) The Governor in Council may

- (a) prescribe rules and regulations respecting the use, possession, sale and design of exterior vehicle equipment; and
- (b) define any word or expression used in clause (a).

(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. 8, s. 23.

Brakes

233 (1) Every motor vehicle other than a motorcycle, when operated upon a highway must be equipped with brakes adequate to control the movement of and to stop and to hold the vehicle, having two separate means of application, each of which means is effective to apply brakes to at least two wheels, and so constructed that no part that is liable to failure is common to the two.

(2) Every motorcycle must be equipped with at least one brake.

(3) Every motorcycle must be equipped with a braking system capable of being operated on not fewer than two wheels where the motorcycle was originally equipped with such a braking system or where the motorcycle was sold new after June 1, 1972.

(4) All such brakes must be maintained in good working order and must conform to regulations which may be made by the Department, and any peace officer, or any officer appointed to carry out this Act may at any time inspect, or cause to be inspected the brakes of any motor vehicle on the highway, and may, if the brakes do not conform to the regulations of the Department, require the driver of the motor vehicle to proceed forthwith to make or to have brakes made to comply with those regulations.

(5) Any combination of motor vehicle, trailer, semi-trailer or other vehicle must be equipped with brakes upon one or more of the vehicles adequate to stop the combination of vehicles within the distance specified for motor vehicles under regulations that may be made by the Department, and the Department may, by regulation, require any type, class or weight of trailer or semi-trailer to be equipped with brakes to be approved by the Department.

(6) Subsection (5) does not apply to an implement of husbandry without motive power if the implement of husbandry exhibits a slow moving sign as required by Section 151 or the regulations.

(7) Notwithstanding anything contained in this Section, no person shall, upon a highway, propel or move at a speed greater than 20 kilometres per hour

an implement of husbandry, unless the implement of husbandry can be stopped within 10 metres when travelling at a speed of 20 kilometres per hour.

(8) The Minister, with the approval of the Governor in Council, may make regulations respecting the standards for hydraulic brake fluid and making it an offence to sell, offer for sale or possess hydraulic brake fluid that does not conform to the standards. R.S., c. 293, s. 181, 2006, c. 35, s. 3.

Diesel engine enhanced braking system

234 (1) No person shall use a diesel engine enhanced braking system while operating a vehicle on a highway for which the speed limit is 50 kilometres per hour or less unless the use of the braking system is required by an emergency.

(2) Subsection (1) does not apply to fire department or other emergency vehicles. 2000, c. 14, s. 1; 2001, c. 44, s. 4.

Speedometer and odometer

235 Every motor vehicle originally equipped with a speedometer and an odometer must be equipped with a speedometer and an odometer that work properly. R.S., c. 293, s. 182.

Radar-warning device

236 (1) In this Section, “radar-warning device” means any device or equipment designed or intended for use in a motor vehicle to warn the driver of the presence of radar speed-measuring equipment in the vicinity, and includes any device or equipment designed or intended for use in a motor vehicle to interfere with the effective operation of radar speed-measuring equipment.

(2) No person shall drive on a highway a motor vehicle that is equipped with or that carries or contains a radar-warning device.

(3) A police officer may at any time, without a warrant, stop, enter and search a motor vehicle that the police officer has reasonable grounds to believe is equipped with or carries or contains a radar-warning device contrary to subsection (2) and may seize and take away any radar-warning device found in or upon the motor vehicle.

(4) Where a person is convicted of an offence pursuant to this Section, any device seized pursuant to subsection (3) by means of which the offence was committed is forfeited to the Crown in right of the Province.

(5) Subsection (2) does not apply to a person who is transporting radar-warning devices in sealed packages in a motor vehicle from a manufacturer to a consignee. 1994-95, c. 12, s. 12; 2002, c. 10, s. 15.

Horn, siren or bell

237 (1) Every motor vehicle when operated upon a highway must be equipped with a horn in good working order, capable of emitting sound audible under normal conditions from a distance of not less than 60 metres, and such horns must be sounded whenever it is reasonably necessary.

(2) Every police department and fire department vehicle and every ambulance used for emergency calls must be equipped with a bell, siren or exhaust whistle.

(3) A vehicle used by the chief or deputy chief of a volunteer fire department, when acting in an emergency arising from a fire or an accident, may be equipped with a bell, siren or exhaust whistle.

(4) A vehicle being used by a conservation officer appointed pursuant to an enactment, when the conservation officer is performing duties as a conservation officer, may be equipped with a bell, siren or exhaust whistle.

(5) A fire suppression or fire vehicle operated by the Department of Natural Resources and Renewables, used in an emergency arising from a fire or accident, may be equipped with a bell, siren or exhaust whistle.

(6) A public-safety vehicle may be equipped with a siren.

(7) The driver of a vehicle authorized to be equipped with a bell, siren or exhaust whistle pursuant to this Section, other than a police vehicle, is authorized to use the bell, siren or exhaust whistle only in an emergency situation or as directed by a peace officer.

(8) It is an offence, except as otherwise provided in this Section, for any vehicle to be equipped with, or for any person to use upon a vehicle, any bell, siren, compression or exhaust whistle, or for any person, at any time, to use a horn otherwise than as a reasonable warning or to make any unnecessary or unreasonable loud or harsh sound by means of a horn or other warning device.

(9) Every bicycle must be equipped with a bell or horn in good working order, and it is an offence for any person to install or use upon a bicycle any siren or whistle.

(10) Every personal transporter must be equipped with a bell or horn in good working order and the operator of a personal transporter shall use it to give notice of its approach, including overtaking, on a roadway or a sidewalk.

(11) Every electric kick-scooter must be equipped with a bell or horn in good working order and the operator of an electric kick-scooter shall use it to give notice of its approach, including overtaking on a roadway or a sidewalk, if permitted.

(12) Every vehicle on runners drawn by a horse or other animal on a highway, must carry at least two bells attached to the harness or to the vehicle in such a manner as to give ample warning sound and capable of being heard under normal conditions from a distance of not less than 60 metres. R.S., c. 293, s. 183; 1993, c. 31, s. 2; 1994, c. 25, s. 2; 2014, c. 20, s. 10; 2015, c. 46, s. 12; 2022, c. 21, s. 13.

Mirror, windshield or television

238 (1) Every motor vehicle must be equipped with a mirror securely attached to the vehicle and so located as to reflect to the driver a view of the highway from a distance of at least 60 metres to the rear of the vehicle.

(2) Where the view afforded by the mirror required under subsection (1) is obstructed or interfered with by a trailer attached to the motor vehicle, the construction or the loading of the motor vehicle, an outside rear-vision mirror must be attached to each side of the motor vehicle and placed in such a position as to afford the driver a clear view to the rear of at least 60 metres on each side of the vehicle, but no vehicle may continue to be so equipped with such mirror where the view ceases to be obstructed or interfered with by a towed vehicle or load.

(3) Every motor vehicle operated on a highway, except a motorcycle, construction equipment or farm equipment, must be equipped with a windshield.

(4) No person shall on any highway drive a motor vehicle when there is in or upon the windshield, sidewings, side or rear windows, or the openings for the same or any of them, any sign, poster or other nontransparent material other than a certificate, sticker or other device required by or pursuant to this Act to be displayed thereon or a sticker approved by the Minister that is positioned as directed by the Minister.

(5) No person shall drive on a highway a motor vehicle having attached therein or thereon any ornament, decoration, novelty or other thing that is so located that it obstructs or is likely to obstruct the vision or distract the attention of the driver of the vehicle.

(6) Every windshield on a motor vehicle being driven on a highway must be equipped with a device for clearing rain, snow or other moisture therefrom, which device must be so constructed as to be controlled or operated by the driver of the vehicle and must be kept in operation whenever necessary.

(7) No person shall drive on a highway a motor vehicle equipped with a television viewer, screen or other means of visually receiving a television broadcast that is located in the vehicle at a point forward of the back of the driver's seat or that is visible to the driver while the driver is operating the vehicle. R.S., c. 293, s. 184.

Flag or light at end of load

239 Whenever the load of a vehicle extends more than one metre beyond the rear of the bed or body thereof, there must be displayed at the end of the load in such position as to be clearly visible at all times from the rear of the load a red flag not less than 300 millimetres both in length and width, except that between one half hour after sunset and one half hour before sunrise there must be displayed at the end of any such load a yellow or red light plainly visible under normal atmospheric conditions at least 60 metres from the rear of the vehicle or a reflector as provided in Section 224. R.S., c. 293, s. 185.

Truck with open tailgate

240 No person shall drive on a highway a commercial motor vehicle with the tailboard of the vehicle open or in a horizontal position unless the tailboard is then required for the support of all or part of the load that is being carried in the vehicle. R.S., c. 293, s. 186.

Muffler or fumes

241 (1) Every motor vehicle must at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise, and no person shall use a muffler cut-out, by-pass or similar device upon a vehicle on a highway.

(2) The engine and power mechanism of every motor vehicle must be so equipped and adjusted as to prevent the escape of excessive fumes or smoke. R.S., c. 293, s. 187.

Excessive noise

242 No person shall start, drive, turn or stop any motor vehicle, or accelerate the vehicle engine while the vehicle is stationary, in a manner that causes any loud and unnecessary noise in or from the engine, exhaust system, braking system or from the contact of the tires with the roadway. R.S., c. 293, s. 188.

Personal transporter damaged or modified

243 No person shall operate a personal transporter that

- (a) is not in good working order;
- (b) is missing a component, equipment or other feature that was part of the personal transporter when it was manufactured or that is required by this Act or has such feature rendered wholly or partly inoperable; or
- (c) has been modified after it is manufactured except to attach a basket, bag or similar accessory or to add equipment required by this Act. 2015, c. 46, s. 13.

Electric kick-scooter damaged or modified

244 No person shall operate an electric kick-scooter that

- (a) is not in good working order;
- (b) is missing a component, equipment or other feature that was part of the electric kick-scooter when it was manufactured or that is required by this Act or has such feature rendered wholly or partly inoperable;
- (c) has been modified after it is manufactured except to attach a basket, bag or similar accessory or to add equipment required by this Act;
- (d) has pedals attached to it;
- (e) has a seat or structure that could be used as a seat; or
- (f) has any structure to enclose the electric kick-scooter. 2022, c. 21, s. 14.

More than one trailer or towing

245 (1) A motor vehicle must not be operated upon any highway drawing or having attached thereto more than one other vehicle, without written permission from the Registrar.

(2) The draw bar or other connection between any two vehicles, one of which is towing or drawing the other on a highway, must not exceed five metres in length from one vehicle to the other, except that the connection between

any two vehicles transporting poles may exceed five metres but shall not exceed eight metres, and whenever such connection consists of a chain, rope or cable there must be displayed upon the connection a red flag or other signal or cloth not less than 300 millimetres both in width and length. R.S., c. 293, s. 190.

Weights and loads

246 (1) Subject to the approval of the Governor in Council, the Minister may make regulations

- (a) governing the weight of any vehicle or class of vehicle that may be operated on a highway, the weight of the load that may be carried by such vehicle and the combined weight of any such vehicle, and the load carried by it, and the ascertaining of the weight of such load and the vehicle;
- (b) prescribing the maximum length, width and height of vehicles or a combination of vehicles;
- (c) respecting equipment attached to a vehicle and loads on a vehicle;
- (d) respecting the internal dimensions of vehicles and combinations of vehicles;
- (e) respecting special permits for the operation of a vehicle that does not conform with the regulations;
- (f) incorporating by reference standards relating to vehicle weights and dimensions;
- (g) prescribing special conditions subject to which any such vehicle or class of vehicle may be operated on a highway;
- (h) requiring that any such vehicle or class of vehicle must be furnished with and display a special weight plate or plates in addition to any other plates in this Act required to be furnished to and displayed by any such vehicle or class of vehicle;
- (i) prescribing the size and design of any such special weight plate or plates and the words, letters and figures to be shown thereon, the manner in which such weight plate or plates are to be fastened to any such vehicle or class of vehicle and any other conditions with respect to the furnishing, use and display of such special weight plate or plates;
- (j) respecting the use of any vehicle or class of vehicle on a highway or any part thereof during the whole or any portion or portions of a year;
- (k) prescribing special conditions applicable to the transportation of dangerous goods in motor vehicles upon the highway, which may incorporate in whole or in part regulations made pursuant to an Act of the Parliament of Canada;
- (l) prescribing penalties for the violation of such regulations;
- (m) prescribing the classes of highways to which such regulations or any of them apply.

(2) The Minister may make regulations prescribing highways or portions of highways that are included in any of the classes of highways that are prescribed in regulations made pursuant to subsection (1).

(3) A person, who violates any regulation made under subsection (1) limiting the weights or axle weights of vehicles, shall pay, in addition to any other penalty prescribed by this Act or the regulations, a further penalty of

(a) \$1.25 for each 50 kilograms by which the weight or the overweight of the vehicle exceeds the weight limit fixed by the regulation by not more than 2,500 kilograms or \$10, whichever amount is greater;

(b) \$2.50 for each 50 kilograms by which the weight or the axle weight of the vehicle exceeds the said weight limit by more than 2,500 kilograms but by not more than 5,000 kilograms;

(c) \$3.75 for each 50 kilograms by which the weight or the axle weight of the vehicle exceeds the said weight limit by more than 5,000 kilograms but by not more than 7,500 kilograms; and

(d) \$10 for each 50 kilograms by which the weight or the axle weight of the vehicle exceeds the said weight limit by more than 7,500 kilograms,

and, in default of payment of the said penalty, to imprisonment for not more than six months.

(4) For the purposes of calculating a penalty under subsection (3), a fraction of 50 kilograms that is greater than one half is counted as 50 kilograms.

(5) The exercise by the Minister of the authority contained in subsections (1) and (2) is a regulation within the meaning of the *Regulations Act*. R.S., c. 293, s. 191; 1990, c. 36, s. 4; 1994-95, c. 12, s. 14; 2001, c. 12, s. 6; 2010, c. 21, s. 1.

Requirement for vehicle to be weighed

247 (1) Any peace officer having reason to believe that the weight of a vehicle and load is in excess of the maximum permitted by any regulations made under this Act, the *Public Highways Act* or any Act or regulation is authorized to weigh the vehicle either by means of portable or stationary scales, and may require that the vehicle be driven to the nearest scales, in the event such scales are within a distance of eight kilometres.

(2) The officer may then require the driver to unload immediately such portion of the load as may be necessary to decrease the gross or axle weight of the vehicle to the maximum therefor specified in the regulations.

(3) In lieu of proceeding to such scales, the weight of the load may be determined by a portable weighing device provided by the peace officer and it shall be the duty of the driver of the vehicle to facilitate the weighing of the vehicle and load by any such device.

(4) Any driver who, when so required to proceed to such scales or to assist in the weighing of a vehicle in the driver's charge, refuses or fails to do so is guilty of an offence. R.S., c. 293, s. 192.

Proof of scale reading as prima facie evidence

248 In a prosecution proof of the reading of any scale or weighing device is prima facie evidence of the accuracy of the scale or weighing device and of the reading. R.S., c. 293, s. 193.

Temporary weight restriction or truck route

249 (1) Local authorities may by resolution prohibit the operation of vehicles upon any highway or impose restrictions as to the weight of vehicles, for a total period of not more than 90 days in any one calendar year, when operated upon any highway under the jurisdiction of and for the maintenance of which such local authorities are responsible, whenever any said highway by reason of deterioration, rain, snow or other climatic conditions will be seriously damaged or destroyed unless the use of vehicles thereon is prohibited or the permissible weights thereof reduced.

(2) When local authorities have made any such resolution the traffic authority may erect or cause to be erected and maintained signs designating the provisions of the resolution at each end of that portion of any highway affected thereby, and the resolution is not effective until or unless such signs are erected and maintained.

(3) Local authorities may also, by resolution, prohibit or regulate the operation of trucks or other commercial vehicles at all times or between specified hours, or impose limitations as to the weight thereof on designated highways, which prohibitions and limitations must be designated by appropriate signs placed on such highways.

(4) Local authorities may by bylaw limit the operation of trucks or other commercial vehicles, by class, weight or otherwise, to certain designated highways at all times or between specified hours and may prohibit or regulate the operation of these trucks or other commercial vehicles upon any highway and at any time not so designated except for purposes specified in the bylaw.

(5) Where a local authority has designated highways pursuant to subsection (4), it shall cause appropriate signs to be placed on the designated highways.

(6) This Section does not apply to any main travelled or through highway passing through a city or town unless permission has first been obtained from the Minister.

(7) The Minister may determine what constitutes a main travelled or through highway and may designate any highway as a main travelled highway or a through highway. R.S., c. 293, s. 194.

Regulation of trucks by Provincial Traffic Authority

250 The Provincial Traffic Authority, with the approval of the Minister, may make regulations relating to the operation of trucks and other commercial vehicles upon highways within its jurisdiction to the same extent as a local authority may regulate such vehicles under Section 249. R.S., c. 293, s. 195.

Application of Sections 249 and 250 to trucks

251 The provisions of Sections 249 and 250 do not apply to trucks having a registered weight of 3,000 kilograms or less. R.S., c. 293, s. 196.

Powers of peace officer

252 (1) A peace officer may stop and detain a commercial motor vehicle for the purpose of determining whether a bylaw made pursuant to Section 249 or a regulation made pursuant to Section 250 has been contravened and, for that purpose, may require the operator of the vehicle to produce a bill of lading or other document.

(2) A peace officer may examine and make copies and extracts of any document referred to in subsection (1). 1996, c. 34, s. 4.

Transportation of dangerous goods

253 (1) In this Section, “dangerous goods” means dangerous goods as defined in the *Dangerous Goods Transportation Act*.

(2) Subject to any regulations under subsection 246(1), a local authority may by resolution with respect to any highway under the jurisdiction of and for the maintenance of which such local authority is responsible

(a) designate the route and time of travel of vehicles transporting dangerous goods; and

(b) prohibit the carriage of dangerous goods on any highway specified in the resolution.

(3) Subject to any regulations under subsection 246(1), the Provincial Traffic Authority may make regulations with respect to any highway within its jurisdiction

(a) designating the route and time of travel of vehicles transporting dangerous goods; and

(b) prohibiting the carriage of dangerous goods on any highway specified in the regulations.

(4) A resolution or regulation under subsection (2) or (3) is not effective until it is approved by the Minister.

(5) Where a local authority or the Provincial Traffic Authority has made a resolution or regulation under subsection (2) or (3), the local authority or Provincial Traffic Authority respectively may cause appropriate signs to be placed on the route or highway specified in the resolution or regulation. R.S., c. 293, s. 197.

Solid rubber, metal or studded tires

254 (1) Every solid rubber tire on a vehicle moved on any highway must have rubber on its entire traction surface at least 25 millimetres thick above the edge of the flange of the entire periphery, and no motor vehicle, trailer or semi-trailer having any steel or other metal tire in contact with the roadway may be operated on any highway.

(2) Unless permitted by the regulations, no tire on a vehicle moved on a highway may have on its periphery any block, stud, flange, cleat or spike or any other protuberances of any material other than rubber that projects beyond the tread of the traction surface of the tire, except that it is permissible to use farm machinery with tires having protuberances that will not injure the highway, and except also that it is permissible to use tire chains of reasonable proportions upon any vehicle when required for safety because of snow, ice or other conditions tending to cause a vehicle to slide or skid.

(3) The traffic authority may issue special permits authorizing the operation upon a highway of traction engines or tractors having movable tracks with transverse corrugations upon the periphery of the movable tracks or farm tractors or other farm machinery.

(4) The Governor in Council may make regulations permitting the use on a highway of tires of one or more of the types referred to in subsection (2) that conform to specifications set out in the regulations and prescribing the terms and conditions under which they may be used. R.S., c. 293, s. 198.

Dropping contents of vehicle and mudguards

255 (1) No vehicle may be driven or moved on any highway unless the vehicle is so constructed or loaded as to prevent its contents from dropping, shifting, leaking or otherwise escaping therefrom.

(2) Every motor vehicle and every trailer must be equipped with mudguards, fenders or flaps adequate to reduce effectively the wheel spray or splash of water from the roadway to the rear of the vehicle or trailer, unless the spray or splash is effectively reduced by the body of the vehicle or trailer or by a trailer drawn by the vehicle.

- (3) The Governor in Council may make regulations
- (a) respecting the securing of loads on vehicles;
 - (b) adopting by reference a document or incorporating by reference, as amended from time to time, any Act of the Parliament of Canada or regulations made pursuant to such an Act or any classification, standard, procedure or other specification. R.S., c. 293, s. 199; 2004, c. 42, s. 11.

Regulations respecting equipment

- 256** (1) The Governor in Council may make regulations
- (a) requiring the use or incorporation of any equipment, material or device, in or on any vehicle, that may affect the safe operation of the vehicle on the highway or that may reduce or prevent injury to persons in a vehicle on a highway or to persons using the highway, and prescribing the specifications thereof;
 - (b) designating any equipment, material or device and designating an organization to test and mark its approval of any equipment, material or device so designated, and prohibiting the incorporation or use in or on a vehicle of any equipment, material or device so designated that is not marked as approved by the testing organization;

(c) prohibiting the sale or use of any equipment, material or device.

(2) Regulations made under subsection (1) may adopt by reference or otherwise standards or specifications established or approved by the Canadian Standards Association or other testing organization with or without modifications or variations or may require that any equipment conforms to the standards or specifications established or approved by the Canadian Standards Association or other testing organization or bear the approval of the Canadian Standards Association or other testing organization.

(3) Any person who violates a provision of any regulations made under this Section is guilty of an offence. R.S., c. 293, s. 200; 2002, c. 10, s. 16.

Vehicle inspection

257 (1) No person shall conduct, maintain, operate, manage or purport to be operating an official testing station unless the person is licensed to do so and the licence has not expired or been cancelled or suspended.

(2) A person may apply to the Minister, in the manner prescribed by the regulations, for a licence to operate an official testing station.

(3) Subject to this Act and the regulations, the Minister may issue or renew a licence and the licence is valid for the person, location and type of vehicle indicated on the licence.

(4) The Minister or a person designated by the Minister may cancel, suspend or refuse to issue or renew a licence if the Minister or a person designated by the Minister is satisfied that the licensee or an agent or employee of the licensee has violated this Act or the regulations.

(5) A licence is cancelled when the licensee ceases to operate or own the official testing station for which the licence was issued.

(6) The Minister may order that any vehicle or class or classes of vehicles or all vehicles be tested at official testing stations at such time or times or within such time or times as the Minister prescribes and may give notice of any order by publishing a copy of the order in the Royal Gazette.

(7) Notwithstanding subsection (6), the Minister may order that any vehicle or class of vehicle be tested by an inspector under the *Motor Carrier Act* at such time or times and within such time or times as the Minister prescribes.

(8) Notice of an order made pursuant to subsection (7) may be given by publishing a copy of the order in the Royal Gazette.

(9) The Registrar, a motor vehicle inspector or a peace officer may order the owner or driver of a vehicle to take the vehicle forthwith to an official testing station and to have the equipment of the vehicle or such part of the equipment as is prescribed by the Registrar, inspector or officer tested at the station and to have repaired any equipment that upon testing is found not to comply with any requirements of this Act or the regulations.

(10) With the approval of the Governor in Council, the Minister may make regulations

- (a) prescribing minimum standards of premises and equipment and other requirements to be possessed by official testing stations;
- (b) prescribing the qualifications to be possessed by persons employed as testers at official testing stations;
- (c) respecting the nature and scope of tests and inspections to be made at official testing stations;
- (d) respecting the duties of persons making tests and inspections;
- (e) prescribing the records to be kept and the reports and returns to be made by operators of official testing stations;
- (f) prescribing the fees to be charged for tests and inspections made at official testing stations;
- (g) prescribing the design, form and content of certificates, stickers and other documents to be used or issued by licensees and employees of official testing stations and the fees or charges payable to the Department for supplying forms of certificates, stickers or documents;
- (h) requiring the issue of certificates or stickers following the testing or inspection of vehicles;
- (i) requiring owners and operators of vehicles to display certificates or stickers issued at official testing stations and prescribing the time or times and manner in which they must be displayed;
- (j) requiring owners and operators of vehicles to have their vehicles repaired or the equipment of their vehicles brought into conformity with the requirements of this Act and the regulations;
- (k) prohibiting the operation of vehicles having equipment that has not been certified at an official testing station to be in conformity with any requirement of this Act or the regulations;
- (l) prohibiting the operation of vehicles that do not bear evidence of having been tested at an official testing station;
- (m) establishing official testing stations and designating a garage as an official testing station;
- (n) prescribing the duration of licences issued pursuant to this Section and requiring the payment of annual or other periodic fees by licensees;
- (o) prescribing the manner and fees for applying for a licence;
- (p) prescribing the term and fees for a tester's licence;
- (q) respecting the duties of persons who have been issued a licence to operate an official testing station;
- (r) permitting the recognition of an out-of-Province inspection sticker or certificate based upon a reciprocal agreement;

(s) prescribing the requirements of a person applying for a licence;

(t) incorporating by reference any classification, standard, procedure or other specification relating to motor vehicle inspections as it is amended from time to time;

(u) prescribing penalties for a violation of the regulations made pursuant to this Section.

(11) Every person who operates an official testing station without a licence is guilty of an offence.

(12) Every person who fails to have the person's vehicle inspected or repaired as required by subsection (9) is guilty of an offence. R.S., c. 293, s. 201; 2001, c. 12, s. 7; 2002, c. 10, s. 17; 2004, c. 42, s. 12.

EMERGENCY REGULATIONS

Emergency or special conditions or flammable cargo

258 (1) The traffic authority is empowered to make and enforce temporary regulations to cover emergencies or special conditions.

(2) Such regulations may prohibit or restrict the parking of vehicles between November 15th and April 15th.

(3) The traffic authority is empowered to make and enforce regulations not inconsistent with this Act or any Act of the Parliament of Canada respecting the movements, parking, loading and storage of vehicles carrying explosives or other flammable cargo.

(4) A copy of any regulations made under this Section must be immediately forwarded to the Provincial Traffic Authority and is subject to cancellation at any time by the Minister. R.S., c. 293, s. 202.

PART VI

FINANCIAL RESPONSIBILITY OF OWNERS AND DRIVERS

Preservation of remedies

259 (1) Nothing in Sections 260 to 305 prevents the plaintiff in any action from proceeding upon any other remedy or security available at law.

(2) Sections 260 to 305 only apply to offences and violations of law committed and to convictions and judgments arising out of motor vehicle accidents occurring, and to motor vehicle liability policies issued or in force, after September 1, 1932. R.S., c. 293, s. 203.

Liability insurance card

260 (1) Every insurer that issues an owner's or driver's policy shall, at the time of issue thereof, also issue and deliver to the named insured a card, to be known as "a motor vehicle liability insurance card", and shall on request by the

named insured issue and deliver to the insured an additional card, being a copy of the card delivered to the insured, for each person who commonly drives the motor vehicle, if any, in respect of which the policy is issued.

(2) The card issued under this Section must be in a form approved by the Registrar and must set forth such particulars as the Registrar may prescribe.

(3) The cards may be supplied to insurers by the Registrar in such quantity as the Registrar considers requisite, and no insurer shall issue a card that is not in a form approved by the Registrar.

(4) The Registrar may supply cards to an insurer that issues owners' policies outside the Province for issue in respect of such policies, but

(a) in the case of an insurer that is licensed to carry on in the Province the business of automobile insurance, every card issued by it must show that the policy thereon mentioned provides insurance coverage for the purposes and to amounts not less than those mentioned in Section 160 of the *Insurance Act*; and

(b) in the case of an insurer that is not so licensed, before any such cards are issued the insurer shall comply with the provisions of subsection 295(3).

(5) Before supplying cards to an insurer pursuant to subsection (4), the Registrar shall require the insurer to file with the Registrar an undertaking that it will issue cards only to persons who are non-residents of the Province and who are insured under policies that are owners' policies within the meaning of this Act. R.S., c. 293, s. 204.

Suspension of licence and permit

261 (1) The Registrar or, in the Registrar's absence or incapacity, the Director of Highway Safety shall forthwith suspend the driver's licence or privilege of obtaining a driver's licence and owner's permit or permits of every person who has been convicted of or who has forfeited the person's bail after arrest on a charge of any of the following offences, namely:

(a) any offence against Sections 124, 125 or 127 if injury to a person or property occurs in connection therewith;

(b) an accident having occurred, failing to remain at, or return to the scene of the accident in violation of Section 112;

(c) an offence against Section 288;

(d) such offence against public safety on highways as may be designated by the Governor in Council.

(2) Upon receipt by the Registrar of official notice that the holder of a driver's licence or privilege of obtaining a driver's licence or an owner's permit under this Act has been convicted, or forfeited the holder's bail, in any other province or state in respect of an offence that, if committed in the Province, would have been, in substance and effect, an offence under or a violation of the provisions of law mentioned in subsection (1), the Registrar shall suspend every driver's licence or privilege of obtaining a driver's licence and owner's permit or permits, of such person issued pursuant to this Act.

(3) Every licence or privilege of obtaining a driver's licence and every permit suspended pursuant to this Section remains so suspended, and may not thereafter be renewed, nor may any new licence be thereafter issued to, or a permit for the same or any other motor vehicle be thereafter issued to a person so convicted or who has so forfeited the person's bail until the person has satisfied any penalty imposed by the court in respect of such offence, and until two years have elapsed from the date of the suspension or until the person has given proof of financial responsibility to the satisfaction of the Registrar or until the person's conviction has been quashed.

(4) Where any person to whom subsection (1) applies is not a resident of the Province, the privilege of operating a motor vehicle within the Province, and the privilege of operation within the Province of a motor vehicle owned by the person, is suspended and withdrawn forthwith, by virtue of such conviction or forfeiture of bail, until the person has given proof of financial responsibility, provided that the judge of the provincial court or justice of the peace before whom the person was charged may, in the judge's or justice of the peace's discretion, by a written permit signed by the judge or justice of the peace, authorize the operation of such motor vehicle to the boundaries of the Province by such route and by such person as the permit may describe.

(5) The giving by any person of proof of financial responsibility pursuant to subsection (3) does not alter or affect in any way any disqualification to hold a licence or a suspension or cancellation of a driver's licence, or of a registration of a motor vehicle under any other provision of this Act.

(6) Where proof of financial responsibility is required to be given by any person, it shall be given by the person to the Registrar except where it is by this Act expressly required to be given to some other person. R.S., c. 293, s. 205.

Financial responsibility card

262 (1) Where a person

(a) gives proof of financial responsibility to the amounts and in any of the forms mentioned in Sections 294 and 295; or

(b) being a corporation produces to the Registrar a certificate issued by the Superintendent of Insurance for the Province showing that

(i) the corporation maintains a separate insurance fund for the purpose of satisfying therefrom, among other things, liabilities it may incur resulting from bodily injury to, or the death of, any person or damage to property occasioned by, or arising out of, the ownership, maintenance, operation, or use, of a motor vehicle by the corporation, and

(ii) in the opinion of the Superintendent, the insurance fund is adequate to satisfy all such liabilities that the corporation is likely to incur, subject, for each motor vehicle registered in the name of the corporation, to the limits as to amount stated in Section 263,

the Registrar shall issue and deliver to the person a card, to be known as "a financial responsibility card", and shall, on request by the person if the person is the owner of

the motor vehicle, issue and deliver to the person an additional card, being a copy of the card delivered to the person as aforesaid,

(c) for each person who commonly drives the motor vehicle to which the card refers;

(d) for each motor vehicle in respect of which the proof of financial responsibility is given; or

(e) in the case of a corporation to which the Superintendent of Insurance issues a certificate under clause (b) for each motor vehicle registered in the name of the corporation.

(2) A financial responsibility card must set forth the following particulars:

(a) the name of the person or corporation giving the proof of financial responsibility;

(b) the particulars of the motor vehicle as set forth in the permit referred to in Section 19; and

(c) any other particulars required by the Registrar.

(3) A financial responsibility card must be in such form as may be prescribed by the Registrar.

(4) Where a person to whom the Registrar has issued a financial responsibility card ceases to maintain the proof of financial responsibility in respect of which the card was issued, the person shall forthwith deliver the card and all copies thereof to the Registrar.

(5) Where a person is insured under a policy of the type commonly known as "a garage and sales agency policy", whereby the person is insured against liability for loss or damage to persons or property occasioned by, or arising out of the ownership, maintenance, operation or use, by the person, or the person's employees, of a motor vehicle that is either owned by the person or in the person's charge, if, in the opinion of the Registrar, the amount in which the person is insured under the policy is adequate to satisfy all such liabilities that the person is likely to incur, subject for each motor vehicle that at any one time may be operated or used by the person or the person's employees to the limits as to amount stated in Section 263, the insurer that issues the policy shall at the time of the issue thereof, also issue and deliver to the named insured a card, to be known as "a financial responsibility card", and shall, on request by the named insured issue and deliver to the named insured an additional card, being a copy of the card delivered to the named insured, for each of the insured issue's employees who commonly drives the motor vehicle owned by the named insured or in the insured issue's charge.

(6) A card issued under subsection (5) must be in a form approved by the Registrar and must set forth

(a) the name and address of the insurer;

(b) the name of the insured;

(c) the policy number;

(d) the date upon which the insurance expires; and

(e) any other particulars required by the Registrar, and must be signed in handwriting and in ink, with the person's usual signature, by the person for whose use the card or additional card is issued, and must bear the number of the driver's licence held by the person as at the date on which the card is issued.

(7) The cards issued under subsection (5) by all insurers must be uniform in size, colour and form and the date of expiry of the policy of insurance to which the card refers must be prominently noted thereon, and the card must be in such form as may be prescribed by the Registrar.

(8) Cards issued under subsection (5) must be supplied to each insurer by the Registrar in such quantity as the Registrar considers requisite, and no insurer may prepare or issue a card under subsection (5) except on a form supplied as in this Section provided. R.S., c. 293, s. 206; 2015, c. 45, s. 9.

Amount of security

263 Where security is required to be given by any person pursuant to clause 290(5)(a) or 291(4)(a), it must be given by the person to the Registrar in the amount required by the Registrar but not in any case exceeding \$200,000 in respect of any one accident. R.S., c. 293, s. 207.

Form of security

264 (1) Where security is required to be given by any person pursuant to clause 290(5)(a) or 291(4)(a), it must be given by the certificate of the Minister of Finance and Treasury Board that the person named therein has deposited with the Minister of Finance and Treasury Board

- (a) the sum of money fixed by the Registrar;
- (b) securities for money approved by the Minister of Finance and Treasury Board in the amount fixed by the Registrar; or
- (c) a bond of a guarantee or surety company in the amount fixed by the Registrar or a bond with personal sureties in the amount fixed by the Registrar approved as adequate security by a judge of the Supreme Court of Nova Scotia.

(2) Any bond given pursuant to subsection (1) must be conditioned upon the satisfaction of any judgment that may thereafter be recovered against the person by whom or on whose behalf it is deposited as a result of the accident giving rise to the suspension of the person's permit or licence and the payment of any sum that may be agreed upon as liquidated damages as a result of that accident. R.S., c. 293, s. 208.

Purpose of security

265 (1) Any money or security deposited with the Minister of Finance and Treasury Board pursuant to Section 264 must be held by the Minister of Finance and Treasury Board as security for the payment of any sum that may be agreed upon as liquidated damages, or any judgment that may thereafter be recovered against the person making the deposit in an action for damages resulting from bodily injury to or the death of another, or damages of \$100 or more to property caused by an accident

(a) by reason of the occurrence of which the deposit of security is required; and

(b) that was occasioned by, or arose out of the ownership, maintenance, operation or use, of a motor vehicle by the person making the deposit or by another person for whose negligence the person making the deposit is liable.

(2) Money and securities deposited with the Minister of Finance and Treasury Board must be paid over by the Minister of Finance and Treasury Board, on the order of the court or of a judge thereof, to satisfy a judgment recovered as set out in subsection (1) or to satisfy any sum that may be agreed upon as liquidated damages occasioned by, or arising out of, the accident.

(3) Where a bond has been deposited with the Minister of Finance and Treasury Board pursuant to Section 264, if a judgment of the sort described in subsection (1) is recovered or if a sum is agreed upon as liquidated damages occasioned by or arising out of the accident and such judgment or sum is not satisfied or paid within 15 days after it has become final or has been agreed upon, as the case may be, the judgment creditor or the person entitled to such sum agreed upon may, for the person's own use and benefit bring an action on the bond in the name of the Minister of Finance and Treasury Board against the persons executing the bond, but the Minister of Finance and Treasury Board is not liable for costs in any such action.

(4) A bond, money or security, deposited with the Registrar or the Minister of Finance and Treasury Board pursuant to Sections 263 and 264 is not in the hands of the Registrar or the Minister of Finance and Treasury Board respectively, subject to any other claim or demand.

(5) Where the Minister of Finance and Treasury Board is satisfied that a sum has been agreed upon as liquidated damages occasioned by, or arising out of, the accident, upon request of the person making the deposit the Minister of Finance and Treasury Board may, from the money or securities so deposited, pay to the person entitled thereto the sum agreed upon, and, if the Minister of Finance and Treasury Board is satisfied that the sum agreed upon has been paid, the Minister of Finance and Treasury Board may pay to the person making the deposit the money or securities so deposited with the Minister of Finance and Treasury Board or the balance thereof remaining in the Minister of Finance and Treasury Board's hands after making payment as aforesaid of the sum agreed upon. R.S., c. 293, s. 209.

Offences respecting card

266 Any person who

(a) produces to the Registrar or to a peace officer a financial responsibility card or a motor vehicle liability insurance card purporting to show that

(i) there is in force a policy of insurance that is, in fact, not in force,

(ii) the person is at the time maintaining in effect proof of financial responsibility as required by this Act when such is not the case, or

(iii) the person named in the card as the insured is, at the time of an accident in which a motor vehicle is in any manner, directly or indirectly involved, insured in respect of loss resulting from that accident and occasioned by the operation or use of that motor vehicle, when such is not the case;

(b) fails to deliver to the Registrar as required by subsection 262(4), a financial responsibility card or any additional card issued to the person pursuant to that Section; or

(c) gives or loans to a person not entitled to have the same any card issued under subsection 262(5),

is guilty of an offence. R.S., c. 293, s. 210.

Unsatisfied Judgment Fund

267 (1) Subject to the provisions of subsection (2), the Governor in Council may direct that every person who obtains a driver's licence under this Act, shall, in addition to any other fee for which provision is made in this Act, annually pay to the Registrar a fee of one dollar and all such fees constitute a fund, which is known as the "Unsatisfied Judgment Fund" and hereinafter in this Part referred to as the "Fund".

(2) Where, on December 1st in any registration year, the amount of the Fund exceeds \$150,000, the Governor in Council may by order in council suspend the requirement for payment of the fee set out in subsection (1), and may, on or after December 1st in any year, reimpose the provisions of subsection (1) for the next ensuing registration year when the amount of the Fund is less than \$100,000, and so from time to time suspend and reimpose the requirements and provisions of subsection (1) according as the amount of the Fund from time to time exceeds \$150,000 or is less than \$100,000.

(3) The Minister of Finance and Treasury Board shall maintain an account known as the "Unsatisfied Judgment Fund" into which must be paid or credited all sums provided for the purpose by the Governor in Council and all sums paid over by the Registrar pursuant to this Section.

(4) The Governor in Council may transfer or pay from the Special Reserve Account established pursuant to the *Finance Act* to the Unsatisfied Judgment Fund such amounts as the Governor in Council considers necessary.

(5) The Registrar shall pay to the Minister of Finance and Treasury Board any fees collected for the Fund pursuant to subsection (1).

(6) Notwithstanding any other provisions of this Section, no person is liable to pay a fee under this Section in any registration year until the Governor in Council so orders. R.S., c. 293, s. 211.

Payment from Fund

268 (1) Where in any court in the Province a judgment is recovered for damages on account of bodily injury to or the death of any person or damage to property and such injury, death or damage was occasioned by or arose out of the ownership, maintenance, operation or use of a motor vehicle within the Province, then upon the determination of all proceedings, including appeals, and upon notice

to the Minister, the judgment creditor may apply to a judge of the Supreme Court of Nova Scotia for an order directing payment of the amount of the judgment, or the unsatisfied portion thereof, out of the Fund.

(2) Where any person recovers any such judgment, the person may not make an application for an order directing payment out of the Fund unless the person has

(a) joined as a defendant or brought an action against any person, including the Crown, against whom the person has a cause of action for damages for the bodily injuries or death or the damage to property and proceeded to judgment in the action; or

(b) made a settlement in respect of the person's cause of action with every such person whom the person has not joined as a defendant or against whom the person has not brought an action and proceeded to judgment therein, which settlement, in the opinion of the judge and taking into account the circumstances of the case, is reasonable,

provided that this subsection does not apply with respect to a person mentioned in clause (a) if the applicant satisfies the court that the applicant has been unable to find that person after making or causing to be made all such inquiries and searches, and taking or causing to be taken all such measures, for the purpose of finding that person as the court considers reasonable in the circumstances.

(3) Upon the hearing of the application, the applicant shall show

(a) that the applicant has obtained a judgment as set out in subsection (1), stating the amount thereof and the amount owing thereon at the date of the application;

(b) that the applicant has caused to be issued a writ of *feri facias* or an execution order, and that

(i) the sheriff has made a return showing that no goods of the judgment debtor liable to be seized in satisfaction of the judgment debt could be found, or

(ii) the amount realized on the sale of goods seized, or otherwise realized, under the writ or order was insufficient to satisfy the judgment, stating the amount so realized and the balance remaining due on the judgment after application thereon of the amount realized;

(c) that the applicant has

(i) caused the judgment debtor to be examined pursuant to the law for that purpose provided, touching the judgment debtor's estate and effects and the judgment debtor's property and means and in particular as to whether the judgment debtor is insured under a policy of insurance by the terms of which the insurer is liable to pay, in whole or in part, the amount of the judgment, or

(ii) where, because of the death or absence from the Province of the judgment debtor, or for any other reason that the judge on the hearing of the application considers suffi-

cient, it is impossible or impractical to cause the judgment debtor to be examined as aforesaid, made exhaustive searches and inquiries touching the estate and effects and the property and means of the judgment debtor, and in particular whether the judgment debtor is insured under a policy of insurance by the terms of which the insurer is liable to pay, in whole or in part, the amount of the judgment;

(d) that the applicant has made exhaustive searches and inquiries to ascertain whether the judgment debtor is possessed of assets, real or personal, liable to be sold or applied in satisfaction of the judgment;

(e) that by such searches, inquiries and examination

(i) the applicant has learned of no assets, real or personal, possessed by the judgment debtor and liable to be sold or applied in satisfaction of the judgment debt, or

(ii) the applicant learned of certain assets, describing them, owned by the judgment debtor and liable to be seized or applied in satisfaction of the judgment, and has taken all necessary actions and proceedings for the realization thereof, and that the amount thereby realized was insufficient to satisfy the judgment, stating the amount so realized and the balance remaining due on the judgment after application of the amount realized;

(f) whether the applicant has either

(i) recovered a judgment in an action against, or

(ii) made a settlement in respect of the applicant's cause of action with,

any other person against whom the applicant has a cause of action for damages for the bodily injury or death or the damage to property;

(g) that, where the applicant has recovered judgment against another person as aforesaid, the applicant has taken all measures and proceedings with respect to that other person, or under that judgment, that the applicant is required to take under that judgment, with respect to whom or which application is made under this Section;

(h) that, where the applicant has recovered such a judgment, either

(i) the applicant has received, and is likely to receive, nothing thereunder, or

(ii) the applicant has received, and is likely to receive, thereunder no more than an amount stated in the application;

(i) that, where the applicant has made a settlement as mentioned in clause (f), the applicant is entitled to receive thereunder no more than an amount stated in the application, and that the settlement is one that, in the opinion of the judge and taking into account the circumstances of the case, is reasonable;

(j) that the application is not made by or on behalf of an insurer in respect of any amount paid or payable by the insurer by reason of the existence of a policy of automobile insurance within the meaning of Part VII of the *Insurance Act*;

(k) that no part of the amount sought to be paid out of the Fund is sought in lieu of making a claim or receiving a payment that is payable by reason of the existence of a policy of automobile insurance within the meaning of Part VII of the *Insurance Act*; and

(l) that no part of the amount so sought will be paid to an insurer to reimburse or otherwise indemnify the insurer in respect of any amount paid or payable by the insurer by reason of the existence of a policy of automobile insurance within the meaning of Part VII of the *Insurance Act*.

(4) The Minister may appear and be heard on the application and may show cause why the order should not be made. R.S., c. 293, s. 212.

Order for payment

269 (1) Where a judge is satisfied

(a) of the truth of the matters shown by the applicant as required by subsection 268(3);

(b) that the applicant has taken all reasonable steps to learn what means of satisfying the judgment are possessed by the judgment debtor; and

(c) that there is good reason for believing that the judgment debtor

(i) has no assets liable to be sold or applied in satisfaction of the judgment or of the balance owing thereon, and

(ii) is not insured under a policy of insurance by the terms of which the insurer is liable to pay, in whole or in part, the amount of the judgment,

the judge may make an order directed to the Minister of Finance and Treasury Board requiring the Minister, subject to subsection (6) to pay from the Fund the amount of the judgment or the balance owing thereon, and subject as herein provided the Minister of Finance and Treasury Board shall comply with the order.

(2) In making an order under subsection (1), the judge shall reduce the amount that the judge would otherwise require to be paid from the Fund by a sum equal to any amount or amounts that the applicant has received or, in the opinion of the judge, is likely to receive, under or in respect of a judgment that the applicant has recovered against, or a settlement that the applicant has made with, any other person against whom the applicant has or had a cause of action for damages for the bodily injury or death or the damage to property mentioned in subsection (1).

(3) Where the judge is of the opinion that, having regard to the amount of the judgment and costs and the means and income of the judgment debtor, the judgment creditor can recover the amount of the judgment and costs from the judgment debtor within a reasonable period by proceeding under the *Collection Act* or any other law relating to the payment of judgments by instalments, the judge may,

instead of granting or refusing an order, adjourn the application *sine die* subject to the right of the judgment creditor to renew the judgment creditor's application if such recovery cannot be effected, and except as provided in this subsection, the possibility that the judgment creditor may be able to recover all or part of the judgment and costs under the *Collection Act* or any other law relating to the payment of judgments by instalments shall not be a ground for refusing an order under subsection (1).

(4) An order made under subsection (1) is subject to appeal by the applicant or by the Minister.

(5) The Minister of Finance and Treasury Board is, subject to a deductible of \$200 with respect to any claim arising out of damage to property, not liable to pay from the Fund under an order more than \$35,000, exclusive of interest and costs, for loss or damage resulting from bodily injury to or the death of one or more persons and damage to property, and where in any one accident loss or damage results from bodily injury or death and loss of or damage to property

(a) any claims arising out of bodily injury or death have priority over claims arising out of loss of or damage to property to an amount of \$30,000; and

(b) any claim arising out of loss or damage to property have priority over claims arising out of bodily injury or death to an amount of \$5,000.

(6) The Minister of Finance and Treasury Board is not required to pay out of the Fund any amount in respect of a judgment in favour of a person who ordinarily resides outside of the Province unless that person resides in a jurisdiction in which recourse of a substantially similar character to that provided by this Section is afforded to residents of the Province.

(7) The Minister of Finance and Treasury Board is not required to pay from the Fund under an order for costs of an action, including costs of the application made under this Section, more than the actual disbursements incurred and the fees payable in respect of the action and application, as taxed on a party and party basis.

(8) This Section does not apply with respect to a judgment recovered for damages caused to a motor vehicle owned by the judgment creditor while in the possession of the judgment debtor with or without the consent of the judgment creditor. R.S., c. 293, s. 212.

Notice of application

270 (1) Notice of an application for an order directing payment of any amount out of the Fund must be served on the Minister not less than 14 days before the application.

(2) Where, upon an application for an order directing payment out of the Fund of the amount of a judgment or an unsatisfied portion of it, it is made to appear that the judgment was entered in an action in which

(a) the defendant did not enter an appearance;

(b) the defendant did not file a statement of defence;

(c) the defendant did not appear in person or by counsel at the trial or on the assessment of damages; or

(d) judgment was signed upon the consent or with the agreement of the defendant,

and that the defendant may have had a defence to the action or that the amount of damages awarded may have been excessive, the judge, upon such terms as to costs or otherwise, including the payment of costs out of the Fund, as the judge thinks fit, may set aside the judgment and grant leave to the Minister to intervene in the action in which the judgment was entered at any stage of the action and to take on behalf of and in the name of the defendant any steps that the defendant might have taken in the action.

(3) Where, pursuant to an order made under subsection (2), the Minister intervenes in an action, the Minister may, on behalf of and in the name of the defendant, enter an appearance, file a statement of defence, conduct the defence, consent to judgment in such amount as the Minister considers proper, or do any other act that the defendant might do and all acts done by the Minister are deemed to be the acts of the defendant.

(4) Notwithstanding any other provision of this Act, when pursuant to subsection (2) a judge orders payment of costs out of the Fund, the Minister of Finance and Treasury Board may comply with the order.

(5) Until the Governor in Council otherwise orders, this Section does not apply to judgments for damages arising out of the ownership, maintenance, operation or use of a motor vehicle on or after January 1, 1959. R.S., c. 293, s. 212.

Judgment Recovery (N.S.) Ltd.

271 (1) Where in any court in the Province a judgment is recovered in an action for damages resulting from bodily injury to or the death of any person or for damage to property and such injury, death or damage was occasioned by or arose out of the operation, ownership, maintenance or use of a motor vehicle by the judgment debtor within the Province, the judgment creditor may, subject to the provisions of this Act, make application for payment of such judgment to Judgment Recovery (N.S.) Ltd.

(2) Notwithstanding subsection (1), no application for payment of a judgment may be made pursuant to that subsection where the judgment is recovered in an action for damages and the damages arose out of the operation, ownership, maintenance or use of a motor vehicle on or after July 1, 1996.

(3) Subject to the other provisions of this Act, Judgment Recovery (N.S.) Ltd. within seven days after an application is made to it under this Section shall pay to the judgment creditor the amount of the judgment or the balance owing thereon, together with one half of the solicitor's costs of the action, as taxed on a party and party basis, and the actual disbursements of the judgment creditor incurred in making the judgment creditor's application to Judgment Recovery (N.S.) Ltd., provided that if Judgment Recovery (N.S.) Ltd. appeals from the original judgment, Judgment Recovery (N.S.) Ltd. shall pay to the judgment creditor the costs of any appeal as taxed on a party and party basis, and the actual disbursements of the judgment creditor in relation to the appeal without regard to the result of the said appeal.

(4) Judgment Recovery (N.S.) Ltd. is not liable for payment of any sum claimed by or on behalf of

(a) an insurer by reason of the existence of a policy of automobile insurance within the meaning of the *Insurance Act*;

(b) the Crown in right of the Province or of Canada, or any agent of the Crown, or any Crown corporation; or

(c) any corporation that maintains a separate insurance fund for the purposes set out in clause 262(1)(b).

(5) Judgment Recovery (N.S.) Ltd. is, subject to a deductible of \$200 with respect to any claim arising out of loss or damage to property, not liable to pay more than \$200,000 inclusive of interest, plus costs, for loss or damage resulting from bodily injury to or the death of one or more persons and loss of or damage to property, and where in any one accident loss or damage results from bodily injury or death and loss of or damage to property

(a) any claim arising out of bodily injury or death has priority over claims arising out of loss of or damage to property to an amount of \$190,000; and

(b) any claim arising out of loss of or damage to property has priority over claims arising out of bodily injury or death to an amount of \$10,000.

(6) Judgment Recovery (N.S.) Ltd. is not liable to pay any sum to a judgment creditor until the judgment creditor assigns the judgment to Judgment Recovery (N.S.) Ltd., and, such assignment having been made, the Registrar is subrogated to all rights of the judgment creditor and of Judgment Recovery (N.S.) Ltd. to the amount of \$200.

(7) When a copy of the assignment to Judgment Recovery (N.S.) Ltd., certified by its appointee to be a true copy, is filed with the prothonotary of the court in which the judgment was obtained, Judgment Recovery (N.S.) Ltd. is, for all purposes related to recovery of the amount due on the judgment, deemed to be the judgment creditor.

(8) This Section does not apply with respect to a judgment recovered for damages caused after April 1, 1961, to a motor vehicle owned by the judgment creditor while in the possession of the judgment debtor with or without the consent of the judgment creditor. R.S., c. 293, s. 213; 1995-96, c. 20, s. 4.

Maximum payment

272 (1) The judgment creditor shall accompany the judgment creditor's application with an affidavit setting out

(a) that the judgment creditor has received

(i) nothing under the judgment or as the result of the accident giving rise to the judgment, or

(ii) as a result of the accident from or on behalf of the judgment debtor, no more than an amount stated in the affidavit and the source or sources of that amount and the

value of real property, goods or services so received as determined under subsection (4);

(b) that no part of the amount sought by the judgment creditor will be paid to an insurer to reimburse or otherwise indemnify the insurer in respect of any amount paid or payable by the insurer by reason of the existence of a policy of automobile insurance within the meaning of Part VII of the *Insurance Act*; and

(c) that no part of the amount sought from Judgment Recovery (N.S.) Ltd. is sought in lieu of making a claim or to the best of the judgment creditor's knowledge, information and belief for the purposes of receiving a payment that is or may be payable by reason of the existence of a policy of automobile insurance within the meaning of Part VII of the *Insurance Act*.

(2) A judgment creditor, who fails to state correctly the amount received as required under clause (1)(a), is liable on summary conviction to a penalty of not more than \$1,000 and, whether or not the judgment creditor is charged under this subsection, Judgment Recovery (N.S.) Ltd. has a right of action for any amount not divulged as required under the said clause.

(3) Judgment Recovery (N.S.) Ltd. is not liable to pay the judgment creditor an amount greater than the amounts set out in Section 271 less any amount stated in the affidavit required by this Section.

(4) The judgment creditor shall pay Judgment Recovery (N.S.) Ltd. any amount, or the value in dollars, to be determined by a judge of Supreme Court of Nova Scotia, of real property, goods or services that the judgment creditor recovers subsequent to payment by Judgment Recovery (N.S.) Ltd. from or on behalf of the judgment debtor as a result of such judgment, and Judgment Recovery (N.S.) Ltd. has a right of action against the judgment creditor to recover such amounts.

(5) Where Judgment Recovery (N.S.) Ltd. recovers any amount on a judgment that has been assigned to it, such amount becomes and remains its property unless and until the Governor in Council directs that, because of unusual or extreme circumstances, the original judgment creditor is entitled to receive the amount by which that recovered exceeds the amount paid out by Judgment Recovery (N.S.) Ltd. with interest thereon at four per cent per year from the date of such payment and all costs, including solicitor's costs on a solicitor and client basis, incurred by Judgment Recovery (N.S.) Ltd. in making the recovery.

(6) Judgment Recovery (N.S.) Ltd. is not required to pay any amount in respect of a judgment in favour of a person who does not ordinarily reside in the Province unless that person resides in a jurisdiction in which recourse of a substantially similar character to that provided by this Act is afforded to residents of the Province. R.S., c. 293, s. 214.

Settlement

273 (1) Where, pursuant to this Section, a settlement is made in respect of a claim for damages for bodily injury to or death of any person or damage to property occasioned by or arising out of the operation, ownership, maintenance or use of a motor vehicle within the Province, then for the purposes of Sections 271,

272, 277 and 278 and subject to this Section the settlement is deemed to be a judgment, the settlement obligor is deemed to be judgment debtor and the settlement obligee is deemed to be a judgment creditor.

(2) For the purpose of this Section, any person who has attained the age of 16 years and who has a claim for bodily injury to or the death of any person or damage to property occasioned by or arising out of the operation, ownership, maintenance or use of a motor vehicle within the Province may, whether or not an originating notice has been issued, negotiate a settlement of the claim with any person or persons against whom the claim exists who has attained the age of 16 years.

(3) A settlement reached under subsection (2) is effective for the purpose of this Section if Judgment Recovery (N.S.) Ltd. is a party to the negotiations and consents to the settlement and takes effect

(a) where all parties to the settlement are of the full age of 19 years, on the date when it is approved by a person appointed by the Minister; or

(b) where any party to the settlement has attained the age of 16 years but has not attained the age of 19 years, on the date when the settlement is approved by a judge of the Supreme Court of Nova Scotia.

(4) Approval by a judge of a settlement described in clause (3)(b) may be granted on an *ex parte* application by Judgment Recovery (N.S.) Ltd., such application to be supported by such affidavit evidence as the judge may require, and if Judgment Recovery (N.S.) Ltd. does not make an application within 14 days of the date on which the parties agree on the terms of the settlement, the approval may be granted upon the *ex parte* application of any party to the settlement.

(5) For all purposes of this Section, including the giving of a release, a person who has attained the age of 16 years has the capacity of a person of the full age of 19 years.

(6) Where the consent of Judgment Recovery (N.S.) Ltd. mentioned in subsection (3) is given to at least the limits set out in Section 271 a larger amount may be agreed upon by the parties to the settlement other than Judgment Recovery (N.S.) Ltd., provided that nothing herein contained imposes an obligation on Judgment Recovery (N.S.) Ltd. to pay any amount in excess of those limits.

(7) No costs may be awarded or be payable under a settlement made pursuant to this Section but Judgment Recovery (N.S.) Ltd. may in its discretion grant such amount as it considers appropriate in lieu of costs, and the amount so granted must be specifically stated in the terms of settlement.

(8) Should proceedings under this Section fail to result in a settlement, the person having the cause of action shall, if the time limited for instituting action has expired, have a further period of two weeks in which to issue an originating notice, such period to commence on the date notice of intention to withdraw from such proceedings is given by registered letter to the other parties by any one of the parties or from the date on which the person appointed by the Minister pursuant to clause (3)(a) refuses approval, or, where one of the parties to the settlement has

not attained the full age of 19 years, a judge, pursuant to clause (3)(b), refuses approval of the settlement.

(9) Statements or admissions made during negotiation of a settlement under this Section are not admissible against the parties to the settlement in any proceedings arising out of the same cause of action.

(10) Nothing in this Section precludes the settlement of claims as between persons of the full age of 19 years in accordance with subsections (2) and (3) but settlements between those persons do not prejudice the claim of any person under the age of 19 years who is entitled in any event to receive from Judgment Recovery (N.S.) Ltd. the amount that the person would have received if payment of all claims resulting from the accident giving rise to the person's claim had been held in abeyance until the person's claim had been settled in accordance with this Section or determined by judgment.

(11) Where

(a) a claim to which this Section applies is for damage to property only and is for an amount that does not exceed \$1,000;

(b) Judgment Recovery (N.S.) Ltd. has sent by registered mail a request in a form approved by the Superintendent of Insurance to the person alleged to be at fault addressed to the person's address as shown on the records of the Registry of Motor Vehicles or if the person has a different address to the knowledge of Judgment Recovery (N.S.) Ltd. then to both such addresses, requesting that the person negotiate a settlement of the claim or make a written denial of liability; and

(c) the person to whom the request is sent does not, within 30 days of the mailing of the request, either negotiate a settlement of the claim or deliver a written denial of liability to Judgment Recovery (N.S.) Ltd.,

Judgment Recovery (N.S.) Ltd. may on behalf of and in the name of the person alleged to be at fault take any steps that that person might have taken under this Section and enter into negotiations with the claimant and make a settlement under this Section. R.S., c. 293, s. 215.

Hearing to determine obligation of insurer

274 (1) Where

(a) an application is made to Judgment Recovery (N.S.) Ltd. for payment of a claim for loss or damages occasioned by or arising out of the operation, ownership, maintenance or use of a motor vehicle, whether or not an originating notice has been issued or a judgment has been entered;

(b) it appears or is alleged that an insurer may be obligated under a policy of automobile insurance within the meaning of Part VII of the *Insurance Act* to respond to the claim; and

(c) the insurer denies that it is so obligated,

Judgment Recovery (N.S.) Ltd. shall within a reasonable period of time but not to exceed 60 days from the date of such application make an *ex parte* application to a

judge of the Supreme Court of Nova Scotia to set a date for a hearing to determine whether the insurer has such an obligation.

(2) Judgment Recovery (N.S.) Ltd. shall, at least 14 days before the date set for the hearing, give notice of the hearing by serving a copy of the order in the manner provided in the order on

- (a) the insurer appearing or alleged to be obligated to respond to the claim;
- (b) the owner and the driver of the motor vehicle referred to in clause (1)(a); and
- (c) the person making the claim.

(3) Not later than seven days before the date of the hearing an insurer that has been served with a copy of an order pursuant to subsection (2) shall deliver to Judgment Recovery (N.S.) Ltd. and file with the prothonotary or clerk of the court a statement of the grounds upon which it bases its denial of an obligation to respond to the claim.

(4) On the date fixed for the hearing the judge shall hear such evidence as may be adduced by Judgment Recovery (N.S.) Ltd., the insurer and the person or persons referred to in subsection (2) and shall determine whether or not the insurer is obligated to respond to the claim referred to in subsection (1), and the judge may adjourn the hearing and require additional evidence to be called or that the notice of the hearing be served on such additional persons as may be necessary to enable the court to determine the question of the insurer's obligation.

(5) Subject to subsection (6), on a hearing under this Section no evidence, argument or finding may be adduced or made respecting the liability of an owner or driver of a motor vehicle or the amount or extent of that liability or the amount of the liability or obligation of an insurer.

(6) Evidence or arguments purporting to establish any defence referred to in Section 168 of the *Insurance Act* may be adduced or made at a hearing under this Section and if they are adduced or made the judge shall make a finding whether such defences or any of them constitute an effective defence or defences under said Section 168 against the person alleged to be insured but not effective as against a claimant but nothing herein prejudices the right of an insurer subsequently to require a judgment relating to the liability of its insured as a condition precedent to making payment to a claimant.

(7) Where a finding under this Section is that an insurer is not obligated to respond to a claim, Judgment Recovery (N.S.) Ltd. shall respond to the claim in accordance with all statutory provisions relating to Judgment Recovery (N.S.) Ltd.

(8) Judgment Recovery (N.S.) Ltd. and the insurer are not entitled to their costs in connection with a hearing by a judge under this Section but shall bear other costs of the hearing equally unless by reason of special circumstances the judge otherwise orders, and this subsection does not apply to costs of an appeal from a finding or order made under this Section.

(9) Where a hearing is ordered to be held under this Section, further proceedings with respect to the claim that is the subject of the hearing are stayed until the obligation of an insurer or of Judgment Recovery (N.S.) Ltd. to respond to the claim has been finally determined by the judge or on appeal and a further 10 days have elapsed. R.S., c. 293, s. 216.

Appeal

275 The Nova Scotia Court of Appeal is the final court of appeal from a finding or order made pursuant to Section 274. R.S., c. 293, s. 216.

Actions

276 (1) Where in an action in any court in the Province for damages resulting from bodily injury to or the death of any person or damage to property, the defendant does not file a defence, Judgment Recovery (N.S.) Ltd. is not liable to pay any judgment entered by default unless notice of intention to enter judgment has been given to Judgment Recovery (N.S.) Ltd. and 30 days have elapsed after giving that notice.

(2) When Judgment Recovery (N.S.) Ltd. receives notice under subsection (1), it may file a defence on behalf of and in the name of the defendant and may take any steps that the defendant might take in an action.

(3) Where in an action in any court in the Province for damages resulting from bodily injury to or the death of any person or damage to property, the defendant files a defence but

(a) the defendant does not appear in person or by counsel at the trial or on the assessment of damages; or

(b) the defendant is prepared to consent or to agree to the entry of judgment against the defendant,

Judgment Recovery (N.S.) Ltd. is not liable to pay any judgment entered by default or upon consent or agreement or damages assessed unless notice of intention to enter judgment or to assess damages, as the case may be, has been given to Judgment Recovery (N.S.) Ltd. and Judgment Recovery (N.S.) Ltd. has not within 30 days after giving of that notice applied to the court for leave to intervene in the action.

(4) When Judgment Recovery (N.S.) Ltd. receives notice under subsection (3) it may, with leave of the court or a judge, intervene in the action and take on behalf of and in the name of the defendant any steps that a defendant might take in an action.

(5) Where Judgment Recovery (N.S.) Ltd. files a defence pursuant to subsection (2) or intervenes in an action pursuant to subsection (4), it may, on behalf of and in the name of the defendant, whether or not the defendant is an infant, conduct the defence, consent to judgment in such amount as it considers proper, or do any other act that a defendant might do and all acts of Judgment Recovery (N.S.) Ltd. are deemed to be the acts of the defendant, provided, however, that where the defendant is an infant no judgment by consent may be entered without the approval of the court or a judge thereof. R.S., c. 293, s. 218.

Restoration of licence or permit

277 Where the driver's licence of any person, or the permit of a motor vehicle registered in the person's name, has been suspended or cancelled under this Act, and Judgment Recovery (N.S.) Ltd. has paid any amount in or towards satisfaction of a judgment and costs, or either of them, recovered against that person, the cancellation or suspension must not be removed, nor the licence be issued or granted to, or registration be permitted to be made, by that person until that person has satisfied all requirements of this Act in respect of giving proof of financial responsibility and

(a) has paid to the Registrar, notwithstanding that the original judgment creditor has assigned the judgment to Judgment Recovery (N.S.) Ltd. the full amount of the deductible of \$200, if applicable, referred to in subsections 269(5) and 271(5);

(b) has repaid in full to Judgment Recovery (N.S.) Ltd. the amount so paid by it, together with interest thereon at a rate to be determined by the Governor in Council upon the recommendation of the Minister of Finance and Treasury Board from the date of such payment; or

(c) has entered into and is carrying out an arrangement for repayment to Judgment Recovery (N.S.) Ltd. the amount so paid by it in instalments calculated by Judgment Recovery (N.S.) Ltd. in the manner set out in Section 283, or in instalments at such other rate as is satisfactory to it; or

(d) has received from Judgment Recovery (N.S.) Ltd. a satisfaction piece or release of the judgment in respect of which Judgment Recovery (N.S.) Ltd. has made payment. R.S., c. 293, s. 219.

Deductible

278 (1) Judgment Recovery (N.S.) Ltd. shall, with respect to judgments assigned to it, inform the Registrar of the amount of any deductible in a policy of automobile insurance within the meaning of the *Insurance Act* held by the original judgment creditor at the time of the accident out of which the judgment arose that provided coverage against damage to the motor vehicle of the judgment creditor involved in such accident.

(2) The Minister of Finance and Treasury Board shall, if the Registrar has received the \$200 referred to in clause 277(a), pay to the original judgment creditor the amount of the deductible referred to in subsection (1) up to \$200. R.S., c. 293, s. 220.

Effective date of Sections 271 to 277

279 Sections 271 to 277 apply to or in respect of judgments or claims for damages arising out of the ownership, maintenance, operation or use of a motor vehicle on or after January 1, 1959, and before such later date as the Governor in Council declares to be the date from which these Sections no longer apply. R.S., c. 293, s. 221.

Quebec

280 (1) For the purpose of subsection 272(6), the province of Quebec is deemed to be "a jurisdiction in which recourse of a substantially similar character to that provided by this Act is afforded to residents in the Province".

(2) Notwithstanding the provisions of Sections 271 and 272, the Régie de l'assurance automobile du Québec may, in the exercise of its rights of subrogation under the *Automobile Insurance Act* (Quebec), claim from Judgment Recovery (N.S.) Ltd. any amount that a resident of Quebec would be entitled to receive from Judgment Recovery (N.S.) Ltd. if the Régie had paid nothing to the Quebec resident.

(3) Except as provided by Section 307, for the purpose of asserting its rights under subsection (2) against Judgment Recovery (N.S.) Ltd., the Régie shall commence a proceeding in its own name against the person liable for the damages, and the Régie, the defendant and Judgment Recovery (N.S.) Ltd. shall deal with the claim as provided in Sections 271 to 278 as if the proceeding were commenced by the Quebec resident.

(4) This Section comes into force on and not before the effective date of an agreement between the Régie and the Province entered into pursuant to Section 397 of the *Insurance Act*, and applies to accidents occurring on, from and after that date. R.S., c. 293, s. 222.

Assignment of judgment to Minister of Finance and Treasury Board

281 (1) The Minister of Finance and Treasury Board shall not pay from the Fund any sum in compliance with an order until the judgment creditor assigns the judgment to the Minister of Finance and Treasury Board.

(2) When a copy of the assignment of judgment to the Minister of Finance and Treasury Board certified by the Minister of Finance and Treasury Board to be a true copy, is filed with the prothonotary of the court in which the judgment was obtained, the Minister of Finance and Treasury Board is, for all purposes related to recovery of the amount due on the judgment, deemed to be the judgment creditor.

(3) Where the Minister of Finance and Treasury Board recovers any amount on a judgment that has been assigned to the Minister, the Minister shall pay over to the judgment creditor or the judgment creditor's personal representative any amount by which the amount recovered exceeds the amount paid out of the Fund by the Minister of Finance and Treasury Board, together with interest thereon at four per cent per year from the date of such payment and all costs, including solicitor's costs on a solicitor and client basis, incurred by the Minister of Finance and Treasury Board in making the recovery. R.S., c. 293, s. 223.

Restoration of licence or permit

282 Where the driver's licence of any person, or the permit of a motor vehicle registered in the person's name, has been suspended or cancelled under this Act, and the Minister of Finance and Treasury Board has paid from the Fund any amount in or towards satisfaction of a judgment and costs, or either of them, recovered against that person, the cancellation or suspension must not be removed, nor the licence, or permit restored, nor may any new licence be issued or granted to, or registration be permitted to be made by, that person until the person has

(a) repaid in full to the Minister of Finance and Treasury Board the amount so paid by the Minister of Finance and Treasury Board, together with interest thereon at a rate to be determined by the Governor in Council

upon the recommendation of the Minister of Finance and Treasury Board from the date of such payment; and

(b) satisfied all requirements of this Act in respect of giving proof of financial responsibility. R.S., c. 293, s. 224.

Repayment to Fund by instalments

283 (1) Where the Minister of Finance and Treasury Board has paid from the Fund an amount in or towards satisfaction of a judgment and costs, or either of them, recovered against a person, the Minister of Finance and Treasury Board may, on the application of that person, make an order permitting the person to repay to the Minister of Finance and Treasury Board in instalments the amount so paid out of the Fund and interest on that amount.

(2) Payments may not be made under this Section

(a) in instalments at less frequent intervals than every three months; or

(b) in instalments that in a period of one year equal a smaller percentage of the total amount paid out of the Fund than that shown in the following table:

	Amount paid out of Fund	Minimum annual payment per cent of amount paid out of Fund
	up to \$500.00	50 %
\$ 500.01	- \$100,000.00	33 $\frac{1}{3}$ %
1,000.01	- 3,000.00	25 %
3,000.00	- 5,000.00	20 %
5,000.01	- 10,000.00	10 %
10,000.01	- 20,000.00	7 $\frac{1}{2}$ %

(3) When the Minister of Finance and Treasury Board has made an order under this Section and the person in whose favour the order has been made is not in default in complying with the terms of the order and has complied with the requirements referred to in clause 282(b), the Minister may, notwithstanding Section 282, but subject to all other provisions of this Act, restore the driver's licence and owner's permits of the person, or issue a licence and owner's permits to the person.

(4) When a person in whose favour an order has been made under this Section fails to make any payment permitted by the order or within the time prescribed by the order, the Minister shall forthwith suspend the driver's licence and the owner's permits of that person and the person shall thereafter be subject in all respects to the provisions of Section 282.

(5) Any judgment debtor may apply on summary application to the judge of the Supreme Court of Nova Scotia within three months of an application filed for a finding as to the ability of the applicant to repay the Minister of Finance and Treasury Board and if it is then made to appear to the Minister of Finance and Treasury Board that such judge has found that the applicant cannot make payment in instalments of the amounts required by clause (2)(b) without thereby causing a severe hardship to the applicant or to members of the applicant's immediate family, the Minister of Finance and Treasury Board may, notwithstand-

ing such subsection, make an order permitting the applicant to make payments at a lower rate than the rate required by that clause. R.S., c. 293, s. 225.

Regulations respecting Sections 259 to 305

284 Subject to the approval of the Governor in Council, the Minister may make regulations for the more effective carrying out of Sections 259 to 305. R.S., c. 293, s. 226.

Failure to pay judgment

285 (1) Subject to Section 298, the driver's licence or privilege of obtaining a driver's licence and owner's permit or permits, of every person who fails to satisfy a judgment rendered against the person, by any court in the Province, or in any other province of Canada, that has become final by affirmation on appeal, or by expiry without appeal of the time allowed for appeal, for damages of \$100 or more on account of damage to property, or damages on account of bodily injury to, or the death of, any person, occasioned by a motor vehicle, within 15 days from the date upon which such judgment became final, must be forthwith suspended by the Registrar, upon receiving a certificate of such final judgment from the court in which the same is rendered, and remains so suspended, and may not at any time thereafter be renewed, nor may any new driver's licence or owner's permit be thereafter issued to such person until such judgment is satisfied or discharged, otherwise than by a discharge in bankruptcy, to the extent of the minimum level of financial responsibility required at the time of the accident that gave rise to the judgment and until such person gives proof of the person's financial responsibility.

(2) The Governor in Council, upon the report of the Minister that a province or state has enacted legislation similar in effect to subsection (1) and that the legislation extends and applies to judgments rendered and become final against residents of that province or state by any court of competent jurisdiction in the Province, may, by proclamation, declare that subsection (1) extends and applies to judgments rendered and become final against residents of the Province by any court of competent jurisdiction in such province or state.

(3) Where, after such proof of financial responsibility has been given, any other judgment against such person for any accident that occurred before such proof was furnished and after September 1, 1932, is reported to the Registrar, the driver's licence and owner's permit or permits of such person must again be, and remain, suspended until such judgment is satisfied and discharged, otherwise than by a discharge in bankruptcy, to the extent set out in subsection (1).

(4) Where any person to whom subsection (1) applies is not a resident in the Province, the privilege of operating any motor vehicle in the Province, and the privilege of operation in the Province of any motor vehicle registered in the person's name, must be, and is, suspended and withdrawn forthwith by virtue of such judgment until the person has complied with subsection (1). R.S., c. 293, s. 227.

Commercial vehicle insurance

286 (1) The Minister may require commercial motor vehicles or certain commercial motor vehicles to be covered with public liability, property damage, cargo or passenger hazard insurance or any or all such insurance, and such insurance is a condition precedent to the issuance of any permit or licence for such commercial motor vehicles.

(2) Subject to the approval of the Governor in Council, the Minister may make regulations governing

- (a) commercial motor vehicles to be so insured;
- (b) the form and kind of insurance policy or policies;
- (c) the amount of insurance;
- (d) any other matter or thing in connection with such insurance;
- (e) the imposition of penalties for the violation of such regulations.

(3) Such regulations must be published in the Royal Gazette and thereupon become effective and have the same force as if enacted by this Act. R.S., c. 293, s. 228.

Proof of financial responsibility

287 The Minister may require proof of financial responsibility before issue of an owner's permit or driver's licence or the renewal thereof to any person. R.S., c. 293, s. 229; 2003 (2nd Session), c. 1, s. 28.

Liability policy

288 (1) No person shall drive a motor vehicle registered or required to be registered under this Act unless there is in force in respect of the motor vehicle or in respect of the driver of the motor vehicle a motor vehicle liability policy.

(2) In a prosecution for a violation of subsection (1), where the court is satisfied that the defendant failed to produce forthwith upon the request of a peace officer a motor vehicle liability insurance card issued pursuant to Section 260 for a policy as required by subsection (1) that was valid and subsisting at the time of driving, such failure is proof, in the absence of evidence to the contrary, that there was not in force at the time of driving a motor vehicle liability policy as required by subsection (1).

(3) No person may be convicted of a violation of subsection (1) if the person establishes that at the time the motor vehicle was driven,

- (a) proof of financial responsibility in the amounts and to the limits required by Section 294 and in one of the forms permitted by Section 295 has been given; or
- (b) a financial responsibility card was issued under Section 262,

in respect of the person or the motor vehicle. R.S., c. 293, s. 230; 1999, c. 11, s. 7.

Liability policy for motor vehicle registered in another jurisdiction

289 (1) No person shall drive a motor vehicle registered in another province of Canada or in a state unless there is in force in respect of the motor vehicle or in respect of the driver of the motor vehicle a motor vehicle liability policy.

(2) In a prosecution for a violation of subsection (1), where the court is satisfied that the defendant failed to produce forthwith upon the request of a

peace officer a motor vehicle liability insurance card issued pursuant to the law of the jurisdiction in which the motor vehicle is registered for a policy as required by subsection (1) that was valid and subsisting at the time of driving, such failure is proof, in the absence of evidence to the contrary, that there was not in force at the time of driving a motor vehicle liability policy as required by subsection (1).

(3) No person may be convicted of a violation of subsection (1) if the person establishes that at the time the motor vehicle was driven,

(a) proof of financial responsibility in the amounts and to the limits required by the law of the jurisdiction in which the motor vehicle is registered; or

(b) a financial responsibility card was issued under the law of the jurisdiction in which the motor vehicle is registered,

in respect of the person or the motor vehicle. 2004, c. 6, s. 23.

Suspension of licence after accident

290 (1) Subject to subsections (2) and (3), where damage to property in an amount apparently of \$50 or more or bodily injury to, or the death of, any person results from an accident in which a motor vehicle is in any manner, directly or indirectly involved, if the motor vehicle is, or is required to be, registered under this Act, the Registrar, on receipt of notice in writing of the accident, shall suspend the licence or the privilege of obtaining a licence of the driver and the permit of every motor vehicle registered in the name of the owner and of the driver.

(2) Where a person whose permit, licence or privilege of obtaining a licence is subject to suspension under this Section satisfies the Registrar that

(a) at the time of the accident the motor vehicle was a stolen vehicle; or

(b) the only damage resulting from the accident is to the person or property of the owner and of the driver and of passengers in the vehicle,

if the suspension has not already become effective, the Registrar shall not suspend the permit, licence or privilege of obtaining a licence, and if it has become effective the Registrar shall reinstate the permit, licence or privilege of obtaining a licence so suspended.

(3) Where a person whose permit, licence or privilege of obtaining a licence is subject to suspension under this Section produces to the Registrar a financial responsibility card or a motor vehicle liability insurance card in respect of the motor vehicle involved in the accident and in full force at the time of the accident or where the Registrar is satisfied that at the time of the accident a financial responsibility card or a motor vehicle liability insurance card is in full force in respect of such motor vehicle, then if the suspension has not already become effective the Registrar shall not suspend the permit, licence or privilege of obtaining a licence, and if it has become effective the Registrar shall reinstate the permit, licence or privilege of obtaining a licence so suspended.

(4) Where a person whose driver's licence or the privilege of obtaining a licence is subject to suspension under this Section produces to the Registrar a financial responsibility card or a motor vehicle liability insurance card in

respect of a motor vehicle liability policy issued to or for the benefit of that person as a driver that is in full force at the time of the accident or where the Registrar is satisfied that at the time of the accident there was in full force a motor vehicle liability insurance policy in the amount specified in Section 294 issued to or for the benefit of that person as a driver then if the suspension has not already become effective the Registrar shall not suspend the licence or the privilege of obtaining a licence, or if it has become effective the Registrar shall reinstate the licence or the privilege of obtaining a licence so suspended.

(5) Subject to subsections (2) and (3), every licence, privilege of obtaining a licence, and every permit suspended pursuant to subsection (1) must remain so suspended, nor may any new licence be thereafter issued to or permit for the same or any other motor vehicle be permitted to be made by, the person whose licence, privilege of obtaining a licence, or permit has been so suspended until the person gives proof of financial responsibility to the amounts and in any of the forms mentioned in Sections 294 and 295, and

(a) gives security, sufficient in the opinion of the Registrar, to satisfy any judgment that may thereafter be recovered against such person as a result of the accident, or any sum that may be agreed upon as liquidated damages, but subject to the limits as to amount stated in Section 263; or

(b) produces to the Registrar proof satisfactory to the Registrar that the person has satisfied all claims against the person for damage to property in an amount of \$50 or more and for damages for bodily injury to, or the death of, any person, resulting from the accident, up to the limits as to amount stated in Section 263.

(6) Where

(a) one year has elapsed since the date of an accident and the owner or driver, respectively, of a motor vehicle in any manner, directly or indirectly, involved therein

(i) has neither paid or agreed to pay any sum as damages in respect of bodily injury to, or the death of, any person, or any sum of \$50 or more for damages to property, resulting from the accident,

(ii) has not been named as defendant in an action for damages as a result of the accident, and

(iii) is not required to give proof of financial responsibility under another Section of this Act; or

(b) judgment in an action for damages resulting from the accident brought against such owner or driver has been given in the owner's or driver's favour, and the owner or driver is not required to give proof of financial responsibility under another Section of this Act,

such owner or driver, as the case may be, is not thereafter required to maintain proof of financial responsibility, and the Registrar shall return to the owner or driver any security given by the owner or driver pursuant to subsection (5).

(7) Where a person whose permit, licence or privilege of obtaining a licence is suspended under this Section satisfies the Registrar that the person

has satisfied all claims against the person for damage to property in an amount of \$50 or more and for damages for bodily injury to, or the death of, any person, resulting from the accident, and that person is not required to give proof of financial responsibility under another Section of this Act, the person is not, after the expiration of two years from the date of the accident, required to maintain proof of financial responsibility, and the Registrar shall return to the person any security given by the person pursuant to subsection (5). R.S., c. 293, s. 231.

Suspension of non-resident

291 (1) Subject to subsections (2) and (3) and Section 292, where a person, who is not a resident of the Province, is the driver or owner of a motor vehicle that is in any manner directly or indirectly involved in an accident causing damage to property in an amount apparently of \$50 or more or bodily injury to or the death of, any person, that person's privilege of driving a motor vehicle in the Province and the privilege of using or having in the Province a motor vehicle registered in another province, state or country in the name of that person, other than to remove it from the Province, are forthwith suspended and withdrawn.

(2) Where a person whose privileges are subject to suspension and withdrawal under this Section satisfies the Registrar that

(a) at the time of the accident the motor vehicle was a stolen vehicle; or

(b) the only damage resulting from the accident is to the person or property of the owner and of the driver and of passengers in the vehicle,

the Registrar shall restore the privileges so suspended or withdrawn.

(3) Where a person whose privileges are subject to suspension and withdrawal under this Section

(a) produces to the Registrar a financial responsibility card or a motor vehicle liability insurance card in respect of the motor vehicle involved in the accident and in full force at the time of the accident; or

(b) where the Registrar is satisfied that at the time of the accident there was in force a motor vehicle liability policy issued to that person or for that person's benefit by an insurer

(i) licensed to do business in the Province, or

(ii) who complies with the conditions set out in subsection 295(3), or

(iii) authorized to do business in any province or territory of Canada in which there is in force, in the opinion of the Registrar, legislation to the same effect as Section 161 of the *Insurance Act*,

the Registrar shall restore the privileges so suspended or withdrawn.

(4) Subject to subsections (2) and (3) and Section 292, any privilege suspended or withdrawn under subsection (1) remains suspended and with-

drawn until the person gives proof of financial responsibility to the amounts and in any of the forms mentioned in Sections 294 and 295, and

(a) gives security, sufficient in the opinion of the Registrar, to satisfy any judgment that may thereafter be recovered against such person as a result of the accident, or any sum that may be agreed upon as liquidated damages, but subject to the limits as to amount stated in Section 263; or

(b) produces to the Registrar proof satisfactory to the Registrar that the person has satisfied all claims against the person for damage to property in an amount of \$50 or more and bodily injury to, or the death of, any person, resulting from the accident up to the limits as to amount stated in Section 263. R.S., c. 293, s. 232.

Voluntary filing of proof of financial responsibility

292 (1) An owner's permit and driver's licence or, in the case of a person not resident in the Province, the privilege of operating any motor vehicle in the Province and the privilege of operation within the Province of any motor vehicle owned by such non-resident, may not be suspended or withdrawn under Sections 259 to 305 if such owner, driver or non-resident has voluntarily filed or deposited with the Registrar, prior to the offence or accident, out of which any conviction, judgment or order arises, proof of financial responsibility that, at the date of such conviction, judgment or order, is valid and sufficient for the requirements of this Act.

(2) The Registrar shall receive and record proof of financial responsibility voluntarily offered, and if any conviction or judgment against such person is thereafter notified to the Registrar that, in the absence of such proof of financial responsibility would have caused the suspension of the driver's licence or owner's permit under this Act, the Registrar shall forthwith notify the insurer or surety of such person of the conviction or judgment so reported. R.S., c. 293, s. 233.

Failure to maintain financial responsibility

293 (1) Where proof of financial responsibility is given by any person required to give proof of financial responsibility pursuant to the provisions of Section 261 or 290 and such proof of financial responsibility is no longer maintained and such person has not been subsequently exempted from maintaining proof of financial responsibility, the Registrar shall suspend every driver's licence or privilege of obtaining a driver's licence and owner's permit or permits of such person issued pursuant to this Act until such proof of financial responsibility is again maintained.

(2) Where any person to whom subsection (1) applies is not a resident of the Province, the privilege of operating a motor vehicle within the Province and the privilege of operation within the Province of a motor vehicle owned by the person is suspended and withdrawn forthwith until the person again maintains proof of financial responsibility. R.S., c. 293, s. 234.

Amount of financial responsibility

294 Except as otherwise provided, where proof of financial responsibility is required to be given by any person pursuant to Sections 259 to 305, inclusive, it must be given in the amount of \$500,000 by a driver and, in the case of an owner, in

the amount of \$500,000 for each motor vehicle registered in the person's name. 2003 (2nd Sess.), c. 1, s. 29; 2015, c. 45, s. 10.

Manner of proof of financial responsibility

295 (1) Proof of financial responsibility may be given in any one of the following forms:

(a) the written certificate or certificates, filed with the Registrar, of any authorized insurer that it has issued, to or for the benefit of the person named therein, a motor vehicle liability policy or policies in form hereinafter prescribed that, at the date of the certificate or certificates, is in full force and effect and that designates therein, by explicit description, or by other adequate reference, all motor vehicles to which the policy applies, and any such certificate or certificates must be in the form approved by the Registrar and must cover all motor vehicles registered in the name of the person furnishing such proof, and the said certificate or certificates, must certify that the motor vehicle liability policy or policies therein mentioned may not be cancelled or expire, except upon 10 days prior written notice thereof to the Registrar, and until such notice is duly given the said certificate or certificates are valid and sufficient to cover the term of any renewal of such motor vehicle liability policy by the insurer, or any renewal or extension of the term of such driver's licence or owner's permit by the Minister or the Department;

(b) the bond of an approved guarantee or surety company, or a bond with personal sureties, approved as adequate security hereunder;

(c) the certificate of the Treasurer that the person named therein has deposited with the Treasurer a sum of money or securities for money approved by the Treasurer in the amount or value of \$500,000 for each motor vehicle registered in the name of such person, the Treasurer shall accept any such deposits and issue a certificate therefor, if such deposit is accompanied by evidence that there are no unsatisfied executions against the depositor registered in the office of the sheriff for the county in which the depositor resides;

(d) where the owner of a trolley coach is a corporation, the written certificate of the Superintendent of Insurance for the Province showing that the corporation maintains an accident reserve or separate insurance fund for the purpose of satisfying therefrom *inter alia* liabilities it may incur resulting from the death of or bodily injuries to any person or damage to property occasioned by or arising out of the ownership, maintenance, operation or use of a motor vehicle by the corporation and indicating that, in the opinion of the Superintendent of Insurance, the reserve or fund is adequate to satisfy all such liabilities that the corporation is likely to incur.

(2) The Minister may, in the Minister's discretion, at any time, require additional proof of financial responsibility, to that filed or deposited by any driver or owner pursuant to this Act, and the Registrar may suspend the driver's licence and owner's permit or permits pending such additional proof.

(3) A person who is not a resident of the Province may, for the purposes of this Act, give proof of financial responsibility as provided in subsection (1), or by filing a certificate of insurance in a form approved by the Registrar issued by any insurer authorized to transact insurance in the province or state in which the person resides, provided the insurer has filed with the Registrar, in the form prescribed by the Registrar,

(a) a power of attorney authorizing the Registrar to accept service of notice or process for itself and for its insured in any action or proceeding arising out of a motor vehicle accident in the Province;

(b) an undertaking to appear in any such action or proceeding of which it has knowledge; and

(c) an undertaking not to set up as defence to any claim, action or proceeding under a motor vehicle liability policy issued by it, a defence that might not be set up if such policy had been issued in the Province in accordance with the law of the Province relating to motor vehicle liability policies, and to satisfy up to the limits of liability stated in the policy, any judgment rendered and become final against it or its insured by a court in the Province in any such action or proceeding.

(4) Where an insurer that has filed the documents described in subsection (3) defaults thereunder, certificates of the insurer are not thereafter accepted as proof of financial responsibility under this Act so long as the default continues, and the Registrar shall forthwith notify the registrar of motor vehicles or other officer, if any, in charge of registration of motor vehicles and the licensing of operators in all provinces and states where the certificates of the insurer are accepted as proof of financial responsibility. R.S., c. 293, s. 236; 2003 (2nd Session), c. 1, ss. 30, 31.

Use of security

296 (1) The bond filed with the Registrar and the money or securities deposited with the Minister of Finance and Treasury Board must be held by the Minister in accordance with this Act, as security for any judgment against the owner or driver filing the bond or making the deposit, in any action arising out of damage caused after such filing or deposit, by the operation of any motor vehicle.

(2) Money and securities so deposited with the Minister of Finance and Treasury Board is not subject to any claim or demand, except an execution on a judgment for damages, for personal injuries, or death, or injury to property occurring after such deposit, as a result of the operation of a motor vehicle.

(3) Where a judgment to which Sections 259 to 305 apply is rendered against the principal named in the bond filed with the Registrar, and the judgment is not satisfied within 15 days after it has been rendered, the judgment creditor may, for the judgment creditor's own use and benefit, and at the judgment creditor's sole expense, bring an action on the bond in the name of the Minister of Finance and Treasury Board, against the persons executing the bond. R.S., c. 293, s. 237.

Chauffeur or family member

297 Where the Registrar finds that any driver to whom Sections 259 to 305 apply was, at the time of the offence for which the driver was convicted,

employed by the owner of the motor vehicle involved therein as chauffeur, or motor vehicle operator, whether or not so designated, or was a member of the family or household of the owner, and that there is no motor vehicle registered in the Province in the name of such driver as an owner, then, if the owner of such motor vehicle submits to the Registrar, who is authorized to accept it, proof of the owner's financial responsibility, as provided by this Act, such chauffeur, operator or other person, is relieved of the requirement of giving proof of financial responsibility on the chauffeur's, operator's or other person's own behalf. R.S., c. 293, s. 238.

Payment of judgment by instalment

298 (1) A judgment debtor to whom Sections 259 to 305 apply may, on due notice to the judgment creditor, apply to the court in which the trial judgment was obtained for the privilege of paying the judgment in instalments, and the court may, in its discretion, so order, fixing the amounts and times of payment of the instalments.

(2) While the judgment debtor is not in default in payment of such instalments, the judgment debtor is deemed not in default for the purposes of this Act in payment of the judgment, and upon proof of financial responsibility for future accidents pursuant to this Act, the Minister may restore the driver's licence or privilege of obtaining a driver's licence and owner's permits, of the judgment debtor, but such driver's licence or privilege of obtaining a driver's licence and owner's permits are again be suspended and remain suspended, as provided in Section 285, if the Registrar is satisfied of default made by the judgment debtor, in compliance with the terms of the court order. R.S., c. 293, s. 239.

Report to Registrar of judgment or conviction

299 (1) It is the duty of the clerk or prothonotary of the court, or of the court where there is no clerk or prothonotary, in which any final order, judgment or conviction to which Sections 259 to 305 apply, is rendered, to keep an adequate record of any such final order, judgment or conviction and to forward by prepaid registered post to the Registrar, immediately after the date upon which the order, judgment or conviction becomes final by affirmation upon appeal, or by expiry without appeal of the time allowed for appeal a certified copy of the order, judgment or conviction, or a certificate thereof, in form prescribed by the Registrar.

(2) Any such copy or certificate is prima facie evidence of the order, judgment or conviction.

(3) The clerk or other official charged with this duty of reporting to the Registrar, is entitled to collect and receive a fee of one dollar for each copy or certificate hereby required, which fee must be paid as part of the court costs, in case of a conviction, by the person convicted, and, in case of an order or judgment, by the person for whose benefit judgment is issued.

(4) Where the defendant is not resident in the Province, it is the duty of the Registrar to transmit to the registrar of motor vehicles or other officer, if any, in charge of the registration of motor vehicles and the licensing of operators in the province or state in which the defendant resides, a certificate of the said order, judgment or conviction. R.S., c. 293, s. 240.

Abstract of record

300 (1) The Registrar shall, upon request, and on payment of the prescribed fee, furnish to any insurer, surety or other person, a certified abstract of the operating record of any person subject to this Act which abstract must fully designate the motor vehicles, if any, registered in the name of such person, and the record of any conviction of such person for a violation of any provision of any statute relating to the operation of motor vehicles, any suspension under Section 341 or 349, or any judgment against such person for any injury or damage caused by such person, according to the records of the Registrar, and if there is no record of any such conviction, suspension or judgment in the office of the Registrar, the Registrar shall so certify.

(2) The Registrar, upon written request, shall furnish any person who may have been injured in person or property by any motor vehicle with all information of record in the Registrar's office pertaining to the proof of financial responsibility of any owner or driver of any motor vehicle furnished pursuant to this Act. R.S., c. 293, s. 241; 2009, c. 21, s. 1; 2018, c. 3, s. 54.

Return of licence and permit and plates

301 (1) Any owner or driver whose permit or licence has been suspended, as herein provided, or whose policy of insurance or surety bond, has been cancelled or terminated as herein provided, or who neglects to furnish additional proof of financial responsibility upon the request of the Registrar as herein provided, shall immediately return to the Registrar the owner's or driver's driver's licence, the owner's or driver's motor vehicle permit or permits, and all number plates issued thereunder.

(2) Where any such person fails to return the person's licence, permits and plates as provided herein the Registrar may direct any peace officer to secure possession thereof and return the same to the office of the Registrar.

(3) Any person failing to return the person's licence, permits and plates when so required, or refusing to deliver the same when requested to do so by the peace officer, is guilty of an offence. R.S., c. 293, s. 242; 2002, c. 10, s. 18.

Transfer of suspended permit or registration

302 Where an owner's permit has been suspended under Sections 259 to 305, the permit may not be transferred nor the motor vehicle in respect of which the permit was issued, registered in any other name until the Registrar is satisfied that the transfer or registration is proposed in good faith and not for the purpose, or with the effect, of defeating the purposes of this Act. R.S., c. 293, s. 243.

Period of maintaining proof

303 Where proof of financial responsibility is required pursuant to Section 285 before the issuance of an owner's permit or driver's licence or the renewal thereof, such proof must be maintained for a period of three years or such longer period as the Minister directs. R.S., c. 293, s. 244.

Cancellation of bond or return of security

304 (1) The Minister may cancel any bond or return any certificate of insurance, or the Minister of Finance and Treasury Board may, at the request of the

Minister, return any money or securities deposited pursuant to Sections 259 to 305, as proof of financial responsibility, at any time after three years from the date of the original deposit thereof, provided that the owner or driver on whose behalf such proof was given has not, during the said period, or any three-year period immediately preceding the request, been convicted of any offence mentioned in Section 261 and provided that no action for damages is pending and no judgment is outstanding and unsatisfied in respect of damage to property in an amount of \$50 or more or bodily injury to, or the death of any person resulting from the operation of a motor vehicle, and a statutory declaration of the applicant under this Section is sufficient evidence of the facts in the absence of evidence to the contrary in the records of the Registrar.

(2) The Minister may direct the return of any bond, money or securities, to the person who furnished the same, upon the acceptance and substitution of other adequate proof of financial responsibility, pursuant to this Act.

(3) The Minister may direct the return of any bond, money or securities deposited under this Act to the person who furnished the same at any time after three years from the date of the expiration or surrender of the last owner's permit or driver's licence issued to such person, if no written notice has been received by the Registrar within such period of any action brought against such person in respect of the ownership, maintenance or operation of a motor vehicle, and upon the filing by such person with the Registrar of a statutory declaration that such person no longer resides in the Province, or that such person had made a bona fide sale of any and all motor vehicles owned by the person, naming the purchaser thereof, and that the person does not intend to own or operate any motor vehicle in the Province within a period of one or more years. R.S., c. 293, s. 245.

Motor vehicle liability policy and certificate

305 (1) A motor vehicle liability policy referred to in this Act must be in the form prescribed by Part VII of the *Insurance Act* for an owner's policy or a driver's policy, as the case may be, and approved thereunder by the Registrar for the purposes of this Act.

(2) Any insurer that has issued a motor vehicle liability policy shall, as and when the insured may request, deliver to the insured for filing or file direct with the Registrar, a certificate for the purposes of this Act.

(3) A certificate filed with the Registrar for the purposes of this Act is deemed to be a conclusive admission by the insurer that a policy has been issued in the form prescribed by subsection (1) and in accordance with the terms of the certificate.

(4) An insurer shall, at the request of the Registrar, notify the Registrar of the cancellation or expiry of the motor vehicle liability policy to which the request relates and the date on which the policy was cancelled or expired.

(5) Where a person, who is not a resident of the Province, is a party to an action for damages arising out of a motor vehicle accident in the Province for which indemnity is provided by a motor vehicle policy, the insurer named in the policy shall, as soon as it has knowledge of the action from any source, and whether or not liability under such policy is admitted, notify the Registrar in writing, specifying the date and place of the accident and the names and addresses of the

parties to the action and of the insurer, which notification is open to inspection by parties to the action.

(6) Notwithstanding anything in this Act contained, the Registrar may decline to accept as proof of financial responsibility the certificates of any insurer that fails to comply with subsection (5). R.S., c. 293, s. 246; 2003 (2nd Session), c. 1, s. 32; 2015, c. 45, s. 13.

DEMERIT RATING

Driver record

306 (1) The Minister may require the Registrar to keep records of or classify persons who have been convicted for a violation of any statute relating to the operation of motor vehicles, or who have been responsible for accidents or who have been required to prove their financial responsibility under this Act, or whose operating record has otherwise shown them to be extra hazardous risks for the purpose of motor vehicle liability insurance.

(2) Upon request of the Registrar any authorized insurer shall certify to the Registrar the premium rate that has been charged any person for motor vehicle liability insurance and furnish the Registrar with a certified copy of any motor vehicle liability insurance policy issued to the person. R.S., c. 293, s. 247.

LIABILITY OF OWNER

Hit and run claim

307 (1) Subject to the other provisions of this Section, where the death or personal injury to any person is occasioned in the Province by reason of ownership, maintenance, operation or use of a motor vehicle and the person having a cause of action in respect of the death or injury cannot establish

(a) the identity of the motor vehicle and of the driver and owner thereof; or

(b) the identity of the driver, where at the time the death or injury was caused the vehicle was in the possession or charge of a person without the consent of the owner,

the person having the cause of action in respect of the death or injury may bring an action in the Supreme Court of Nova Scotia against the Registrar in the Registrar's name of office.

(2) No action may be brought against the Registrar under this Section unless two months previous notice in writing of intention to bring the action has been given to the Registrar, which notice contains the name and residence of the intended plaintiff and a statement of the cause of action, and is accompanied by an affidavit of the intended plaintiff or some person on the intended plaintiff's behalf that there exist in the case the circumstances set out in clauses (5)(a) to (d).

(3) No action may be brought under this Section after the expiry of one year from the date on which the cause of action arose.

(4) In any action brought under this Section, the Registrar is, for the purposes of the action, deemed to be the defendant, but is not liable personally or in the an official capacity for payment of any judgment rendered in the action.

(5) Where, on the trial of an action brought under this Section, the court is satisfied that

(a) the plaintiff would have a cause of action against the owner or driver of the motor vehicle in respect of the death or personal injury occasioned by the motor vehicle;

(b) all reasonable efforts have been made to ascertain the identity of the motor vehicle and of the owner and driver thereof;

(c) the identity of the motor vehicle and the owner and driver thereof cannot be established, or where the vehicle was in the possession or charge of a person without the consent of the owner, that the identity of the driver cannot be established; and

(d) the action is not brought by or on behalf of an insurer in respect of any amount paid or payable by reason of the existence of a policy of automobile insurance within the meaning of Part VII of the *Insurance Act* and that no part of the amount sought to be recovered in the action is sought in lieu of making a claim or receiving a payment that is payable by reason of the existence of a policy of automobile insurance within the meaning of that Act and that no part of the amount so sought will be paid to an insurer to reimburse or otherwise indemnify the insurer in respect of any amount paid or payable by it by reason of the existence of a policy of automobile insurance within the meaning of that Act,

the court may order the entry against the Registrar of any judgment for damages that it might have ordered against the owner or driver of the motor vehicle in an action by the plaintiff.

(6) No costs or disbursements may be allowed or awarded against the Registrar in an action under this Section.

(7) A judgment against the Registrar must not include any amount for compensation or indemnity for damages in respect of which the plaintiff has received or is entitled to receive compensation or indemnity from any person other than the driver or owner of the motor vehicle that occasioned the personal injury or death.

(8) For the purpose of exercising its rights of subrogation under the *Automobile Insurance Act* (Quebec), the Régie de l'assurance automobile du Québec may commence a proceeding in its own name against the Registrar and obtain a judgment in respect of any matter concerning which a resident of Quebec is entitled to commence a proceeding and obtain a judgment under this Section.

(9) The Régie, the Registrar and Judgment Recovery (N.S.) Ltd. shall deal with the claim and any judgment under subsection (8), and the Régie may recover against Judgment Recovery (N.S.) Ltd., as if the proceeding were commenced by the Quebec resident in respect of whom the Régie has its rights of subrogation.

(10) Subsections (8) and (9) come into force on and not before the effective date of an agreement between the Régie and the Province entered into pursuant to Section 397 of the *Insurance Act*, and apply to accidents occurring on, from and after that date. R.S., c. 293, s. 256.

Identifying person in charge of vehicle

308 (1) When a motor vehicle is operated in violation of any of the provisions of this Act or of the regulations made under this Act, the registered owner of the vehicle on the request of the Registrar or of any peace officer shall, within 48 hours of the request, supply the Registrar or the peace officer with the name and address of the person in charge of the vehicle at the time of such violation.

(2) A registered owner, who refuses, fails, neglects or is unable to supply the name and address of the person in charge of the vehicle within 48 hours after being so requested, is liable on summary conviction to the penalty prescribed for the offence of the driver.

(3) Where under this Section the registered owner of a motor vehicle, at the request of the Registrar or a peace officer, supplies the name of a person who had the motor vehicle with the consent of the owner, that person on the request of the Registrar or of any peace officer shall, within 48 hours of the request, supply the Registrar or the peace officer with the name and address of the person in charge of the vehicle at the time of the violation.

(4) A person who is requested pursuant to subsection (3) to supply the name and address of the person in charge of a vehicle and who refuses, fails, neglects or is unable to supply the name and address of the person in charge of the vehicle within 48 hours after being so requested is liable on summary conviction to the penalty prescribed for the offence of the driver.

(5) In lieu of imprisonment in default of payment of a fine pursuant to subsections (2) and (4), Sections 322 and 328 apply except that

(a) a reference to “Minister” or “Crown” is to be read and construed to include a reference to a city, town or municipality to which the proceeds of the fine are payable; and

(b) a reference to “Registrar” is to be read and construed to include a reference to the clerk of that city, town or municipality.

(6) In any prosecution under this Section it is a defence if the registered owner or the person who had the vehicle with the consent of the registered owner, as the case may be, can prove that the vehicle was being operated at the time of the violation without the registered owner’s knowledge or consent, either expressed or implied.

(7) For the purpose of this Section, “registered owner” includes, in the case of a vehicle registered in another jurisdiction, the person who is the registered owner of that vehicle in that jurisdiction. R.S., c. 293, s. 258.

Liability of owner and driver

309 (1) The owner of a motor vehicle incurs the fine provided for any violation of this Act or of any rule or regulation made by the Governor in Council,

unless at the time of such violation the motor vehicle was in the possession of some person other than the owner without the owner's consent either expressed or implied, and the driver of a motor vehicle not being the owner also incurs the penalties or other consequences provided for any such violation.

(2) In lieu of imprisonment in default of payment by the owner of a motor vehicle of the fine referred to in subsection (1), Sections 322 and 328 apply except that

(a) a reference to "Minister" or "Crown" is to be read and construed to include a reference to a city, town or municipality to which the proceeds of the fine are payable; and

(b) a reference to "Registrar" is to be read and construed to include a reference to the clerk of that city, town or municipality.

(3) Where the owner of a motor vehicle is present therein at the time of the violation of any of the provisions of this Act, by another person operating the motor vehicle, the owner as well as the other person is guilty of the offence. R.S., c. 293, s. 259.

Operation in illegal manner or when illegally equipped

310 (1) It is an offence for the owner, lessor or lessee of a motor vehicle, or for any person employing or otherwise directing the driver of a motor vehicle to require the operation of a motor vehicle upon a highway when the vehicle is equipped otherwise than as required or permitted by law, or is in excess of a weight permitted by law, or the operation of any vehicle in any manner contrary to law.

(2) No person shall operate or have in the person's charge upon a highway a vehicle that is not equipped in the manner required by this Act or the regulations or that is equipped in a manner prohibited by this Act or the regulations. R.S., c. 293, s. 260.

PART VII

PROCEDURE

Arrest without warrant

311 (1) A peace officer may arrest without warrant a person whom the peace officer finds committing an offence or has reason to believe has recently committed an offence against this Act.

(2) A peace officer making such arrest without warrant shall with reasonable diligence take the person arrested before a judge of the provincial court or justice of the peace to be dealt with according to law. R.S., c. 293, s. 261.

Regulations respecting voluntary penalty

312 (1) The Minister, with the approval of the Governor in Council, may make regulations providing for the voluntary payment of a penalty not less than the minimum penalty for a violation of this Act and providing for the persons or offices to or at which the voluntary penalty may be paid and providing generally as to the conditions that must exist before a voluntary payment of a penalty may be permitted.

(2) Such payment must be a full satisfaction, release and discharge of all penalties and imprisonments incurred by the person for the violation.

(3) A payment may not be accepted pursuant to this Section for a violation of this Act for which points are required to be entered pursuant to Section 358 unless the person signs a statement at the time payment is made in the following form:

The undersigned who is alleged to be guilty of *(describe offence)* acknowledges that by virtue of the payment of \$ made pursuant to Section 312 of the *Motor Vehicle Act*, the points required to be entered on the record of a person convicted of the described offence will be entered on the record of the undersigned pursuant to Section 358 of the *Motor Vehicle Act*.

R.S., c. 293, s. 262.

Prior conviction

313 (1) A conviction may in any case be made under this Act as for a first offence notwithstanding that there has been a prior conviction for a first or any other offence or that the charge is for a second or third or a subsequent offence.

(2) Where it is disclosed during any trial that the accused person has been convicted previously of the same offence, the judge of the provincial court or justice of the peace, if the judge or justice finds such person guilty, shall impose the penalty prescribed for a second, third or subsequent offence as the case may be whether or not the second, third or subsequent offence is stated in the charge. R.S., c. 293, s. 263.

Evidence

314 (1) In any proceedings in any court it is not necessary to produce the original of any book, document, regulation or register kept in the possession of the Department, but a copy or an extract, certified by the Registrar, under the seal of the Department or a certificate signed by the Registrar as to certain facts appearing on the records of the Department, must be received in evidence as sufficient proof of the contents of the original without proof of such seal or of such signature or of the official character of the person appearing to have signed the same.

(2) A certificate under the signature of the Registrar and the seal of the Department that a certificate, a permit or a licence has or has not been issued to a certain person, that a certain person is or is not the owner or the registered owner of a certain motor vehicle or that number plates have been issued to and are owned by an individual is sufficient proof of the matters contained therein, and such certificate must be received in evidence without proof of such seal or of such signature or of the official character of the person appearing to have signed the same.

(3) A certificate purporting to be signed by the Registrar and to bear the seal of the Department that the Registrar has not received a report of an accident must be received in evidence without proof of the signature or seal or of the official character of the person who appears to have signed the certificate and is prima facie proof that the driver of the vehicle involved in the accident did not report the accident as required by subsection 113(1).

(4) An abstract of the driving record of a driver that purports to be signed by the Registrar and bear the seal of the Department must be received in evi-

dence without proof of the signature, seal or official character of the person who appears to have signed the abstract, and is prima facie proof of its contents.

(5) Any document referred to in subsection (1), (2) or (4) certified by, under the signature of or purporting to be signed by an official in another province performing duties similar to those of the Registrar and bearing the seal of a department in another province, or a facsimile of the document, must be received in evidence in the same manner and has the same effect as a document received in evidence pursuant to subsection (1), (2) or (4) and Section 315 applies with necessary changes. R.S., c. 293, s. 264; 1995-96, c. 23, s. 4; 2002, c. 20, s. 5.

Facsimile signature

315 Where the Minister, the Registrar, Deputy Registrar, Director of Highway Safety or any other officer of the Department is required or authorized to sign a document of any kind, the document is deemed to be signed where the signing is carried out by means of an engraving, lithograph, stamp or other facsimile. R.S., c. 293, s. 265.

Notice of conviction or appeal to Registrar

316 (1) In this Section, “court” means a judge, justice, prothonotary, clerk of the court, clerk of the Crown or a person acting in any such capacity.

(2) Where a conviction is entered or an appeal is concluded upon a charge under this Act or under any provision of the *Criminal Code* (Canada) having particular relation to a motor vehicle, the court shall certify the same to the Registrar and, where an appeal is commenced in respect of such a charge, the court appealed from shall certify the same to the Registrar immediately upon being notified of the appeal.

(3) For the purpose of subsection (2), the Registrar may furnish a form setting out details of information required and where one is so furnished the court shall make its certificate in that form.

(4) Notwithstanding subsections (2) and (3) the court, in lieu of certifying a conviction to the Registrar, may cause the details of the conviction to be entered directly into the electronic data processing system of the Registrar.

(5) For the purpose of subsection (2), an appeal is deemed to be concluded when a decision or opinion allowing or dismissing the appeal is handed down, the appeal is abandoned, or the right to proceed with the appeal is extinguished and it does not depend on whether a final order has been granted.

(6) Where a court being appealed to directs that an order made pursuant to section 320.18 of the *Criminal Code* (Canada) be stayed pending the final disposition of the appeal or until further ordered by that court, the court shall certify the same to the Registrar.

(7) Where a conviction is entered, or where a conviction is confirmed on appeal, for a charge under this Act or any provision of the *Criminal Code* (Canada) having particular relation to a motor vehicle, the judge or justice may recommend to the Registrar that the driver’s licence or privilege of obtaining a driver’s licence of the convicted person be suspended for a period of time.

(8) Where a person pleads guilty to or is found guilty of an offence against section 320.14 or 320.15 of the *Criminal Code* (Canada) and an order directing that the accused be discharged is made under section 730 of that Act, this Section applies in the same manner as if the person were convicted of the offence. R.S., c. 293, s. 266; 1990, c. 36, s. 5; 2018, c. 3, s. 55.

Penalties and imprisonment

317 (1) The penalties and imprisonments prescribed for the violation of any of the provisions of this Act must be recovered or enforced under the *Summary Proceedings Act*, provided, however, that where any pecuniary penalty either with or without imprisonment is prescribed for the violation of any of the provisions of this Act, such pecuniary penalty in lieu of being recovered as aforesaid may be recovered with costs by civil action or proceeding by and in the name of the Minister in any court having jurisdiction in cases of simple contract to the amount of the pecuniary penalty, but the imprisonment prescribed, if any, must not be imposed or enforceable in such action.

(2) Such action may be brought and prosecuted by the Minister in the Minister's name of office and may be continued by the Minister's successor in office as if no change had occurred. R.S., c. 293, s. 267.

Collection and disposition of penalty

318 (1) Whenever a judge of the provincial court or justice of the peace has imposed any pecuniary penalty for a violation of any of the provisions of this Act and such pecuniary penalty is required to be paid over to the Registrar under subsection (2), such pecuniary penalty must be paid into court at the time sentence is imposed or within seven days thereafter and if such pecuniary penalty is not so paid the judge of the provincial court or justice of the peace shall

(a) obtain from the Registrar within seven days of the date of sentence, written authority to extend the time of payment of the said pecuniary penalty to such date as may be satisfactory to the Registrar; or

(b) issue a warrant of commitment for the term of imprisonment imposed in default of payment.

(2) Any pecuniary penalty prescribed for the violation of any of the provisions of this Act shall when recovered be appropriated as follows:

(a) where the prosecutor is a police officer, constable or other officer of a city or town, the penalty belongs to the city or town;

(b) in all other cases the penalty belongs to the Province and forms part of the General Revenue Fund and must be paid over to the Registrar within 48 hours.

(3) Where

(a) a person is convicted of a violation of subsection 246(3) or of any regulation made under clause 246(1)(a);

(b) the registered weight of the vehicle with which the violation was committed was at the time of the violation less than the

maximum weight for which it could be registered under this Act or the regulations;

(c) the person and the owner of the vehicle had not been convicted before of a violation of the sort referred to in clause (a);

(d) the person has paid the pecuniary penalty imposed for the violation; and

(e) the pecuniary penalty has been paid over to the Registrar,

the Registrar, on the written request of the person, may apply the pecuniary penalty so far as it will extend toward payment to the Department on behalf of the person or of the owner of the vehicle of the difference between the registration fees already paid for the registration of the vehicle for the current year and the amount of fees required to permit the registration of the vehicle for the maximum weight permitted for it under this Act and the regulations, and shall thereupon amend the registration of the vehicle for that year to show that its registered weight is the weight for which it would have been registered upon payment of a fee equal to the aggregate of the fee already paid for the registration of the vehicle for the current year and the amount so applied by the Registrar. R.S., c. 293, s. 268; 2010, c. 2, s. 84.

Default of payment of fine or costs

319 (1) Where a person is in default of payment of all or part of a fine and costs imposed upon conviction for

(a) an offence under this Act or the regulations;

(b) an offence under a municipal bylaw involving the unlawful parking, standing or stopping of a motor vehicle;

(c) an offence under another enactment of the Province where the offence involves the operation of a motor vehicle; or

(d) an offence under a Federal enactment where the offence involves the operation of a motor vehicle,

the justice, judge or clerk of the court in which the fine and costs were imposed shall prepare and forward to the Registrar a certificate of the default, in the form and within the time prescribed by the Attorney General.

(2) Where a person is in default of payment pursuant to subsection (1), the Registrar may refuse to renew a driver's licence or owner's permit or transfer or register a vehicle of such person or refuse to issue a document to that person or provide any other service until the fine and costs imposed have been paid in full.

(3) Where a person pays the fine and costs imposed pursuant to subsection (1), the justice, judge or clerk of the court in which the fine was imposed shall immediately certify to the Registrar that the fine and costs have been paid in full.

(4) Where a person is in default of payment of all or part of a fine and costs imposed upon conviction for an offence under an enactment of another province of Canada where the offence involves the operation of a motor vehicle and the Registrar has been notified of the default, the Registrar may refuse to renew a

driver's licence or owner's permit or transfer or register a vehicle of such person or refuse to issue a document to that person or provide any other such service until the fine and costs imposed have been paid in full. R.S., c. 293, s. 269; 1990, c. 36, s. 6; 1994, c. 24, s. 6; 1994-95, c. 18, s. 3.

Misconduct by court official

320 It is an offence for any judge of the provincial court, justice of the peace or any clerk or prothonotary of a court to fail, refuse or neglect to comply with Section 299, 316 or 318 and such failure, refusal or neglect constitutes misconduct in office and is ground for removal therefrom. R.S., c. 293, s. 270.

Certificate of reversal upon appeal

321 (1) Whenever any person is convicted of an offence against this Act or against a provision of the *Criminal Code* (Canada) having particular relation to motor vehicles and the person appeals from the decision of the judge of the provincial court or justice of the peace and the decision is reversed on appeal such person may obtain from the court a certificate of such reversal.

(2) Such certificate must be forwarded to the Department and upon receipt of the certificate the Registrar shall enter the same upon the records of the Department. R.S., c. 293, s. 271.

LIENS, SEIZURES AND SALES

Lien on vehicle for fine and costs

322 (1) The Minister has a first and paramount lien upon a vehicle for the amount of any fine and costs imposed upon the owner or driver of the vehicle under this Act.

(2) Where such fine and costs are not paid the Registrar may seize, impound and take into custody any such vehicle.

(3) Where such fine and costs or any part thereof remains unpaid for a period of 90 days after the date of seizure, impounding and taking into custody, the Minister has the right in addition to all other remedies provided by law, to sell such vehicle as provided in Section 328 and the amount of said fine and costs may be deducted from any proceeds of such sale. R.S., c. 293, s. 272.

Seizure of vehicle involved in offence

323 (1) The Registrar, any official of the Department or any peace officer may seize a motor vehicle with which an offence has been committed under this Act or under any section of the *Criminal Code* (Canada) having particular relation to motor vehicles and may detain the same until the final disposition of any prosecution instituted for such offence but such motor vehicle may be released on such security for its production being furnished as the Registrar may require.

(2) Any peace officer may cause a vehicle parked in a tow-away zone or a no stopping zone to be removed and impounded until claimed by the person in charge of the vehicle and Section 326 applies to vehicles impounded under this subsection. R.S., c. 293, s. 273.

Seizure of vehicle involved in racing or betting

324 (1) Where a peace officer is satisfied that a motor vehicle is being operated in the course of committing an offence under Section 201, the peace officer shall

- (a) notify the Registrar or cause the Registrar to be notified of the fact; and
- (b) seize and impound the motor vehicle.

(2) Any personal property present in the motor vehicle that is seized and impounded pursuant to subsection (1), other than personal property attached to or used in connection with the operation of the motor vehicle, must be released to the owner of the personal property upon request, unless it is required as evidence in a prosecution or in connection with an investigation of an offence under this Act.

(3) Except as otherwise provided by this Section, no person shall remove or release, or permit the removal or release of, a motor vehicle impounded under subsection (1) where

- (a) the driver of the motor vehicle is charged with a first offence, for a period of seven days; or
- (b) the driver of the motor vehicle is charged with a second or subsequent offence, for, subject to Section 325, a period of 30 days.

(4) Where a motor vehicle is seized and impounded, a peace officer may authorize the removal or release of the motor vehicle if the peace officer is satisfied that

- (a) the vehicle is stolen;
- (b) at the time the motor vehicle was detained, the driver was in possession of it without the knowledge and consent of the owner; or
- (c) the owner could not reasonably have known that the vehicle would be operated in the course of committing an offence under Section 201.

(5) The owner of a motor vehicle impounded under subsection (1) may, where the owner is not charged with the offence in respect of which the vehicle was detained, apply to the Registrar for the release of the vehicle by

- (a) making an application in the form and manner required by the Registrar; and
- (b) paying the prescribed application fee.

(6) Where the Registrar receives an application and payment of the application fee described in subsection (5) and is satisfied that

- (a) at the time the motor vehicle was impounded, the driver was in possession of it without the knowledge and consent of the owner; or

(b) the owner could not reasonably have known that the vehicle was being operated in the course of committing an offence under Section 201,

the Registrar shall authorize the release or removal of the motor vehicle to the owner.

(7) Section 326 applies to motor vehicles seized and impounded under subsection (1) except that no lien attaches to a stolen vehicle.

(8) The Governor in Council may make regulations prescribing fees for the purpose of this Section.

(9) The exercise by the Governor in Council of the authority contained in subsection (8) is a regulation within the meaning of the *Regulations Act*, 2005, c. 32, s. 4; 2007, c. 45, s. 17.

Seizure of vehicle upon third offence

325 (1) In the event of a third conviction being entered against a person under this Act, the motor vehicle that was being operated by the person so convicted at the time of the commission of such third offence may be seized, impounded and taken into the possession of any peace officer and held at the discretion of the Minister, for such period as the Minister considers expedient.

(2) Where the person so convicted gives a bond satisfactory to the Minister that such motor vehicle will not be operated upon any highway during such period as the Minister may direct, such motor vehicle may be returned to the person convicted or to the owner of such motor vehicle, and if such motor vehicle is operated on the highway during the period designated by the Minister as the time during which it is not to be operated, such bond is forfeited and such motor vehicle is deemed to have been operated without permit. R.S., c. 293, s. 274.

Lien on seized vehicle

326 (1) Whenever any motor vehicle is seized, taken into custody or possession or impounded under this Act by an official of the Department or a peace officer or upon an order of the Minister or the Registrar, all charges necessarily incurred by the official, officer or person acting under that order in the performance of such duty are a lien upon the motor vehicle.

(2) Any person who is designated by an official of the Department, a peace officer or upon an order of the Minister or the Registrar to tow, store or perform other services in connection with the seizure, taking into custody or possession or impoundment of a motor vehicle has a lien on the vehicle for the charges for those services.

(3) Whenever any motor vehicle is impounded under this Act by an impoundment facility by order of the Minister, the Registrar, an official of the Department or a peace officer, any towing and storage costs incurred by the impoundment facility under this Act, the *Warehouse Operators Lien Act* or the *Liens Act* are a lien upon the motor vehicle.

(4) Where the motor vehicle has been impounded for a period of 30 days, the official of the Department or peace officer who seized or impounded

the motor vehicle or the person who ordered the seizure, taking into custody or possession, or impoundment of the motor vehicle may order the sale of the motor vehicle. 2001, c. 12, s. 8; 2015, c. 45, s. 14.

Disclosure of registered owner

327 Where an impoundment facility is authorized under this Act, the *Warehouse Operators Lien Act* or the *Liens Act* to sell an impounded vehicle after providing notice to the registered owner, the Registrar or any peace officer may disclose the name, address and telephone number of the registered owner to the impoundment facility. 2015, c. 45, s. 15.

Sale of vehicle by tender or public auction

328 (1) Whenever a motor vehicle is sold by the Minister, the Registrar, the Department or a person who has a lien on the motor vehicle under this Act, the sale must be by tender or by public auction and, at least seven days before the sale, notice of the sale must be published in one or more newspapers published and circulated in the Province and at the same time mailed to the registered owner of the motor vehicle by registered mail addressed to the owner at the owner's name and address as they appear on the records of the Department.

(2) The proceeds of a sale referred to in subsection (1) must be applied to the payment of any debt, lien or charge incurred in connection with the seizure, towing, taking into custody or possession, storage or impoundment of the motor vehicle and, where the proceeds are insufficient to pay all such debts, liens or charges, the proceeds must be paid to the persons entitled thereto *pari passu*.

(3) Any proceeds remaining after payment of the debts, liens or charges referred to in subsection (2) must be held by the Department for one month after the sale, and any claim or claims to the proceeds, or any portion thereof, must be established within the one-month period, and, after the one-month period has elapsed, where no claim to the proceeds has been established, the proceeds so held by the Department escheat to the Crown in right of the Province and all claims for interest in the motor vehicle or in the proceeds derived from the sale of the motor vehicle are forever barred. 2001, c. 12, s. 8.

CANCELLATION OF REGISTRATION
AND REVOCATION OF PERMIT OR LICENCE

Cancellation or revocation by Minister

329 (1) The Minister, whenever the Minister considers it expedient, may cancel the registration of any vehicle registered under this Act.

(2) The Minister, whenever the Minister considers it expedient, may revoke any permit or licence issued under this Act. R.S., c. 293, s. 277.

Revocation upon conviction

330 (1) Subject to subsections (4) and (5), a person's driver's licence or privilege of obtaining a driver's licence is revoked upon the person's conviction, in the Province, for any of the following crimes or offences:

(a) manslaughter resulting from the operation of a motor vehicle, in violation of section 236 of the *Criminal Code* (Canada);

(b) an offence against section 220, 221, 320.13, 320.14, 320.15, 320.16, 320.17, 320.18, 333.1 or 335 of the *Criminal Code* (Canada);

(c) theft of a motor vehicle or theft of gasoline or diesel oil as defined in the *Revenue Act* in violation of section 334 of the *Criminal Code* (Canada);

(d) any offence against the *Criminal Code* (Canada) designated by the Governor in Council;

(e) any offence against the *Criminal Code* (Canada) where the person used a motor vehicle in the commission of an offence, other than an offence referred to in this subsection, except where the *Criminal Code* (Canada) provides for the revocation of a driver's licence upon conviction;

(f) making a false affidavit, declaration or statement to the Department or the Registrar in violation of this Act; or

(g) a violation of Section 363 of this Act.

(2) For greater certainty and for the purpose of clause (1)(e), a person uses a motor vehicle in the commission of an offence when the person uses a motor vehicle to drive to or from the scene of a crime or to commit a crime.

(3) For greater certainty, where a person's driver's licence or privilege of obtaining a driver's licence is revoked at the time of the person's conviction for a crime or offence to which subsection (1) applies, the revocation pursuant to subsection (1) is a second or subsequent revocation, as the case may be.

(4) Except where an order prohibiting the operation of a motor vehicle pursuant to section 320.24 of the *Criminal Code* (Canada) is in force, when a person appeals against a conviction for an offence mentioned in subsection (1) in the manner prescribed by law, the person is deemed not to be convicted for the purpose of subsections (1) and (3) and the provisions of this Act until the appeal is heard, determined and dismissed or is abandoned or the right to proceed with the appeal extinguished and the driver's licence or the privilege of obtaining a driver's licence is thereupon revoked and remains revoked.

(5) Except where an order prohibiting the operation of a motor vehicle pursuant to section 320.24 of the *Criminal Code* (Canada) is in force, a person whose driver's licence is revoked under this Section may drive a motor vehicle until noon the third day after the date of the person's conviction as will permit the person to return to the person's place of residence or to sell or dispose of a motor vehicle registered in the person's name.

(6) When a court or judge convicts a person of any of the crimes or offences mentioned in subsection (1), the court or judge shall communicate to the person the effect of this Section, but the failure to do so does not affect in any way the validity of the revocation.

(7) When a court or judge convicts a person of any of the crimes or offences mentioned in subsection (1) the person whose licence is revoked shall produce the licence forthwith to the court or judge who shall make thereon an endorsement in the following words or words to the like effect:

not valid as of (*state "noon" where applicable*) the day of ,
20.

and the court of judge shall sign the endorsement, but the failure to do so does not affect the validity of the revocation. R.S., c. 293, s. 278; 2002, c. 20, s. 6; 2005, c. 38, s. 2; 2007, c. 45, s. 18; 2013, c. 10, s. 13; 2018, c. 3, s. 56.

Appeal of revocation

331 (1) When a person appeals against a conviction for an offence mentioned in subsection 330(1) in the manner prescribed by law, the court or judge whose conviction is appealed from may endorse the driver's licence using the following words or words to like effect:

Revocation stayed pending appeal

and the court or judge shall date and sign the endorsement.

(2) Where an appeal is heard, determined and dismissed or is abandoned or the right to proceed with the appeal is extinguished, the court to which the appeal was made or the Registrar may order the person to appear and surrender the person's driver's licence and the order may be enforced by a peace officer.

(3) Where by reason of any amendment to the *Criminal Code* (Canada),

(a) the reference to any offence mentioned in Section 330 is changed; or

(b) an offence involving directly or indirectly motor vehicles or the operation of motor vehicles is added either as a new offence or in substitution for an offence in this Section,

the Governor in Council may designate an offence against the *Criminal Code* (Canada) to which clause (a) or (b) applies for the purposes of clause 330(1)(d) and the Governor in Council may declare the period of time applicable to a designated offence for the purpose of subsection 71(1).

(4) Where a person pleads guilty to or is found guilty of an offence against section 320.14 or 320.15 of the *Criminal Code* (Canada) and an order directing that the accused be discharged is made under section 730 of that Act, Section 330 and this Section apply in the same manner as if the person were convicted of the offence. R.S., c. 293, s. 278.

Maintenance enforcement

332 Upon receipt of a request from the Director of Maintenance Enforcement pursuant to subsection 43(1) of the *Maintenance Enforcement Act*, the Registrar

(a) shall suspend or revoke a payor's driver's licence, owner's permit, registration of a vehicle or permit, any other licence issued to the payor, the privilege of obtaining a driver's licence or the right to operate a motor vehicle;

(b) shall refuse to issue or renew a payor's licence or owner's permit, to transfer or register a payor's vehicle; and

(c) may refuse to issue a document or provide any other service to the payor, pursuant to this Act. 2016, c. 24, s. 27.

16, 17 and 18 year olds

333 The Registrar or the Director of Highway Safety shall revoke the driver's licence or the privilege of obtaining a licence of a person who is 16, 17 or 18 years of age if the person is found guilty of any of the crimes or offences referred to in subsection 330(1) and that Section applies with necessary changes to the revocation. 2001, c. 44, s. 6; 2002, c. 20, s. 7.

Immediate suspension by Registrar

334 (1) The Registrar may immediately suspend the driver's licence or privilege of obtaining a driver's licence of any person, without a hearing, if the Registrar is satisfied that the person is not able to safely operate a motor vehicle on a highway based on

- (a) a failed examination of the person's driving ability ordered pursuant to Section 337 or 354; or
- (b) a medical opinion or the results of a medical examination.

(2) The Registrar shall rescind an order of suspension made pursuant to clause (1)(a) if

- (a) the Registrar is satisfied, based on the results of a successfully completed examination of the person's driving ability, that the person is able to safely operate a motor vehicle on a highway; and
- (b) the person has paid the required fees.

(3) In making an order of suspension pursuant to clause (1)(b), the Registrar may rely on a letter or an oral or written report from a person who is licensed in the Province or any other province of Canada as

- (a) a medical practitioner;
- (b) an optometrist;
- (c) a psychologist;
- (d) a nurse practitioner;
- (e) an occupational therapist; or
- (f) a member of a healthcare profession that is designated by the regulations.

(4) Before making a decision pursuant to clause (1)(b), the Registrar may refer information that concerns a person's medical condition or a person's medical report or visual screening report to the Medical Advisory Committee or a member of the Committee for an opinion on the ability of the person to safely operate a motor vehicle.

(5) Where the Registrar suspends a person's driver's licence or privilege of obtaining a driver's licence pursuant to subsection (1), the Registrar shall give the person written notice of

- (a) the order of suspension; and
- (b) with respect to a suspension ordered pursuant to clause (1)(b), the review process pursuant to Section 335.

(6) The Minister may make regulations designating healthcare professions for the purpose of clause (3)(f).

(7) The exercise by the Minister of the authority contained in subsection (6) is a regulation within the meaning of the *Regulations Act*. 2011, c. 67, s. 4.

Review of suspension

335 (1) Where a person whose driver's licence or privilege of obtaining a driver's licence is suspended pursuant to clause 334(1)(b) provides to the Registrar medical information that was not available or not provided to the Registrar at the time the suspension was ordered, the person may request that the Registrar review whether the order of suspension should be rescinded.

(2) Where a review is requested pursuant to this Section, the Registrar may refer any information that concerns a person's medical condition or a person's medical report or visual screening report to the Medical Advisory Committee or a member of the Committee for an opinion on the ability of the person to safely operate a motor vehicle.

(3) Upon completing a review pursuant to this Section, the Registrar may

- (a) rescind the order of suspension; or
- (b) where satisfied that there are grounds to continue the suspension, sustain the order of suspension.

(4) Where the Registrar rescinds an order of suspension pursuant to clause (3)(a), the Registrar shall

- (a) reinstate the driver's licence or privilege of obtaining a driver's licence that was suspended, with or without conditions; and
- (b) where a driver's licence was cancelled or surrendered due to the suspension, reissue or return the driver's licence.

(5) The Registrar may impose such conditions as the Registrar considers proper on a driver's licence or privilege of obtaining a driver's licence reinstated pursuant to this Section.

(6) Subject to subsection (7), the Registrar's decision pursuant to subsection (3) is final and not subject to any further review or appeal.

(7) Where the Registrar sustains an order of suspension pursuant to subsection (3), the Registrar may permit the person who requested the review to request a further review of whether the order should be rescinded if the Registrar is satisfied that there has been a change in a medical condition that affects the ability of the driver to safely operate a motor vehicle. 2011, c. 67, s. 4.

Opinion of Medical Advisory Committee or Committee member

336 (1) The Medical Advisory Committee or a member of the Committee may provide an opinion concerning a person's information referred to the Committee or member pursuant to Section 334 or 335 even if the Committee or any member of the Committee has already provided an opinion with respect to the same person.

(2) The Registrar is not bound by any opinion of the Medical Advisory Committee or a member of the Committee in making a decision pursuant to Section 334 or 335.

(3) For greater certainty, any information or opinion provided to the Registrar by the Medical Advisory Committee or a member of the Committee for the purpose of Section 334 or 335 is for the exclusive use of the Registrar and may not be disclosed to any person that it concerns or, subject to subsection 9(6), any other person. 2011, c. 67, s. 4.

Immediate suspension or revocation by Registrar

337 (1) The Registrar may suspend or revoke the driver's licence or the privilege of obtaining a driver's licence of a person upon receipt of a recommendation to that effect from a court, judge or justice.

(2) The Registrar is authorized to suspend or revoke the right of any non-resident to operate a motor vehicle in this Province for any cause for which the licence of a resident driver may be suspended or revoked, and any non-resident who operates a motor vehicle upon a highway when the non-resident's right to operate has been suspended or revoked by the Registrar is guilty of an offence and upon conviction shall be punished as provided in Section 380.

(3) The Registrar is authorized to suspend or revoke the licence of any resident of this Province upon receiving notice of the conviction of such person in another province or state of an offence therein that, if committed in this Province, would be grounds for the suspension or revocation of the licence of a driver, and the Registrar is further authorized, upon receiving a record of the conviction in this Province of a non-resident driver of a motor vehicle of any offence under the motor vehicle laws of this Province, to forward a certified copy of such record to the motor vehicle administrator in the province or state wherein the person so convicted is a resident.

(4) When the Registrar has reason to believe that the holder of a driver's licence is incompetent to drive a motor vehicle or is afflicted with mental or physical infirmities or disabilities rendering it unsafe for the person to drive a motor vehicle upon the highways, the Registrar may, by notice in writing, require that person within 10 days after the date of the notice to submit to examination by an examiner and by a qualified medical practitioner or practitioners and to furnish the Registrar with the reports of the examiner and the medical practitioners.

(5) Every qualified medical practitioner, optometrist, nurse practitioner or occupational therapist may report to the Registrar the name and address of any patient attending upon the qualified medical practitioner, optometrist, nurse practitioner or occupational therapist for medical services who, in the opinion of such qualified medical practitioner, optometrist, nurse practitioner or occupational

therapist, is afflicted with mental or physical infirmities or disabilities rendering it unsafe for such patient to drive a motor vehicle upon the highways.

(6) Every registered psychologist may report to the Registrar the name of any person who, in the opinion of the registered psychologist, is afflicted with an emotional or mental disability that may interfere with the safe operation of a motor vehicle by that person.

(7) No action may be brought against a qualified medical practitioner, an optometrist, a nurse practitioner, an occupational therapist or a registered psychologist for making a report in accordance with subsection (5) or (6).

(8) The Registrar may suspend or revoke the driver's licence of a person who fails or refuses to submit to an examination when required so to do under subsection (4). R.S., c. 293, s. 279; 1999, c. 11, s. 8; 2001, c. 12, s. 9; 2011, c. 67, s. 5; 2015, c. 45, s. 16.

Suspension of licence by peace officer

338 (1) Where

(a) a peace officer

(i) by reason of an analysis of the breath or blood of a person, has reason to believe that the person has consumed alcohol in such a quantity that the concentration thereof in the person's blood equals or exceeds 80 milligrams of alcohol in 100 millilitres of blood,

(ii) has reason to believe that a person failed or refused to comply with a demand made on that person under section 320.27 or 320.28 of the *Criminal Code* (Canada),

(iii) has reason to believe a person operated or had the care or control of a motor vehicle while impaired by alcohol, a drug or both alcohol and a drug contrary to paragraph 320.14(1)(a) of the *Criminal Code* (Canada),

(iv) by reason of an analysis of the blood or other bodily substance of a person, has reason to believe that the person has consumed a drug in such quantity that the concentration thereof in the person's blood exceeds the blood concentration for the drug that is prescribed by the regulations, or

(v) by reason of an analysis of the blood of a person, has reason to believe that the person has consumed alcohol and a drug in such quantity that the concentration thereof in the person's blood exceeds the blood concentration for alcohol and the drug that is prescribed by the regulations; and

(b) the occurrence is in relation to the operation of or having care or control of a motor vehicle as defined in the *Criminal Code* (Canada),

the peace officer on behalf of the Registrar shall

(c) where the person holds a valid driver's licence issued pursuant to this Act to operate the motor vehicle, suspend the per-

son's driver's licence by serving on the person an order of suspension, which is effective immediately;

(d) where the person holds a valid temporary driver's licence,

(i) take possession of the person's temporary driver's licence, and

(ii) immediately suspend the person's driver's licence by serving on the person an order of suspension;

(e) where the person holds a valid driver's licence to operate a motor vehicle issued other than pursuant to this Act, suspend the person's right to operate a motor vehicle in the Province and privilege of obtaining a driver's licence by serving an order of suspension on the person, which is effective immediately; or

(f) where the person does not hold a valid driver's licence to operate a motor vehicle, immediately suspend the person's right to operate a motor vehicle in the Province and privilege of obtaining a driver's licence by serving an order of suspension, which is effective immediately, on the person.

(2) A peace officer who serves a notice and order pursuant to subsection (1) shall, without delay, forward to the Registrar

(a) the person's driver's licence, if one has been surrendered;

(b) a copy of the temporary driver's licence, if one has been issued;

(c) a copy of the completed notice and order;

(d) a report signed by the peace officer; and

(e) a copy of any certificate of an analyst, qualified medical practitioner or qualified technician referred to in subsection 320.32(1) of the *Criminal Code* (Canada) with respect to the person referred to in subsection (1).

(3) The notice of intention and order of suspension, the report of the peace officer referred to in this Section and temporary driver's licence must be in the form, contain the information and be completed in the manner required by the Registrar.

(4) Where a person who holds a valid driver's licence does not surrender it, the driver's licence is nevertheless suspended.

(5) Unless otherwise ordered in a review pursuant to Section 339, a driver's licence is suspended pursuant to this Section and a person without a driver's licence is disqualified pursuant to this Section from applying for or holding a driver's licence or operating a motor vehicle for 90 days from the effective date of the suspension.

(6) Unless otherwise ordered in a review pursuant to Section 339, a person holding a driver's licence issued to a person other than pursuant to this Act is disqualified pursuant to this Act from applying for or holding a driver's licence or

from operating a motor vehicle in the Province for 90 days from the effective date of the suspension.

(7) A person whose driver's licence or privilege of obtaining a driver's licence has been suspended pursuant to this Section shall, to have the driver's licence or privilege of obtaining a driver's licence reinstated, apply to the Registrar in the form and manner required by the Registrar.

(8) The Registrar shall not reinstate a driver's licence or the privilege of obtaining a driver's licence pursuant to subsection (7) until the Registrar is satisfied that all requirements pursuant to this Act have been completed by the applicant.

(9) Where more than one suspension under this Section would arise from the same occurrence, only one suspension has effect.

(10) The Governor in Council may make regulations

(a) prescribing the maximum blood concentration of a drug for the purpose of subclause (1)(a)(iv);

(b) prescribing the maximum blood concentration of alcohol and a drug for the purpose of subclause (1)(a)(v).

(11) A regulation made under subsection (10) may apply in respect of individual drugs, classes of drugs or types of drugs.

(12) A regulation made under subsection (10) may incorporate by reference regulations made under the *Criminal Code* (Canada), as amended from time to time.

(13) The exercise by the Governor in Council of the authority contained in subsection (10) is a regulation within the meaning of the *Regulations Act*, 1994-95, c. 12, s. 15; 1996, c. 34, s. 5; 1999, c. 11, s. 9; 2001, c. 44, s. 7; 2018, c. 3, s. 57; 2021, c. 32, s. 2.

Review of suspension

339 (1) A person may apply for review of an order of suspension pursuant to Section 338 by

(a) filing an application for review with the Registrar;

(b) paying the prescribed fee and, where an oral hearing is requested, the prescribed oral hearing fee;

(c) obtaining a date and time for a hearing; and

(d) surrendering the person's driver's licence if it has not previously been surrendered, unless the person certifies to the Registrar that the driver's licence has been lost or destroyed.

(2) The application for review must be in the form, contain the information and be completed in the manner required by the Registrar.

(3) The application for review may be accompanied by sworn statements or other evidence that the person wishes the Registrar to consider.

- (4) An application does not stay the suspension.
- (5) The Registrar is not required to hold an oral hearing unless the applicant requests an oral hearing at the time of filing the application and pays the prescribed fees.
- (6) In a review pursuant to this Section, the Registrar shall consider
- (a) any relevant sworn or solemnly affirmed statements and any other relevant information;
 - (b) the report of the peace officer;
 - (c) a copy of any certificate of an analyst, qualified medical practitioner or qualified technician referred to in subsection 320.32(1) of the *Criminal Code* (Canada) without proof of the identity and official character of the person appearing to have signed the certificate or that the copy is a true copy; and
 - (d) where an oral hearing is held, in addition to the matters referred to in clauses (a) to (c), any relevant evidence and information given or representations made at the hearing.
- (7) The sole issue before the Registrar in a review pursuant to this Section is whether it is established to the Registrar's satisfaction that
- (a) the person operated or had care or control of a motor vehicle as defined in the *Criminal Code* (Canada) having consumed alcohol in such a quantity that the concentration thereof in the person's blood equalled or exceeded 80 milligrams of alcohol in 100 millilitres of blood;
 - (b) the person, while having alcohol or a drug in the person's body, failed or refused to comply with a demand made on that person to supply a sample of the person's breath or blood under section 320.27 or 320.28 of the *Criminal Code* (Canada);
 - (c) the person operated or had the care or control of a motor vehicle as defined in the *Criminal Code* (Canada) while impaired by alcohol, a drug or both alcohol and a drug contrary to paragraph 320.14(1)(a) of that Act;
 - (d) the person operated or had the care or control of a motor vehicle as defined in the *Criminal Code* (Canada) having consumed a drug in such quantity that the concentration thereof in the person's blood exceeded the blood concentration for the drug that is prescribed by the regulations; or
 - (e) the person operated or had the care or control of a motor vehicle as defined in the *Criminal Code* (Canada) having consumed alcohol and a drug in such quantity that the concentration thereof in the person's blood exceeded the blood concentration for alcohol and the drug that is prescribed by the regulations.

- (8) The Registrar shall
- (a) where no oral hearing is requested, consider the application within 10 days of compliance with clauses (1)(a), (b) and (d); and
 - (b) where an oral hearing is requested, hold the hearing within 20 days of compliance with subsection (1),

but failure of the Registrar to consider the application or hold the hearing within the required times does not affect the jurisdiction of the Registrar to consider or hear the application or to make a decision with respect to it.

(9) Where the evidence before the Registrar supports an affirmative determination on the issue referred to in subsection (7), the Registrar shall sustain the order of suspension.

(10) Where the evidence supports a negative determination on the issue referred to in subsection (7), the Registrar shall

- (a) rescind the order of suspension;
- (b) return any driver's licence surrendered to the Registrar; and
- (c) direct that the fees paid for the application for review be refunded.

(11) Where the appellant who requests an oral hearing fails to appear without prior notice to the Registrar, the right to a hearing is deemed to have been waived by the appellant.

(12) The decision of the Registrar must be in writing and a copy of the decision must be sent within seven days of the date the application was considered or the hearing was held by the Registrar by registered mail to the person at the person's last known address as shown in the records maintained by the Registrar and to the address shown in the application, if that address is different from the address of record. 1994-95, c. 12, s. 15; 1999, c. 11, s. 10; 2001, c. 44, s. 8; 2018, c. 3, s. 58.

Appeal of decision made pursuant to Section 339

340 (1) A person may appeal the decision of the Registrar made pursuant to Section 339 sustaining an order of suspension made pursuant to Section 338 to the Motor Vehicle Appeal Board by

- (a) filing an appeal in accordance with this Act and the regulations; and
- (b) paying the fee prescribed by the regulations.

(2) The appeal must be filed within 30 days of the date of the Registrar's decision pursuant to Section 339.

(3) An appeal pursuant to this Section must be conducted by the Motor Vehicle Appeal Board in accordance with this Act and the regulations.

(4) In an appeal pursuant to this Section, the sole issue before the Motor Vehicle Appeal Board is whether it is established to the Board's satisfaction that the person to whom the order of suspension was issued

(a) operated or had care or control of a motor vehicle as defined in the *Criminal Code* (Canada) having consumed alcohol in such a quantity that the concentration thereof in the person's blood equalled or exceeded 80 milligrams of alcohol in 100 millilitres of blood;

(b) failed or refused to comply with a demand made on that person pursuant to section 254 of the *Criminal Code* (Canada) in respect of the operation or having care or control of a motor vehicle as defined in that Act;

(c) the person, while having alcohol or a drug in the person's body, failed or refused to comply with a demand made on that person to supply a sample of the person's breath or blood under section 320.27 or 320.28 of the *Criminal Code* (Canada);

(d) the person operated or had the care or control of a motor vehicle as defined in the *Criminal Code* (Canada) while impaired by alcohol, a drug or both alcohol and a drug contrary to paragraph 320.14(1)(a) of that Act;

(e) the person operated or had the care or control of a motor vehicle as defined in the *Criminal Code* (Canada) having consumed a drug in such quantity that the concentration thereof in the person's blood exceeded the blood concentration for the drug that is prescribed by the regulations; or

(f) the person operated or had the care or control of a motor vehicle as defined in the *Criminal Code* (Canada) having consumed alcohol and a drug in such quantity that the concentration thereof in the person's blood exceeded the blood concentration for alcohol and the drug that is prescribed by the regulations.

(5) In an appeal pursuant to this Section, the Motor Vehicle Appeal Board shall consider

(a) any relevant sworn or solemnly affirmed statements and any other relevant information;

(b) the report of the peace officer who issued the order of suspension pursuant to Section 338;

(c) a copy of any certificate of an analyst, qualified medical practitioner or qualified technician referred to in subsection 320.32(1) of the *Criminal Code* (Canada) with respect to the occurrence without proof of the identity and official character of the person appearing to have signed the certificate or that the copy is a true copy; and

(d) where an oral hearing was held under Section 339 or this Section, any relevant evidence and information given or representations made at the oral hearing.

(6) In an appeal pursuant to this Section, the Motor Vehicle Appeal Board may consider the status of any criminal charges laid in relation to the occurrence that resulted in the order of suspension pursuant to Section 338.

(7) In deciding an appeal pursuant to this Section, the Motor Vehicle Appeal Board has the same authority to make an order or take action that the Registrar has pursuant to Section 339. 2011, c. 67, s. 6; 2018, c. 3, s. 59.

Surrender and suspension of licence

341 (1) Where, upon demand of a peace officer made pursuant to section 320.27 of the *Criminal Code* (Canada), a person provides a sample of the person's breath that, on analysis by an approved screening device, registers "Warn", the peace officer shall request the person to surrender the person's licence.

(2) Where, upon demand of a peace officer made under section 320.28 of the *Criminal Code* (Canada), a person provides a sample of the person's breath that, on analysis by an approved instrument or approved screening device, indicates that the concentration of alcohol in the person's blood equals or exceeds 50 milligrams and is less than 80 milligrams of alcohol in 100 millilitres of blood, a peace officer shall request the person to surrender the person's licence.

(3) Upon a request being made pursuant to subsection (1) or (2), the person to whom the request is made shall forthwith surrender the person's licence to the peace officer and, whether or not the person is unable or fails to surrender the person's licence to the peace officer, the person's licence is suspended and the person's driving privilege is suspended for a period of

(a) seven days in the case of a first suspension under this Section or Section 349 within the last 10 years;

(b) 15 days in the case of a second suspension under this Section or Section 349 within the last 10 years; or

(c) 30 days in the case of a third or subsequent suspension under this Section or Section 349 within the last 10 years,

from the time the request is made.

(4) The suspension of a licence or the suspension of a driving privilege pursuant to this Section is in addition to and not in substitution for any proceeding or penalty arising from the same circumstances.

(5) Where an analysis of the breath of a person is made under subsection (1) and registers "Warn", the person may require a further analysis to be performed in the manner provided in subsection (2), in which case the result obtained on the second analysis governs and any suspension resulting from an analysis under subsection (1) continues or terminates accordingly.

(6) Where an analysis of the breath of a person is made under subsection (1) and registers "Warn", the peace officer who made the demand under subsection (1) shall advise the person of the person's right under subsection (5) to a further analysis.

(7) For the purpose of subsection (1), the approved screening device must not be calibrated to register "Warn" when the concentration of alcohol

in the blood of the person whose breath is being analyzed is less than 50 milligrams of alcohol in 100 millilitres of blood.

(8) It is presumed, in the absence of evidence to the contrary, that any approved screening device used for the purpose of subsection (1) has been calibrated as required under subsection (7).

(9) Where a licence is suspended or a driving privilege is suspended pursuant to this Section, the peace officer who requested the surrender of the licence under subsection (1) or (2), shall

(a) keep a written record of the suspension with the name and address of the person and the date and time of the suspension;

(b) provide the person with an order of suspension which is effective immediately and acknowledging receipt of the person's driver's licence that is surrendered and provide the person with such other information as prescribed by the Registrar; and

(c) advise the Registrar of the suspension in the form and manner prescribed by the Registrar.

(10) The Registrar shall record every suspension under this Section on the operating record of the person whose licence is suspended.

(11) The peace officer who requested the surrender of a licence under this Section shall

(a) issue an order of suspension to the driver in accordance with subsection (3); and

(b) seize and dispose of the licence as directed by the Registrar.

(12) At the end of the suspension period, a person may apply in the form and manner prescribed by the Registrar for reinstatement of the person's licence upon payment of the reinstatement fee prescribed by the regulations.

(13) Where a licence is suspended or a driving privilege is suspended pursuant to this Section, if the motor vehicle is in a location from which, in the opinion of a peace officer, it should be removed, and there is no person with a licence easily available to remove the motor vehicle with the consent of the person whose licence or privilege is suspended, the peace officer may remove and store the motor vehicle or cause it to be removed and stored and shall notify the person of its location.

(14) The costs and charges incurred in moving or storing a vehicle pursuant to subsection (13) must be paid, before the vehicle is released, by the person to whom the vehicle is released. 1998, c. 32, s. 3; 1999, c. 11, s. 11; 2004, c. 42, s. 13; 2009, c. 21, s. 2; 2014, c. 53, s. 11; 2018, c. 3, s. 60.

Report that child present at time of alleged offence

342 (1) In this Section and Sections 343 to 346, "child" means a person under the age of 16 years.

(2) Where a peace officer has reason to believe that a person committed an offence under section 320.14 or subsection 320.15(1) of the *Criminal Code* (Canada) in relation to operating or having care and control of a motor vehicle and that a child was present in the motor vehicle at the time of the alleged offence, the peace officer shall prepare and submit to the Registrar a report of the matter.

(3) A report under subsection (2) must include the driver's name and, where available, the child's name and date of birth and must be in such form and include such other matters as may be prescribed by the Registrar. 2011, c. 22, s. 2; 2018, c. 3, s. 61.

Notice of review

343 (1) Where the Registrar receives a report under Section 342, the Registrar shall provide a copy of the report to the person named in the report together with a written notice advising that

(a) the Registrar will review the matter to determine whether the Registrar is satisfied a child was present in the vehicle at the time of the alleged offence;

(b) the person has a right to participate in the review by providing a written submission within 30 days of receipt of the notice;

(c) where the person fails to provide a written submission within 30 days of the receipt of notice, the Registrar will make a determination based upon the report provided by the peace officer;

(d) the decision made by the Registrar cannot be appealed; and

(e) where the person is convicted, pleads guilty or is found guilty of the alleged offence and the Registrar is satisfied that a child was present in a motor vehicle at the time of the offence, the person is subject to an increased period of revocation of the person's driver licence or privilege of obtaining a driver's licence and, where the offence involves alcohol, to mandatory participation in an ignition interlock program established under this Act.

(2) A notice under subsection (1) must be delivered by mail or delivery service to the person's address on file with the Registry of Motor Vehicles and, in the absence of the evidence to the contrary, is deemed to be received by the person five days after the date of mailing or delivery to the delivery service. 2011, c. 22, s. 2; 2018, c. 3, s. 62.

Participation in review

344 (1) Unless otherwise permitted by the Registrar, a review must be done by consideration of written submissions.

(2) A person who is issued a notice under Section 343 may participate in the review by providing a written submission to the Registrar within 30 days of receiving the notice.

(3) The submission of the person must include

(a) any prescribed fee;

(b) a written statement, including sworn or solemnly affirmed statements to be considered during the review;

(c) the person's full name, current mailing address, telephone number and facsimile number, if any; and

(d) contact information for the person's legal counsel or agent, if any.

(4) Where the submission states that person is represented by legal counsel or an agent, the Registrar shall communicate with the person through the legal counsel or agent, as the case may be.

(5) A submission and any related documents may be delivered to the Registrar's office by hand, mail, courier or facsimile.

(6) A document that is received outside the Registrar's business hours is deemed to be delivered on the next day that the Registrar's office is open for business.

(7) Where the person fails to make a submission within 30 days of delivery of the notice, the participation of that person is deemed to be waived by that person and the Registrar may proceed to make any decision that the Registrar could make following a review. 2011, c. 22, s. 2.

Conduct of review

345 (1) In conducting a review, the Registrar shall consider

(a) the report from the peace officer;

(b) the submission, if any, of the person with respect to whom the review is being made; and

(c) where the review is done in person or by telephone, information delivered verbally.

(2) In conducting a review, the Registrar may do any or all of the following:

(a) request additional information from the person in the form and within the time period determined by the Registrar, including sworn or solemnly affirmed statements;

(b) request or permit a request to receive a submission in person or by telephone or other electronic means if the Registrar determines that it would be more efficient than a review by written submission only or there may be issues of credibility;

(c) allow additional time for information to be submitted;

(d) request additional information from the peace officer that prepared the report or any other person.

(3) In conducting a review, the sole question for determination by the Registrar is whether a child was in the motor vehicle at the time of the alleged offence. 2011, c. 22, s. 2.

Decision

346 (1) On completion of a review, where the Registrar is satisfied a child was present in a vehicle at the time of the alleged offence, the Registrar shall make a note of that finding on the record of the person with respect to whom the review was made.

- (2)** The Registrar's decision must
 - (a) be in writing; and
 - (b) state the reason for the decision.
- (3)** The Registrar's decision must be delivered by mail or delivery service to
 - (a) the person's address as indicated in the person's submission;
 - (b) the person's legal counsel or agent if one is designated;
 - or
 - (c) where no submission was received, to the last address on file with the Registry of Motor Vehicles.
- (4)** The Registrar's review decision is final and is not subject to any review or appeal. 2011, c. 22, s. 2.

24-hour suspension

347 (1) A peace officer may, on behalf of the Registrar, suspend the licence of a driver for up to 24 hours by serving an order of suspension on the driver if there are reasonable grounds to believe that the driver is unfit to drive for any reason, including a medical reason.

(2) For greater certainty, a suspension under this Section is not a revocation for the purpose of Sections 70 to 74, subsection 79(6) or subsection 80(3).

(3) A copy of an order of suspension issued under this Section must be forwarded to the Registrar.

(4) The order of suspension must be in the form, contain the information and be completed in the manner required by the Registrar.

(5) Where a licence is suspended under this Section, the licence may not be physically seized or destroyed. 2018, c. 3, s. 63.

Demand where suspected drug impairment

348 (1) Where a peace officer reasonably suspects that a person's ability to drive may be affected by the introduction of drugs into the person's body, the peace officer shall demand that the person take a physical coordination test and the person shall comply with that demand.

(2) The purpose of demanding a test or evaluation under subsection (1) is to promote road safety. 2018, c. 3, s. 63; 2018, c. 38, s. 4.

Order of suspension where suspected drug impairment

349 (1) A peace officer shall, on behalf of the Registrar, issue an order of suspension if the peace officer has a reasonable suspicion that a person's ability to drive is adversely affected by the introduction of drugs into the person's body based upon

- (a) the person's failure of a physical coordination test; or
- (b) the inability of the person to follow instructions of the peace officer intended to determine the sobriety and physical ability of the person.

(2) Upon issuing an order of suspension under subsection (1), the peace officer shall

- (a) where the person holds a valid driver's licence issued pursuant to this Act to operate the motor vehicle, take possession of the licence and suspend the person's driver's licence by serving on the person an order of suspension effective immediately;
- (b) where the person holds a valid temporary driver's licence,
 - (i) take possession of the person's temporary driver's licence, and
 - (ii) immediately suspend the person's temporary driver's licence by serving on the person an order of suspension;
- (c) where the person holds a valid driver's licence to operate a motor vehicle issued other than pursuant to this Act, suspend the person's right to operate a motor vehicle in the Province and privilege of obtaining a driver's licence by serving an order of suspension on the person effective immediately; or
- (d) where the person does not hold a valid driver's licence to operate a motor vehicle, immediately suspend the person's right to operate a motor vehicle in the Province and privilege of obtaining a driver's licence by serving an order of suspension on the person.

(3) An order of suspension issued under subsection (1) applies for

- (a) seven days in the case of a first suspension under this Section or Section 341 within the last 10 years;
- (b) 15 days in the case of a second suspension under this Section or Section 341 within the last 10 years; or
- (c) 30 days in the case of a third or subsequent suspension under this Section or Section 341 within the last 10 years.

(4) For greater certainty,

- (a) a peace officer issuing an order of suspension under Section 341 or subsection (3) may only issue one suspension under either Section 341 or subsection (3) per occurrence;
- (b) a peace officer shall not issue an order of suspension under either Section 341 or subsection (3) if an order of suspension

under Section 338 or subsection 347(3) has been issued for the same occurrence; and

(c) subject to clauses (a) and (b) and subsection 338(9), a peace officer may issue an order of suspension under Section 338 or subsection 347(3) in addition to any other suspension or sanction authorized by this Act or the *Criminal Code* (Canada).

(5) A peace officer who serves an order pursuant to subsection (1) shall, without delay, forward to the Registrar

(a) the person's driver's licence, if one has been surrendered;

(b) the temporary driver's licence, if one has been issued;

(c) the completed order of suspension;

(d) a report signed by the peace officer;

(e) the results of any physical coordination test with respect to a person referred to in clause (1)(a);

(f) any certificate of an analyst, qualified medical practitioner or qualified technician referred to in subsection 320.32(1) of the *Criminal Code* (Canada), if applicable; and

(g) any certificate of an analyst, qualified medical practitioner or qualified technician referred to in subsection 320.32(1) of the *Criminal Code* (Canada), if applicable.

(6) The order of suspension, report of the peace officer referred to in this Section and temporary driver's licence must be in the form, contain the information and be completed in the manner required by the Registrar.

(7) Where a person who holds a valid driver's licence does not surrender it, the driver's licence is nevertheless suspended.

(8) The revocation of a licence and the suspension of a driving privilege pursuant to this Section are in addition to and not in substitution for any other proceeding or penalty arising from the same circumstances.

(9) Every peace officer who requests the surrender of a licence from a person pursuant to this Section shall

(a) keep a written record of the suspension with the name, address and licence number of the person and the date and time of the suspension;

(b) provide the person with a written statement setting out the time at which the suspension takes effect, the length of the period during which the licence is suspended and acknowledging receipt of the licence that is surrendered; and

(c) forward to the Registrar forthwith a written report setting out the name, address and licence number of the person and such particulars as the Registrar may require in relation to the matter.

(10) The peace officer who requested the surrender of a licence under this Section shall

- (a) issue an order of suspension to the driver in accordance with subsection (1); and
- (b) seize and dispose of the licence as directed by the Registrar.

(11) At the end of the suspension period, a person may apply in the form and manner prescribed by the Registrar for reinstatement of the person's licence upon payment of the reinstatement fee prescribed by the regulations.

(12) Where the motor vehicle driven by a person whose licence is suspended or whose driving privilege is suspended pursuant to this Section is in a location from which, in the opinion of a peace officer, it should be removed and there is no person easily available who may lawfully remove the vehicle with the consent of the person, the peace officer may remove and store the vehicle or cause it to be removed and stored and shall notify the person of its location.

(13) The costs and charges incurred in moving and storing a vehicle pursuant to subsection (12) must be paid, before the vehicle is released, by the person to whom the vehicle is released. 2018, c. 3, s. 63; 2018, c. 38, s. 5.

Demand of novice driver where suspected drug impairment

350 (1) Where a peace officer believes on reasonable and probable grounds that any person who is a novice driver

- (a) is operating or having care and control of a motor vehicle, whether it is in motion or not; or
- (b) at any time within the preceding two hours, has operated or had care and control of a motor vehicle, whether it was in motion or not,

having consumed drugs such that there is the presence of a drug in the person's body, the peace officer may make a demand pursuant to subsection (2).

(2) Where a peace officer believes that subsection (1) applies with respect to a person, the peace officer may, by demand made to that person forthwith or as soon as practicable, require that person to provide then or as soon thereafter as is practicable

- (a) such samples of bodily substances as in the opinion of a qualified technician are required for the use of approved drug screening equipment; or
- (b) where the peace officer has reasonable and probable grounds to believe that, by reason of any physical condition of the person,
 - (i) the person may be incapable of providing a sample, or
 - (ii) it would be impracticable to obtain a sample from the person, under the conditions referred to in subsection (3),

such other samples of bodily substances as in the opinion of the qualified medical practitioner or qualified technician taking the samples, are necessary to enable proper analysis to be made in order to determine the presence of a drug in the person's body and the concentration of the drug,

and accompany the peace officer for the purpose of enabling such samples to be taken.

(3) Samples of blood may be taken from a person pursuant to a demand made by a peace officer pursuant to subsection (2) only if the samples are taken by or under the direction of a qualified medical practitioner and the qualified medical practitioner is satisfied that the taking of those samples would not endanger the life or health of the person. 2018, c. 38, s. 6.

24-hour suspension of novice driver

351 (1) Where approved drug screening equipment indicates the presence of a drug in the system of a novice driver, a peace officer may, on behalf of the registrar, suspend the novice driver's licence for a period of 24 hours.

(2) Subsection (1) does not apply to a person who is legally authorized to use a drug for medical purposes and the presence of that drug was indicated.

(3) Every peace officer who requests the surrender of a licence from a novice driver pursuant to this Section shall

(a) keep a written record of the suspension with the name, address and licence number of the novice driver and the date and time of the suspension;

(b) provide the novice driver with a written statement setting out the time at which the suspension takes effect and the length of the period during which the licence is suspended; and

(c) forward to the Registrar forthwith a written report setting out the name, address and licence number of the novice driver and such particulars respecting the approved drug screening equipment and the conduct and results of the analysis as the Registrar may require in relation to the matter.

(4) Where a licence is suspended under this Section, the licence may not be physically seized or destroyed.

(5) Where the motor vehicle driven by a person whose licence is suspended and whose driving privilege is suspended pursuant to this Section is in a location from which, in the opinion of a peace officer, it should be removed and there is no person easily available who may lawfully remove the vehicle with the consent of the person, the peace officer may remove and store the vehicle or cause it to be removed and stored and shall notify the person of its location.

(6) The costs and charges incurred in moving and storing a vehicle pursuant to subsection (5) must be paid, before the vehicle is released, by the person to whom the vehicle is released. 2018, c. 3, s. 63.

Purpose of suspension

352 The suspension of a licence or the suspension of a driving privilege by reason of the operation of Section 349 or 351 or the breach of a condition of a licence referred to in Section 79 or 80 is intended

- (a) to ensure road safety for the public;
- (b) to safeguard the holder of the licence and the public; and
- (c) in the case of a novice driver, to assist that driver to acquire experience and develop or improve the driver's safe driving skills in controlled conditions. 2018, c. 3, s. 63.

Suspension may not be appealed

353 A suspension under Section 347, 349 or 351 may not be appealed to the Motor Vehicle Appeal Board. 2018, c. 3, s. 63.

Request for information and re-examination

354 (1) The Registrar by written notice may require the holder of a driver's licence to furnish the Registrar, within 10 days after the date of the notice, with information respecting the age of the person, the person's driving experience, the person's physical condition and such other matters relevant to the person's driving ability or the person's fitness to be licensed as the Registrar requires.

(2) The Registrar by written notice may require the holder of a driver's licence to submit to examination or re-examination by an examiner or such other person designated by the Registrar within 10 days after the date of the notice.

(3) No person shall fail or refuse to furnish the Registrar with information or to submit to examination or re-examination when required to do so by the Registrar under this Section.

(4) When a person fails or refuses to furnish the Registrar with information required by the Registrar under this Section or fails or refuses to submit to examination or re-examination when required by the Registrar to do so, the Registrar may suspend the driver's licence of the person until the person furnishes the required information or submits to examination or re-examination, as the case may be.

(5) The Registrar may require a person to attend and successfully complete a driver improvement program or to attend and successfully complete a course of instruction in driver training specified by the Registrar and may suspend the driver's licence of a person who fails to attend or successfully complete the course or program required by the Registrar.

(6) A certificate signed or purporting to be signed by the Registrar and sealed with the seal of the Department that a person has or has not furnished the Registrar with information required by the Registrar under this Section or has or has not submitted for examination or re-examination by an examiner, as required by the Registrar under this Section, must be received in evidence in any prosecution under this Section without proof of the signature or seal on the certificate, and is prima facie proof of the facts stated therein. R.S., c. 293, s. 280; 1994, c. 24, s. 7; 2011, c. 67, s. 7.

Ignition interlock program

355 (1) The Registrar may by written notice require the holder of a driver’s licence to participate in an ignition interlock program established pursuant to the regulations and may suspend the driver’s licence of any person who fails to participate in such program.

(2) The Registrar may require an applicant for a driver’s licence to participate in an ignition interlock program established pursuant to the regulations as a condition of being granted a licence and may suspend the driver’s licence of any person who fails to participate in such program where required to by such a condition. 2006, c. 36, s. 2; 2010, c. 20, s. 3.

Cancellation of registration or permit by Registrar

356 The Registrar may suspend or cancel the registration of a vehicle and may suspend or revoke any permit

- (a) when the Department determines that the vehicle is unsafe or unfit to be operated or is not equipped as required by law;
- (b) when the vehicle is used for any unlawful purpose or when the owner permits it to be used by a person not entitled thereto;
- (c) when the driver’s licence of the owner has been suspended or revoked; or
- (d) when the Registrar determines that the applicant for the registration or permit provided false information to the Department in the course of obtaining the registration or permit. R.S., c. 293, s. 281; 2015, c. 45, s. 18.

Suspension or revocation where misleading information

357 The Registrar may suspend or revoke the driver’s licence of any person if the Registrar determines that the person provided misleading information to the Department in the course of obtaining the driver’s licence. 2015, c. 45, s. 19.

Record of convictions and point system

358 (1) The Registrar shall maintain a written record of the convictions of every person for violations of the provisions of this Act referred to in subsection (3).

(2) Where a person licensed pursuant to this Act is convicted of an offence in another province of Canada equivalent to an offence set out in the table in subsection (3) and the Registrar has received from that other province a record of the conviction, the Registrar shall maintain a written record of the conviction.

(3) The Registrar shall enter on the record of each person maintained pursuant to subsection (1) or (2) in respect of each such conviction the number of points specified in the following table:

POINT SYSTEM TABLE

	Conviction	Section(s) Violated	Number of Points
1.	Careless and imprudent driving	116	6

2.	Speeding or dangerous driving	124	6
3.	Failing to stop at an accident or to perform any duty imposed by Section 112	112	6
4.	Racing	201	6
5.	Passing school bus or failure to obey crossing guard	126(7), 161	6
6.	Improper passing	148, 149(1)(a)	4
7.	Speeding in excess of prima facie speed limit	125	4
8.	Speeding in excess of posted limit by 31 kilometres per hour and over	126(3)(c), 130(c), 131(1)(c)	4
9.	Speeding in excess of posted limit by between 16 and 30 kilometres per hour, inclusive	126(3)(b), 130(b), 131(1)(b)	3
10.	Speeding in excess of posted limit by between 1 and 15 kilometres per hour, inclusive	126(3)(a), 130(a), 131(1)(a)	2
11.	Failure to yield to pedestrian	160(1), (2)	4
12.	Failure to obey a traffic control person	140	4
13.	Failing to obey traffic signs or signals or yield right of way	96(2), 108(2), 156, 170, 171, 172	2
14.	Driving to left of centre line	143, 149(1)(b), 149(1)(c), 149(2)	2
15.	Operating motor vehicle without adequate brakes	233	2
16.	Offences involving the use of a motor vehicle in motion under the following sections	78, 79, 80, 81, 88(5), 138, 144, 146, 151, 152, 153, 154, 157, 204, 205, 209(2), 226(2), 226(3), 226(4), 229, 239	2

17.	Using hand-held cellular telephone or engaging in text messaging on communication device while operating vehicle on highway	123	4
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(4) When six or more, but less than 10, points are entered on the record of a person the Registrar may require the person to attend before the Registrar, or an examiner or other person designated by the Registrar, at a place and within a period prescribed by the Registrar for an interview with a view to assisting the person to improve the person's driving habits.

(5) Where a person fails or refuses to attend and to participate in an interview when requested to do so by the Registrar pursuant to subsection (4), the Registrar may suspend the person's driver's licence, or the privilege of obtaining a driver's licence until the person attends and participates in an interview with the Registrar or an examiner or other person designated.

(6) Subject to subsection (7), when 10 or more points are entered on the record of a person in respect of convictions for violations of this Act entered against the person within a period of 24 months, the Registrar shall suspend the driver's licence, or the privilege of obtaining a driver's licence, of the person for a period of six months.

(7) A suspension of a driver's licence or privilege of obtaining a driver's licence pursuant to subsection (6) may not be made until after 30 days from the date of the conviction that increased the total number of points entered on the record of the driver to 10 or more points or until the conviction has been affirmed on appeal, or the appeal is dismissed or discontinued, unless the driver notifies the Registrar that the driver is not appealing the conviction.

(8) A person whose driver's licence or privilege of obtaining a driver's licence has been suspended pursuant to this Section shall, to have the driver's licence or privilege of obtaining a driver's licence reinstated, apply to the Registrar in the form and manner required by the Registrar.

(9) The Registrar shall not reinstate a driver's licence or the privilege of obtaining a driver's licence pursuant to subsection (8) until the Registrar is satisfied that all requirements pursuant to this Act have been completed by the applicant.

(10) When 24 months have elapsed from the date of a conviction for a violation of this Act that led to an entry of points on the record of a person, the Registrar shall deduct from the record the number of points entered on it in respect of that violation.

(11) When the driver's licence, or the privilege of obtaining a driver's licence, of a person has been suspended under this Section and the period of suspension has expired, the Registrar shall remove from the record of that person all points that were entered on it in respect of the period before the date of the suspension.

(12) Any driver's licence or renewal thereof issued to a person after the expiration of a period of suspension imposed pursuant to this Section must

be a probationary licence for a period of 12 months from the date that a licence was first issued to the person after the said suspension period, and if three or more points are entered in the record of that person by reason of a conviction or convictions entered against the person within the said period of 12 months the Registrar shall suspend the person's driver's licence or the person's privilege of obtaining a driver's licence for a further period of six months.

(13) For the purpose of this Section, where a person makes a voluntary payment pursuant to Section 312, the person is deemed to be convicted of the offence or violation that the person was alleged to have committed and for which the person made the voluntary payment.

(14) The Registrar may deduct up to four points from the record of a person upon being satisfied that such person has successfully completed a self-improvement defensive driving course within the preceding year.

(15) Subsection (14) applies to points first entered and still existing on the person's driving record at the time when the Registrar acts.

(16) Notwithstanding subsection (14), the Registrar shall not deduct points from the record of a person who holds a class 7 or 8 driver's licence as set out in regulations made pursuant to Section 68 or who is a newly licensed driver. R.S., c. 293, s. 282; 1994, c. 24, s. 8; 2001, c. 12, s. 10; 2001, c. 44, ss. 5, 9; 2002, c. 20, s. 8; 2007, c. 45, s. 19; 2008, c. 21, s. 10; 2010, c. 61, s. 4; 2010, c. 62, s. 1; 2011, c. 46, s. 5; 2014, c. 53, s. 12.

Newly licensed driver

359 (1) In this Section,

“newly licensed driver” includes a person who was a newly licensed driver under this Act immediately prior to the coming into force of this Section and such person remains a newly licensed driver for the purpose of this Section until the expiry of the period established on the person's driver record maintained by the Registrar;

“points” means points that are entered and remain on the record of a person pursuant to Section 358.

(2) A person who has been issued a class 7 or 8 driver's licence, as set out in regulations made pursuant to Section 68, immediately prior to the coming into force of this Section is a newly licensed driver for the purpose of this Section for four years commencing with the date the person qualifies for another class of driver's licence.

(3) Where two or more points are entered on the record of a holder of a class 7 or 8 driver's licence as set out in regulations made pursuant to Section 68 the Registrar may require the holder to attend before the Registrar or an examiner or other person designated by the Registrar, at a place and within a period prescribed by the Registrar for an interview with a view to assisting the person to improve the person's driving habits.

(4) Where four or more points are entered on the record of a holder of a class 7 or 8 driver's licence as set out in regulations made pursuant to

Section 68 the Registrar shall suspend for a period of six months the person's licence and the person's privilege of obtaining a driver's licence.

(5) Where three points are entered on the record of a newly licensed driver the Registrar may give the newly licensed driver a warning notice.

(6) Where four or five points are entered on the record of a newly licensed driver the Registrar may require the newly licensed driver to attend before the Registrar, or an examiner or other person designated by the Registrar, at a place and within a period prescribed by the Registrar for an interview with a view to assisting the person to improve the person's driving habits.

(7) Where six or more points are entered on the record of a newly licensed driver the Registrar shall suspend for a period of six months the person's driver's licence and the person's privilege of obtaining a driver's licence.

(8) Except as provided in this Section, all the provisions of Section 358 apply with necessary changes to persons and proceedings to which this Section applies.

(9) This Section applies only to persons who become holders of driver's licences on or after July 1, 1966. R.S., c. 293, s. 283; 1994, c. 24, s. 9.

Conditional licence

360 (1) Where the Registrar has suspended the driver's licence or the privilege of obtaining a driver's licence, pursuant to subsection 358(6) or 359(7), upon cause being shown to the satisfaction of the Registrar, the Registrar may issue a driver's licence before the expiration of the period of suspension.

(2) The Registrar may impose such conditions as the Registrar considers proper on a driver's licence issued under this Section.

(3) Where any points are entered on the record of a person to whom a driver's licence has been issued under this Section, the Registrar shall suspend the driver's licence and no further licence may be issued until the period of suspension imposed under subsection 358(6) or 359(7) has expired.

(4) The Registrar shall not issue a driver's licence under this Section unless the suspension pursuant to subsection 358(6) or 359(7) is a first suspension.

(5) For the purpose of this Section, a suspension is deemed to be a first suspension if a driver's licence or the privilege of obtaining a driver's licence had not been suspended under either subsection 358(6) or 359(7) within five years of the date of the suspension and a suspension is deemed to be a subsequent suspension if a driver's licence or the privilege of obtaining a driver's licence had been suspended under either subsection 358(6) or 359(7) within five years of the date of suspension. R.S., c. 293, s. 284.

Suspension of licence by court

361 (1) Notwithstanding any other provisions of this Act, when a court or judge convicts a person who holds a driver's licence under this Act of a violation of Section 116, 124, 125 or 126, clause 130(b) or (c) or Section 201 the court

or judge shall by order suspend the driver's licence of the person for a period of seven days in the case of a conviction for a first offence, for a period of 15 days in the case of a conviction for a second offence and for a period of 30 days in the case of a conviction for a third or subsequent offence.

(2) Subsection (1) does not affect the authority of the court or judge to order the convicted person to pay costs of the proceedings or to impose the pecuniary penalty provided by this Act.

(3) When a court or judge has made an order under subsection (1) the person whose licence is suspended by the order shall forthwith produce the licence to the court or judge who shall make thereon an endorsement of the fact of the suspension in the following word or words to the like effect:

suspended from noon of the day of, 20. . . . , until noon
of the day of, 20.

and shall sign the endorsement.

(4) When an order has been made under subsection (1) the clerk of the court or the judge shall forthwith transmit to the Registrar a true copy of the order.

(5) Where a person whose licence has been suspended under this Section by a judge serves the judge with notice of appeal from the conviction and enters into a recognizance or makes a deposit of money pursuant to the *Summary Proceedings Act* the order suspending the person's licence is stayed pending the determinations of the appeal.

(6) Where an order suspending a person's licence has been stayed by virtue of subsection (5) the order provided for in subsection (1) and the endorsement required by subsection (3) must be made

(a) if the appeal is abandoned, by the court or judge that convicted the person; or

(b) if the appeal is dismissed, by the court or judge that heard the appeal,

and the court or judge may order the person to appear and present the person's licence for endorsement and the order may be enforced by a peace officer. R.S., c. 293, s. 285; 2001, c. 12, s. 11.

Evidence of cancellation, suspension or revocation

362 A certificate under the signature of the Minister or the Registrar and the seal of the Department that a registration has been suspended or cancelled or that a permit or a licence or the privilege of obtaining a licence has been suspended or revoked, or a certificate under the signature of a minister or an official in another province performing duties similar to the Registrar and under the seal of a department in another province that a registration has been suspended or cancelled or that a permit or a licence or the privilege of obtaining a licence has been suspended or revoked in that province, or a facsimile of that document, is conclusive evidence that such registration has been duly and lawfully suspended or cancelled or that such permit or licence or privilege of obtaining a licence has been duly and lawfully suspended or revoked, as the case may be, and such certificate must be received in

evidence without proof of such seal or of such signature or of the official character of the person appearing to have signed the same. R.S., c. 293, s. 286; 2002, c. 20, s. 9.

Operating if cancelled, suspended or revoked

363 (1) Where the registration of a vehicle or the permit issued in respect of a vehicle has been cancelled, revoked or suspended in accordance with this Act it is an offence against this Act for a person other than the one designated by the Department to operate such motor vehicle on a highway, and if a person other than the one so designated operates such motor vehicle the person is guilty of an offence and upon summary conviction shall be punished as provided in Section 380.

(2) A person shall not drive an off-highway vehicle on a road trail or a motor vehicle while the person's licence or privilege of obtaining a licence is cancelled, revoked or suspended under this Act or the *Road Trails Act*. R.S., c. 293, s. 287; 1994-95, c. 12, s. 16; 1999, c. 11, s. 12; 2002, c. 10, s. 19; 2023, c. 4, s. 38.

Return of plates, etc. upon suspension or revocation

364 (1) When a registration is suspended or cancelled or when a permit is suspended or revoked the number plates must be returned to the Department upon the order of the Registrar.

(2) When a permit or licence is suspended or revoked the permit or licence must forthwith be returned to the Department by the person to whom the same was issued upon the order of the Registrar. R.S., c. 293, s. 289.

Return of plates, etc. upon request

365 (1) Every permit, licence, certificate, registration number plate and dealer's number plate is and remains the property of the Crown and must be returned to the Minister whenever required by the Minister and it is an offence to fail or refuse to return to the Department such permit, licence, certificate, registration number plate or dealer's number plate when required to do so by a letter sent in the manner prescribed by the Registrar.

(2) In any prosecution under this Section it is prima facie evidence that the defendant has failed or refused to return said permit, licence, certificate, registration number plate or dealer's number plate by producing to the court a certificate from the Registrar to the effect that a letter was sent to said defendant to the defendant's address appearing on the Department's records 10 days previous to the commencement of the prosecution and that such permit, licence, certificate, registration number plate or dealer's number plate has not been so returned within the said 10 days.

(3) The holder of any permit, licence, certificate, registration number plate or dealer's number plate shall surrender the same on demand to any peace officer who exhibits an order signed by the Registrar and under the seal of the Department requiring the said permit, licence, certificate, registration number plate or dealer's number plate to be delivered to the bearer of the order and upon failure or refusal to do so is guilty of an offence against this Act.

(4) Where a person fails or refuses to return to the Department a permit, licence, certificate, registration number plate or dealer's number plate when required to do so by a letter sent from the Registrar, the Registrar or the Director of

Highway Safety may revoke the permit or licence and cancel the certificate, registration number plate or dealer's number plate. R.S., c. 293, s. 290; 2001, c. 12, s. 12.

Approval of Minister for re-registration or reissue

366 Notwithstanding the provisions of Sections 68 and 69 and except as provided in Sections 259 to 305 whenever any registration is cancelled or any permit or licence is revoked, unless and until the Minister thinks fit

- (a) a vehicle may not be again registered if the registration respecting the same has been cancelled;
- (b) a permit may not be issued respecting any motor vehicle if a permit respecting the same has been revoked; and
- (c) a person may not be licensed under any provisions of this Act if a licence issued under any such provisions has been so revoked. R.S., c. 293, s. 291.

IMPOUNDING OF VEHICLE

Detention by peace officer and impounding by Registrar

367 (1) In this Section, "impound" means remove a vehicle to a secure storage facility or immobilize the vehicle with an approved device.

(2) Where a peace officer is satisfied that a person was driving a motor vehicle on a highway while the person's driver's licence or privilege of obtaining a licence is revoked pursuant to this Act for a violation of the *Criminal Code* (Canada), including an impairment-related offence as defined in subsection 73(1), the peace officer shall

- (a) notify the Registrar of the fact or cause the Registrar to be notified; and
- (b) detain the motor vehicle that was being driven by the person whose driver's licence or privilege of obtaining a licence is revoked until the Registrar issues an order pursuant to subsection (3).

(3) Upon notification pursuant to subsection (2), the Registrar may, without a hearing, issue an order to release the motor vehicle or issue an order to impound the motor vehicle that was being driven by the driver whose driver's licence or privilege of obtaining a licence is revoked, as follows:

- (a) for 90 days, if an order to impound under this Section has not previously been made, within a prescribed period, with respect to any motor vehicle then owned by the owner of the vehicle currently being impounded;
- (b) for 180 days, if an order to impound under this Section has previously been made, within a prescribed period, with respect to any motor vehicle then owned by the owner of the vehicle currently being impounded.

(4) The order to impound issued pursuant to this Section is intended to promote compliance with this Act and to thereby safeguard the public and does not constitute an alternative to any proceeding or penalty arising from the same circumstances or around the same time.

(5) The Registrar shall notify a peace officer of an order made pursuant to subsection (3) and shall send notice of the order to the owner of the motor vehicle at the most recent address for the owner appearing in the records of the Registrar.

(6) Upon notification of the Registrar's order to release the motor vehicle, a peace officer shall forthwith release the motor vehicle to its owner.

(7) Service of the order, or notice of it, on the driver of the motor vehicle is deemed to be service on and sufficient notice to the owner of the vehicle and the operator of the vehicle, if there is an operator.

(8) Where the motor vehicle that is the subject of the order to impound contains goods, the peace officer may require the driver and any other person present who is in charge of the motor vehicle to surrender all documents in that person's possession or in the vehicle that relate to the operation of the vehicle or to the carriage of the goods and to furnish all information within that person's knowledge relating to the details of the current trip and the ownership of the goods. 1998, c. 32, s. 4; 2018, c. 3, s. 64.

Drawn vehicle or load

368 (1) Upon being served, or being deemed to have been served, with the order to impound or notice of it, the operator of the motor vehicle, or if there is no operator, the owner, shall forthwith remove any vehicle drawn by the motor vehicle and any load from the motor vehicle.

(2) Where the goods are dangerous goods within the meaning of the *Dangerous Goods Transportation Act*, the operator, or if there is no operator, the owner, shall remove the goods in accordance with that Act.

(3) Where, in the opinion of the peace officer, the operator or owner fails to remove a drawn vehicle or load as required by subsection (1) within a reasonable time after being served or being deemed to have been served with the order to impound, the peace officer may cause the drawn vehicle or load to be removed and stored or disposed of at the cost and risk of the operator, or if there is no operator, the owner.

(4) Where a peace officer is of the opinion that the operator or owner has not made appropriate arrangements for the removal of a drawn vehicle or load, having regard to the nature of the goods, including the fact that they are or appear to be dangerous goods, within the meaning of the *Dangerous Goods Transportation Act*, or are perishable, the peace officer may cause the drawn vehicle or load to be removed, stored or otherwise disposed of at the cost and risk of the operator, or if there is no operator, the owner.

(5) Upon service or deemed service of the order to impound or notice of it being effected, or, if the motor vehicle that is subject to the order was drawing a vehicle or had a load, once the drawn vehicle and load have been removed, the motor vehicle must, at the cost of and risk to the owner, be

(a) removed to an impound facility as directed by the peace officer; and

(b) impounded for the period set out in the order to impound or until ordered to be released by the Motor Vehicle Appeal Board pursuant to Section 374. 1998, c. 32, s. 4; 2011, c. 67, s. 8.

Personal property in vehicle

369 Any personal property that is left in the impounded motor vehicle and that is not attached to or used in connection with its operation must, upon request and proof of ownership, be made available, at reasonable times, to the owner of the property. 1998, c. 32, s. 4.

Release of vehicle

370 (1) Upon the expiry of the period of impoundment, the Registrar shall order that the motor vehicle be released to its owner from the impound facility.

(2) Notwithstanding being served with an order pursuant to subsection (1) by the owner of the motor vehicle, the person who operates the impound facility is not required to release the motor vehicle to the owner until the owner pays the removal and impound costs related to the Registrar's order to impound.

(3) The costs incurred by the person who operates the impound facility in respect of an order to impound pursuant to Section 367 constitute a lien on the motor vehicle.

(4) The costs incurred by the Crown in removing, storing or disposing of a drawn vehicle or load from a motor vehicle pursuant to subsection 368(1) or (4) are a debt due to the Crown and may be recovered by the Crown in any court of competent jurisdiction.

(5) Persons who provide removal services or load removal services or who operate impound facilities, and their subcontractors, are independent contractors and not agents of the Department for the purpose of this Section and Sections 367 to 369 and such persons shall not charge more for their services in connection with this Section and Sections 367 to 369 than is permitted by the regulations.

(6) The owner of a motor vehicle that is subject to an order to impound pursuant to Section 367 may bring an action against the driver of the motor vehicle at the time the order was made to recover any costs or other losses incurred by the owner in connection with the order. 1998, c. 32, s. 4.

No action lies

371 (1) No action or other proceeding for damages may be instituted against the Registrar, any employee of the Department or any peace officer for any act done in good faith in the execution or intended execution of the person's duty under this Section or Sections 367 to 370 or for any alleged neglect or default in the execution in good faith of that duty.

(2) Subsection (1) does not relieve the Crown of liability in respect of a tort committed by a person mentioned in that subsection to which it would otherwise be subject.

(3) Every person who fails to comply with a requirement of a peace officer under subsection 367(8) or with subsection 368(1) is guilty of an offence and is liable to a fine of not less than \$200 and not more than \$20,000. 1998, c. 32, s. 4.

Offences

372 (1) Every person who drives or operates or removes a motor vehicle that is subject to an order to impound pursuant to Section 367 and every person who causes or permits such a motor vehicle to be driven, operated or removed is guilty of an offence and liable to a fine of not less than \$200 and not more than \$20,000.

(2) Every person who provides removal services or who operates an impound facility and who charges fees for services provided in connection with Sections 367 to 370 in excess of those permitted by the regulations is guilty of an offence and liable to a fine of not less than \$100 and not more than \$1,000.

(3) Every person who obstructs or interferes with a peace officer in the performance of the peace officer's duties under this Section and Sections 367 to 370 is guilty of an offence and liable to a fine of not less than \$200 and not more than \$20,000 or to imprisonment for a term of not more than six months, or to both. 1998, c. 32, s. 4.

Regulations

- 373 (1)** The Registrar may prescribe
- (a) the manner in which orders may be issued and notifications of orders given pursuant to Sections 367 to 370; and
 - (b) methods for and rules of service for any notice or orders required to be served pursuant to Sections 367 to 370.
- (2) The Governor in Council may make regulations
- (a) prescribing the period for the purpose of subsection 367(3);
 - (b) prescribing a schedule of fees that may be charged by independent contractors for services in connection with Sections 367 to 370;
 - (c) classifying persons and motor vehicles and exempting any class of person or any class of motor vehicle from any provision of Sections 367 to 372 or any regulation made pursuant to this Section and prescribing conditions for any such exemptions;
 - (d) prescribing fees for the administration of Sections 367 to 372;
 - (e) considered necessary or advisable to carry out effectively the intent and purpose of this Section and Sections 367 to 372. 1998, c. 32, s. 4; 1999, c. 11, s. 13.

Appeal

374 (1) The owner of a motor vehicle that is subject to an order to impound pursuant to Section 367 may, upon paying the prescribed fee, appeal the order to the Motor Vehicle Appeal Board.

(2) The only grounds on which an owner may appeal pursuant to subsection (1) and the only grounds on which the Motor Vehicle Appeal Board may set aside the order to impound are that

(a) the motor vehicle that is subject to the order was taken without the consent of the owner at the time in respect of which the order was made;

(b) the driver's licence of the driver of the motor vehicle at the time in respect of which the order was made was not then under revocation;

(c) the owner of the motor vehicle exercised due diligence in attempting to determine that the driver's licence of the driver of the motor vehicle at the time in respect of which the order was made was not then under revocation;

(d) the order will result in exceptional hardship; or

(e) another ground of appeal prescribed in the regulations applies to the owner.

(3) Clause (2)(d) does not apply if an order to impound under Section 367 was previously made with respect to any motor vehicle then owned by the same owner.

(4) The Motor Vehicle Appeal Board may confirm or set aside an order to impound.

(5) The Motor Vehicle Appeal Board shall give written notice of the Board's decision to the owner.

(6) If the Motor Vehicle Appeal Board sets aside the order, the Board shall issue an order to release the vehicle.

(7) The decision of the Motor Vehicle Appeal Board under this Section is final and binding.

(8) The filing of an appeal pursuant to this Section does not suspend or terminate the order to impound pursuant to Section 367. 1998, c. 32, s. 4; 1999, c. 11, s. 14; 2011, c. 67, s. 9.

Appeal respecting commercial vehicle or trailer

375 (1) The owner of a commercial motor vehicle or trailer that is subject to an order to impound under Section 367 may, upon paying the prescribed fee, appeal the order to the Motor Vehicle Appeal Board.

(2) The only grounds on which an owner may appeal pursuant to subsection (1) and the only grounds on which the Motor Vehicle Appeal Board may set aside the order to impound are that

(a) the motor vehicle that is subject to the order was taken without the consent of the owner at the time in respect of which the order was made;

(b) the driver's licence of the driver of the motor vehicle at the time in respect of which the order was made was not then under revocation;

(c) the owner of the motor vehicle exercised due diligence in attempting to determine that the driver's licence of the driver of the motor vehicle at the time in respect of which the order was made was not then under revocation;

(d) the order will result in exceptional hardship; or

(e) another ground of appeal prescribed in the regulations applies to the owner.

(3) Clause (2)(d) does not apply if an order to impound under Section 367 was previously made with respect to any motor vehicle then owned by the same owner.

(4) The Motor Vehicle Appeal Board may confirm or set aside the order to impound.

(5) The Motor Vehicle Appeal Board shall give written notice of the Board's decision to the owner.

(6) Where the Motor Vehicle Appeal Board sets aside the order, the Board shall issue an order to release the vehicle.

(7) The decision of the Motor Vehicle Appeal Board pursuant to this Section is final and binding.

(8) The filing of an appeal pursuant to this Section does not suspend or terminate the order to impound under Section 367. 1998, c. 32, s. 4; 1999, c. 11, s. 15; 2011, c. 67, s. 10.

Regulations

376 (1) The Governor in Council may make regulations

(a) prescribing fees for the purpose of subsections 374(1) and 375(1);

(b) prescribing grounds of appeal under clauses 374(2)(e) and 375(2)(e);

(c) respecting devices that may be required to be installed in or attached to vehicles to prevent the operation of the vehicle in certain circumstances.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 1998, c. 32, s. 4; 1999, c. 11, s. 16.

PENALTIES

Category A offences

377 Any person who violates any of the provisions of Section 17, 21, 33, 34, 37, 38 or 61, subsection 77(4) or (5), 83(3), 91(2) or 100(3), Section 110, subsection 129(4), Section 164, 165, 181, 182, 184, 186, 187, 189, 193 or 194, subsection 196(1) or Section 197, 198, 200, 206, 207, 208, 209, 211, 213, 216, 219, 220, 221, 228, 235, 237, 243 or 244 is guilty of an offence and liable on summary conviction to the penalties provided for a category A offence in the *Summary Proceedings Act*. 2022, c. 21, s. 15.

Category B offences

378 Any person who violates any of the provisions of Section 19, 31, 40, 41, 43 or 53, subsection 77(1) or (2), 96(2), 99(2) and (3) or 100(5), Section 105, 108, 147, 152, 153, 154, 156, 157, 159, 163, 166, 171, 172 or 173, subsection 174(1), Section 176, 177, 178, 179, 199, 205, 217 or 218, subsection 223(1) or Section 224, 225, 226, 229, 230, 234, 238, 239, 240, 241, 254, 257, 258 or 305 is guilty of an offence and liable on summary conviction to the penalties provided for a category B offence in the *Summary Proceedings Act*. 2002, c. 10, s. 20; 2005, c. 8, s. 10; 2007, c. 20, s. 9; 2007, c. 45, s. 20; 2008, c. 62, s. 3; 2010, c. 61, s. 6; 2010, c. 63, s. 2; 2015, c. 46, s. 15; 2022, c. 21, s. 16.

Category C offences

379 Any person who violates any of the provisions of Section 23, 26, 27, 29, 30, 32, 67, 78, 79, 80 or 81, subsection 96(1), Section 109 or 111, subsection 123(1), clause 130(a), Section 137, 143, 144, 146, 150, 151, 155, 158, 167, 170, 183, 188, 204, 210, 233 or 242, subsection 246(1) or 247(4), Section 255 or 256, subsection 257(12) or Section 260, 301, 308, 310, 364 or 365 is guilty of an offence and liable on summary conviction to the penalties provided for a category C offence in the *Summary Proceedings Act*. 2002, c. 10, s. 20; 2005, c. 8, s. 11; 2010, c. 61, s. 7; 2014, c. 20, s. 11; 2014, c. 53, s. 13.

Category D offences

380 Any person who violates any of the provisions of Section 7, 14, 16, 60, 63, 66, 88, 89 or 95, subsection 113(12), Section 114, 115 or 125, subsection 126(8), clause 130(b), Section 138, 139, 148, 149, 215, 245 or 266, subsection 354(3) or Section 392 is guilty of an offence and liable on summary conviction to the penalties provided for a category D offence in the *Summary Proceedings Act*. 2002, c. 10, s. 20; 2005, c. 8, s. 12; 2007, c. 45, s. 21; 2010, c. 59, s. 11.

Category E offences

381 Any person who violates any of the provisions of Section 50, 65 or 141 is guilty of an offence and liable on summary conviction to the penalties provided for a category E offence in the *Summary Proceedings Act*. 2002, c. 10, s. 20;

Category F offences

382 Any person who violates any of the provisions of Section 35, 36, 112, 116 or 124, subsection 126(7), clause 130(c), Section 140, subsections 160(3) to (5) or 161(1) and (2), Section 168, subsection 174(2) or Section 222, 236, 255 or 400 is guilty of an offence and liable on summary conviction to the penalties provided for

a category F offence in the *Summary Proceedings Act*. 2002, c. 10, s. 20; 2004, c. 42, s. 15; 2005, c. 8, s. 13; 2007, c. 45, s. 22; 2014, c. 53, s. 14.

Category G offences

383 Any person who violates any of the provisions of Section 44, 46, 56, 59, 93 or 112, subsection 113(13), 160(1) and (2) or 161(3) and (4), Section 169, subsection 257(11), Section 272, subsection 337(2) or 363(1) or Section 390 is guilty of an offence and liable on summary conviction to the penalties provided for a category G offence in the *Summary Proceedings Act*. 2002, c. 10, s. 20; 2005, c. 8, s. 14; 2007, c. 45, s. 23; 2008, c. 21, s. 8; 2010, c. 59, s. 12.

Category H offences

384 Any person who violates any of the provisions of Section 288 or subsection 363(2) is guilty of an offence and liable on summary conviction to the penalties provided for a category H offence in the *Summary Proceedings Act*. 2002, c. 10, s. 20; 2008, c. 21, s. 9.

Category I offences

385 Any person who violates any of the provisions of Section 49, 52, 54 or 363 is guilty of an offence and liable on summary conviction to the penalties provided for a category I offence in the *Summary Proceedings Act*. 2002, c. 10, s. 20; 2005, c. 8, s. 15.

Category K offence

386 Any person who violates any of the provisions of Section 201 is guilty of an offence and liable on summary conviction to the penalties provided for a category K offence in the *Summary Proceedings Act*. 2007, c. 45, s. 24.

Default of payment

387 An individual who is in default of payment of a fine imposed as a penalty pursuant to Sections 377 to 386 or Section 389 may be imprisoned for

- (a) two days if the amount of the fine is less than \$100; or
- (b) two days plus one day for each \$50 or part thereof over \$100 if the amount of the fine is more than \$100, to a maximum of 180 days. 2002, c. 10, s. 20; 2011, c. 46, s. 6.

Penalty for failure to produce permit or licence

388 Whenever any person is prosecuted for failure to produce a driver's licence or a permit other than a dealer's permit on the request of a peace officer and such person produces in court a driver's licence or permit, as the case may be, dated prior to the day the offence is alleged to have been committed, the pecuniary penalty provided for failure to produce such permit or licence is reduced to a penalty of not more than one dollar for the first offence in any calendar year. R.S., c. 293, s. 300.

Double fine in school area or temporary work area

389 (1) Any person who violates any of the provisions of clause 126(3)(a), 131(1)(a) or 135(2)(a) or Section 136 is guilty of an offence and liable on summary conviction to double the penalties provided for a category C offence in the *Summary Proceedings Act*.

(2) Any person who violates any of the provisions of clause 126(3)(b), 131(1)(b) or 135(2)(b) is guilty of an offence and liable on summary conviction to double the penalties provided for a category D offence in the *Summary Proceedings Act*.

(3) Any person who violates any of the provisions of clause 126(3)(c), 131(1)(c) or 135(2)(c) is guilty of an offence and liable on summary conviction to double the penalties provided for a category F offence in the *Summary Proceedings Act*. 2007, c. 45, s. 25; 2008, c. 21, s. 11; 2009, c. 20, s. 3; 2011, c. 46, s. 7.

GENERAL

False statement or information

390 (1) A person who knowingly makes any false statement of fact in an application, declaration, affidavit or paper writing required by this Act, or by the regulations of the Department in order to procure the issuance to the person of a licence, permit or certificate is guilty of an offence.

(2) A person who wilfully furnishes false information to a peace officer during the course of an investigation under this Act is guilty of an offence. R.S., c. 293, s. 301; 2002, c. 10, s. 21.

Fees

391 (1) There must be paid to the Department such fees as the Governor in Council may determine for any registration, permit, licence, certificate or other document issued under this Act or for any service performed or rendered by the Registrar or the Department and the payment of the fee so determined is a condition precedent to the issue of any such permit, licence, certificate or other document and to the performing or rendering of any such service.

(2) Except as provided in subsection (4) or as otherwise provided all fees paid under this Act form part of the General Revenue Fund.

(3) Where fees for a permit, licence, certificate or other document issued by the Department are paid by a cheque that is dishonoured and reimbursement is not made within 30 days after a request has been mailed by certified mail to the person to whom the document is issued, any permit, licence, certificate or other document issued to that person may be revoked.

(4) The fees associated with conservation licence plates, less the portion of those fees that the Registrar determines relates to administrative costs, must be paid into a conservation fund administered by the Department of Natural Resources and Renewables and designated by the Governor in Council.

(5) Notwithstanding any enactment, the fees for

(a) the issuance of a certificate of registration in the name of a licensed dealer on or after January 1, 1991, and before November 5, 2009, are the same as the fees set out in the *Schedule of Fees for Documents and Services* determined pursuant to subsection (1) for a certificate of registration; and

(b) the transfer of a motor vehicle permit and registration number plates to a licensed dealer on or after January 1, 1991, and

before November 5, 2009, are the same as the fees set out in the *Schedule of Fees for Documents and Services* determined pursuant to subsection (1) for recording an applicant as the vehicle owner, initially or by way of transfer. R.S., c. 293, s. 302; 2002, c. 20, s. 10; 2009, c. 23, s. 1; 2010, c. 2, s. 84.

Regulations respecting commercial vehicles

392 (1) Subject to the approval of the Governor in Council, the Minister may make regulations

- (a) regulating and licensing all or any class or classes of persons transporting goods for hire upon provincial highways;
- (b) regulating and licensing commercial carriers and motor vehicles operated upon provincial highways;
- (c) prescribing the terms, conditions and requirements for obtaining any such licences;
- (d) regulating the hours of labour for drivers or operators of commercial motor vehicles operated upon provincial highways;
- (e) prescribing the fees for any such licences;
- (f) incorporating by reference any document as it exists when the regulations are made and incorporating by reference, as amended from time to time, any Act of the Parliament of Canada or regulations made pursuant thereto or any classification, standard, procedure or other specification;
- (g) prescribing penalties for the violation of any such regulations.

(2) Such regulations may not limit the number of persons so licensed nor grant any franchise or exclusive right. R.S., c. 293, s. 303; 2001, c. 12, s. 16; 2001, c. 44, s. 10.

Interpretation of Sections 394 to 402

393 In Sections 394 to 402,

“carrier” means a person who owns, leases or is otherwise responsible for the operation of a commercial vehicle;

“commercial vehicle” means a commercial motor vehicle as defined in Section 2 that has a gross weight exceeding 4,500 kilograms, and includes a bus with a seating capacity of more than 10 passengers;

“reciprocating jurisdiction” means a province of Canada or state of the United States of America or the Republic of Mexico that is declared pursuant to Section 401 to be a reciprocating jurisdiction;

“safety fitness certificate” means a safety fitness certificate issued to a carrier pursuant to the regulations. 1993, c. 30, s. 1; 2001, c. 12, s. 17.

Application of Sections 395 to 402

394 Sections 395 to 402 apply to

- (a) commercial vehicles registered in the Province or a reciprocating jurisdiction;
- (b) drivers of commercial vehicles licensed pursuant to this Act; and
- (c) carriers that operate commercial vehicles in the Province. 1993, c. 30, s. 1.

Record of commercial drivers and carriers

395 (1) The Registrar shall maintain a record on drivers and carriers for the purpose of monitoring commercial vehicles, drivers of commercial vehicles and carriers.

(2) The records maintained pursuant to subsection (1) may be disclosed by the Registrar to the appropriate authority in a reciprocating jurisdiction or to the carrier or an insurer authorized by the carrier to obtain such records. 1993, c. 30, s. 1; 2001, c. 12, s. 18.

Records to be kept by carrier

396 (1) A carrier shall keep records showing

- (a) in respect of each driver employed by the carrier, an annual driver's abstract issued by the Department that includes the name and date of birth, class of licence held, warnings, convictions, collisions and suspensions imposed in the Province or a reciprocating jurisdiction;
- (b) qualifications and courses undertaken relevant to the driver's work; and
- (c) particulars in respect of each commercial vehicle operated by the carrier, including number plates, vehicle identification numbers and trip inspection, safety inspection and maintenance reports.

(2) A carrier shall permit any person authorized by the Registrar to inspect, audit and make copies of the records maintained pursuant to subsection (1).

(3) The Registrar shall issue an identification number in respect of each carrier. 1993, c. 30, s. 1; 2004, c. 42, s. 15.

Duty of driver of commercial vehicle and carrier

397 (1) A driver of a commercial vehicle shall, within 10 days thereof, inform the carrier employing the driver of all warnings, convictions and suspensions given or imposed in the Province or a reciprocating province.

(2) A carrier shall report to the Registrar all convictions imposed on a driver employed by the carrier in respect of offences in a reciprocating province. 1993, c. 30, s. 1.

Grounds for suspension or cancellation

398 The Registrar may suspend or cancel or refuse to issue

- (a) the vehicle registration and number plate in respect of any commercial vehicle registered in the Province; or
 - (b) a driver's licence or a class of driver's licence authorizing a driver to drive a particular class of vehicle,
- on the grounds of
- (c) misconduct related to the operation or driving of a motor vehicle for which the holder is responsible directly or indirectly;
 - (d) conviction of the holder for an offence contrary to Section 396 or 397 or the regulations made pursuant to Section 399; or
 - (e) any other cause appearing to the Registrar to be sufficient to warrant protection of the public. 1993, c. 30, s. 1; 2001, c. 12, s. 19.

Regulations

399 The Governor in Council may make regulations

- (a) respecting records and documents to be maintained by the carrier respecting commercial vehicles and the drivers of commercial vehicles;
- (b) prescribing a system of rating the performance of commercial motor vehicle carriers and drivers with respect to warnings, cancellations, suspensions, at-fault collisions, facility audits, safety inspections, trip inspections and contraventions of enactments of the Province, another reciprocating province of Canada, the Parliament of Canada, the United States of America or the Republic of Mexico relating to motor vehicles, and prescribing penalties, including suspension, that may be assessed against those carriers and drivers having an unsatisfactory rating;
- (c) authorizing the issuance of a safety fitness certificate and prescribing a fee for the certificate;
- (d) prescribing an hourly rate for the auditing of a commercial carrier;
- (e) requiring the attendance of the carrier before the Registrar to show cause why the carrier's vehicle registration should not be suspended or cancelled;
- (f) classifying carriers, drivers and vehicles and exempting any class of carrier, driver or vehicle from any provision contained in Sections 395 to 402 and prescribing conditions for any such exemptions;
- (g) providing for the safety and convenience of the public;
- (h) providing for trip inspection reports. 1993, c. 30, s. 1; 1995-96, c. 23, s. 7; 2001, c. 12, s. 20; 2002, c. 5, s. 33; 2002, c. 20, s. 11.

Offence and penalty

400 Every carrier or driver of a commercial vehicle who contravenes Section 396 or 397 or the regulations made pursuant to Section 399 is guilty of an offence and liable on summary conviction to a penalty of not more than \$1,000 or to imprisonment for a term not exceeding 30 days. 1993, c. 30, s. 1.

Power to declare reciprocating jurisdictions

401 The Governor in Council may, where the Governor in Council is satisfied that a province of Canada or state of the United States of America or the Republic of Mexico has laws that are substantially similar to Sections 393 to 402, declare that province or state to be a reciprocating jurisdiction. 1993, c. 30, s. 1; 2001, c. 12, s. 21.

Preservation of existing law

402 Sections 393 to 402 are in addition to, and not in substitution for, any other provisions of law applicable to carriers, commercial vehicles and the drivers of commercial vehicles. 1993, c. 30, s. 1.

Regulations respecting personal transporters

403 The Governor in Council may make regulations respecting personal transporters and, without limiting the generality of the foregoing, defining “tour” for the purpose of subsection 77(4). 2015, c. 46, s. 16.

Regulations respecting electric kick-scooters

404 The Governor in Council may make regulations respecting electric kick-scooters. 2022, c. 21, s. 17.

General rules and regulations

405 (1) The Governor in Council on the recommendation of the Minister may make rules and regulations not inconsistent with this Act as the Governor in Council considers necessary or expedient for the purpose of fully carrying out the true intent, purpose and object of this Act.

(2) A violation of any such rules or regulations is deemed to be a violation of a provision of this Act. R.S., c. 293, s. 304.

Regulation and licensing by municipal bylaw

406 (1) The council of a city, town or municipality may make regulations or bylaws regulating and licensing

(a) bicycles owned by residents of the city, town or municipality;

(b) persons transporting for hire by means of any vehicle, passengers or goods within the boundaries of said city, town or municipality except where such persons are public utilities as defined in the *Public Utilities Act* or are motor carriers who are required to be licensed under the *Motor Carrier Act*;

(c) the vehicles referred to in clause (b).

(2) Such regulations or bylaws may

(a) prescribe the amount of the fees for such licences;

(b) provide penalties for any violation of such regulations or bylaws, but such penalties must not be greater than the penalties mentioned in Section 384;

(c) provide minimum and maximum fares or rates that may be charged by any persons transporting for hire passengers or goods;

(d) determine various classes of vehicles transporting passengers for hire and provide special restrictions on certain classes;

(e) authorize the traffic authority or other official to revoke any licence issued under such regulations or bylaws but an appeal from any revocation so authorized may be taken to the council of the city, town or municipality or to the police commission or other committee specified in such regulations or bylaws;

(f) divide a city, town or municipality into zones for the purpose of regulating persons who or vehicles that transport passengers or goods for hire, or in any way change the boundaries of the zones;

(g) license persons or vehicles to transport passengers or goods for hire within one or more zones;

(h) license persons or vehicles to transport passengers or goods for hire between two or more zones and regulate the transportation for hire of passengers or goods between zones;

(i) limit the number of persons or vehicles licensed to transport for hire passengers or goods, or may provide that only one person shall be so licensed to transport passengers or goods with any class of vehicle;

(j) require that a person applying for a licence under clause (1)(b), or holding such a licence, place and maintain at all times while the person holds such licence public liability, property damage, cargo or passenger hazard insurance to such extent and in such amount as the bylaw prescribes;

(k) require that a person licensed to transport passengers for hire install and maintain special safety equipment prescribed by the regulations or bylaws in all vehicles;

(l) require the successful completion of a prescribed course of instruction in matters relevant to the taxi industry in the city, town or municipality as a qualification for a taxi-driver licence.

(3) Such regulations or bylaws referring to vehicles transporting passengers for hire may delegate to the traffic authority or other official of the city, town or municipality such authority as the council of the city, town or municipality considers expedient and such regulations may require such vehicles when not actually hired to

(a) drive on certain streets only;

(b) move off or remain off certain streets;

(c) refrain from soliciting or taking passengers on certain streets or under certain conditions;

(d) park at certain taxicab or hack stands and to refrain from parking at any other or certain other places.

- (4) Such regulations or bylaws must not
- (a) impose an annual licence fee of over \$50 per vehicle in the case of cities, and \$25 per vehicle in the case of towns and municipalities;
 - (b) except as in this Section otherwise provided, limit the number of persons so licensed;
 - (c) apply to persons transporting for hire passengers or goods brought into the city, town or municipality from outside the limits of such city, town or municipality or to persons transporting for hire passengers or goods taken on within the limits of such city, town or municipality to be discharged or unloaded outside the limits of such city, town or municipality;
 - (d) with respect to accessible taxicabs, limit, either directly or indirectly, the number of vehicles or the number of drivers or restrict the types of passengers that may be carried in an accessible taxicab.

(5) A regulation made pursuant to clause (2)(i) may apply to one or more zones or to all zones established by or pursuant to this Section and there may be different limits for different zones.

(6) Where two or more cities, towns or municipalities have been amalgamated as a regional municipality, until the council of the regional municipality makes a regulation or bylaw under the authority of clause (2)(f) providing otherwise, each former city, town or municipality is deemed to be one zone for the purpose of this Section and, for greater certainty, in each such zone the regulations or bylaws of the former city, town or municipality, as the case may be, respecting the transport of passengers or goods for hire in effect when the former city, town or municipality, respectively, was amalgamated continue to apply as if the city, town or municipality, respectively, had not been amalgamated.

(7) A regulation or bylaw passed pursuant to this Section does not require the approval of the Minister of Municipal Affairs and Housing. R.S., c. 293, s. 305; 1994-95, c. 12, s. 24; 1995-96, c. 23, s. 8.

Vehicle noise bylaws

407 The council of a city, town or municipality may make regulations or bylaws respecting noise produced in connection with a vehicle, including

- (a) defining what constitutes an objectionable noise;
- (b) establishing a method of determining or measuring noise; and
- (c) prohibiting the use or operation of a vehicle if the noise produced in connection with that vehicle is objectionable noise. 2021, c. 32, s. 3.

Bylaws respecting electric kick-scooters

408 The council of a municipality may make bylaws

- (a) regulating the use of electric kick-scooters on sidewalks, shared-use sidewalks, municipal highways, bicycle lanes, trails or in other public areas in the municipality that are not public highways;

- (b) prescribing the maximum allowable speed for the operation of electric kick-scooters, including prescribing different maximum speeds for different areas, roads or paths, or types of road or path;
- (c) regulating the use of privately owned and rented electric kick-scooters;
- (d) restricting the operation of electric kick-scooters during certain times of the year;
- (e) restricting the operation of electric kick-scooters when certain weather conditions are occurring or are expected to occur;
- (f) regulating the parking, docking or storage of electric kick-scooters;
- (g) creating offences and prescribing penalties for the violation of bylaws made under this Section. 2022, c. 21, s. 18.

Restriction on municipal regulation of vehicles

409 (1) Notwithstanding the provisions of any Act of the Legislature, the council of any regional municipality, town or municipality of a county or district does not, except as in this Act or the *Road Trails Act* provided, have power to make any bylaws, rules, regulations or ordinances in relation to the regulation, registration, licensing or identification of vehicles or to the use of the highway by such vehicles, or in relation to any matter dealt with in this Act, and all bylaws, rules, regulations and ordinances of any regional municipality, town or municipality of a county or district in relation to any of the said matters, except those mentioned in Section 406 or 407, are repealed and declared to be inoperative.

(2) All regulations and bylaws made by the Minister, the council of a city or incorporated town, or by the Governor in Council under Chapter 2 of the Acts of 1928, in so far as they are not inconsistent with anything herein contained remain in force until altered or repealed by the Minister or the Governor in Council. R.S., c. 293, s. 306; 2021, c. 32, s. 4; 2023, c. 4, s. 39.

Regulations authorizing projects

410 (1) The Governor in Council may make regulations authorizing, for the period of time during which the regulations are in force, a project for research into or the testing or evaluation of any matter that is governed by this Act and relates to highway use, including regulations

- (a) in relation to such a project,
 - (i) authorizing any person or class of persons to do or use a thing that is prohibited or regulated pursuant to a provision of this Act that also relates to traffic or to not do or use a thing that is required or authorized pursuant to this Act,
 - (ii) authorizing or requiring the Department, the Minister or any other person authorized or required to do anything pursuant to this Act to do anything that
 - (A) is not authorized or required to be done pursuant to this Act, or

(B) is authorized or required to be done pursuant to this Act in a way that is different from the way it is authorized or required to be done,

(iii) limiting an authorization or requirement in the regulations to any person, class of persons, class or type of vehicles, equipment, devices or highways, parts of the Province, time of year or day, activities, matters or other things,

(iv) regulating or prohibiting the doing or use of anything, and

(v) requiring any person or class of persons to carry insurance of a kind and in the amount specified;

(b) prescribing penalties for the violation of such regulations;

(c) respecting any matter or thing the Governor in Council considers necessary or advisable to effectively carry out the intent and purpose of this Section.

(2) A regulation made pursuant to this Section is repealed five years after the date it comes into force or such earlier date as the regulation may provide.

(3) In the event of a conflict between a regulation made pursuant to this Section and any provision of this Act or the *Road Trails Act*, the regulation prevails.

(4) 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. 4, s. 2; 2015, c. 46, s. 17; 2023, c. 4, s. 40.

SCHEDULE

Form

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Number

IN THE COURT

BETWEEN:

A.B.,

Plaintiff

and

C.D. or registration number of motor vehicle
or description of motor vehicle, as the case may be

Defendant

CHARLES III, by the Grace of God, etc.

TO THE SHERIFF OF THE COUNTY OF

GREETING:

WE COMMAND you to attach, seize, take and safely keep motor vehicle (*here insert description of the motor vehicle to enable it to be identified*) to respond to the judgment which may be obtained against (....., the Defendant, *or* against the said motor vehicle, *as the case may be*) by the Plaintiff in our Court at

AND WE DO COMMAND YOU that immediately after the execution hereof you do return the writ or order into our Court at together with your doings thereon.

Issued this day of, 20

Plaintiff's Solicitor
whose address is
.....

.....
Prothonotary or Clerk,
as the case may be

R.S., c. 293, Sch.
