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Revised Statutes of Nova Scotia

2023

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CHAPTER S-1

An Act to Regulate Body Art Facilities

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Short title

1 This Act may be cited as the *Safe Body Art Act*. 2011, c. 44, s. 1.

Interpretation

2 In this Act,

“administrator” means a public health inspector appointed as an administrator pursuant to this Act;

“body art facility” means any premises at or in which body art services are offered or carried out in exchange for compensation;

“body art service” means the act of permanently or semi-permanently altering the body for non-medical reasons for the purpose of cultural, artistic or self-expression reasons by

- (a) branding;
- (b) piercing;
- (c) tattooing; or
- (d) any other act prescribed by the regulations;

“contamination” means the presence of an infectious, chemical or physical agent on a body surface, inanimate object or other surface;

“communicable disease” means a disease, due to a specific infectious agent or its toxic products, that arises through the transmission of that agent or its toxic products

- (a) directly or indirectly from an infected person or animal;
- (b) directly or indirectly through the agency of a person, animal or plant carrying the disease, an inanimate object or the environment;

“dwelling” means a building or a portion of a building that is occupied and used as a residence and includes a house, condominium, apartment, cottage, mobile home, trailer or boat that is occupied and used as a residence;

“medical officer” means a medical officer as defined in the *Health Protection Act*;

“Minister” means the Minister of Environment and Climate Change;

“occupier” means an occupier at common law, and includes

- (a) a person who is in physical possession of premises; or
- (b) a person who has responsibility for, and control over, the condition of premises, the activities conducted on the premises or the persons allowed to enter the premises,

and, for the purpose of this Act, there may be more than one occupier of the same premises;

“permit” means a permit issued pursuant to this Act;

“premises” means any place, area, structure or building, including a mobile, stationary, temporary or permanent facility or a temporary or permanent location;

“public health inspector” means a person appointed as a public health inspector pursuant to this Act. 2011, c. 44, s. 2; O.I.C. 2019-21; 2021, c. 6, s. 32.

Application of Act limited

3 This Act does not apply with respect to services offered or carried out by

- (a) a duly qualified medical practitioner;
- (b) a dentist who is licensed to practise dentistry in the Province;

or

- (c) any other person exempted by the regulations. 2011, c. 44, s. 3.

Administrators

4 (1) The Minister shall, in accordance with the *Civil Service Act*, appoint administrators for the purpose of this Act.

(2) An administrator must meet

(a) the qualifications set out in subsection 5(2) to be appointed as a public health inspector; and

(b) any qualifications prescribed by the regulations. 2011, c. 44, s. 4; 2021, c. 6, s. 33.

Public health inspectors

5 (1) The Minister shall, in accordance with the *Civil Service Act*, appoint one or more public health inspectors for the purpose of this Act.

(2) A public health inspector appointed pursuant to this Section must hold

(a) a Certificate in Public Health Inspection (Canada) issued by the Board of Certification of the Canadian Institute of Public Health Inspectors; or

(b) a Certificate in Sanitary Inspection (Canada) issued by the Board of Certification of the Canadian Institute of Public Health Inspectors or its predecessor organization. 2011, c. 44, s. 5.

Persons to assist

6 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. 2011, c. 44, s. 6.

Permit

7 (1) Unless exempted by this Act or the regulations, no person shall operate a body art facility without first having obtained a permit from an administrator.

(2) An application for a permit for a body art facility may be made to an administrator in accordance with the regulations.

(3) Subject to this Act and the regulations, an administrator shall issue a permit for a body art facility to an applicant upon payment of the fee established by the regulations. 2011, c. 44, s. 7; 2021, c. 6, s. 34.

Grounds for denying or suspending permit

8 (1) An administrator shall not issue or renew a permit and may suspend or revoke a permit for a body art facility if, in the opinion of the administrator,

(a) the past conduct of the applicant or permit holder affords reasonable grounds to believe that the operation of the body

art facility would not be carried out in accordance with this Act and the regulations;

(b) the applicant or permit holder does not have or will not have available all premises, facilities and equipment necessary to operate a body art facility in accordance with this Act and the regulations;

(c) the applicant or permit holder is not complying or will not be able to comply with this Act or the regulations; or

(d) the operation of the body art facility represents or would represent a risk to human health.

(2) Any condition that is injurious to human health or in the opinion of an administrator is potentially injurious to human health is deemed to be a risk to human health pursuant to this Act. 2011, c. 44, s. 8; 2021, c. 6, s. 35.

Investigation by medical officer

9 An administrator or a public health inspector may request a medical officer to investigate, under this Act or the *Health Protection Act*, whether a risk to human health, a health hazard within the meaning of the *Health Protection Act* or a communicable disease or a disease or condition prescribed by the regulations exists or may exist. 2011, c. 44, s. 9; 2021, c. 6, s. 36.

Appeal

10 (1) Where an applicant or permit holder has received notification that an administrator has refused to grant or renew a permit or has suspended or revoked a permit, the applicant or permit holder may appeal to the Minister, by notice in writing, stating concisely the reasons for the appeal.

(2) An appeal must be conducted in the manner determined by the Minister.

(3) The Minister may dismiss an appeal, allow an appeal or make any decision an administrator is authorized to make.

(4) The decision of the Minister is final and binding on the appellant and the Minister, and the appellant shall take such action as may be necessary to implement the decision. 2011, c. 44, s. 10; 2021, c. 6, s. 37.

Types or classes of facilities

11 An administrator may designate types or classes of body art facilities for which permits are issued under Section 6. 2011, c. 44, s. 11; 2021, c. 6, s. 38.

Terms or conditions on permit

12 An administrator may impose or amend terms and conditions on a permit. 2011, c. 44, s. 12; 2021, c. 6, s. 39.

Compliance with permit

13 A person to whom a permit is issued shall comply with all terms and conditions of the permit. 2011, c. 44, s. 13.

Construction and maintenance of facility

14 It is a condition of a permit that a body art facility must be constructed and maintained in such a manner that no condition exists that is a risk to human health. 2011, c. 44, s. 14.

Condition of facility

15 It is a condition of a permit that a body art facility must have appropriate maintenance, cleaning, sterilization and sanitation programs to control physical, chemical and biological contamination of equipment, surfaces and tools used for body art services, as required by this Act and the regulations. 2011, c. 44, s. 15.

Infected person

16 (1) No person who is infected with a communicable disease or a disease or condition prescribed by the regulations or is known to be a carrier of a communicable disease shall participate in any way in body art services, except as prescribed by the regulations.

(2) It is a condition of a permit that no person who is infected with a communicable disease or a disease or condition prescribed by the regulations or is known to be a carrier of a communicable disease participate in any way in body art services, except as prescribed by the regulations. 2011, c. 44, s. 16.

Powers of administrator or public health inspector

17 (1) Subject to subsection (2), an administrator or a public health inspector may, at any reasonable time, for the purpose of carrying out the administrator's or inspector's duties, under this Act or the regulations enter without a warrant any premises if there are reasonable and probable grounds to believe the premises are a body art facility, and may

(a) make any inspection, examination, test, analysis or inquiry that the administrator or inspector considers necessary;

(b) order any substance, thing, solid, liquid, gas, plant, animal or other organism to be produced for inspection, examination, testing or analysis;

(c) seize or take samples of any substance, thing, solid, liquid, gas, plant, animal or other organism, other than samples of human bodily substances;

(d) order any person to

(i) provide the administrator or inspector with information, including personal information, personal health information or proprietary or confidential business information, and

(ii) produce any document or record, including a document or record containing personal information, personal health information or proprietary or confidential business information,

and examine or copy the information, document or record, or take it to copy or retain as evidence;

(e) take photographs or videotapes of premises, or any condition, process, substance, thing, solid, liquid, gas, plant, animal or other organism located in or on the premises;

(f) bring any machinery, equipment or other thing into or onto the premises;

(g) use any machinery, equipment or other thing located in or on the premises;

(h) order that any machinery, equipment or other thing be operated, used or dismantled in or on the premises under specified conditions.

(2) An administrator or public health inspector shall not enter any part of a dwelling without the consent of the occupier unless under a warrant issued pursuant to the *Summary Proceedings Act*. 2011, c. 44, s. 17; 2021, c. 6, s. 40.

Records copied

18 (1) Where an administrator or a public health inspector removes documents or records from premises for the purpose of clause 17(1)(d) and makes a copy or extract of them or any part of them, the administrator or public health inspector shall give a receipt to the occupier for the documents or records removed.

(2) Where documents or records are removed from premises, the documents or records must be returned to the occupier as soon as possible after the copies or extracts have been made.

(3) A copy or extract of any document or record related to an inspection, examination, test or inquiry, purporting to be certified by an administrator or a public health inspector, is admissible in evidence in any action, proceeding or prosecution as proof, in the absence of evidence to the contrary, of the original without proof of the appointment, designation, authority or signature of the person purporting to have certified the copy. 2011, c. 44, s. 18; 2021, c. 6, s. 41.

Powers of medical officers or other persons

19 An administrator or a public health inspector may be accompanied by a medical officer or other persons for any purpose referred to in subsection 17(1) and the medical officer or those other persons may carry out inspections, examinations, tests and inquiries and take samples or do such other things as directed by the administrator or public health inspector. 2011, c. 44, s. 19; 2021, c. 6, s. 42.

Reasonable assistance

20 An owner or occupier of premises and any employees or agents of the owner or occupier shall give all reasonable assistance to an administrator or a public health inspector to enable the administrator or public health inspector to exercise powers or carry out duties and functions under this Act and the regulations, and shall furnish the administrator or public health inspector with such information that the administrator or public health inspector reasonably requires for any purpose referred to in subsection 17(1). 2011, c. 44, s. 20; 2021, c. 6, s. 43.

No obstruction

21 (1) No person shall hinder or obstruct an administrator or a public health inspector in the exercise of powers or carrying out of duties or functions under this Act and the regulations.

(2) For greater certainty, a refusal of consent to enter a dwelling is not and shall not be considered to be hindering or obstructing within the meaning of subsection (1), except where a warrant has been obtained pursuant to the *Summary Proceedings Act*. 2011, c. 44, s. 21; 2021, c. 6, s. 44.

No false or misleading statements

22 No person shall knowingly make a false or misleading statement, either orally or in writing, to an administrator or a public health inspector while the administrator or the public health inspector is exercising powers or carrying out duties or functions under this Act or the regulations. 2011, c. 44, s. 22; 2021, c. 6, s. 45.

Reasonable force

23 Where an administrator or a public health inspector is empowered, authorized or required by this Act or the regulations to do any act, matter or thing, the administrator or public health inspector may use such force as is reasonably necessary. 2011, c. 44, s. 23; 2021, c. 6, s. 46.

Assistance by peace officer

24 An administrator or a public health inspector may, in the performance of duties under this Act, call for the assistance of any constable, police officer or other peace officer and, where called for such assistance, it is the duty of the constable, police officer or peace officer to render assistance. 2011, c. 44, s. 24; 2021, c. 6, s. 47.

Immunity from liability

25 An administrator, a public health inspector, a medical officer or another person performing a duty or exercising a power under this Act is immune from liability for performing the duty or exercising the power in good faith. 2011, c. 44, s. 25; 2021, c. 6, s. 48.

Proof of appointment

26 The production by an administrator or a public health inspector of a certificate or identification signifying appointment, purporting to be signed by the Minister, is admissible as evidence as proof of appointment without further proof of the signature or authority of the Minister. 2011, c. 44, s. 26; 2021, c. 6, s. 49.

Offences

27 (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, unless the accused establishes that the offence was committed without the knowledge or consent of the accused.

(2) Where a corporation commits an offence under this Act or the regulations, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the violation of this Act or the reg-

ulations is guilty of the offence and is liable to the punishment provided for the offence, whether or not the corporation has been prosecuted.

(3) Unless otherwise provided in this Act, no person shall be convicted of an offence under this Act or the regulations if the person establishes that the person exercised all due diligence to prevent the commission of the offence. 2011, c. 44, s. 27.

Penalties

28 (1) Every person who contravenes this Act or the regulations or an order made pursuant to this Act or the regulations is guilty of an offence and liable, on summary conviction,

- (a) in the case of a corporation,
 - (i) for a first offence, to a fine not exceeding \$10,000, and
 - (ii) for a second or any subsequent offence, to a fine not exceeding \$50,000; or
- (b) in the case of an individual,
 - (i) for a first offence, to a fine not exceeding \$2,000 or to imprisonment for a term of not more than six months, or both, and
 - (ii) for a second or subsequent offence, to a fine not exceeding \$10,000 or to imprisonment for a period of not more than one year, or 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. 2011, c. 44, s. 28.

Order

29 (1) Where a person is convicted of an offence pursuant to this Act, in addition to any other punishment that may be imposed pursuant to this Act, the court may, having regard to the nature of the offence and the circumstances surrounding its commission, make an order 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 pursuant to 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. 2011, c. 44, s. 29.

Limitation period

30 A prosecution for 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 an administrator or a public health inspector. 2011, c. 44, s. 30; 2021, c. 6, s. 50.

Act prevails

31 (1) Where the provisions of any Act or any 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, this Act and the regulations prevail to the extent of the conflict.

(2) Notwithstanding subsection (1), a bylaw or regulation described 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. 2011, c. 44, s. 31.

Privileged information

32 (1) The information, records of interviews, reports, statements, notes, memoranda or other data or material prepared by or supplied to or received by an administrator, a public health inspector or a medical officer providing assistance, in connection with research, studies or evaluations relating to morbidity, mortality or the cause, prevention, treatment or incidence of disease, or prepared by, supplied to or received by any person engaged in such research or study with the approval of the Minister, are privileged and are not admissible in evidence in any court or before any tribunal, board or agency except as and to the extent that the Minister directs.

(2) Nothing in this Section prevents the publication of reports or statistical compilations relating to research or studies that do not identify individual cases or sources of information or religious affiliations.

(3) An administrator, a public health inspector or a medical officer who has provided assistance may not be compelled to give evidence in court or in proceedings of a judicial nature concerning knowledge of any of the matters referred to in subsection (1) gained in the exercise of a power or duty under this Act except as and to the extent that the Minister directs.

(4) Notwithstanding subsections (1) and (3), where a judge of the Supreme Court of Nova Scotia is satisfied, upon application, that it is in the public interest to do so, the judge may order the disclosure of any information or the giving of any evidence for the purpose of an inquiry authorized by the Governor in Council pursuant to the *Public Inquiries Act*. 2011, c. 44, s. 32; 2021, c. 6, s. 51.

Regulations

- 33 (1)** The Governor in Council may make regulations
- (a) prescribing acts that are body art services;
 - (b) prescribing the duties and powers of administrators and public health inspectors;
 - (c) prescribing the qualifications of administrators;

- (d) 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 body art facility or any type or class of body art facility and prescribing the terms and conditions of the exemption;
- (e) prescribing the manner of using devices and the devices to be used in a body art facility;
- (f) prescribing the facilities and equipment to be provided and maintained at body art facilities and the manner of operating a body art facility;
- (g) respecting the cleaning and sanitation of body art facilities;
- (h) requiring and governing the disposal of any waste at a body art facility;
- (i) prescribing the records to be made and kept at body art facilities;
- (j) providing for the issue, renewal, suspension, revocation or reinstatement of or refusal to issue or renew permits and prescribing the fees payable for permits or the renewal of permits;
- (k) providing for the inspection of body art facilities;
- (l) providing for the inspection of premises before a permit is issued;
- (m) providing for the keeping of records of permits and for the inspection of those records by any person;
- (n) prescribing terms and conditions to which permits may be subject;
- (o) prescribing standards for any type or class of body art facility;
- (p) prescribing diseases or conditions for the purpose of Sections 9 and 16;
- (q) establishing the circumstances under which a person who has a prescribed disease or condition may participate in body art services;
- (r) governing appeals;
- (s) incorporating or adopting by reference, in whole or in part, a written standard, rule, regulation, guideline, code or document as it reads on a prescribed day or as it is amended from time to time;
- (t) respecting any matter the Governor in Council considers necessary or advisable for the administration of a system of administrative penalties;
- (u) prescribing forms for the purpose of this Act and the regulations;
- (v) defining any word or expression used but not defined in this Act;

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

(x) respecting any matter the Governor in Council considers necessary or advisable to effectively carry out the intent of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*, 2011, c. 44, s. 33; 2021, c. 6, s. 52.

CHAPTER S-2

**An Act to Make Communities
and Neighbourhoods Safer**

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Short title

1 This Act may be cited as the *Safer Communities and Neighbourhoods Act*, 2006, c. 6, s. 1.

Interpretation

2 (1) In this Act,

“building” means

(a) a structure of any kind or a part of a structure, including an apartment, suite, life lease rental unit, co-operative housing unit or condominium unit; and

(b) a mobile home;

“complainant” means a person who has made a complaint to the Director under subsection 3(1);

“Court” means the Supreme Court of Nova Scotia;

“Director” means a person designated under the regulations as a Director of Public Safety for an area of the Province for the purpose of this Act;

“Minister” means the Minister of Justice or such other member of the Executive Council to whom, for the time being, the administration of this Act is assigned;

“owner”, in relation to property, has the meaning set out in the regulations;

“person” includes an individual, corporation, co-operative, partnership, limited partnership or unincorporated organization of persons;

“property” means

- (a) a building and the land on which it is located;
- and
- (b) land on which no building is located;

“specified use”, in relation to property, means use of the property

- (a) for the sale of liquor, as defined in the *Liquor Control Act*, without a licence issued under that Act;
- (b) for the possession, use, consumption, sale, transfer or exchange of a controlled substance, as defined in the *Controlled Drugs and Substances Act* (Canada), in contravention of that Act;
- (c) for the possession, consumption, purchase, sale, distribution, cultivation, propagation, harvest or other use of cannabis, as defined in the *Cannabis Act* (Canada), in contravention of that Act or the *Cannabis Control Act*;
- (d) for prostitution and activities related to prostitution;
- (e) for illegal gaming activities; or
- (f) for other activities prescribed by the regulations;

“tenancy agreement” means a written, oral or implied agreement between a landlord and a tenant for occupancy of a rental unit, and includes a life lease.

(2) For the purpose of this Act, a community or neighbourhood is adversely affected by activities if the activities

- (a) negatively affect the health, safety or security of one or more persons in the community or neighbourhood; or
- (b) interfere with the peaceful enjoyment of one or more properties in the community or neighbourhood, whether the property is privately or publicly owned.

(3) For greater certainty, a reference in this Act to “the Director” is a reference to the Director of Public Safety who is assigned responsibility for the area of the Province in which property to which this Act applies is located. 2006, c. 6, s. 2; 2013, c. 2, s. 28; 2017, c. 7, s. 17; 2018, c. 3, s. 65.

PART I

SAFER COMMUNITIES AND NEIGHBOURHOODS

Complaint to Director

3 (1) A person who wishes an order to be made under this Act shall first make a complaint to the Director stating that the person believes that

(a) the person's community or neighbourhood is being adversely affected by activities on or near a property in the community or neighbourhood; and

(b) the activities indicate that the property is being habitually used for a specified use.

(2) A complaint must be made in a form and manner acceptable to the Director and include the information that the Director requires. 2006, c. 6, s. 3; 2013, c. 2, s. 30; 2017, c. 7, s. 19.

Director's actions after receiving complaint

4 (1) At any time after receiving a complaint, the Director may

(a) investigate the complaint;

(b) require the complainant to provide further information;

(c) send a warning letter to the owner of the property or its occupant, or to anyone else the Director considers appropriate;

(d) attempt to resolve the complaint by agreement or informal action;

(e) apply for an order under Section 5;

(f) decide not to act on the complaint;

(g) take any other action that the Director considers appropriate.

(2) The decision to do any of the things referred to in subsection (1) or to stop doing any of them at any time is within the Director's discretion.

(3) The Director shall notify the complainant in writing if the Director decides not to act on a complaint or not to continue acting.

(4) The Director is not required to give reasons for the decision. 2006, c. 6, s. 4.

Application for community safety order

5 The Director may apply to the Court for a community safety order if the Director has received a complaint. 2006, c. 6, s. 5.

Civil Procedure Rules apply

6 (1) Except as otherwise provided in this Act or the regulations, the *Civil Procedure Rules* apply to applications under this Part.

- respondent.
- (2) The application must name the owner of the property as the respondent.
 - (3) The Court shall hear the application on an urgent basis.
 - (4) The factual allegations in the application may be different from those in the complaint. 2006, c. 6, s. 6; 2013, c. 2, s. 31; 2017, c. 7, s. 20.

When Court may make community safety order

- 7 (1) The Court may make a community safety order if it is satisfied that
- (a) activities have been occurring on or near the property that give rise to a reasonable inference that it is being habitually used for a specified use; and
 - (b) the community or neighbourhood is adversely affected by the activities.
- (2) Subject to subsection (3), the Court may include in a community safety order
- (a) a provision requiring any or all persons to vacate the property on or before a date specified by the Court, and enjoining any or all of them from re-entering or reoccupying it;
 - (b) a provision terminating the tenancy agreement or lease of any tenant of the property on the date specified under clause (a);
 - (c) a provision requiring the Director to close the property from use and occupation on a specified date and keep it closed for up to 90 days; and
 - (d) any other provision that it considers necessary to make the order effective, including an order of possession in favour of the respondent.
- (3) A community safety order must contain
- (a) a provision describing the property and the activities in respect of which the order is made;
 - (b) a provision enjoining all persons from causing, contributing to, permitting or acquiescing in the activities, beginning on the day after the person is served with the order and continuing until the order ceases to be in effect;
 - (c) a provision requiring the respondent to do everything reasonably possible to prevent the activities from continuing or reoccurring, including anything specifically ordered by the Court under clause (2)(d); and
 - (d) a provision fixing the date on which the order ceases to be in effect.
- (4) Before the date specified for closure under clause (2)(c), the respondent may, on motion, ask the Court to set aside the order requiring the property to be closed.

(5) The Court may set aside the order if it is satisfied that the activities have ceased and are not likely to resume.

(6) The Court may set aside or vary its order enjoining one or more persons from re-entering or reoccupying the property if it is satisfied that to do so is necessary to allow the property to be used again. 2006, c. 6, s. 7.

Serious and immediate threats to safety and security

8 (1) Where the Court is satisfied that the activities about which an application is made are a serious and immediate threat to the safety and security of one or more occupants of the property or persons in the community or neighbourhood, the Court may make a community safety order

(a) requiring the Director to close the property immediately and keep it closed for up to 90 days; and

(b) containing any other provision that the Court considers necessary to counter the threat or fairly give effect to its order under clause (a), including

(i) a provision requiring any or all persons to vacate the property on or before a date specified by the Court and enjoining any or all of them from re-entering or reoccupying it,

(ii) a provision terminating the tenancy agreement or lease of any tenant of the property on the date specified under subclause (i).

(2) A community safety order made under subsection (1) must contain all of the provisions required by subsection 7(3). 2006, c. 6, s. 8; 2013, c. 2, s. 32; 2017, c. 7, s. 21.

Order to close a property

9 (1) Where a community safety order is still in effect but the property is not subject to closure because

(a) the order did not contain a provision requiring it to be closed;

(b) the provision requiring it to be closed was set aside or varied; or

(c) the closure period has expired,

the Director may, on motion, again ask the Court to make an order closing the property.

(2) The Court may order the Director to close the property from use and occupation on a specified date and keep it closed for up to 90 days if the Court is satisfied that

(a) activities have been occurring on or near the property that give rise to a reasonable inference that it is being habitually used for a specified use; and

(b) the community or neighbourhood is adversely affected by the activities.

- (3) The Court may include in an order under this Section
- (a) a provision requiring any or all persons to vacate the property on or before a date specified by the Court and enjoining any or all of them from re-entering or reoccupying it;
 - (b) a provision terminating the tenancy agreement or lease of any tenant of the property on the date specified under clause (a); and
 - (c) any other provision that it considers necessary to make the order effective.

(4) The Director may ask the Court for an order under this Section more than once. 2006, c. 6, s. 9.

Factors to be considered

10 When deciding the length of a period of closure, the Court shall consider

- (a) the extent to which the respondent's failure, if any, to exercise due diligence in supervising and controlling the use and occupation of the property contributed to the activities; and
- (b) the impact of the activities on the community or neighbourhood. 2006, c. 6, s. 10.

Court may limit order

11 The Court may limit a community safety order or an order under Section 9 to part of the property about which the application was made, or to particular persons. 2006, c. 6, s. 11.

Service and notice of orders

12 (1) After a community safety order or an order under Section 9 is made, the Director shall, without delay,

- (a) serve a copy of the order on the respondent; and
- (b) post a copy of the order in a conspicuous place on the property.

(2) When accompanied by a peace officer, the Director or someone on the Director's behalf may enter the property to post a copy of the order.

(3) After the respondent is served with a community safety order or an order under Section 9, the respondent shall, without delay, serve a copy of the order on every other person who is lawfully occupying the property or has a right to occupy it.

(4) Where the respondent fails to serve without delay any person who is required to be served, the Director may serve that person. 2006, c. 6, s. 12.

Application for variation by resident

13 (1) In this Section, "resident" means an individual who has a right to occupy residential property as the individual's residence, or had a right to occupy

it as the individual's residence when the individual was required by an order to vacate it, but who does not own the property.

(2) A resident may, on motion, apply to the Court for an order varying a provision in a community safety order made under Section 7, or an order under Section 9, that

(a) requires the resident and, where applicable, members of the resident's household to vacate residential property that is their residence and enjoins them from re-entering or reoccupying it;

(b) terminates the resident's tenancy agreement for the residential property; or

(c) requires the Director to close the residential property.

(3) The resident shall make the application within 14 days after the resident is served with the order.

(4) The Court may extend the time for making the application if it is satisfied that the extension is in the interests of justice.

(5) An application under this Section does not stay the operation of the order in respect of which it is made.

(6) The Court may make an order varying a community safety order or an order under Section 9 if it is satisfied that

(a) the applicant is a resident;

(b) neither the resident nor any member of the resident's household for whom the resident is seeking a variation caused or contributed to any of the activities in respect of which the order was made;

(c) no person who caused or contributed to any of the activities is still present at or occupying the property;

(d) the resident or a member of the resident's household for whom the resident is seeking a variation will suffer undue hardship if the order is not varied; and

(e) where the order was made under Section 9, neither the resident nor any member of the resident's household for whom the resident is seeking a variation was an occupant of the property when the community safety order was made.

(7) A variation order may contain any provision that the Court considers appropriate, including

(a) a provision fixing a later date for

(i) the resident's tenancy agreement to be terminated,

(ii) the resident and members of the resident's household to vacate the property, or

(iii) the Director to close the property;

(b) a provision setting aside the termination of the resident's tenancy agreement, or reinstating the tenancy agreement if the date of termination has already passed;

(c) a provision setting aside the requirement to vacate or close the property;

(d) where the resident and members of the resident's household have already vacated the property, a provision authorizing them to re-enter and reoccupy it and, where applicable, requiring the respondent to allow them to re-enter and reoccupy it;

(e) where the property has already been closed, a provision requiring the respondent to open it for the purpose of clause (d) and make it ready for occupation.

(8) The Court may, in addition to any other factor that it considers relevant, consider the following factors:

(a) whether the respondent will suffer undue hardship if the requested order is made;

(b) whether there is a tenancy agreement between the resident and the respondent, or whether there was when the resident was required to vacate the property;

(c) whether the respondent is opposed to the requested order, if the order would authorize a resident, who does not or did not have a tenancy agreement, to re-enter and reoccupy the property.

(9) The Court may make a variation order or a provision in a variation order subject to conditions. 2006, c. 6, s. 13.

Application by complainant for order

14 (1) The complainant may apply to the Court for a community safety order if the complainant has made a complaint to the Director about the property and the Director

(a) has decided not to act or continue to act on the complaint; or

(b) has abandoned any application already made to the Court.

(2) The complainant shall file with the Court the Director's written confirmation of the facts set out in clause (1)(a) or (b).

(3) The complainant's application must be made within two months after the date of the Director's written confirmation.

(4) Sections 6, 7 and 9 to 13 apply, with necessary modifications, to an application by a complainant, except that a community safety order or an order under Section 9 granted to a complainant shall order the Director, rather than the complainant, to close the property.

(5) In an application by a complainant, the Court shall not draw an adverse inference from the fact that the Director

- (a) did, or did not do, any of the things set out in subsection 4(1); or
- (b) abandoned an application. 2006, c. 6, s. 14.

Service on the Director

15 (1) A complainant shall

- (a) without delay after filing a notice of application for a community safety order, serve a copy on the Director;
- (b) without delay after applying for an order under Section 9, notify the Director;
- (c) without delay after a community safety order or order under Section 9 is signed, serve a copy on the Director; and
- (d) without delay after an application or motion is dismissed, notify the Director.

(2) A document required to be served or notice required to be given under subsection (1) must be served or given in accordance with the regulations. 2006, c. 6, s. 15.

Discontinuance of application by complainant

16 (1) A complainant shall notify the Director in writing of any intention to abandon an application at least 30 days before taking any step to abandon it.

(2) A complainant shall not abandon an application unless the complainant files with the Court the Director's written confirmation that the Director does not intend to continue the application under Section 17. 2006, c. 6, s. 16.

Court may order application to be continued

17 The Court may order a complainant's application to be continued in the Director's name if the Director requests the continuation and the Court is satisfied that the complainant consents to the continuation or is not actively pursuing the application. 2006, c. 6, s. 17.

Frivolous or vexatious applications

18 Where the Director believes that a complainant's application for a community safety order or an order under Section 9 is frivolous or vexatious, or is not in the public interest, the Director may intervene in the application to request that it be dismissed. 2006, c. 6, s. 18.

Costs for frivolous or vexatious applications

19 (1) Where the Court finds that a complainant's application or motion is frivolous or vexatious, it may, in addition to any other order for costs, order the complainant to pay costs to the Crown in right of the Province.

(2) Costs ordered to be paid under subsection (1) must be paid without delay to the Minister of Finance and Treasury Board. 2006, c. 6, s. 19.

Court must consider merits

20 Notwithstanding the fact that the respondent consents to an order or does not oppose an application or motion, the Court shall not grant a community safety order or an order under Section 9 to the Director or a complainant unless it is satisfied on the merits that the order should be made. 2006, c. 6, s. 20.

Application for leave to appeal

21 (1) An appeal of an order made by the Court may be taken only on a question of law and by leave of a judge of the Nova Scotia Court of Appeal.

(2) An application for leave to appeal must be made within 14 days after the day the order is made or within such further time as a judge may allow.

(3) The decision of a judge on an application for leave to appeal is final and not subject to appeal.

(4) An order under Section 13 is final and not subject to appeal. 2006, c. 6, s. 21.

Limitation on other actions and proceedings

22 No action or proceeding, other than an application under subsection 7(4) or Section 13 or an appeal permitted by Section 21, may be commenced or maintained to

(a) prevent the making of a community safety order or an order under Section 9;

(b) prevent a community safety order or an order under Section 9 from being carried out;

(c) set aside or vary a community safety order or an order under Section 9;

(d) have a community safety order or an order under Section 9 judicially reviewed; or

(e) obtain relief from forfeiture in respect of a tenancy agreement or lease that is ordered to be terminated. 2006, c. 6, s. 22.

Director may enter property

23 (1) The Director has the authority to enter property without the consent of the owner or occupant to close it under an order and keep it closed.

(2) The Director may employ any tradespersons and workers that the Director considers necessary to safely and effectively close property and keep it closed.

(3) The Director may take any measures that the Director considers necessary to safely and effectively close property and keep it closed, including

- (a) requesting any occupants still occupying the property and any other persons at the property to leave it immediately;
- (b) attaching locks, hoarding and other security devices;
- (c) erecting fences;
- (d) changing or cutting off utility services; or
- (e) making interior or exterior alterations to the property so that it is not a hazard while it is closed.

(4) The Director may, for any purpose that the Director considers appropriate, allow others access to property that is closed under an order.

(5) The Director is not responsible, whether at the end of the period of closure or otherwise, for the removal or cost of removal of anything attached or erected at the property, or the reversal or cost of reversal of anything done to or at the property, to close it or keep it closed. 2006, c. 6, s. 23.

Occupants required to leave property

24 (1) When the Director is required to close a property, all occupants of the property and any other persons at the property shall leave it immediately upon request by the Director, even if they have not been previously served with the order that requires the Director to close the property.

(2) After leaving, no occupant or other person shall, while the property is closed, enter or occupy it without the Director's consent. 2006, c. 6, s. 24.

Alternative accommodations

25 (1) The Director shall make a reasonable effort to determine whether occupants of residential property who are required to leave have alternative accommodations and, for those who do not, the Director shall provide whatever assistance in finding alternative accommodations that the Director considers reasonable, including

- (a) giving them information about and referring them to community resources and housing authorities; or
- (b) arranging short-term accommodations for them if the Director considers it necessary or advisable.

(2) Subsection (1) does not apply to an occupant who the Director reasonably believes caused or contributed to any of the activities in respect of which the order that requires the occupants to leave was made. 2006, c. 6, s. 25.

Respondent to pay costs of closing property

26 (1) The respondent shall, on demand from the Director, pay to the Minister of Finance and Treasury Board the costs of closing the property and keeping it closed and of arranging short-term accommodations for the occupants, in the amount certified by the Director.

(2) An amount payable by the respondent under subsection (1) is a debt due to the Crown in right of the Province and may be recovered from the respondent in accordance with this Section.

- (3) The Director may issue a certificate showing
- (a) the name and address of a respondent who is liable to pay and has not paid a debt due to the Crown in right of the Province under subsection (2);
 - (b) the amount of the debt; and
 - (c) the Director's address for service,

and the certificate is evidence of the amount of the debt due to the Crown in right of the Province by the respondent at the time the certificate is issued.

- (4) A certificate issued under this Section may be filed in the Court and, when it is filed,
- (a) the obligation to pay the amount certified is enforceable as if it were a judgment of the Court in favour of the Crown in right of the Province; and
 - (b) the certificate is deemed for the purpose of the *Interest on Judgments Act* to be a judgment debt
 - (i) incurred on the day the certificate is filed, and
 - (ii) on which post-judgment interest is payable under that Act. 2006, c. 6, s. 26.

Authority of Director

27 (1) For the purpose of carrying out a responsibility or exercising a power under this Act, the Director is authorized

- (a) to obtain information from a person or a public body, as defined in the *Freedom of Information and Protection of Privacy Act*, about a person who owns or occupies property in respect of which an application under this Act may be made, including
 - (i) the person's name and address,
 - (ii) the whereabouts of the person, and
 - (iii) the name and address of the person's employer;
- (b) to obtain information from any other source about the ownership of property in respect of which an application under this Act may be made;
- (c) to obtain information from any source about the occurrence of activities in respect of which an application under this Act may be made;
- (d) to make and maintain written, recorded or videotaped records of any information received under clause (a), (b) or (c) or of the occurrence of activities in respect of which an application under this Act may be made;
- (e) in the Director's discretion, to disclose information obtained under clause (a), (b) or (c), and records made under clause (d), to a person, court, tribunal, government department, government agency, local government body or law enforcement agency.

- (b) or (c) (2) When the Director requests information under clause (1)(a),
- (a) from a person carrying on a business and the information is contained in the person's business records; or
 - (b) from a public body,

the person or public body shall provide the information and give the Director a copy of the document or record in which the information is contained, if applicable.

- (3) The Director may disclose information obtained under clause (1)(a), (b) or (c), or records made under clause (1)(d), to a person or peace officer
- (a) to assist
 - (i) the person to serve or post a community safety order or an order under Section 9, or
 - (ii) the peace officer to accompany the person; or
 - (b) to enable a peace officer to carry out a community safety order or an order under Section 9. 2006, c. 6, s. 27; 2013, c. 2, s. 34; 2017, c. 7, s. 23.

Privilege applies

28 Anything said, any information supplied and any document or thing produced by a person during an investigation by the Director under this Act is privileged in the same manner as if it were said, supplied or produced in a proceeding in a court. 2006, c. 6, s. 28.

Director's power to delegate, contract or authorize

29 (1) The Director may delegate to any person on the Director's staff any responsibility or power under this Act.

(2) The Director may contract with or authorize any person to investigate a complaint. 2006, c. 6, s. 29.

Director may consult

30 The Director may consult with and work in co-operation with social service and other agencies and neighbourhood organizations or groups to promote and encourage the development of safe and peaceful communities. 2006, c. 6, s. 30; 2013, c. 2, s. 35; 2017, c. 7, s. 24.

Director's duty respecting children

31 Where the Director has reason to believe that there are children residing in a building in respect of which an application under this Part has been made, the Director shall notify, without delay, the appropriate agency under the *Children and Family Services Act*. 2006, c. 6, s. 31.

Confidentiality

32 (1) No person, including the Director, shall, without the prior written consent of the complainant,

(a) disclose the identity of the complainant, or any information by which the complainant may be identified, to another person or to a court, body, agency or government department; or

(b) disclose, provide access to or produce the complaint, or another document or thing by which the complainant may be identified, to another person or to a court, body, agency or government department without severing any information by which the complainant may be identified.

(2) Subsection (1) applies notwithstanding the *Freedom of Information and Protection of Privacy Act*. 2006, c. 6, s. 32.

Director and others not compellable

33 (1) The Director, and any person acting for or under the direction of the Director, shall not be required in a court or in any other proceeding

(a) to identify the complainant or give evidence about information or produce a document or thing by which the complainant may be identified;

(b) to give evidence about other information obtained by or on behalf of the Director for the purpose of this Act; or

(c) to produce any other document or thing obtained by or on behalf of the Director for the purpose of this Act.

(2) Clauses (1)(b) and (c) do not apply to

(a) an application by the Director;

(b) an application continued in the Director's name; or

(c) an application in which the Director intervenes. 2006, c. 6, s. 33.

Offence and penalty respecting posted orders

34 A person who, without the Director's consent, removes, defaces or interferes with a duly posted copy of

(a) a community safety order, or a notice the regulations require to be posted with the order, before the order ceases to be in effect; or

(b) an order under Section 9, or a notice the regulations require to be posted with the order, before the end of the period of closure,

is guilty of an offence and is liable on summary conviction to a fine of not more than \$2,500 or to imprisonment for a term of not more than three months, or both. 2006, c. 6, s. 34.

Offence and penalty respecting entry

35 A person who, without the Director's consent, enters a property that is closed under an order is guilty of an offence and is liable on summary conviction to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months, or both. 2006, c. 6, s. 35.

Offence and penalties respecting non-compliance

36 (1) A respondent who fails to comply with a community safety order is guilty of an offence.

(2) A person who, knowing that a community safety order has been made, causes, contributes to, permits or acquiesces in activities described in the order, on or near the property described in the order, is guilty of an offence.

(3) Where a failure referred to in subsection (1) or a contravention referred to in subsection (2) continues for more than one day, the offender is guilty of a separate offence for each day that the failure or contravention continues.

(4) A person who is guilty of an offence under subsection (1) or (2) is liable on summary conviction to a fine of not more than \$500 for each day that the offence continues. 2006, c. 6, s. 36.

Director or officer of corporation also guilty

37 Where a corporation is guilty of an offence under this Act, a director or officer of the corporation who authorized, permitted or acquiesced in the offence is also guilty of that offence and is liable on summary conviction to the penalty for that offence. 2006, c. 6, s. 37.

Effect of transfer of property

38 (1) A person who transfers a legal or beneficial interest in property to a third party, or gives a right of occupancy of property to a third party, after being served with a notice of application or becoming aware of an application in respect of the property, shall fully inform the third party about the application before completing the transfer or giving the right of occupancy.

(2) A person who transfers a legal or beneficial interest in property to a third party, or gives a right of occupancy of property to a third party, while a community safety order in respect of the property is in effect or the property is closed under an order, shall fully inform the third party about the order before completing the transfer or giving the right of occupancy.

(3) A third party who receives an interest in property that is the subject of an application is deemed to be a respondent to the application when the transfer of the interest is complete, and any order made by the Court is binding on the third party. 2006, c. 6, s. 38.

Offence and penalty respecting transfer of property

39 A person who contravenes subsection 38(1) or (2) is guilty of an offence and is liable on summary conviction to a fine of not more than \$20,000 or to imprisonment for a term of not more than one year, or both. 2006, c. 6, s. 39.

Cause of action in addition to common law or statute

40 The cause of action created by this Act is in addition to any other cause of action that exists at common law or by statute. 2006, c. 6, s. 40.

PART II

FORTIFIED BUILDINGS

Interpretation of Part

41 (1) In this Part,

“closure order” means a closure order made pursuant to Section 49;

“fortified building” means a building protected by one or more of the following:

(a) bullet-proof material or material designed to be resistant to explosives on a door or window;

(b) protective metal plating on the interior or exterior of the building that is not required for the structural integrity of the building;

(c) armoured or specially reinforced doors;

(d) metal bars on exterior doors or windows;

(e) any other method or material prescribed in the regulations;

“inspector” means a person appointed as an inspector pursuant to this Act;

“registrar” means the registrar under the *Land Registration Act* for the land registration district in which a fortified building is located;

“removal order” means a removal order made pursuant to Section 48.

(2) This Part applies to every building in the Province whether the building was fortified before, on or after January 7, 2007. 2006, c. 6, s. 41.

Appointment of inspectors

42 The Minister may appoint any person or class of persons as an inspector or inspectors for the purpose of this Part, subject to any terms and conditions set out by the Minister. 2006, c. 6, s. 42.

Identification card

43 (1) The Minister shall provide to each inspector an identification card for the purpose of this Part.

(2) An inspector who is acting pursuant to this Part shall produce the inspector’s identification card if requested to do so. 2006, c. 6, s. 43.

Powers of inspection

44 (1) In this Section and Sections 45 and 46, “record” means a book, paper, document or thing, whether in electronic form or otherwise, that may contain information relevant to the administration or enforcement of this Part.

(2) An inspector may conduct an investigation with respect to any matter that the inspector considers necessary respecting the administration or enforcement of this Part or the regulations made for the purpose of this Part.

(3) For the purpose of an investigation pursuant to this Section, an inspector may, at any reasonable time,

(a) subject to subsection (4), enter and inspect any building that the inspector believes on reasonable grounds is a fortified building;

(b) take measurements and photographs of, and conduct any tests or make any type of audio or visual recordings in or on, a building or on the property on which the building is located that the inspector considers necessary to determine if a building is a fortified building; and

(c) require any person to produce for inspection and copying any record that the inspector believes on reasonable grounds contains any information relevant to the administration or enforcement of this Part.

(4) An inspector may enter a dwelling place only

(a) with the occupant's consent;

(b) pursuant to the authority of a warrant issued pursuant to Section 46; or

(c) pursuant to the right of inspection set out in subsection 48(4).

(5) No person shall obstruct or hinder, or make a false or misleading statement to, an inspector who is acting pursuant to this Part. 2006, c. 6, s. 44.

Inspector may copy records

45 (1) The inspector may make copies of a record that has been inspected pursuant to Section 44.

(2) A copy of a record certified by the inspector to be a copy made pursuant to this Section

(a) is admissible in evidence without proof of the office or signature of the person purporting to have signed the certificate; and

(b) has the same probative force as the original record.

(3) An inspector shall ensure that, after copies of any records inspected pursuant to Section 44 are made, the originals are promptly returned to

(a) the place from which they were removed; or

(b) any other place that may be agreed to by the inspector and the person who had custody, possession or control of the record. 2006, c. 6, s. 45.

Entry and search warrant

46 (1) Where an inspector, pursuant to Section 44, requires entry to a building and the owner or occupant of the building refuses or neglects to permit investigation, the inspector may apply *ex parte* to a justice of the peace or a judge of the Provincial Court for a warrant authorizing a person named in the warrant to

- (a) enter and search any building named in the warrant for the purpose of administering and enforcing this Part; and
- (b) seize and take possession of any record or other thing that the inspector believes on reasonable grounds contains any information relevant to the administration and enforcement of this Part.

(2) A justice of the peace or judge of the Provincial Court may issue a warrant authorizing an inspector and any other person named in the warrant to enter and inspect a building and the property on which the building is located and to seize and take possession of any record if the justice of the peace or judge of the Provincial Court is satisfied on oath of the inspector that there are reasonable grounds to believe that

- (a) a building is a fortified building;
- (b) entry to the building or the property on which the building is located is necessary for a purpose relating to the administration or enforcement of this Part; and
- (c) entry to the building or the property on which the building is located has not been provided or there are reasonable grounds to believe that entry will not be provided. 2006, c. 6, s. 46.

Designation of fortified building

47 (1) Subject to subsection (4), the Director may designate a fortified building as a threat to public safety.

(2) In determining whether a fortified building is a threat to public safety, the Director may take into account

- (a) the number and type of fortifications in or on the building or on the property on which the building is located;
- (b) whether the fortifications could significantly impair the ability of emergency response personnel and law enforcement officials to gain access to the building;
- (c) whether the fortifications could significantly impair the ability of people inside the building to escape in an emergency;
- (d) the nature of the neighbourhood or area in which the building is located;
- (e) the proximity of the building to schools, playgrounds and other places where children are likely to be present;
- (f) the proximity of the building to other buildings;
- (g) the purpose for which the building is being used;
- (h) whether the fortifications are reasonably necessary given the purpose for which the building is being used;

- (i) the persons who own, occupy or visit the building;
- (j) whether any criminal activity or other disruptive behaviour has previously taken place in or around the building; and
- (k) any other factor that the Director considers reasonable.

(3) The Director may make a designation pursuant to subsection (1) without giving prior notice to the owner or occupant of the building and without holding a hearing.

(4) The Director shall not designate a fortified building as a threat to public safety pursuant to subsection (1) if it has been fortified in a manner that does not exceed reasonable security measures commonly taken for

- (a) the type of business being operated in the fortified building; or
- (b) a residential dwelling. 2006, c. 6, s. 47.

Removal order

48 (1) Where the Director designates a fortified building as a threat to public safety pursuant to Section 47, the Director shall issue a removal order

- (a) specifying the fortifications that must be removed from the building or the property on which the building is located; and
- (b) requiring the owner or occupant of the building, or both, to remove the specified fortifications by a date that must be at least 21 days after the removal order is made.

(2) A removal order issued pursuant to subsection (1) must contain

- (a) a provision stating that a closure order for the building will be issued if the specified fortifications are not removed by the date set out in the removal order;
- (b) a statement of the right to appeal the removal order pursuant to Sections 52 to 55; and
- (c) any other information the Director considers appropriate.

(3) The Director shall serve the removal order on the owner and any occupant of the building to whom the removal order is made.

(4) Where a removal order has been issued for a building, an inspector has the right to enter and inspect the building to determine if the specified fortifications have been removed. 2006, c. 6, s. 48.

Order closing building

49 (1) Where the fortifications specified in a removal order are not removed by the date set out in that order, the Director may issue an order closing the building for a period of not more than 90 days to allow for the removal of the specified fortifications in accordance with Sections 57 to 61.

- (2) A closure order issued pursuant to subsection (1) must contain
- (a) a provision requiring all persons to vacate the building and not to re-enter it until the closure order ceases to be in effect; and
 - (b) any other information the Director considers appropriate.
- (3) The Director shall serve the closure order on the owner and any occupant of a building with respect to which the closure order is made.
- (4) The Director shall post a copy of the closure order in a conspicuous place on the building that is the subject of the closure order.
- (5) The Director shall terminate a closure order as soon as all fortifications specified in a removal order have been removed.
- (6) Where a closure order is terminated, the Director shall advise the owner of the building that the closure order is no longer in effect. 2006, c. 6, s. 49.

Service

- 50** (1) Any removal order or closure order must be served
- (a) by personal service made
 - (i) in the case of an individual, on that 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 person to be served;
- or
- (c) where service cannot be effected by one of the methods described in clauses (a) and (b), by
 - (i) publishing a copy of the order in two issues of a newspaper having general circulation in the area where the fortified building is located, and
 - (ii) posting a copy of the order in a conspicuous place on the building with respect to which the order is made.
- (2) A removal order or closure order sent by registered mail is deemed to have been 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 removal order or closure order or received it at a later date.
- (3) A removal order or closure order served in accordance with clause (1)(c) is deemed to have been served on the date it is published in the newspaper for the second time or on the third day following the date it is posted on the building, whichever is the later.
- (4) An order is effective on the date it is served. 2006, c. 6, s. 50.

Registration of interest

51 (1) The Director may apply to the registrar to register an interest based on a removal order or closure order in respect of the parcel upon which the fortified building is located.

(2) An application pursuant to subsection (1) must be accompanied by a copy of the removal order or closure order, as the case may be.

(3) After an interest based on a removal order or closure order is registered, the Director

(a) may, at any time, apply to the registrar to discharge the registration of the interest; and

(b) shall apply to the registrar to discharge the registration of the interest if the removal order or closure order is no longer in effect.

(4) The registration of an interest may be discharged pursuant to subsection (3) with respect to

(a) all of the parcels described in the removal order or closure order by applying for discharge in accordance with subsection (3); or

(b) any portion of the parcels described in the removal order or closure order by applying to amend the registration of the interest.

(5) No action lies or shall be commenced against the Director for any loss or damage suffered by any person by reason of

(a) the registration of an interest pursuant to this Section;

(b) the amendment of an interest pursuant to this Section;

or

(c) the failure of the Director to

(i) register an interest pursuant to this Section, or

(ii) discharge an interest pursuant to this Section.

2006, c. 6, s. 51.

Appeal

52 (1) An owner or occupant of a fortified building that is the subject of a removal order may appeal the order to the Court.

(2) A notice of appeal must be served on the Director within 14 days after a removal order has been served.

(3) The Director is a party to any appeal and is entitled to be heard, by counsel or otherwise, on the appeal.

(4) The Court shall hear and determine an appeal by way of a hearing and the Court may hear evidence and submissions respecting the removal order subject to appeal. 2006, c. 6, s. 52.

Powers of Court

53 (1) On hearing an appeal, the Court shall take into account the considerations set out in subsection 47(2) and may

- (a) dismiss the appeal;
- (b) allow the appeal;
- (c) allow the appeal subject to terms;
- (d) vary the order of the Director;
- (e) refer the matter back to the Director for further consideration and order; or
- (f) make any other order that the Court considers appropriate.

(2) The Court may make any order as to costs that it considers appropriate. 2006, c. 6, s. 53.

No further appeal lies

54 There is no further appeal pursuant to this Part. 2006, c. 6, s. 54.

Stay of order on appeal

55 Where a notice of appeal has been filed in accordance with this Part, the operation of a removal order is stayed and no further action may be taken with respect to the order except in accordance with an order of the Court hearing the appeal. 2006, c. 6, s. 55.

No appeal of closure order

56 There is no appeal of a closure order. 2006, c. 6, s. 56.

Powers of Director under closure order

57 (1) Where a closure order is in effect, the Director or a person authorized by the Director may enter the building without the consent of the owner or occupant to

- (a) remove the fortifications specified in the removal order; and
- (b) secure the closure of the building.

(2) The Director may employ any tradespersons and workers that the Director considers necessary to

- (a) remove the fortifications specified in the removal order; and
- (b) secure the closure of the building.

(3) The Director may take any measures that the Director considers necessary to safely and effectively secure the closure of the building, including

- (a) attaching locks, boarding or other security devices;
- (b) erecting fences;

- (c) changing or terminating utility services; and
- (d) making interior or exterior alterations to the building so that it is not a hazard while it is closed.

(4) The Director is not responsible, whether at the end of the period of closure or otherwise, for the removal or cost of removal of anything attached to or erected on a building, or the reversal or cost of reversal of anything done to a building pursuant to this Section. 2006, c. 6, s. 57.

Further powers of Director

58 (1) Where a closure order is in effect, the Director shall secure the closure of a building, and all occupants of the building and any other persons at the building shall leave it immediately on the order of the Director, even if they have not been previously served with the closure order.

(2) Where an occupant of a building and any other persons at the building do not comply with a request to leave, the Director may obtain the assistance of a peace officer to remove them from the building. 2006, c. 6, s. 58.

Owner of building to pay costs

59 (1) The owner of a building that is the subject of a closure order shall, on demand from the Director, pay to the Minister of Finance and Treasury Board the cost of removing all fortifications and closing the building, in the amount certified by the Director pursuant to Section 60.

(2) An amount payable pursuant to subsection (1) is a debt due and owing to the Crown in right of the Province. 2006, c. 6, s. 59.

Certificate of Director respecting costs and expenses

60 (1) Where the Director undertakes any work for the purpose of Section 57 or 58 and incurs any costs and expenses as a result, the Director may file with the Court at the judicial centre nearest to the place where the work or the greatest portion of the work was done a certificate that is signed by the Director and that sets out

- (a) the amount of the costs and expenses incurred pursuant to Section 57 or 58;
- (b) the owner from whom the costs and expenses are recoverable; and
- (c) the Director's address for service.

(2) Where the Director files a certificate pursuant to subsection (1), the Director shall cause a copy of the certificate to be served on the owner.

(3) A certificate filed pursuant to subsection (1) is conclusive evidence of the amount of the debt due to the Crown in right of the Province by the owner.

(4) A certificate filed pursuant to this Section has the same effect as if it were a judgment obtained in the Court for the recovery of a debt in the

amount specified in the certificate, together with any reasonable costs and charges with respect to its filing.

(5) An owner who has been served with a copy of a certificate pursuant to subsection (2) may, within 30 days after receiving the copy, make written representations to the Director requesting the Director to reconsider the amount of the costs and expenses.

(6) On receipt of a written representation pursuant to subsection (5), the Director may

- (a) withdraw the certificate;
- (b) vary the amount of the costs and expenses and, for that purpose, withdraw the certificate and file a new certificate with the new costs and expenses; or
- (c) confirm the certificate.

(7) The Director shall notify an owner of the Director's decision as soon as is reasonably practicable after making the decision. 2006, c. 6, s. 60.

Appeal

61 (1) An owner with respect to whom a certificate has been filed pursuant to Section 60 may appeal against the amount of the costs and expenses set out in the certificate to the Court

- (a) within 30 days after the date of the filing of the certificate; or
- (b) where the owner has made representations to the Director pursuant to Section 60, within 30 days after the Director has notified the respondent of the decision.

(2) On hearing an appeal pursuant to this Section, the Court may issue an order

- (a) confirming the amount of costs and expenses set out in the certificate;
- (b) amending or varying the amount of costs and expenses set out in the certificate;
- (c) quashing the certificate; or
- (d) doing any other thing that the Court considers appropriate.

(3) In an order issued pursuant to subsection (2), the Court may specify the period within which the order must be complied with. 2006, c. 6, s. 61.

Offences and penalties

62 (1) No person shall

- (a) without the Director's consent, remove, deface or interfere with a copy of a closure order posted in accordance with subsection 49(4) or subclause 50(1)(c)(ii);

- (b) without the Director's consent,
 - (i) fail to vacate a building that is closed under a closure order, or
 - (ii) enter or re-enter a building that is closed under a closure order; or
 - (c) fail to comply with a removal order or a closure order.
- (2) Every person who contravenes subsection (1), subsection 44(5) or an order of the Director is guilty of an offence.
- (3) Every person who is guilty of an offence under subsection (2) is liable on summary conviction
- (a) for a first offence
 - (i) in the case of an individual, to a fine of not more than \$10,000 or to imprisonment for a term of not more than one year, or to both, and
 - (ii) in the case of a corporation, to a fine of not more than \$25,000; and
 - (b) for a second or subsequent offence
 - (i) in the case of an individual, to a fine of not more than \$25,000 or to imprisonment for a term of not more than one year, or to both, and
 - (ii) in the case of a corporation, to a fine of not more than \$100,000.
- (4) Where a corporation commits an offence pursuant to this Part, any officer or director of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is guilty of the offence and liable on summary conviction to the penalties mentioned in this Section whether or not the corporation has been prosecuted or convicted. 2006, c. 6, s. 62.

PART III

GENERAL

Educational materials re responsible cellular telephone use

63 (1) In this Section,

“cellular telephone services” means, subject to the regulations, wireless communication services or functions that are accessed from a cellular telephone, including, without limiting the generality of the foregoing, receiving or transmitting telephone calls, electronic data, electronic mail or text messages;

“educational materials” means the materials about responsible cellular telephone use and cyberbullying prepared by the Minister of Justice.

- (2) A supplier of cellular telephone services shall obtain copies of the educational materials from the Director.

(3) A supplier shall give a copy of the educational materials to each customer who enters into a contract with the supplier for cellular telephone services, at no additional cost to the customer, immediately after the contract is made.

(4) For greater certainty, the educational materials given to a customer under subsection (3) must be those prepared by the Minister of Justice. 2014, c. 45, s. 2.

No action lies

64 No person may commence or maintain an action or other proceeding against the Crown in right of the Province, the Director, an inspector, any other person acting for or under the direction of the Director or any other person engaged in the administration of this Act for

(a) any act done in good faith, or any neglect or default, in the performance or intended performance of a responsibility or in the exercise or intended exercise of a power under this Act or the regulations;

(b) compensation for any damage or injury caused by or during, or arising from, the closing of property or its being kept closed; or

(c) compensation for any damage or injury caused by or during, or arising from, the removal of any fortification or the closing of a building. 2006, c. 6, s. 63; 2013, c. 2, s. 38; 2017, c. 7, s. 25.

Act prevails

65 Where there is a conflict between this Act and the *Residential Tenancies Act*, this Act prevails. 2006, c. 6, s. 64.

Act binds Crown

66 This Act binds the Crown in right of the Province. 2006, c. 6, s. 65.

Duties and powers of peace officers

67 (1) Where requested to do so, a peace officer shall provide any assistance required by an inspector or the Director in the performance of the inspector's duties or the Director's duties under this Act.

(2) All peace officers within the Province shall

(a) do anything that may be necessary to carry out a community safety order or an order under Section 9; and

(b) when an order of possession has been made in favour of the respondent, do anything that may be necessary to assist the respondent to obtain vacant possession of the property.

(3) For the purpose of subsections (1) and (2), a peace officer has full power and authority to

(a) enter the property in respect of which the order was made or onto any land on which any person required to be served with the order may be found; and

(b) when the peace officer is assisting a respondent to obtain vacant possession of property, take possession of it without an

order for possession and deliver possession to the respondent. 2006, c. 6, s. 66; 2013, c. 2, s. 39; 2017, c. 7, s. 26.

Regulations

- 68** (1) The Governor in Council may make regulations
- (a) designating a person in the public service or employed by a municipality as a Director of Public Safety for an area of the Province specified in the designation for the purpose of subsection 2(1);
 - (b) defining “owner”, in relation to property, for the purpose of subsection 2(1);
 - (c) respecting applications and the enforcement of orders;
 - (d) requiring notices to be served and posted in conjunction with community safety orders and orders under Section 9 and respecting the form and content of the notices;
 - (e) respecting service and posting of orders and notices under Section 12;
 - (f) respecting the storing and disposal of property seized under this Act;
 - (g) respecting notices to the Director and service of documents on the Director under Section 15;
 - (h) respecting the manner of serving any other document or notice that is required to be served;
 - (i) respecting closing of property and keeping it closed, including authorizing the Director to take specific actions in addition to those set out in subsection 23(3);
 - (j) respecting the costs of closing property and keeping it closed that a respondent may be required to pay under Section 26;
 - (k) extending, modifying or limiting the meaning of “cellular telephone services” for the purpose of Section 63 or the regulations;
 - (l) respecting the requirement under Section 63 for suppliers to provide educational materials about responsible cellular telephone use, including, without limiting the generality of the foregoing,
 - (i) specifying information that must be included in the education materials,
 - (ii) respecting the form and content of the educational materials that must be provided, which may include, without limiting the generality of the foregoing, requiring specific educational materials to be provided, and
 - (iii) respecting the manner of providing the educational materials;
 - (m) defining any word or expression used but not defined in this Act;
 - (n) further defining any word or expression used in this Act;

(o) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2006, c. 6, s. 67; 2013, c. 2, s. 40; 2014, c. 45, s. 3; 2017, c. 7, s. 27.

CHAPTER S-3

**An Act Respecting
Safer Needles in Healthcare Workplaces**

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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 *Safer Needles In Healthcare Workplaces Act*. 2006, c. 7, s. 1.

Interpretation

2 In this Act,

“employee” means a person employed in a healthcare workplace and includes a dependent contractor;

“employer” means a person who employs an employee or contracts for the services of an employee, and includes a contractor or subcontractor;

“healthcare workplace” means

(a) a health authority under the *Health Authorities Act*;

(b) a nursing home, a home for the aged, a residential care facility licensed by the Minister under the *Homes for Special Care Act* or any other long-term-care facility where the residents are subsidized by the Minister;

(c) a place where emergency health services or home care services are provided by or contracted for by the Minister; and

(d) any other place prescribed by the regulations;

“Minister” means the Minister of Health and Wellness;

“safety-engineered needle” means

(a) a shielded needle device;

(b) a retractable needle system;

- (c) a needleless device; or
- (d) a needle reduced device,

that is commercially available and approved as a medical device by Health Canada. 2006, c. 7, s. 2; 2014, c. 32, s. 154.

Act binds Crown

3 This Act binds the Crown in right of the Province. 2006, c. 7, s. 3.

Use of safety-engineered needles

4 (1) Subject to subsection (2), every employer shall ensure that when hollow-bore or intravenous needles are used in a healthcare workplace that employees use only safety-engineered needles.

(2) An employer may allow an employee to use a needle that is not a safety-engineered needle if

(a) the employer in consultation with the joint health and safety committee and the health and safety representative, if any, can demonstrate that a safety-engineered needle

(i) poses more risk of harm than another needle to a patient, client, resident or employee, or

(ii) may impair the effectiveness of the treatment of a patient, client or resident;

(b) the needle device is pre-filled with a biological or antibiotic product that was present in the Province as of January 1, 2007;

(c) there is a public health emergency under the *Health Protection Act* or a state of emergency or state of local emergency under the *Emergency Management Act*;

(d) the needle is stockpiled for use in an emergency referred to in clause (c) and was present in the Province as of January 1, 2007; or

(e) a national program, including a blood-collection program and a vaccination program that requires the approval of Health Canada to use a safety-engineered needle has not yet received approval of Health Canada, until such time as approval by Health Canada is obtained. 2006, c. 7, s. 4.

Instruction and training

5 (1) Every employer shall ensure that any employees who are required to use a safety-engineered needle, or may come into accidental parenteral contact with a safety-engineered needle, receive and participate in such instruction and training as may be developed and implemented by the employer.

(2) At least annually, every employer shall, in consultation with its joint health and safety representative, if any, for a healthcare workplace, review the training and instruction provided to employees and the employees' familiarity with the instruction and training. 2006, c. 7, s. 6.

Offence and penalties

6 Every employer who fails to comply with this Act or the regulations is guilty of an offence and liable upon summary conviction

(a) in the case of an individual, to a fine of not more than \$25,000 or imprisonment for a term of not more than 12 months, or both; and

(b) in the case of a corporation, to a fine of not more than \$250,000. 2006, c. 7, s. 7.

Offences by employees or agents

7 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, unless the accused establishes that the offence was committed without the knowledge or consent of the accused. 2006, c. 7, s. 8.

Acts or omissions of managers

8 (1) In a prosecution against an employer under this Act or the regulations, the act or omission of a manager, a superintendent or another person who exercises management functions for the employer is deemed to be the act or omission of the employer.

(2) Notwithstanding subsection (1), the act or omission of a manager, a superintendent or another person who exercises management functions for the employer is not the act or omission of the employer if it is proven that the employer

(a) took every precaution reasonable in the circumstances to ensure that the act or omission would not occur;

(b) did not have actual knowledge of, or could not reasonably have known of, the act or omission; and

(c) did not expressly or impliedly consent to the act or omission. 2006, c. 7, s. 9.

Limitation period for prosecution

9 No prosecution under this Act may be commenced more than two years after the day upon which the offence was committed. 2006, c. 7, s. 10.

Regulations

10 (1) The Governor in Council may make regulations

(a) prescribing a workplace or class of workplace as a healthcare workplace;

(b) exempting a workplace or class of workplace from being a healthcare workplace;

(c) exempting an employer from the requirement to use safety-engineered needles;

(d) respecting the reporting requirements of employers of healthcare workplaces with respect to the use of needles;

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

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

(g) respecting any matter the Governor in Council determines 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*, 2006, c. 7, s. 11.

CHAPTER S-4

**An Act for Codifying the Law
Relating to the Sale of Goods**

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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 *Sale of Goods Act*. R.S., c. 408, s. 1.

INTERPRETATION

Interpretation

2 In this Act,

“action” includes counterclaim and set-off;

“buyer” means a person who buys or agrees to buy goods;

“contract of sale” includes an agreement to sell as well as a sale;

“delivery” means voluntary transfer of possession from one person to another;

“document of title to goods” has the same meaning as in the *Mercantile Agents Act*;

“fault” means wrongful act or default;

“future goods” means goods to be manufactured or acquired by the seller after the making of the contract of sale;

“goods” includes all chattels personal other than things in action and money and includes emblements, industrial growing crops and things attached to or forming part of the land that are agreed to be severed before sale or under the contract of sale;

“plaintiff” includes a defendant counterclaiming;

“property” means the general property in goods, and not merely a special property;

“quality of goods” includes their state or condition;

“sale” includes a bargain and sale as well as a sale and delivery;

“seller” means a person who sells or agrees to sell goods;

“specific goods” means goods identified and agreed upon at the time a contract of sale is made;

“warranty” means an agreement with reference to goods that are the subject of a contract of sale, but collateral to the main purpose of such contract, the breach of which gives rise to a claim for damages, but not a right to reject the goods and treat the contract as repudiated. R.S., c. 408, s. 2.

Deeming provisions

3 (1) A thing is deemed to be done in good faith within the meaning of this Act when it is in fact done honestly, whether it be done negligently or not.

(2) A person is deemed to be insolvent within the meaning of this Act who either has ceased to pay the person's debts in the ordinary course of business or cannot pay the person's debts as they become due.

(3) Goods are in a deliverable state within the meaning of this Act when they are in such a state that the buyer would, under the contract, be bound to take delivery of them. R.S., c. 408, s. 3.

PART I

FORMATION OF THE CONTRACT

CONTRACT OF SALE

Further interpretive provisions

4 (1) A contract of sale of goods is a contract whereby the seller transfers, or agrees to transfer, the property in goods to the buyer for a money consideration, called the "price", and there may be a contract of sale between one part owner and another.

(2) A contract of sale may be absolute or conditional.

(3) Where, under a contract of sale, the property in the goods is transferred from the seller to the buyer, the contract is called a "sale", but where the transfer of the property in the goods is to take place at a future time, or subject to some condition thereafter to be fulfilled, the contract is called an "agreement to sell".

(4) An agreement to sell becomes a sale when the time elapses, or the conditions are fulfilled subject to which the property in the goods is to be transferred. R.S., c. 408, s. 4.

Laws governing capacity to buy and sell

5 (1) In this Section, "necessaries" means goods suitable to the condition in life of such infant or minor or other person, and to the infant's, minor's or other person's actual requirements at the time of the sale and delivery.

(2) Capacity to buy and sell is regulated by the general law concerning capacity to contract and to transfer and acquire property, provided that where necessaries are sold and delivered to an infant or minor, or to a person who by reason of mental incapacity or drunkenness is incompetent to contract, the infant, minor or person must pay a reasonable price therefor. R.S., c. 408, s. 5.

FORMALITIES OF THE CONTRACT

Contract may be written or by parole or implied

6 Subject to this Act and to any statute in that behalf, a contract of sale may be made in writing, either with or without seal, by word of mouth, partly in

writing and partly by word of mouth or may be implied from the conduct of the parties, provided that nothing in this Section shall affect the law relating to corporations. R.S., c. 408, s. 6.

Condition to enforce contract for \$40 or more

7 (1) A contract for the sale of any goods of the value of \$40 or upwards is not enforceable by action unless the buyer accepts part of the goods so sold, and actually receives the same, or gives something in earnest to bind the contract, or in part payment, or unless some note or memorandum in writing of the contract be made and signed by the party to be charged, or the party's agent in that behalf.

(2) This Section applies to every such contract notwithstanding that the goods may be intended to be delivered at some future time, or may not at the time of such contract be actually made, procured or provided, or fit or ready for delivery, or some act may be requisite for the making or completing thereof or rendering the same fit for delivery.

(3) There is an acceptance of goods, within the meaning of this Section, when the buyer does any act in relation to the goods that recognizes a pre-existing contract of sale, whether there be an acceptance in performance of the contract or not. R.S., c. 408, s. 7.

SUBJECT-MATTER OF CONTRACT

Existing or future goods

8 (1) The goods that form the subject of a contract of sale may be either existing goods, owned or possessed by the seller, or goods to be manufactured or acquired by the seller after the making of the contract of sale, in this Act called "future goods".

(2) There may be a contract for the sale of goods the acquisition of which by the seller depends upon a contingency that may or may not happen.

(3) Where, by a contract of sale, the seller purports to effect a present sale of future goods, the contract operates as an agreement to sell the goods. R.S., c. 408, s. 8.

Specific goods perished at time of contract

9 Where there is a contract for the sale of specific goods, and the goods without the knowledge of the seller have perished at the time when the contract is made, the contract is void. R.S., c. 408, s. 9.

Specific goods perished before risk passes

10 Where there is an agreement to sell specific goods, and subsequently the goods without any fault on the part of the seller or buyer perish before the risk passes to the buyer, the agreement is thereby avoided. R.S., c. 408, s. 10.

THE PRICE

Fixing of price

11 (1) The price in a contract of sale may be fixed by the contract, may be left to be fixed in a manner thereby agreed or may be determined by the course of dealing between the parties.

(2) Where the price is not determined in accordance with the foregoing provisions the buyer must pay a reasonable price and what is a reasonable price is a question of fact dependent on the circumstances of each particular case. R.S., c. 408, s. 11.

Valuation

12 (1) Where there is an agreement to sell goods on the terms that the price is to be fixed by the valuation of a third party, and such third party cannot or does not make such valuation, the agreement is avoided, provided that, if the goods or any part thereof have been delivered to and appropriated by the buyer, the buyer must pay a reasonable price therefor.

(2) Where such third party is prevented from making the valuation by the fault of the seller or buyer, the party not in fault may maintain an action for damages against the party in fault. R.S., c. 408, s. 12.

CONDITIONS AND WARRANTIES

Time as essence of contract

13 (1) Unless a different intention appears from the terms of the contract, stipulations as to time of payment are not deemed to be of the essence of a contract of sale, and whether any other stipulation as to time is of the essence of the contract, or not, depends on the terms of the contract.

(2) In a contract of sale, "month" means prima facie a calendar month. R.S., c. 408, s. 13.

Treatment by buyer of breach of condition by seller

14 (1) Where a contract of sale is subject to any condition to be fulfilled by the seller, the buyer may waive the condition or may elect to treat the breach of such condition as a breach of warranty and not as a ground for treating the contract as repudiated.

(2) Whether a stipulation in a contract of sale is a condition, the breach of which may give rise to a right to treat the contract as repudiated, or a warranty, the breach of which may give rise to a claim for damages, but not to a right to reject the goods and treat the contract as repudiated, depends in each case on the construction of the contract and a stipulation may be a condition, though called a warranty in the contract.

(3) Where a contract of sale is not severable and the buyer has accepted the goods, or part thereof, or where the contract is for specific goods, the property in which has passed to the buyer, the breach of any condition to be fulfilled by the seller may only be treated as a breach of warranty, and not as ground for

rejecting the goods and treating the contract as repudiated unless there is a term of the contract, express or implied, to that effect.

(4) Nothing in this Section affects the case of any condition or warranty, fulfillment of which is excused by law by reason of impossibility or otherwise. R.S., c. 408, s. 14.

Implied condition and warranties

15 In a contract of sale, unless the circumstances of the contract are such as to show a different intention, there is

(a) an implied condition on the part of the seller that, in the case of a sale, the seller has a right to sell the goods, and that, in the case of an agreement to sell, the seller will have a right to sell the goods at the time when the property is to pass;

(b) an implied warranty that the buyer shall have and enjoy quiet possession of the goods;

(c) an implied warranty that the goods must be free from any charge or encumbrance in favour of any third party, not declared or known to the buyer before or at the time when the contract is made. R.S., c. 408, s. 15.

Goods correspond with description

16 Where there is a contract for the sale of goods by description, there is an implied condition that the goods must correspond with the description and if the sale be by sample as well as by description, it is not sufficient that the bulk of the goods corresponds with the sample if the goods do not also correspond with the description. R.S., c. 408, s. 16.

Quality or fitness for particular purpose

17 Subject to this Act and any statute in that behalf, there is no implied warranty or condition as to the quality or fitness, for any particular purpose, of goods supplied under a contract of sale, except as follows:

(a) where the buyer, expressly or by implication, makes known to the seller the particular purpose for which the goods are required, so as to show that the buyer relies on the seller's skill or judgement and the goods are of a description that it is in the course of the seller's business to supply, whether the seller be the manufacturer or not, there is an implied condition that the goods must be reasonably fit for such purpose, provided that, in the case of a contract for the sale of a specified article under its patent or other tradename, there is no implied condition as to its fitness for any particular purpose;

(b) where goods are bought by description from a seller who deals in goods of that description, whether the seller be the manufacturer or not, there is an implied condition that the goods must be of merchantable quality, provided that, if the buyer has examined the goods, there is no implied condition as regards defects that such examination ought to have revealed;

(c) an implied warranty or condition as to quality or fitness for a particular purpose may be annexed by the usage of trade;

(d) an express warranty or condition does not negate a warranty or condition implied by this Act, unless inconsistent therewith. R.S., c. 408, s. 17.

SALE BY SAMPLE

Definition of sale by sample

18 (1) A contract of sale is a contract for sale by sample where there is a term in the contract, express or implied, to that effect.

(2) In the case of a contract for sale by sample, there is an implied condition that

- (a) the bulk must correspond with the sample in quality;
- (b) the buyer shall have a reasonable opportunity of comparing the bulk with the sample; and
- (c) the goods must be free from any defect, rendering them unmerchantable, that would not be apparent on reasonable examination of the sample. R.S., c. 408, s. 18.

PART II

EFFECTS OF THE CONTRACT

TRANSFER OF PROPERTY AS BETWEEN SELLER AND BUYER

Transfer of property in unascertained goods

19 Where there is a contract for the sale of unascertained goods, no property in the goods is transferred to the buyer unless and until the goods are ascertained. R.S., c. 408, s. 19.

Transfer of property in specific or ascertained goods

20 (1) Where there is a contract for the sale of specific or ascertained goods, the property in them is transferred to the buyer at such time as the parties to the contract intend it to be transferred.

(2) For the purpose of ascertaining the intention of the parties, regard shall be had to the terms of the contract, the conduct of the parties and the circumstances of the case. R.S., c. 408, s. 20.

Rules for ascertaining intention

21 Unless a different intention appears, the following are rules for ascertaining the intention of the parties as to the time at which the property in the goods is to pass to the buyer:

Rule 1. Where there is an unconditional contract for the sale of specific goods in a deliverable state, the property in the goods passes to the buyer when the contract is made, and it is immaterial whether the time of payment or the time of delivery, or both, be postponed.

Rule 2. Where there is a contract for the sale of specific goods and the seller is bound to do something to the goods for the purpose of put-

ting them into a deliverable state, the property does not pass until such thing be done, and the buyer has notice thereof.

Rule 3. Where there is a contract for the sale of specific goods in a deliverable state, but the seller is bound to weigh, measure, test or do some other act or thing with reference to the goods for the purpose of ascertaining the price, the property does not pass until such act or thing be done, and the buyer has notice thereof.

Rule 4. When goods are delivered to the buyer on approval, or "on sale or return" or other similar terms, the property therein passes to the buyer

(a) when the buyer signifies the buyer's approval or acceptance to the seller, or does any other act adopting the transaction; or

(b) if the buyer does not signify the buyer's approval or acceptance to the seller, but retains the goods without giving notice of rejection, then, if a time has been fixed for the return of the goods, on the expiration of such time, or, if no time has been fixed, on the expiration of a reasonable time and what is a reasonable time is a question of fact.

Rule 5. (1) Where there is a contract for the sale of unascertained or future goods by description, and goods of that description and in a deliverable state are unconditionally appropriated to the contract, either by the seller with the assent of the buyer, or by the buyer with the assent of the seller, the property in the goods thereupon passes to the buyer and such assent may be express or implied and may be given either before or after the appropriation is made.

(2) Where, in pursuance of the contract, the seller delivers the goods to the buyer or to a carrier or other bailee, whether named by the buyer or not, for the purpose of transmission to the buyer, and does not reserve the right of disposal, the seller is deemed to have unconditionally appropriated the goods to the contract.

R.S., c. 408, s. 21.

Reservation of right of disposal in seller

22 (1) Where there is a contract for the sale of specific goods, or where goods are subsequently appropriated to the contract, the seller may, by the terms of the contract or appropriation, reserve the right of disposal of the goods until certain conditions are fulfilled and in such case, notwithstanding the delivery of the goods to the buyer or to a carrier or other bailee for the purpose of transmission to the buyer, the property in the goods does not pass to the buyer until the conditions imposed by the seller are fulfilled.

(2) Where goods are shipped, and by the bill of lading the goods are deliverable to the order of the seller or the seller's agent, the seller is prima facie deemed to reserve the right of disposal.

(3) Where the seller of goods draws on the buyer for the price and transmits the bill of exchange and bill of lading to the buyer together to secure acceptance or payment of the bill of exchange, the buyer is bound to return the bill

of lading if the buyer does not honour the bill of exchange, and if the buyer wrongfully retains the bill of lading, the property in the goods does not pass to the buyer. R.S., c. 408, s. 22.

Risk of seller versus risk of buyer

23 Unless otherwise agreed, the goods remain at the seller's risk until the property therein is transferred to the buyer, but when the property therein is transferred to the buyer, the goods are at the buyer's risk, whether delivery has been made or not, provided that, where delivery has been delayed through the fault of either buyer or seller, the goods are at the risk of the party in fault as regards any loss that might not have occurred but for such fault, and provided also that nothing in this Section shall affect the duties or liabilities of either seller or buyer as a bailee of the goods of the other party. R.S., c. 408, s. 23.

TRANSFER OF TITLE**Title to goods sold without consent of owner**

24 Subject to this Act, where goods are sold by a person who is not the owner thereof and who does not sell them under the authority or with the consent of the owner, the buyer acquires no better title to the goods than the seller had, unless the owner of the goods is by the owner's conduct precluded from denying the seller's authority to sell. R.S., c. 408, s. 24.

Limitation on effect of Act

25 Nothing in this Act affects

(a) the *Mercantile Agents Act* or any enactment enabling the apparent owner of goods to dispose of them as if the apparent owner were the true owner thereof;

(b) the validity of any contract of sale under any special common law or statutory power of sale or under the order of a court of competent jurisdiction. R.S., c. 408, s. 25.

Acquisition by buyer of voidable title of seller

26 When the seller of goods has a voidable title thereto, but the seller's title has not been avoided at the time of the sale, the buyer acquires a good title to the goods, provided the buyer buys them in good faith and without notice of the seller's defect of title. R.S., c. 408, s. 26.

Title to stolen goods and goods obtained by fraud

27 (1) Where goods have been stolen and the offender is prosecuted to conviction, the property in the goods so stolen reverts in the person who was the owner of the goods, or the person's personal representative, notwithstanding any intermediate dealing with them.

(2) Notwithstanding any enactment to the contrary, where goods have been obtained by fraud or other wrongful means not amounting to theft, the property in such goods does not revert in the person who was the owner of the goods, or the person's personal representative, by reason only of the conviction of the offender. R.S., c. 408, s. 27.

Goods resold by seller or buyer in possession

28 (1) In this Section, “mercantile agent” has the same meaning as in the *Mercantile Agents Act*.

(2) Where a person having sold goods continues or is in possession of the goods, or of the documents of title to the goods, the delivery or transfer by that person, or by a mercantile agent acting for the person, of the goods or documents of title, under any sale, pledge or other disposition thereof, to any person receiving the same in good faith and without notice of the previous sale, has the same effect as if the person making the delivery or transfer were expressly authorized by the owner of the goods to make the same.

(3) Where a person having bought or agreed to buy goods obtains, with the consent of the seller, possession of the goods or the documents of title to the goods, the delivery or transfer by that person or by a mercantile agent acting for the person of the goods or documents of title, under any sale, pledge or other disposition thereof, to any person receiving the same in good faith and without notice of any lien or other right of the original seller in respect of the goods, has the same effect as if the person making the delivery or transfer were a mercantile agent in possession of the goods or documents of title with the consent of the owner. R.S., c. 408, s. 28.

PART III

PERFORMANCE OF THE CONTRACT

Duties of seller and buyer

29 It is the duty of the seller to deliver the goods and of the buyer to accept and pay for them, in accordance with the terms of the contract of sale. R.S., c. 408, s. 29.

Delivery and payment are concurrent conditions

30 Unless otherwise agreed, delivery of the goods and payment of the price are concurrent conditions, that is to say, the seller must be ready and willing to give possession of the goods to the buyer in exchange for the price, and the buyer must be ready and willing to pay the price in exchange for possession of the goods. R.S., c. 408, s. 30.

Sending and delivery

31 (1) Whether it is for the buyer to take possession of the goods, or for the seller to send them to the buyer, is a question depending in each case on the contract, express or implied, between the parties and apart from any such contract, express or implied, the place of delivery is the seller’s place of business, if the seller has one, and if not, the seller’s residence, provided that if the contract be for the sale of specific goods, which to the knowledge of the parties when the contract is made are in some other place, then that place is the place of delivery.

(2) Where, pursuant to the contract of sale, the seller is bound to send the goods to the buyer, but no time for sending them is fixed, the seller is bound to send them within a reasonable time.

(3) Where the goods at the time of sale are in the possession of a third person, there is no delivery by seller to buyer unless and until such third person acknowledges to the buyer that the person holds the goods on the buyer's behalf, provided that nothing in this Section shall affect the operation of the issue or transfer of any document of title to goods.

(4) Demand or tender of delivery may be treated as ineffective unless made at a reasonable hour and what is a reasonable hour is a question of fact.

(5) Unless otherwise agreed, the expenses of and incidental to putting the goods into a deliverable state must be borne by the seller. R.S., c. 408, s. 31.

Delivery of different goods or different quantity

32 (1) Where the seller delivers to the buyer a quantity of goods less than the seller contracted to sell, the buyer may reject them, but if the buyer accepts the goods so delivered the buyer must pay for them at the contract rate.

(2) Where the seller delivers to the buyer a quantity of goods larger than the seller contracted to sell, the buyer may accept the goods included in the contract and reject the rest, or the buyer may reject the whole and, if the buyer accepts the whole of the goods so delivered, the buyer must pay for them at the contract rate.

(3) Where the seller delivers to the buyer the goods the seller contracted to sell, mixed with goods of a different description not included in the contract, the buyer may accept the goods that are in accordance with the contract and reject the rest, or the buyer may reject the whole.

(4) The provisions of this Section are subject to any usage of trade, special agreement or course of dealing between the parties. R.S., c. 408, s. 32.

Delivery by instalments

33 (1) Unless otherwise agreed, the buyer of goods is not bound to accept delivery thereof by instalments.

(2) Where there is a contract for the sale of goods to be delivered by stated instalments, that are to be separately paid for, and the seller makes defective deliveries in respect of one or more instalments, or the buyer neglects or refuses to take delivery of or pay for one or more instalments, it is a question, in each case depending on the terms of the contract and the circumstances of the case, whether the breach of contract is a repudiation of the whole contract or whether it is a severable breach giving rise to a claim for compensation but not to a right to treat the whole contract as repudiated. R.S., c. 408, s. 33.

Delivery to carrier

34 (1) Where, in pursuance of a contract of sale, the seller is authorized or required to send the goods to the buyer, delivery of goods to a carrier, whether named by the buyer or not, for the purpose of transmission to the buyer, is prima facie deemed to be a delivery of the goods to the buyer.

(2) Unless otherwise authorized by the buyer, the seller must make such contract with the carrier on behalf of the buyer as may be reasonable

having regard to the nature of the goods and the other circumstances of the case and, if the seller omits to do so, and the goods are lost or damaged in course of transit, the buyer may decline to treat the delivery to the carrier as a delivery to the buyer, or may hold the seller responsible in damages.

(3) Unless otherwise agreed, where goods are sent by the seller to the buyer by a route involving sea, lake or river transit, under circumstances in which it is usual to insure, the seller must give such notice to the buyer as may enable the buyer to insure them during their sea, lake or river transit, and if the seller fails to do so, the goods are deemed to be at the seller's risk during such sea, lake or river transit. R.S., c. 408, s. 34.

Risk of deterioration in transit

35 Where the seller of goods agrees to deliver them at the seller's own risk at a place other than that where they are when sold, the buyer must, nevertheless, unless otherwise agreed, take any risk of deterioration in the goods necessarily incident to the course of transit. R.S., c. 408, s. 35.

Opportunity to examine

36 (1) Where goods are delivered to the buyer that the buyer has not previously examined, the buyer is not deemed to have accepted them unless and until the buyer has had a reasonable opportunity of examining them for the purpose of ascertaining whether they are in conformity with the contract.

(2) Unless otherwise agreed, when the seller tenders delivery of the goods to the buyer, the seller is bound, on request to afford the buyer a reasonable opportunity of examining the goods for the purpose of ascertaining whether they are in conformity with the contract. R.S., c. 408, s. 36.

Deemed acceptance

37 The buyer is deemed to have accepted the goods when the buyer intimates to the seller that the buyer has accepted them, or when the goods have been delivered to the buyer, and the buyer does any act in relation to them, which is inconsistent with the ownership of the seller, or when, after the lapse of a reasonable time, the buyer retains the goods without intimating to the seller that the buyer has rejected them. R.S., c. 408, s. 37.

Sufficient refusal to accept delivered goods

38 Unless otherwise agreed, where goods are delivered to the buyer and the buyer refuses to accept them, having the right to do so, the buyer is not bound to return them to the seller, but it is sufficient if the buyer intimates to the seller that the buyer refuses to accept them. R.S., c. 408, s. 38.

Effect of refusal or failure to take delivery

39 When the seller is ready and willing to deliver the goods and requests the buyer to take delivery, and the buyer does not within a reasonable time after such request take delivery of the goods, the buyer is liable to the seller for any loss occasioned by the buyer's neglect or refusal to take delivery, and also for a reasonable charge for the care and custody of the goods provided that nothing in this Section shall affect the rights of the seller where the neglect or refusal of the buyer to take delivery amounts to a repudiation of the contract. R.S., c. 408, s. 39.

PART IV

RIGHTS OF UNPAID SELLER AGAINST THE GOODS

Deemed unpaid seller

40 (1) The seller of goods is deemed to be an unpaid seller within the meaning of this Act when

- (a) the whole of the price has not been paid or tendered;
- (b) a bill of exchange or other negotiable instrument has been received as conditional payment, and the condition on which it was received has not been fulfilled by reason of the dishonour of the instrument or otherwise.

(2) In this Part, “seller” includes any person who is in the position of a seller, as, for instance, an agent of the seller to whom the bill of lading has been indorsed or a consignor or agent who has paid, or is directly responsible for the price. R.S., c. 408, s. 40.

Rights of unpaid seller

41 (1) Subject to this Act and any statute in that behalf, notwithstanding that the property in the goods may have passed to the buyer, the unpaid seller of goods, as such, has, by implication of law,

- (a) a lien on the goods or right to retain them for the price while the buyer is in possession of them;
- (b) in case of the insolvency of the buyer, a right of stopping the goods in transit after the seller has parted with the possession of them;
- (c) a right of resale as limited by this Act.

(2) Where the property in goods has not passed to the buyer, the unpaid seller has, in addition to the seller’s other remedies, a right of withholding delivery similar to and coextensive with the seller’s rights of lien and stoppage in transit where the property has passed to the buyer. R.S., c. 408, s. 41.

UNPAID SELLER’S LIEN

Lien of unpaid seller

42 (1) Subject to this Act, the unpaid seller of goods who is in possession of them is entitled to retain possession of them until payment or tender of the price in the following cases, namely:

- (a) where the goods have been sold without any stipulation as to credit;
- (b) where the goods have been sold on credit, but the terms of credit have expired;
- (c) where the buyer becomes insolvent.

(2) The seller may exercise the seller's right of lien, notwithstanding that the seller is in possession of the goods as agent or bailee for the buyer. R.S., c. 408, s. 42.

Exercise of lien after part delivery

43 Where an unpaid seller has made part delivery of the goods, the seller may exercise the seller's right of lien or retention on the remainder, unless such part delivery has been made under such circumstances as to show an agreement to waive the lien or right of retention. R.S., c. 408, s. 43.

Loss of lien

44 (1) The unpaid seller of goods loses the seller's lien or right of retention thereon

(a) when the seller delivers the goods to a carrier or other bailee for the purpose of transmission to the buyer without reserving the right of disposal of the goods;

(b) when the buyer or the buyer's agent lawfully obtains possession of the goods;

(c) by waiver thereof.

(2) The unpaid seller of goods, having a lien or right of retention thereon, does not lose the seller's lien or right of retention by reason only that the seller has obtained judgment or decree for the price of the goods. R.S., c. 408, s. 44.

STOPPAGE IN TRANSIT**Right of stoppage in transit**

45 Subject to this Act, when the buyer of goods becomes insolvent, the unpaid seller who has parted with the possession of the goods has the right of stopping them in transit, that is to say, the seller may resume possession of the goods as long as they are in course of transit and may retain them until payment or tender of the price. R.S., c. 408, s. 45.

Duration of transit

46 (1) Goods are deemed to be in course of transit from the time when they are delivered to a carrier by land or water, or other bailee for the purpose of transmission to the buyer, until the buyer, or the buyer's agent in that behalf, takes delivery of them from such carrier or other bailee.

(2) If the buyer or the buyer's agent in that behalf obtains delivery of the goods before their arrival at the appointed destination, the transit is at an end.

(3) If, after the arrival of the goods at the appointed destination, the carrier or other bailee acknowledges to the buyer, or the buyer's agent, that the carrier holds the goods on the buyer's behalf, and continues in possession of them as bailee for the buyer or the buyer's agent, the transit is at an end and it is immaterial that a further destination for the goods may have been indicated by the buyer.

(4) If the goods are rejected by the buyer, and the carrier or other bailee continues in possession of them, the transit is not deemed to be at an end, even if the seller has refused to receive them back.

(5) When the goods are delivered to a ship chartered by the buyer, it is a question, depending on the circumstances of the particular case, whether they are in the possession of the master as a carrier or as agent of the buyer.

(6) Where the carrier or other bailee wrongfully refuses to deliver the goods to the buyer, or the buyer's agent in the buyer's behalf, the transit is deemed to be at an end.

(7) Where part delivery of the goods has been made to the buyer, or the buyer's agent in that behalf, the remainder of the goods may be stopped in transit, unless such part delivery has been made under such circumstances as to show an agreement to give up possession of the whole of the goods. R.S., c. 408, s. 46.

Stoppage in transit

47 (1) The unpaid seller may exercise the seller's right of stoppage in transit either by taking actual possession of the goods or by giving notice of the unpaid seller's claim to the carrier or other bailee in whose possession the goods are and such notice may be given either to the person in actual possession of the goods or to the person's principal and, in the latter case, the notice, to be effective, must be given at such time and under such circumstances that the principal, by the exercise of reasonable diligence, may communicate it to the principal's servant or agent in time to prevent a delivery to the buyer.

(2) When notice of stoppage in transit is given by the seller to the carrier, or other bailee in possession of the goods, the carrier or other bailee must redeliver the goods to, or according to the directions of, the seller and the expenses of such redelivery must be borne by the seller. R.S., c. 408, s. 47.

RESALE BY BUYER OR SELLER

Effect of disposition of goods by buyer

48 Subject to this Act, the unpaid seller's right of lien or retention or stoppage in transit is not affected by any sale, or other disposition of the goods that the buyer may have made, unless the seller has assented thereto, provided that, where a document of title to goods has been lawfully transferred to any person as 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, then, if such last-mentioned transfer was by way of sale, the unpaid seller's right of lien or retention or stoppage in transit is defeated, and if such last-mentioned transfer was by way of pledge or other disposition for value, the unpaid seller's right of lien or retention or stoppage in transit can only be exercised subject to the rights of the transferee. R.S., c. 408, s. 48.

Effect of exercise of right of unpaid seller

49 (1) Subject to this Section, a contract of sale is not rescinded by the mere exercise by an unpaid seller of the unpaid seller's right of lien or retention or stoppage in transit.

(2) Where an unpaid seller, who has exercised the unpaid seller's right of lien or retention or stoppage in transit, resells the goods, the buyer acquires a good title thereto as against the original buyer.

(3) Where the goods are of a perishable nature or where the unpaid seller gives notice to the buyer of the unpaid seller's intention to resell, and the buyer does not within a reasonable time pay or tender the price, the unpaid seller may resell the goods and recover from the original buyer damages for any loss occasioned by the original buyer's breach of contract.

(4) Where the seller expressly reserves a right of resale in case the buyer should make default, and, on the buyer making default, resells the goods, the original contract of sale is thereby rescinded, but without prejudice to any claim the seller may have for damages. R.S., c. 408, s. 49.

PART V

ACTIONS FOR BREACH OF THE CONTRACT

REMEDIES OF THE SELLER

Action for price

50 (1) Where, under a contract of sale, the property in the goods has passed to the buyer, and the buyer wrongfully neglects or refuses to pay for the goods according to the terms of the contract, the seller may maintain an action against the buyer for the price of the goods.

(2) Where, under a contract of sale, the price is payable on a day certain, irrespective of delivery, and the buyer wrongfully neglects or refuses to pay such price, the seller may maintain an action for the price although the property in the goods has not passed and the goods have not been appropriated to the contract. R.S., c. 408, s. 50.

Action for damages for non-acceptance

51 (1) Where the buyer wrongfully neglects or refuses to accept and pay for the goods, the seller may maintain an action against the buyer for damages for non-acceptance.

(2) The measure of damages is the estimated loss directly and naturally resulting, in the ordinary course of events, from the buyer's breach of contract.

(3) Where there is an available market for the goods in question, the measure of damages is prima facie to be ascertained by the difference between the contract price and the market or current price at the time or times when the goods ought to have been accepted, or, if no time was fixed for acceptance, then at the time of the refusal to accept. R.S., c. 408, s. 51.

REMEDIES OF THE BUYER

Action for damages for non-delivery

52 (1) Where the seller wrongfully neglects or refuses to deliver the goods to the buyer, the buyer may maintain an action against the seller for damages for non-delivery.

(2) The measure of damages is the estimated loss directly and naturally resulting in the ordinary course of events from the seller's breach of contract.

(3) Where there is an available market for the goods in question, the measure of damages is prima facie to be ascertained by the difference between the contract price and the market or current price of the goods at the time or times when they ought to have been delivered, or, if no time was fixed, then at the time of the refusal to deliver. R.S., c. 408, s. 52.

Specific performance

53 (1) In any action for breach of contract to deliver specific or ascertained goods, the court may, if it thinks fit, on the application of the plaintiff, by its judgment or decree direct that the contract must be performed specifically, without giving the defendant the option of retaining the goods on payment of damages.

(2) The judgment or decree may be unconditional, or upon such terms and conditions as to damages, payment of the price and otherwise, as to the court may seem just, and the application by the plaintiff may be made at any time before judgment or decree. R.S., c. 408, s. 53.

Remedy of buyer for breach of warranty

54 (1) Where there is a breach of warranty by the seller or where the buyer elects or is compelled to treat any breach of a condition on the part of the seller as a breach of warranty, the buyer is not by reason only of such breach of warranty entitled to reject the goods, but the buyer may

(a) set up against the seller the breach of warranty, in diminution or extinction of the price; or

(b) maintain an action against the seller for damages for the breach of warranty.

(2) The measure of damages for breach of warranty is the estimated loss directly and naturally resulting, in the ordinary course of events, from the breach of warranty.

(3) In the case of breach of warranty of quality, such loss is prima facie the difference between the value of the goods at the time of delivery to the buyer and the value they would have had if they had answered to the warranty.

(4) The fact that the buyer has set up the breach of warranty, in diminution or extinction of the price, does not prevent the buyer from maintaining an action for the same breach of warranty if the buyer has suffered further damage. R.S., c. 408, s. 54.

Recovery of interest or special damages or money paid

55 Nothing in this Act affects the right of the buyer or the seller to recover interest or special damages in any case where, by law, interest or special damages may be recoverable, or to recover money paid where the consideration for the payment of it has failed. R.S., c. 408, s. 55.

PART VI

SUPPLEMENTARY

Varying or negating an implication of law

56 Where any right, duty or liability would arise under a contract of sale by implication of law, it may be negated or varied by express agreement, or by the course of dealing between the parties, or by usage, if the usage be such as to bind both parties to the contract. R.S., c. 408, s. 56.

Reasonable time is question of fact

57 Where, by this Act, any reference is made to a reasonable time, the question what is a reasonable time is a question of fact. R.S., c. 408, s. 57.

Enforcement of right or duty or liability under Act

58 Where any right, duty or liability is declared by this Act, it may, unless otherwise by this Act provided, be enforced by action. R.S., c. 408, s. 58.

Sale by auction

59 In the case of sale by auction,

(a) where goods are put up for sale by auction in lots, each lot is prima facie deemed to be the subject of a separate contract of sale;

(b) a sale by auction is complete when the auctioneer announces its completion by the fall of the hammer, or in other customary manner and, until such announcement is made, any bidder may retract the bidder's bid;

(c) where a sale by auction is not notified to be subject to a right to bid on behalf of the seller, it not lawful for the seller to bid or to employ any person to bid at such sale or for the auctioneer knowingly to take any bid from the seller or any such person, and any sale contravening this rule may be treated as fraudulent by the buyer;

(d) a sale by auction may be notified to be subject to a reserved or upset price and a right to bid may also be reserved expressly by or on behalf of the seller;

(e) where a right to bid is expressly reserved, but not otherwise, the seller, or any one person on the seller's behalf, may bid at the auction. R.S., c. 408, s. 59.

Effect on existing law

60 (1) The rules of the common law, including the law merchant, save in so far as they are inconsistent with the express provisions of this Act, and in particular the rules relating to the law of principal and agent and the effect of fraud,

misrepresentation, duress or coercion, mistake or other invalidating cause, continue to apply to contracts for the sale of goods.

(2) Nothing in this Act affects any enactment relating to personal property security or any enactment relating to the sale of goods that is not expressly repealed by Chapter 1 of the Acts of 1910.

(3) The provisions of this Act relating to contracts of sale do not apply to any transaction in the form of a contract of sale to the extent that the transaction is intended to operate as an agreement that creates or provides for an interest in goods to secure payment or performance of an obligation. R.S., c. 408, s. 60; 1995-96, c. 13, s. 85.

CHAPTER S-5

**An Act Respecting the Sale of Land
to Satisfy Execution Debts**

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Short title

1 This Act may be cited as the *Sale of Land Under Execution Act*. R.S., c. 409, s. 1.

Interpretation

2 In this Act,

“judgment” includes a judgment and a final order or decree in any action, whether of a legal or equitable nature, requiring or ordering the payment of money or costs by any party to the judgment;

“judgment creditor” includes the party entitled to such payment, whether plaintiff or defendant, and also the assignee of a judgment creditor, and the executor or administrator of a deceased judgment creditor;

“judgment debtor” includes the party required to make such payment, whether plaintiff or defendant, and also the assigns of a judgment debtor, and the heirs, executors or administrators of a deceased judgment debtor;

“land” includes the possessory right and right of entry of a judgment debtor, and also the interest of a mortgagor, or any equitable interest in land that may by this Act be sold under execution;

“mortgagor” includes the assigns of a mortgagor, and the heirs, executors or administrators of a deceased mortgagor;

“purchaser” includes the heirs and assigns of such purchaser. R.S., c. 409, s. 2.

APPLICATION TO CORPORATIONS

Application of Act

3 This Act applies to corporations as well as to natural persons. R.S., c. 409, s. 3.

INTERESTS SUBJECT TO SALE

Sale of land under execution

4 The land of every judgment debtor may be sold under execution after the judgment has been registered for one year in the registry of deeds or land registration office of the registration district in which the land is situated. R.S., c. 409, s. 4; 2001, c. 6, s. 125.

Beneficial interest in land held in trust

5 A registered judgment binds the interest of any person beneficially interested in lands held in trust for such person, and the same may be taken in execution for the payment of the debts of such person in the same manner as if such person were seised or possessed of such lands. R.S., c. 409, s. 5.

Land subject to mortgage

6 Land subject to mortgage may be levied upon, sold and conveyed under execution. R.S., c. 409, s. 6.

LAND OF DECEASED JUDGMENT DEBTOR

Leave to issue execution

7 (1) Where the judgment debtor dies after judgment is registered against the land of the judgment debtor, the judgment creditor may, upon affidavit setting forth the fact of the death and the amount remaining due upon the judgment, apply for leave to issue execution on such judgment to the Supreme Court of Nova Scotia, or a judge thereof.

(2) Such court or judge, as the case may be, may, in the court's or judge's discretion, order that the judgment creditor has leave to issue an execution upon such judgment in the name of the original parties against such land, and the same may thereupon be sold under this Act.

(3) Where probate or letters of administration of the estate of the deceased judgment debtor have been obtained, notice must be given to the executors or administrators of the application for such leave to issue execution. R.S., c. 409, s. 7.

PRIORITY LOST BY LACHES

Notice to prior judgment creditor to sell

8 Where several judgments against the same person have been registered in the same registry or land registration office for one year and any judgment creditor whose judgment was so registered before the judgment of another judgment creditor does not take effective steps to sell the land bound by the judgments, the subsequent judgment creditor may give written notice to the prior judgment creditor requiring the prior judgment creditor to sell such land within three months after the service of such notice upon the prior judgment creditor. R.S., c. 409, s. 8; 2001, c. 6, s. 125.

Priority acquired by subsequent judgment creditor

9 Where such prior judgment creditor does not, in the opinion of the court or a judge, take effective steps to sell the land within three months from the service of such notice, the subsequent judgment creditor giving the notice shall acquire priority for the subsequent judgment creditor's judgment over the judgment of the judgment creditor upon whom such notice is served, and may, upon notice of the application to such judgment creditor, obtain from the court in which the subsequent judgment creditor's judgment was obtained, or a judge thereof, an order in the action for leave to sell the said land, free from the lien or encumbrance of the prior judgment. R.S., c. 409, s. 9.

SALE AND SHERIFF'S DEED

Direction to sheriff to sell

10 The judgment creditor may direct the sheriff to sell the whole or any portion of the land lying within any registration district in which the judgment is registered. R.S., c. 409, s. 10.

Sale by sheriff

11 (1) Where a judgment has been registered for one year, the sheriff, on receipt of an execution issued on the judgment, without appraisal, shall proceed to sell the land bound thereby, or the portion thereof so directed to be sold.

(2) The judgment creditor shall cause to be inserted by five consecutive weekly insertions preceding the day of sale, in one newspaper that is published, or if none is published, or if only one paper is published and the proprietor thereof refuses to insert it at a reasonable rate, to be determined by the sheriff of the county in which the land to be sold is situated, such reasonable rate not to exceed the rates charged by the Royal Gazette for similar advertisements, in one that circulates, in the county in which the land is situated an advertisement containing a description of the land directed to be sold, stating that such land is to be sold under execution at the suit of the plaintiff or defendant, as the case may be, and the time and place fixed for such sale and having appended thereto the names of the sheriff and the solicitor of the judgment creditor.

(3) Copies of the advertisement must be posted up in the most public places of the city, town or settlement in which the land lies, and mailed, postage prepaid and registered, to each subsequent registered encumbrancer against said land, for at least 20 days before the time appointed for the sale.

(4) At the time and place so fixed, the sheriff shall sell the land so advertised at public auction to the highest bidder. R.S., c. 409, s. 11.

Sale of certain portions first

12 Where the judgment debtor, by notice in writing delivered to the sheriff at least 10 days before the sale, requires that certain portions of the land so advertised be first sold, the sheriff shall cause the same to be first offered for sale and, if a sufficient sum is realized therefrom to satisfy the execution, interest and necessary expenses attendant on the sale, no other part of such lands shall be sold, but otherwise the sheriff shall proceed with the sale of the remainder. R.S., c. 409, s. 12.

Deed to purchaser

13 The sheriff shall execute to the highest bidder, or the highest bidder's nominee, a deed of land so sold, which is sufficient to convey to the purchaser named in the deed all the interest of the judgment debtor in such land bound by the judgment, free from the judgment for which the land was sold and any lien or encumbrance recorded subsequent to it. R.S., c. 409, s. 13; 2001, c. 6, s. 125.

Deed as prima facie evidence

14 A deed executed by a sheriff, and purporting to convey land sold under execution, is prima facie evidence of the proceedings referred to therein, that the requirements of this Act were duly complied with and that the interest of the debtor bound by the judgment against the debtor had been conveyed by such deed to the purchaser, free from the judgment for which the land was sold and any lien or encumbrance recorded subsequent to it. R.S., c. 409, s. 14; 2001, c. 6, s. 125.

PURCHASER'S TITLE

Land in possession of tenant

15 Where the land so sold, or any portion thereof, is in the possession of a tenant of the judgment debtor holding under a tenancy created previously to the registry of the judgment, the purchaser becomes the landlord in the place of the judgment debtor, has the like rights and remedies against the tenant as the judgment debtor would have had if such sale had not taken place and is entitled to all rents accruing due after such purchase. R.S., c. 409, s. 15.

Land subject to mortgage

16 (1) The effect of the sale and conveyance of land subject to mortgage is to vest in the purchaser all the interest of the mortgagor therein bound by the judgment and to vest in such purchaser the same rights as such mortgagor would have had if such sale had not taken place.

(2) The purchaser may pay, remove or satisfy any mortgage, charge or lien that, at the time of the registry of the judgment, existed upon the land so sold, in like manner as the mortgagor might have done, and thereupon the purchaser acquires the same estate, right and title as the mortgagor would have acquired if the payment, removal or satisfaction had been effected by the mortgagor.

(3) On payment of the amount due on the mortgage by the purchaser, such purchaser is entitled to a release. R.S., c. 409, s. 16.

Rights and duties of mortgagee and purchaser

17 (1) A mortgagee of land so sold, or the heirs or assigns of such mortgagee, may be the purchaser at such sale and notwithstanding that the mortgagee is the judgment creditor, and the mortgagee acquires the same estate, interests and rights thereby as any other purchaser.

(2) Where the mortgagee becomes the purchaser, the mortgagee shall give to the mortgagor a release of the mortgage debt.

(3) Where another person becomes the purchaser and the mortgagee enforces payment of the mortgage debt against the mortgagor, the purchaser shall repay the debt and interest to the mortgagor and, in default of payment thereof within one month after demand, the mortgagor may recover the debt and interest from the purchaser and has a charge therefor upon the mortgaged lands. R.S., c. 409, s. 17.

WRIT OF POSSESSION

Summons to show cause

18 Any person, who has obtained from the sheriff a deed of land sold under execution, may apply to a judge of the court out of which the execution issued for a summons calling upon the judgment debtor, and upon every person in possession of such land, or any portion thereof, deriving title by, through or under the judgment debtor, subsequently to the registry of the judgment, to show cause why a writ of possession should not issue to put the purchaser in possession. R.S., c. 409, s. 18.

Service of summons

19 (1) The summons must be served on the judgment debtor and on any such person in possession.

(2) Where it is made to appear to a judge that prompt personal service cannot be effected, the judge may make such order for substituted or other service, or for the substitution of notice for service, by letter, public advertisement or otherwise, as is just. R.S., c. 409, s. 19.

Writ of possession

20 Upon the return of the summons, the judge may receive evidence, either *viva voce* or by affidavit, and if the judge is of the opinion that the purchaser is entitled to the possession of the land, as against the persons named in the summons, and that such persons are withholding the possession of the land, the judge shall make an order directing a writ of possession to issue out of such court, and may in such order direct that such writ shall be issued only after a certain number of days, to be fixed by the judge. R.S., c. 409, s. 20.

Failure to comply with order

21 Where the persons mentioned in the summons do not deliver up possession of the land forthwith, or within the time mentioned in the order, the sheriff shall immediately execute the writ of possession and put the purchaser in possession of the land. R.S., c. 409, s. 21.

Condition for entitlement of applicant to costs

22 The applicant for the summons is not entitled to any costs unless, at least 10 days before the application, the applicant has served such persons with a notice demanding possession of the land or left such notice at their respective residences. R.S., c. 409, s. 22.

Form of writ of possession

23 The writ of possession may be in the form prescribed by the regulations or to the like effect. R.S., c. 409, s. 23.

SURPLUS PROCEEDS

Surplus

24 Where the sum realized by the sale is more than sufficient to satisfy the execution, interest and necessary expenses attendant on the sale, the surplus must be paid by the sheriff to such person as is directed by an order of the court or a judge. R.S., c. 409, s. 24.

GENERAL PROVISIONS

Land straddling county line

25 Where the land of any person is situated in adjoining counties, with the boundary line between such counties running through the same, the sheriff of either of the said counties may sell such land under an execution issued upon a judgment that binds the land and may execute a deed thereof to the purchaser, and such

sale and deed has the same effect as if all the land were situated within the county of which that sheriff is sheriff. R.S., c. 409, s. 25.

Sheriff vacating office before execution of deed or deed lost

26 (1) If the sheriff dies, or otherwise vacates the sheriff's office after the sheriff has made a sale of land under this Act but before the execution of a deed, the sheriff's successor shall execute a deed of the land to the purchaser.

(2) If a deed executed by a sheriff is lost before the registry thereof, the sheriff, or the sheriff's successor, may execute to the purchaser a duplicate of such deed. R.S., c. 409, s. 26.

Regulations

27 (1) The Minister of Justice may make regulations prescribing the form of a writ of execution for the purpose of Section 23.

(2) The form contained in the Schedule to Chapter 409 of the Revised Statutes, 1989, is deemed to be prescribed pursuant to subsection (1) and to have been published in accordance with the *Regulations Act* and may be amended or repealed pursuant to this Act.

(3) The exercise by the Minister of Justice of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*.

CHAPTER S-6

**An Act to Implement the Comprehensive
Integrated Tax Coordination Agreement
between the Government of Canada
and the Government of Nova Scotia**

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Short title

1 This Act may be cited as the *Sales Tax Act*. 1996, c. 31, s. 1.

Interpretation

2 In this Act,

“Agreement” means the Comprehensive Integrated Tax Coordination Agreement referred to in this Act and any new Comprehensive Integrated Tax Coordination Agreement entered into with the Minister of Finance for Canada on behalf of the Government of Canada, together with any amendments made pursuant to this Act;

“Minister” means the Minister of Finance and Treasury Board. 1996, c. 31, s. 2; 2010, c. 3, s. 24.

Supervision and management of Act

3 The Minister has the general supervision and management of this Act. 1996, c. 31, s. 3.

Personnel

4 (1) Subject to Section 6, such persons as are 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 fit, the services of 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. 1996, c. 31, s. 4.

PART I

AGREEMENT

Confirmation and amendment of agreement

5 (1) The Comprehensive Integrated Tax Coordination Agreement dated October 18, 1996, between the Minister on behalf of the Crown in right of the Province and the Minister of Finance for Canada on behalf of the Government of Canada is ratified and confirmed and, without limiting the generality of the foregoing, the Minister may make payments from the General Revenue Fund in accordance with the Agreement.

(2) The Minister on behalf of the Crown in right of the Province may enter into an agreement with the Minister of Finance for Canada on behalf of the Government of Canada amending the Agreement.

(3) Where

(a) under the Agreement the participating provinces or the Province propose a change in the rate of tax; or

(b) the Minister enters into an amending agreement pursuant to subsection (2),

the Minister shall introduce for the consideration of the House of Assembly a resolution respecting the change or the amending agreement, as the case may be, within 10 days of its proposal or execution if the House is then sitting or, if it is not then sitting, within 10 days after it next sits. 1996, c. 31, s. 5; 2010, c. 3, s. 25.

PART II

AGREEMENTS AND CONFIDENTIALITY

Power to make certain agreements

6 (1) The Minister, on behalf of the Crown in right of the Province, may enter into agreements with the Government of Canada respecting the administration and enforcement of this Act, or any part thereof, by the Government of Canada and respecting the exchange and sharing of information and technology necessary for the administration and enforcement of this Act.

(2) Any agreement made in accordance with the Agreement before April 1, 1997, by the Minister respecting the matters referred to in subsection (1) is ratified and confirmed. 1996, c. 31, s. 9.

Use and disclosure of information

7 (1) The Minister may authorize the persons who may receive information, records or returns under this Act and the Minister shall not authorize a person to receive that information or those records or returns unless it is necessary to do so for the purpose of this Act.

(2) Notwithstanding the *Freedom of Information and Protection of Privacy Act*, a person who has custody or control over information, records or returns under this Act may disclose that information or those records or returns

(a) in the course of administering or enforcing this Act or the regulations;

(b) in the course of administering an enactment of the Province or the Parliament of Canada or of another province respecting the imposition of taxation;

(c) in the course of administering or enforcing the *Liquor Control Act*;

(d) under an agreement that

(i) is between the Government of the Province and another government,

(ii) relates to the administration or enforcement of an enactment of the Province, the Parliament of Canada or another province of Canada respecting the imposition of taxation, and

(iii) provides for the disclosure of information, returns and records to and the exchange of similar information, returns and records with that other government; or

(e) for the purpose of the compilation of statistical information by the Government of the Province or the Government of Canada. 1996, c. 31, s. 10.

PART III

HOUSEHOLD ENERGY REBATE PROGRAM

Interpretation

8 In this Part,

“bulk metering” means using a device to establish a charge for the supply of electricity to a multiple-unit residential complex or condominium complex;

“commercial electricity customer” means a non-residential or non-industrial electricity customer who purchases electricity service under a general service tariff, as approved by the Nova Scotia Utility and Review Board under the *Public Utilities Act* for electric utilities in the Province;

“condominium complex” means a condominium complex as defined in subsection 123(1) of the *Excise Tax Act* (Canada);

“condominium corporation” means a corporation as defined in Section 3 of the *Condominium Act*;

“designated fuel” means any of the following:

- (a) light fuel oil;
- (b) natural gas;
- (c) propane delivered by a supplier to a purchaser at a residential complex or a condominium complex;
- (d) firewood delivered by a supplier to a purchaser at a residential complex or a condominium complex;
- (e) kerosene delivered by a supplier to a purchaser at a residential complex or a condominium complex;

“designated fuel cost” means a charge for designated fuel, but does not include a charge for a service related to providing the designated fuel and, without limiting the generality of the foregoing, does not include any of the following:

- (a) an after-hour charge;
- (b) a collection-visit charge;
- (c) a delivery charge;
- (d) an equipment lease or rental charge;
- (e) an equipment maintenance or insurance charge;
- (f) a late-payment charge;

“electricity cost” means only a base charge, demand-side management charge and a charge for the amount of electric current actually used, but does not include a charge for a service related to providing an electric current and, without limiting the generality of the foregoing, does not include any of the following:

- (a) an after-hour charge;
- (b) a collection-visit charge;
- (c) a connect charge;
- (d) a seasonal-disconnect fee;
- (e) a street light charge;
- (f) the Cowie Hill surtax;
- (g) a late-payment charge;

“heating fuel” means any of the following:

- (a) coal;
- (b) firewood not delivered by a supplier to a purchaser at a residential complex or a condominium complex;
- (c) wood pellets;
- (d) propane not delivered by a supplier to a purchaser at a residential complex or a condominium complex;
- (e) kerosene not delivered by a supplier to a purchaser at a residential complex or a condominium complex;

(f) any fuel that is intended for residential use, is similar to fuel described in clauses (a) to (e) and is not a designated fuel;

“heating fuel cost” means a charge for heating fuel, but does not include a charge for a service related to providing the heating fuel and, without limiting the generality of the foregoing, does not include any of the service charges listed in the definition of “designated fuel cost”;

“landlord” means a landlord as defined in Section 3 of the *Residential Tenancies Act*;

“mixed-use property” means a property that is designated under Section 21 of the *Assessment Act* as partly residential and is classified as partly “residential taxable” based on the current assessment for the property issued under that Act;

“multiple-unit residential complex” means a multiple unit residential complex as defined in subsection 123(1) of the *Excise Tax Act* (Canada);

“purchaser” means a person who acquires designated fuel, heating fuel or electricity at a sale for any of the following purposes:

- (a) the person’s own consumption or use;
- (b) the consumption or use by another person at that person’s expense;
- (c) on behalf of or as agent for a principal who desires the designated fuel, heating fuel or electricity for consumption or use by the principal or another person at the principal’s expense;

“rebate” means a rebate paid or credited under this Part to a purchaser in an amount equal to the tax paid or payable by the purchaser on a designated fuel cost, heating fuel cost or electricity cost;

“rebate application” means an application for a rebate made to the Minister under subsection 9(5) or Section 10, 11 or 13;

“residential electricity customer” means a customer who purchases electricity service under a domestic service tariff, as approved by the Nova Scotia Utility and Review Board under the *Public Utilities Act* for electric utilities in the Province;

“residential complex” means a residential complex as defined in subsection 123(1) of the *Excise Tax Act* (Canada);

“residential condominium unit” means a residential condominium unit as defined in subsection 123(1) of the *Excise Tax Act* (Canada);

“residential unit” means a residential unit as defined in subsection 123(1) of the *Excise Tax Act* (Canada);

“residential-use property” means a property that, based on the current assessment issued under the *Assessment Act*, is classified entirely as “residential taxable” or a combination of “residential taxable” and one or more of the following classifications:

- (a) resource forest;
- (b) resource taxable;
- (c) resource exempt;

“supplier” means a supplier as defined in subsection 123(1) of the *Excise Tax Act* (Canada);

“supply” means a supply as defined in subsection 123(1) of the *Excise Tax Act* (Canada);

“tax” means a tax imposed under subsection 165(2) of the *Excise Tax Act* (Canada). 2013, c. 3, s. 19.

Point-of-sale rebate by designated fuel supplier

9 (1) On behalf of the Crown in right of the Province, a designated fuel supplier shall pay or credit a point-of-sale rebate to a purchaser in an amount equal to the tax on a supply of designated fuel, other than natural gas and firewood, made to the purchaser on or after December 1, 2006, for a residential-use property.

(2) On behalf of the Crown in right of the Province, a designated fuel supplier shall pay or credit a point-of-sale rebate to a purchaser in an amount equal to the tax on a supply of natural gas invoiced to the purchaser on or after January 1, 2007, for a residential-use property.

(3) On behalf of the Crown in right of the Province, a designated fuel supplier shall pay or credit a point-of-sale rebate to a purchaser in an amount equal to the tax on a supply of firewood made to the purchaser on or after June 21, 2007, for a residential-use property.

(4) A point-of-sale rebate to a designated fuel purchaser must be shown on the invoice or receipt issued to the purchaser in a manner that clearly indicates the amount of the rebate.

(5) Where a purchaser who is eligible for a point-of-sale rebate is not paid or credited the amount of the rebate by the supplier, the purchaser may apply to the Minister in accordance with Section 14 for payment of that amount. 2013, c. 3, s. 19.

Residential heating fuel tax rebate

10 A person who purchases heating fuel for a residential-use property may apply to the Minister in accordance with Section 14 for a rebate in an amount equal to the tax payable on or after December 1, 2006, that the person paid on the heating fuel cost. 2013, c. 3, s. 19.

Mixed-use property heating fuel tax rebate

11 A person who purchases designated fuel or heating fuel for a mixed-use property may apply to the Minister in accordance with Section 14 for a rebate in an amount equal to the tax payable on or after the following dates that the purchaser paid on the designated fuel cost or heating fuel cost for the proportion of the mixed-use property that comprises a residential complex or condominium complex:

(a) for designated fuel other than natural gas and for heating fuel, December 1, 2006;

(b) for natural gas, on or after January 1, 2007. 2013, c. 3, s. 19.

Point-of-sale rebate by electricity supplier

12 (1) On behalf of the Crown in right of the Province, an electricity supplier shall pay or credit a point-of-sale rebate to a residential electricity customer in an amount equal to the tax on the electricity cost for a supply of electricity consumed on or after October 1, 2009.

(2) A point-of-sale rebate to a residential electricity customer must be shown on the invoice or receipt issued to the customer in a manner that clearly indicates the amount of the rebate. 2013, c. 3, s. 19.

Commercial electricity customer rebate

13 (1) A commercial electricity customer who pays tax on an electricity cost and who meets all of the criteria in subsection (2) may apply to the Minister in accordance with Section 14 for a rebate, subject to subsection 15(2) with respect to a mixed-use property, in an amount equal to the tax paid on a supply of electricity recorded by a bulk meter and invoiced to the commercial electricity customer on or after October 1, 2009.

(2) The eligibility criteria for a commercial electricity customer rebate are as follows:

- (a) the purchaser is a commercial electricity customer;
- (b) the tax to which the rebate application applies is payable on or after October 1, 2009;
- (c) the purchaser is one of the following:
 - (i) a landlord acquiring the electricity for use by tenants of residential units in a multiple-unit residential complex with bulk metering,
 - (ii) a condominium corporation acquiring the electricity for use by occupants of residential condominium units in a condominium complex with bulk metering,
 - (iii) a person other than a landlord or a condominium corporation acquiring the electricity for use by occupants of residential units in a multiple-unit residential complex with bulk metering,
 - (iv) an occupant of a residential complex in a mixed-use property with bulk metering. 2013, c. 3, s. 19.

Rebate application

14 (1) A rebate application must meet all of the following requirements:

- (a) it must be made in the form and manner prescribed by the Minister;
- (b) where for a mixed-use property, it must specify the proportion of the property that comprises a residential complex or condominium complex, as applicable;

- (c) it must be accompanied by
 - (i) the original receipts for the designated fuel cost, heating fuel cost or electricity cost to which the application applies, and
 - (ii) any information, documents and material that the Minister requires;
- (d) subject to subsection (3), it must be received by the Minister no later than 24 months after the date of the supply of the designated fuel, heating fuel or electricity to which it applies.

(2) The amount that may be requested in a rebate application must be determined as follows:

- (a) where the rebate application is for a period of at least 12 months, the amount requested may be any amount of tax paid;
- (b) where the rebate application is for a period that is shorter than 12 months, the amount requested must be at least \$30 in tax paid.

(3) A purchaser described in clause 13(2)(c) who purchases electricity, heating fuel or designated fuel for use in a mixed-use property or a residential-use property may submit a rebate application only in April, July, October or January of each year within the 24-month period specified in clause (1)(d). 2013, c. 3, s. 19.

Payment of purchaser's rebate

15 (1) On receipt of a purchaser's rebate application under subsection 9(5) or Section 10, 11 or 13, the Minister may, on behalf of the Crown in right of the Province, pay or credit the amount of the rebate to the purchaser.

(2) A rebate in respect of a mixed-use property applies only to the proportion of the mixed-use property that comprises a residential complex or condominium complex, and must be calculated in accordance with the formula

$$R = (TRA \div TA) \times T$$

where

R is the rebate;

TRA is the area comprising the residential complex or condominium complex within the mixed-use property;

TA is the total area of the mixed-use property; and

T is the tax paid by the purchaser on the designated fuel cost, heating fuel cost or electricity cost to which the application applies. 2013, c. 3, s. 19.

Supplier's reimbursement application

16 (1) A supplier may apply to the Minister in accordance with subsection (2) for reimbursement of the total rebates paid or credited by the supplier under Section 9 or 12.

(2) A supplier's reimbursement application must meet all of the following requirements:

(a) it must be made in the form and manner prescribed by the Minister;

(b) it must be accompanied by any information, documents and material that the Minister requires to determine that the supplier is entitled to reimbursement;

(c) it must be received by the Minister no later than 24 months after the supply of designated fuel or electricity to which it applies.

(3) On receipt of a reimbursement application that meets the requirements of subsection (2), the Minister shall, on behalf of the Crown in right of the Province, pay or credit the amount of the reimbursement to the supplier.

(4) A supplier shall not submit a reimbursement application more often than four times per calendar month. 2013, c. 3, s. 19.

Rebate records

17 (1) A supplier shall keep a record of each rebate made to a purchaser under Section 9 or 12, and shall promptly give copies of its rebate records to the Minister on request.

(2) A record of a rebate must be kept for 72 months following the date of the rebate. 2013, c. 3, s. 19.

Overpayment of reimbursement

18 (1) Where the amount of a reimbursement made by the Minister to a supplier under Section 16 is greater than the amount of the rebate for which the reimbursement was sought, the supplier shall pay to the Minister, or the Minister may deduct from any reimbursement of rebates subsequently to be made to the supplier, an amount equal to the difference between the reimbursement and the rebate.

(2) A supplier shall pay to the Minister an amount equal to any portion of a reimbursement made by the Minister to the supplier that is subsequently recovered by the supplier from the Receiver General for Canada under section 231 of the *Excise Tax Act* (Canada). 2013, c. 3, s. 19.

PART IV

POINT-OF-SALE REBATES

Interpretation

19 In this Part,

“children's clothing” means garments (other than garments of a class that is used exclusively in sports or recreational activities, costumes, children's diapers or children's footwear) that are

(a) designed for babies, including baby bibs, bunting blankets and receiving blankets;

(b) children's garments

(i) designed for girls and of a size not greater than the size that is girl's size 16 according to the national standard applicable to the garments,

(ii) designed for boys and of a size not greater than the size that is boy's size 20 according to the national standard applicable to the garments, or

(iii) where no national standard applies to the garments, designed for girls or boys and having a size designation of extra small, small, medium or large; or

(c) hosiery or stretchy socks, hats, ties, scarves, belts, suspenders, mittens and gloves in sizes and styles designed for children or babies;

"children's diaper" means a product that is designed for babies or children and that is

(a) a diaper;

(b) a diaper insert or liner;

(c) a training pant; or

(d) a rubber pant designed for use in conjunction with any of the items referred to in clauses (a) to (c);

"children's footwear" means footwear (other than stockings, socks or similar footwear or footwear of a class that is used exclusively in sports or recreational activities) that is

(a) designed for babies; or

(b) designed for girls or boys and has an insole length of 24.25 centimetres or less;

"composite property" means property that is wrapped, packaged or otherwise prepared for sale as a single product, the only components of which product are a printed book and

(a) a read-only medium that contains material all or substantially all of the value of which is reasonably attributable to one or both of the following:

(i) a reproduction of the printed book,

(ii) material that makes specific reference to the printed book and the content of it and that supplements and is integrated with that content; or

(b) where the product is specially designed for use by students enrolled in a qualifying course, a read-only medium or a right to access a website, or both of them, that contains material that is related to the subject-matter of the printed book;

"exempt supply" means an exempt supply as defined in subsection 123(1) of the *Excise Tax Act* (Canada);

“federal Minister” means the minister of the Government of Canada who is responsible for the administration and enforcement of Part IX of the *Excise Tax Act* (Canada);

“feminine hygiene product” means a product that is marketed exclusively for feminine hygiene purposes and is a sanitary napkin, tampon, sanitary belt, menstrual cup or other similar product;

“national standard” means a standard of the National Standards of Canada, as they read on January 1, 2010, in the subject area CAN/CGSB-49, *Garment Sizes*, published by the Canadian General Standards Board;

“person” means a person as defined in subsection 123(1) of the *Excise Tax Act* (Canada);

“printed book” means a printed book as defined in subsection 259.1(1) of the *Excise Tax Act* (Canada);

“property” means property as defined in subsection 123(1) of the *Excise Tax Act* (Canada);

“purchaser”, in respect of property, includes

(a) a person who receives delivery or possession of the property or brings the property into the Province in circumstances under which tax under section 218.1 or Division IV.1 of Part IX of the *Excise Tax Act* (Canada) is payable by the person in respect of the property; and

(b) a person who imports the property in circumstances under which tax under section 212.1 of the *Excise Tax Act* (Canada) is payable by the person in respect of the property;

“qualifying course” means a course instructing individuals the service of which

(a) is an exempt supply included in Part III of Schedule V of the *Excise Tax Act* (Canada); or

(b) would be an exempt supply included in Part III of Schedule V of the *Excise Tax Act* (Canada) but for the fact that the supplier of the service has made an election under that Part;

“qualifying property” means property that is

(a) a printed book or an update of a printed book;

(b) an audio recording, all or substantially all of which is a spoken reading of a printed book;

(c) a bound or unbound printed version of scripture of any religion;

(d) a composite property;

(e) children’s clothing;

(f) children’s footwear;

(g) a children’s diaper; or

(h) a feminine hygiene product;

“read-only medium” means a tangible medium that is designed for the read-only storage of information and other material in digital format;

“supplier” means a supplier as defined in subsection 123(1) of the *Excise Tax Act* (Canada);

“supply” means a supply as defined in subsection 123(1) of the *Excise Tax Act* (Canada);

“supply made in the Province” means a supply that is deemed under Part IX of the *Excise Tax Act* (Canada) to be made in the Province. 2013, c. 3, s. 19.

Credit for tax payable for supply

20 Where tax under subsection 165(2) of the *Excise Tax Act* (Canada) is payable by a purchaser in respect of a supply made in the Province of a qualifying property, the supplier may, on behalf of the Crown in right of the Province, pay or credit to the purchaser an amount equal to the tax. 2013, c. 3, s. 19.

Credit for tax payable on qualifying property

21 Where

(a) tax under section 212.1 of the *Excise Tax Act* (Canada) is payable in respect of an importation of a qualifying property by a purchaser who is resident in the Province for the purpose of Part IX of that Act; or

(b) tax under section 218.1 or Division IV.1 of Part IX of the *Excise Tax Act* (Canada) is payable by a purchaser in respect of a qualifying property that

(i) is delivered or the physical possession of which is transferred to the purchaser in the Province, or

(ii) is brought by the purchaser into the Province,

the federal Minister may, on behalf of the Crown in right of the Province, pay or credit to the purchaser an amount equal to that tax. 2013, c. 3, s. 19.

Purchaser may apply for credit within four years

22 In the event that a purchaser to whom an amount may be paid or credited under Section 20 in respect of a supply of a qualifying property is not paid or credited with that amount by the supplier, the purchaser may, not more than four years after the day tax under subsection 165(2) of the *Excise Tax Act* (Canada) became payable in respect of the supply, apply to the federal Minister, in the form and manner required by the federal Minister, for payment of that amount and the federal Minister may, on behalf of the Crown in right of the Province, pay or credit the amount to the purchaser. 2013, c. 3, s. 19.

Credit to supplier of qualifying property

23 In the event that a supplier of a qualifying property pays or credits an amount under Section 20, the federal Minister may, on behalf of the Crown in right of the Province, pay or credit an equal amount to the supplier. 2013, c. 3, s. 19.

Federal set off against payment made to Province

24 In the event that the federal Minister pays or credits an amount under any of Sections 21 to 23, the federal Minister may deduct from or set off against a payment made by the Crown in right of Canada to the Crown in right of the Province an amount equal to the amount so paid or credited. 2013, c. 3, s. 19.

PART V

PROVINCIALY ADMINISTERED REBATES

Purchase of computer by impaired or challenged applicant

25 (1) The Minister may, upon application, authorize a rebate of an amount equal to the lesser of \$375 and the amount of tax paid by the applicant under subsection 165(2) of the *Excise Tax Act* (Canada) on the purchase of a computer if

(a) the applicant is visually impaired, hearing impaired or physically or mentally challenged; or

(b) the applicant purchased the computer on behalf of a visually impaired, hearing impaired or physically or mentally challenged person.

(2) Every application for a rebate under subsection (1) must be accompanied by

(a) a copy of the agreement under which the computer was purchased by the applicant, showing the total purchase price and the amount of tax paid on the purchase; and

(b) a statement from a registered medical practitioner certifying that the applicant or the person who will use or primarily benefit from the use of the computer is visually impaired, hearing impaired or physically or mentally challenged.

(3) No rebate may be made under subsection (1) unless the application for the rebate is made within 24 months after the payment of tax in respect of which the rebate is claimed. 2013, c. 3, s. 19.

Purchase of vehicle by physiologically impaired applicant

26 (1) The Minister may, upon application, authorize a rebate of an amount equal to the lesser of \$3,750 and the amount of tax paid by the applicant under subsection 165(2) of the *Excise Tax Act* (Canada) on the purchase of a passenger vehicle, a truck, having a load capacity not exceeding three quarters of a ton, or a van

(a) if

(i) the applicant

(A) has a physiological impairment that deprives the applicant of the use of both lower limbs,

(B) has a valid motor vehicle driver's licence, and

(C) primarily uses the vehicle for personal transportation, and

(ii) the vehicle is the only vehicle currently registered in the applicant's name under the *Motor Vehicle Act*; or

(b) if

(i) the vehicle is equipped with a device used primarily to enable wheelchairs to enter and leave the vehicle,

(ii) the vehicle is used primarily for the transportation of a person who has a physiological impairment that deprives the person of the use of both lower limbs,

(iii) the vehicle is not operated or permitted to be used for profit or as part of any undertaking carried on for gain, and

(iv) there is no other vehicle registered in the applicant's name under the *Motor Vehicle Act* and for which a rebate has been granted under this subsection.

(2) Every application for a rebate under subsection (1) must be accompanied by

(a) a copy of the agreement under which the vehicle was purchased by the applicant, showing the total purchase price and the amount of tax paid on the purchase;

(b) where

(i) the applicant has a physiological impairment that deprives the applicant of the use of both lower limbs, a statement certifying that the vehicle in respect of which the application is being made is and will be used primarily for personal transportation, or

(ii) the applicant has purchased the vehicle to provide transportation for a person who has a physiological impairment that deprives the person of the use of both lower limbs, a statement certifying that the vehicle is and will be used primarily for the transportation of that person; and

(c) a certificate from a registered medical practitioner that the applicant, or the person who will be transported in the vehicle, has a physiological impairment that deprives the applicant or the person of the use of both lower limbs.

(3) No rebate may be made under subsection (1) unless the application for the rebate is made within 24 months after the payment of tax in respect of which the rebate is claimed.

(4) Where reference is made in this Section to an amount of tax paid under subsection 165(2) of the *Excise Tax Act* (Canada), that amount is deemed not to include any portion of that tax for which an input tax credit or rebate may be claimed under that Act. 2013, c. 3, s. 19.

Purchase by volunteer fire department

27 (1) The Minister may, upon application, authorize a rebate of the tax paid by the applicant on the purchase of a motor vehicle or heavy equipment used for fire fighting of an amount equal to

(a) where the applicant is a volunteer fire department, the lesser of

(i) \$9,250, and

(ii) 50% of the amount of the tax paid under subsection 165(2) of the *Excise Tax Act* (Canada); or

(b) where the applicant is a municipality, the lesser of

(i) \$7,929, and

(ii) 42.86% of the amount of the tax paid under subsection 165(2) of the *Excise Tax Act* (Canada).

(2) Every application for a rebate under subsection (1) must be accompanied by a copy of the agreement under which the motor vehicle or heavy equipment was purchased by the applicant, showing the total purchase price and the amount of tax paid on the purchase.

(3) No rebate may be made under subsection (1) unless the application for the rebate is made within 24 months after the payment of tax in respect of which the rebate is claimed. 2013, c. 3, s. 19.

Building materials for heritage property

28 (1) In this Section,

“building materials” does not include metal or plastic cladding materials;

“exterior” includes a foundation and framing or structural members;

“heritage property” means a municipal heritage property or a provincial heritage property as defined in the *Heritage Property Act*.

(2) The Minister may, upon application, authorize a rebate of an amount equal to the difference between

(a) the amount of tax paid under subsection 165(2) of the *Excise Tax Act* (Canada) in respect of building materials purchased and used for the repair, improvement or restoration of the exterior of

(i) a heritage property used for other than commercial purposes, or

(ii) any heritage property owned and occupied by and for the purpose of any non-profit community, charitable, fraternal, educational, recreational, religious, cultural or sporting organization or institution; and

(b) the sum of any input tax credits and rebates in respect of the tax referred to in clause (a) that are claimed or entitled to be claimed under Part IX of the *Excise Tax Act* (Canada).

(3) Every application for a rebate under this Section must be made to the Department of Communities, Culture, Tourism and Heritage, on a form approved by the Minister for that purpose and signed by the applicant, and be accompanied by

(a) evidence satisfactory to the Minister that the exterior repair, improvement or restoration was approved by the Department or the heritage advisory committee of a municipality;

(b) a copy of the building permit issued in respect of the work;

(c) evidence satisfactory to the Minister of the tax paid on the purchase, together with a declaration of the applicant stating that the materials listed were used solely in the approved exterior repair, improvement or restoration and for no other purpose;

(d) a statement of a building inspector certifying the completion of the work in accordance with the approval and the correctness of the requested rebate; and

(e) a certificate from the Department or the heritage advisory committee of a municipality certifying the correctness of the requested rebate.

(4) The Department of Communities, Culture, Tourism and Heritage shall forward the documentation required under subsection (3) to the Minister for authorization of the rebate. 2013, c. 3, s. 19.

PART VI

FIRST-TIME HOME BUYER REBATE PROGRAM

Interpretation

29 In this Part,

“builder” means a person who builds a residential complex on real property in which the person has an interest at the time of building and who is a registrant as defined in subsection 123(1) of the *Excise Tax Act* (Canada);

“common-law relationship” means a relationship between two individuals who have been cohabiting in a conjugal relationship for a period of at least one year or a relationship that is registered as a domestic partnership under the *Vital Statistics Act*;

“co-operative housing corporation” means a cooperative housing corporation as defined in subsection 123(1) of the *Excise Tax Act* (Canada);

“floating home” means a floating home as defined in subsection 123(1) of the *Excise Tax Act* (Canada);

“manufactured home” means a factory-built home, mobile home or building intended for residential occupancy for individuals;

“mobile home” means a mobile home as defined in subsection 123(1) of the *Excise Tax Act* (Canada);

“occupancy permit” means a permit issued by a municipality allowing for the initial occupancy of a residential complex;

“primary place of residence” means a residential complex, owned jointly or otherwise, that is intended to be inhabited by an individual on a permanent basis;

“qualifying construction costs” means the cost of any of the following that are purchased for the construction of a residential complex and on which tax is payable:

- (a) land;
- (b) services;
- (c) construction materials that form part of and are incorporated into the residential complex;

“rebate” means a rebate paid under Section 34;

“rebate application” means an application for a rebate made to the Minister in accordance with Section 33;

“relation” means an individual related to another individual by blood, marriage, common-law relationship or adoption;

“residential complex” means a residential unit or a residential condominium unit;

“residential condominium unit” means a residential condominium unit as defined in subsection 123(1) of the *Excise Tax Act* (Canada) that is situated in the Province;

“residential unit” means a detached house, semi-detached house, rowhouse unit, manufactured home or floating home that is situated in the Province and

- (a) is occupied by an individual as a place of residence; or
- (b) has never been used or occupied for any purpose, but is intended to be used as a place of residence for an individual;

“supply” means a supply as defined in subsection 123(1) of the *Excise Tax Act* (Canada);

“tax” means a tax imposed under subsection 165(2) of the *Excise Tax Act* (Canada);

“taxable supply” means a taxable supply as defined in subsection 123(1) of the *Excise Tax Act* (Canada). 2013, c. 3, s. 19.

Purchase of residential complex

30 (1) An individual who purchases a residential complex from a builder and who meets all of the criteria in subsection (2) may apply to the Minister in accordance with Section 33 for a rebate in respect of the tax paid by the individual in purchasing the residential complex.

(2) The eligibility criteria for a rebate of tax paid by an individual who purchases a residential complex from a builder are as follows:

- (a) the builder of the residential complex has made a taxable supply by way of sale of the residential complex to the individual;
- (b) at the time the individual became liable or assumed liability under an agreement of purchase and sale for the residential complex entered into between the builder and the individual, the individual was acquiring the residential complex for use as the primary place of residence of the individual or a relation of the individual;
- (c) the individual has paid all of the tax payable in respect of the supply of the residential complex;
- (d) the individual entered into an agreement of purchase and sale for the residential complex after April 6, 2010;
- (e) ownership and possession of the residential complex was transferred to the individual after the construction was substantially completed and after June 30, 2010;
- (f) after the construction was substantially completed and before possession of the residential complex was given to the individual under the agreement of purchase and sale for the residential complex,
 - (i) in the case of a residential unit, the unit was not occupied by any individual as a place of residence or lodging, or
 - (ii) in the case of a residential condominium unit, either
 - (A) the unit was not occupied by any individual as a place of residence or lodging, or
 - (B) the unit was occupied as a primary place of residence by an individual who was at the time of that occupancy a purchaser of the unit under an agreement of purchase and sale of the unit, or a relation of that individual;
- (g) the first individual to occupy the residential complex as a place of residence at any time after substantial completion of construction was
 - (i) in the case of a residential unit, the individual or a relation of the individual, or
 - (ii) in the case of a residential condominium unit, an individual who was at that time a purchaser of the unit under an agreement of purchase and sale of the unit, or a relation of that individual;
- (h) one of the following applies:
 - (i) the individual or a relation of the individual who occupies the residential complex did not own and occupy a residential complex in Canada as a primary place of residence at any time during the 60-month period preceding the date of the transfer of ownership of the residential complex to the individual who is claiming the rebate,

(ii) on the last day on which any of the individuals referred to in subclause (i) was an owner-occupant of a residential complex in Canada during the 60-month period referred to in that subclause, that residential complex was destroyed otherwise than voluntarily by any of them.

(3) Where an individual has purchased a residential complex jointly with one or more co-owners, the criteria in subsection (2) also apply to each co-owner.

(4) An individual is not eligible for a rebate if any co-owner referred to in subsection (3) is not an individual. 2013, c. 3, s. 19.

Construction of residential complex

31 (1) An individual who constructs, or who engages another person to construct on the individual's behalf, a residential complex and who meets all of the criteria in subsection (2) may apply to the Minister in accordance with Section 33 for a rebate in respect of the tax paid by the individual on qualifying construction costs for the residential complex.

(2) The eligibility criteria for a rebate of tax paid by an individual who has constructed, or who has engaged another person to construct on the individual's behalf, a residential complex are as follows:

(a) the residential complex was constructed for use as the primary place of residence of the individual or a relation of the individual;

(b) the individual has paid all of the tax payable in respect of the qualifying construction costs for which the individual is claiming a rebate;

(c) a rebate application is filed after June 30, 2010;

(d) construction of the residential complex is substantially complete;

(e) the first individual to occupy the residential complex as a primary place of residence after substantial completion of the complex was the individual or a relation of the individual;

(f) one of the following applies:

(i) the individual or a relation of the individual who occupies the residential complex did not own and occupy a residential complex in Canada as a primary residence at any time during the 60-month period preceding the date of the occupancy permit of the residential complex for which the rebate is being claimed,

(ii) on the last day on which any of the individuals referred to in subclause (i) was an owner-occupant of a residential complex in Canada during the 60-month period referred to in that subclause, that residential complex was destroyed otherwise than voluntarily by any of them.

(3) Where a residential complex is constructed by or on behalf of an individual and one or more co-owners, the criteria in subsection (2) also apply to each co-owner.

(4) An individual is not eligible for a rebate if any co-owner referred to in subsection (3) is not an individual. 2013, c. 3, s. 19.

Share of co-operative housing corporation capital stock

32 (1) An individual who purchases a share of the capital stock of a co-operative housing corporation and who meets all of the criteria in subsection (2) may apply to the Minister in accordance with Section 33 for a rebate in respect of the purchase price paid by the individual for the share.

(2) The eligibility criteria for a rebate of the purchase price paid by an individual for a share of the capital stock of a co-operative housing corporation are as follows:

(a) the individual entered into an agreement of purchase and sale for the share after April 6, 2010;

(b) the individual acquired the share after June 30, 2010, for the purpose of using a residential unit in a residential complex of the corporation that is situated in the Province as the primary place of residence of the individual or of a relation of the individual;

(c) after the construction of the residential complex was substantially completed and before possession of the residential unit was given to the individual as an incidence of ownership of the share, the unit was not occupied by any individual as a place of residence or lodging;

(d) the first individual to occupy the residential unit as a place of residence after possession of the unit was given to the individual was the individual or a relation of the individual;

(e) the corporation has paid tax in respect of a taxable supply to the corporation in respect of the residential complex;

(f) one of the following applies:

(i) the individual or a relation of the individual who occupies the residential complex did not own and occupy any other residential complex in Canada as a primary place of residence at any time during the 60-month period preceding the date of the purchase of the share of capital stock by the individual who is claiming the rebate,

(ii) on the last day on which any of the individuals referred to in subclause (i) was an owner-occupant of a residential complex in Canada during the 60-month period referred to in that subclause, that residential complex was destroyed otherwise than voluntarily by any of them.

(3) Where an individual has purchased a share of capital stock jointly with one or more co-owners, the criteria in subsection (2) also apply to each co-owner.

(4) An individual is not eligible for a rebate if any co-owner referred to in subsection (3) is not an individual. 2013, c. 3, s. 19.

Rebate application

33 A rebate application must meet all of the following requirements in order to be accepted:

- (a) it must be made in the form and manner prescribed by the Minister;
- (b) it must be accompanied by any information, documents and material that the Minister requires;
- (c) it must be received by the Minister within 24 months of
 - (i) in the case of a purchase of a residential complex from a builder, the date on which ownership was transferred to the individual claiming the rebate,
 - (ii) in the case of an individual who constructs, or who engages another to construct on the individual's behalf, a residential complex, the date on which the occupancy permit for the residential complex was issued,
 - (iii) in the case of a purchase of a share of the capital stock of a co-operative housing corporation, the date on which the share was purchased by the individual claiming the rebate. 2013, c. 3, s. 19.

Payment of rebate

34 (1) On receipt of an individual's rebate application, the Minister may, on behalf of the Crown in right of the Province, pay the amount of the rebate to the individual, subject to the conditions and limitations set out in this Section.

- (2) The amount of the rebate that may be paid to an individual is
 - (a) in the case of a purchase of a residential complex from a builder,
 - (i) the lesser of \$1,500 and 18.75% of the tax paid in respect of the purchase, if the individual entered into an agreement of purchase and sale for the residential complex before April 1, 2012, or
 - (ii) the lesser of \$3,000 and 18.75% of the tax paid in respect of the purchase, if the individual entered into an agreement of purchase and sale for the residential complex after March 31, 2012;
 - (b) in the case of construction of a residential complex,
 - (i) the lesser of \$1,500 and 18.75% of the tax paid in respect of the qualifying construction costs, if the permit authorizing the start of the construction was issued by the appropriate municipality before April 1, 2012, or
 - (ii) the lesser of \$3,000 and 18.75% of the tax paid in respect of the qualifying construction costs, if the permit

authorizing the start of the construction was issued by the appropriate municipality after March 31, 2012;

(c) in the case of a purchase of a share of the capital stock of a co-operative housing corporation,

(i) the lesser of \$1,500 and 1.31% of the purchase price of the share, if the individual entered into an agreement of purchase and sale for the share before April 1, 2012, or

(ii) the lesser of \$3,000 and 1.31% of the purchase price of the share, if the individual entered into an agreement of purchase and sale for the share after March 31, 2012.

(3) A rebate may not be paid to an individual who has applied for or received a rebate or input tax credit under any provision of the *Excise Tax Act* (Canada), other than the federal portion of the GST/HST New Housing Rebate.

(4) A rebate may be paid to the individual who applies for the rebate in accordance with these regulations, but not to a co-owner.

(5) The Minister may not pay more than one rebate in respect of the same residential complex. 2013, c. 3, s. 19.

Overpayment

35 Where the amount of a rebate paid by the Minister is greater than the rebate to which an individual is entitled under this Part, the individual shall pay to the Minister an amount equal to the difference between the amount paid and the amount to which the individual is entitled. 2013, c. 3, s. 19.

Record retention

36 An individual who applies for and is paid a rebate shall keep records related to the rebate application, including the originals of any copied documents submitted to the Minister as part of the rebate application, for six years following receipt of the rebate, and shall make the records and documents available for audit. 2013, c. 3, s. 19.

PART VII

PURPOSE-BUILT RENTAL HOUSING REBATE PROGRAM

Interpretation

37 In this Part,

(a) “federal Minister” means the minister of the Government of Canada who is responsible for the administration and enforcement of Part IX of the *Excise Tax Act* (Canada);

(b) “tax” means a tax imposed under subsection 165(2) of the *Excise Tax Act* (Canada). 2023, c. 12, s. 8.

Rebate

38 Effective September 14, 2023, the federal Minister may, on behalf of His Majesty in right of the Province, in respect of a residential unit, pay or credit a

rebate of tax in accordance with subsections 256.2(3.1), (3.2) and (9.1) of the *Excise Tax Act* (Canada). 2023, c. 12, s. 8.

Purpose-built rental housing

39 Notwithstanding Section 38, the rebate is only effective with respect to purpose-built rental housing for which the construction, last substantial renovation or the construction or alteration necessary to effect the conversion of real property for use as a residential complex begins after September 13, 2023, and before 2031 and is substantially completed before 2036. 2023, c. 12, s. 8.

PART VIII

GENERAL

Regulations

- 40 (1)** The Governor in Council may make regulations
- (a) respecting the comprehensive integrated sales tax;
 - (b) suspending the application, in whole or in part, of Part II of the *Revenue Act*;
 - (c) suspending the imposition, in whole or in part, of the taxes imposed pursuant to the *Theatres and Amusements Act*;
 - (d) providing for a payment to a purchaser of an amount equal to the tax, in whole or in part, paid or payable pursuant to Part IX of the *Excise Tax Act* (Canada);
 - (e) respecting the manner, form and circumstances in which the price of property or services is to be advertised, displayed, expressed or indicated and, without limiting the generality of the foregoing,
 - (i) respecting circumstances in which the tax shall be indicated as an amount in addition to the advertised, displayed, expressed or indicated price of the property or service,
 - (ii) respecting the pricing of property and services by a supplier, including pricing on price tags or stickers, packaging, bins, shelves, containers, displays and windows,
 - (iii) respecting the advertisement of a price for property and services in newspapers, magazines, catalogues, posters, flyers and other print material distributed or displayed in the Province,
 - (iv) respecting the advertisement of a price for property and services on a banner, sandwich board, billboard, electronic-display device or other similar device in the Province,
 - (v) respecting the advertisement of a price for property and services on radio and television and other forms of telecommunication where the broadcast of that advertisement originated and terminated in the Province,

- (vi) respecting the manner in which pricing and tax are to be indicated on receipts and invoices provided to consumers in the Province,
- (vii) respecting an oral or written offer made to a consumer with respect to a supply of property or services to a consumer in the Province,
- (viii) respecting a contract being negotiated or made with respect to property or services to be supplied to a consumer in the Province,
- (ix) respecting discount and other coupons distributed in the Province;
- (f) respecting the imposition and collection of a transitional tax on the sale of motor vehicles and heavy equipment;
- (g) defining a supply or supplies that may entitle a purchaser to a payment under clause (d);
- (h) defining any word or expression used in this Act and not defined in this Act;
- (i) respecting any matter necessary or advisable to carry out effectively the intent of this Act and the Agreement.

(2) A regulation made pursuant to this Act may be of general application or may apply to such class or classes of persons, such class or classes of goods or services and 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 persons, different classes of goods or services and different classes of matters or things.

(3) A regulation made pursuant to this Act may be retroactive to the extent necessary to implement the intent and purpose of this Act and the Agreement.

(4) The exercise of the authority contained in this Section is a regulation within the meaning of the *Regulations Act*. 1996, c. 31, s. 13; 2006, c. 2, s. 57; 2013, c. 3, s. 21.

Application of Part VI of Revenue Act

41 Part VI of the *Revenue Act* applies with necessary changes to purchasers who receive any payment under regulations made pursuant to clause 40(1)(d) and to suppliers who provide such payments on behalf of the Crown in right of the Province. 2007, c. 9, s. 39.

CHAPTER S-7

**An Act Respecting the Scaling
of Primary Wood Products**

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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 *Scalers Act*. 2001, c. 11, s. 1.

Interpretation

2 In this Act,

“active scaling licence” means the status of a licence issued to a scaler who has attended the requisite scaling and refresher courses and passed the required examinations;

“Board” means the Board of Examiners appointed under this Act;

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

“enforcement officer” means a person designated as a conservation officer under the *Crown Lands Act*, the *Forests Act* or the *Wildlife Act*, a regional, municipal or town police officer, a member of the Royal Canadian Mounted Police or a person designated under this Act;

“licence” means a licence issued under this Act;

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

“primary wood products” means any commercially valuable raw material, consisting essentially of xylem, obtained from the stems or limbs of a felled or cut tree, including roundwood and woodchips;

“scale” means to measure or estimate the quantity, expressed as the volume, area, length, mass or number, of products obtained from trees after they are felled;

“scaler” means a person qualified to scale primary wood products who is licensed under this Act;

“scaling manual” means the manual prepared by the Supervisor of Scaling pursuant to this Act;

“stacked wood” means primary wood products measured collectively;

“Supervisor of Scaling” means the person appointed by the Minister to supervise scaling practices in the Province. 2001, c. 11, s. 2.

Delegation by Minister

3 The Minister may, in writing, delegate to any person a power or duty conferred or imposed on the Minister under this Act or the regulations. 2001, c. 11, s. 3.

Board of Examiners

4 (1) The Governor in Council may appoint a Board of Examiners consisting of four persons.

(2) One member of the Board must be appointed from the sawmill sector of the forestry industry, one member from the pulpwood sector of the forest industry, one member from the small private land tenure sector who does not operate a sawmill or pulpmill and one member from the Department.

(3) The members of the Board from the sawmill sector and the pulpwood sector must be or represent registered buyers, as defined in the *Forests Act* or the regulations under that Act.

(4) The member of the Board appointed from the Department is the Chair of the Board.

(5) The Board shall determine the qualifications of candidates for licences as scalars and shall perform such other duties as the Minister prescribes.

(6) The Chair and two other members of the Board constitute a quorum.

(7) The members of the Board shall be paid such remuneration and be reimbursed for such reasonable expenses as are determined by the Governor in Council.

(8) The Supervisor of Scaling and one other employee of the Department, in addition to the Department member appointed as a member of the Board, shall act as advisers to the Board. 2001, c. 11, s. 4.

Supervisor of Scaling

5 (1) The Minister shall appoint a person to be the Supervisor of Scaling.

(2) The Supervisor of Scaling shall

(a) ensure that scaling courses for new scalars and refresher courses for licensed scalars are held as required;

- (b) set the standards for scaling course curricula and examinations;
- (c) ensure that applications to attend courses and for licences are processed in an efficient manner;
- (d) oversee and monitor all scaling examination processes to ensure standards are consistently adhered to;
- (e) present examination results to the Board;
- (f) develop and periodically publish mathematical factors to be used when converting the volume or mass of primary wood products from one common unit of measure to another;
- (g) prepare the scaling manual required by this Act;
- (h) monitor the accuracy of licensed scalers by periodically carrying out check scales of primary wood products scaled by licensed scalers in accordance with the general practices and procedures identified in the scaling manual; and
- (i) perform such other duties as the Minister may prescribe. 2001, c. 11, s. 5.

Duty of Board

6 The Board shall sit at such places and on such days as the Board determines for the purpose of considering examination results and shall make recommendations regarding the licensing of each individual candidate. 2001, c. 11, s. 6.

Licences

7 **(1)** The Minister shall issue to any person so recommended by the Board

- (a) a stacked wood licence, which authorizes a scaler to scale primary wood products measured collectively, including making deductions;
- (b) a log scaling licence, which authorizes a scaler to scale primary wood products measured individually; or
- (c) a primary wood products scaling licence, which authorizes a scaler to scale all primary wood products.

(2) The Minister shall revoke the licence of any scaler who neglects or fails to comply with this Act or the regulations, upon the recommendation of the Board.

(3) A person is not required to have a licence to weigh primary wood products if no conversions, deductions or quality assessments are made on the weighed primary wood products. 2001, c. 11, s. 7.

Scalers

8 **(1)** Subject to subsections (3) and (5), no person shall be employed as a scaler or act as a scaler unless that person holds an active scaling licence.

(2) An individual or organization involved in the scaling of primary wood products, other than the weighing only of those products, in quantities exceeding 1,000 cubic metres per year shall use the services of a licensed scaler to scale those products.

(3) A scaling licence is not required

(a) if a person or organization is involved in the measurement of primary wood products in quantities less than 1,000 cubic metres per year;

(b) to count or grade Christmas trees; or

(c) to fulfill the practical requirements of a novice scaler under the supervision of a licensed scaler.

(4) A scaler shall complete a refresher course every five years in order to retain a valid and active scaling licence.

(5) The Supervisor of Scaling may issue a special authorization to a person competent in scaling, authorizing that person to act as a scaler, but the special authorization is valid only until the first day of the next scheduled scaler licensing course. 2001, c. 11, s. 8.

Scaling manual

9 (1) Subject to the approval of the Board, the Supervisor of Scaling shall prepare, and amend as required from time to time, in accordance with subsection (2), a scaling manual.

(2) The scaling manual may set out

(a) the qualifications necessary for each type of scaling licence;

(b) how examinations will be conducted, listing the pass requirements in written and practical scaling examinations and species identification;

(c) the terms and conditions of scaling licences;

(d) the acceptable units of measure;

(e) the duties of licensed scalers;

(f) scaling standards and procedures for the scaling of primary wood products in the Province;

(g) the mathematical factors to be used to convert the volume or mass of primary wood products from one common unit of measure to another common unit of measure;

(h) methods of settling scaling disputes;

(i) such other information as the Board considers pertinent to scaling.

(3) The scaling manual shall be published by the Department.

(4) Every scaler shall comply with the provisions of the scaling manual. 2001, c. 11, s. 9.

Enforcement officers

10 (1) The Minister may designate any person or class of persons having, in the opinion of the Minister, the qualifications and experience to act as enforcement officers to be enforcement officers for the purpose of this Act and the regulations.

(2) Enforcement officers are responsible for the enforcement of this Act and the regulations.

(3) An enforcement officer, in carrying out duties pursuant to this Act and the regulations, has and may exercise in any part of the Province all the powers, authorities and immunities of a peace officer as defined in the *Criminal Code* (Canada).

(4) The protection afforded by this Act and any other enactment to an enforcement officer extends to any other person while and to the extent that that person is in the course of assisting an enforcement officer under the direction of an enforcement officer. 2001, c. 11, s. 10.

Offence

11 (1) A person who hinders, obstructs or interferes with a scaler in the discharge of the scaler's duties, is guilty of an offence.

(2) A person who contravenes this Act or the regulations is guilty of an offence.

(3) A person who is guilty of an offence contrary to this Act or the regulations is liable to the penalties provided for in the *Summary Proceedings Act*. 2001, c. 11, s. 11.

Regulations

12 (1) The Governor in Council may make regulations

(a) authorizing the Board to exempt applicants from licensing requirements;

(b) authorizing the Minister to set the conditions for licensing;

(c) authorizing the Minister to prescribe the fees for each type of licence or examination;

(d) authorizing the Supervisor of Scaling and the Board to investigate and hear complaints regarding scalers or scales;

(e) authorizing the Minister to suspend or revoke a licence and set conditions for reapplication for a licence;

(f) authorizing the Minister to require licensed scalers to keep books and records and to prepare returns as directed by the Minister;

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

(h) respecting any matter the Governor in Council considers necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*, 2001, c. 11, s. 12.

CHAPTER S-8

**An Act to Establish
the Schooner Bluenose Foundation**

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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 *Schooner Bluenose Foundation Act*.
R.S., c. 414, s. 1.

Interpretation

2 In this Act,
“Bluenose” includes the *Bluenose II* and any successor vessels;
“Board” means the Board of Governors of the Foundation;
“Foundation” means the Schooner Bluenose Foundation;
“Minister” means the Minister of Communities, Culture, Tourism and
Heritage. R.S., c. 414, s. 2.

Schooner Bluenose Foundation

3 A body corporate to be known as the Schooner Bluenose Foundation
is established. R.S., c. 414, s. 3.

Objects of Foundation

4 The objects of the Foundation are to
(a) enhance the Bluenose as a symbol of the Province’s heritage
and craftsmanship and promote the Province as an international tourist desti-
nation;

- (b) ensure the status of the Bluenose in perpetuity as one of the great operational tall ships of the world;
- (c) solicit funds from both private and public sources to maintain and eventually rebuild or replace the Bluenose; and
- (d) work towards making the Bluenose a self-sustaining operation while continuing to be Provincially owned and operated. R.S., c. 414, s. 4.

Board of Governors

5 (1) The affairs of the Foundation are managed by a Board of Governors.

(2) Members of the Board are appointed by the Governor in Council for such term or terms as the Governor in Council may determine.

(3) The Premier is the Chair of the Board.

(4) The Governor in Council may appoint a member of the Board to be President of the Foundation and may determine that member's term of office.

(5) The President is the chief executive officer of the Foundation.

(6) The President of the Foundation, if the President is not a member of the Executive Council, and members of the Board shall receive such remuneration as the Governor in Council may determine and shall be reimbursed for reasonable expenses actually incurred in connection with the business of the Foundation.

(7) Any member of the House of Assembly may be appointed as President of the Foundation and no person is rendered ineligible or disqualified from sitting or voting in the Assembly by reason of the person being President of the Foundation and receiving remuneration therefor or by reason of any dealing by the Foundation with the Province. R.S., c. 414, s. 5.

Duties of Board and Minister

6 (1) The Board shall

(a) be responsible for promotional and fund-raising activities in accordance with the objects of the Foundation; and

(b) carry out such other duties as may be assigned to it by the Governor in Council.

(2) The Minister is responsible for the administration, maintenance and operation of the Bluenose and shall keep the Board informed of all matters that may be of concern to the Foundation. R.S., c. 414, s. 6.

Powers of Board

7 (1) Subject to the approval of the Governor in Council, the Board may

(a) make bylaws respecting the administration of its affairs, funds and property and any other matter that relates to the powers and objects of the Foundation or that is incidental thereto;

(b) borrow money for the general purposes of the Foundation, make and give promissory notes, bills of exchange and other negotiable instruments in respect of any amount borrowed and mortgage or pledge the property of the Foundation to secure sums so borrowed.

(2) The Board may, subject to this Act,

(a) pay out of the funds of the Foundation any costs, charges, audit and other fees, and expenses involved in the administration and operation of the Foundation;

(b) invest money in the name of the Foundation in any manner in which trustees are authorized by law to invest trust funds;

(c) appoint, employ or otherwise retain such persons as are required to carry out the powers and purposes of the Foundation;

(d) do any other matter or thing that relates to the powers and purposes of the Foundation or that is incidental thereto.

(3) The exercise of the authority contained in clause (1)(a) is a regulation within the meaning of the *Regulations Act*. R.S., c. 414, s. 7.

Vesting of gift or grant in Foundation

8 (1) Where a gift, bequest, devise, donation, grant or deed is made or appears to have been made or intended for the benefit or advantage of the Foundation or the Bluenose, any property or funds that the donor, testator or grantor desired or intended to give to the Foundation or for the benefit of the Bluenose vests in the Foundation.

(2) The Foundation may make application to the Supreme Court of Nova Scotia under the *Variation of Trusts Act* in respect of any trusts created or that appear to have been created or intended for the benefit of the Foundation or the Bluenose, and the Supreme Court, upon hearing the application and evidence as it considers fit, may vary or revoke all or any of the trusts or enlarge the powers of the Foundation or any person as trustee in the management or administration of any of the property of the trusts so long as the proceeds thereof are used or applied for the benefit of the Foundation. R.S., c. 414, s. 8.

Bank accounts

9 (1) The Foundation may maintain in its name one or more accounts in one or more financial institutions designated by the Minister of Finance and Treasury Board.

(2) All money received by the Foundation must be deposited to the credit of its account and may be administered and expended by the Foundation in the exercise and performance of the powers, duties and functions of the Foundation. R.S., c. 414, s. 9.

Fiscal year

10 The fiscal year of the Foundation is the period ending March 31st in each year. R.S., c. 414, s. 10.

Books of account

11 The Foundation shall cause to be kept at its principal office, or such other place as the Board may direct, proper books of account respecting

- (a) all sums of money received and expended by the Foundation and the matters in respect of which the receipt and expenditure took place; and
- (b) the assets and liabilities of the Foundation. R.S., c. 414, s. 11.

Audit

12 The accounts of the Foundation must from time to time and at least once every year be audited and reported upon by the Auditor General or by such other auditor or auditors licensed as a public accountant under the *Chartered Professional Accountants Act* as may be named by the Board, with the approval of the Governor in Council, and the expenses of the audits must be paid by the Foundation as part of the costs of administration of the Foundation. R.S., c. 414, s. 12.

Annual report

13 Before October 1st in each year, the Foundation shall make an annual report to the Minister containing clear and comprehensive statements disclosing and exhibiting

- (a) the audited results of the yearly operation of the Foundation ending on the preceding March 31st;
- (b) the audited financial position of the Foundation as at the preceding March 31st; and
- (c) such other financial reports and matters as may appear to be of public interest in relation to the Foundation. R.S., c. 414, s. 13.

Tabling of annual report

14 (1) The Minister shall table the annual report of the Foundation before the Legislature within 15 sitting days following receipt thereof or, if the Legislature is not then in Session, within 15 sitting days of the commencement of the ensuing Session.

(2) The Minister may publish the annual report of the Foundation at any time, whether or not it has been tabled in the Legislature. R.S., c. 414, s. 14.

Tax exemption

15 The Foundation and its property are exempt from taxation under or pursuant to any Act of the Legislature. R.S., c. 414, s. 15.

Property of Foundation is Crown property

16 All property, whether real or personal, acquired, possessed or received by the Foundation and all profits earned in the administration of the affairs of the Foundation is the property of the Crown in right of the Province. R.S., c. 414, s. 16.

Regulations

17 (1) The Governor in Council may make such regulations as the Governor in Council considers necessary or advisable for the more effective carrying out of the purpose of this Act.

(2) The exercise of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. R.S., c. 414, s. 17.

CHAPTER S-9

**An Act to Establish a Day to Recognize
the Royal Canadian Sea, Army and Air Cadets
and the Navy League Cadets in Nova Scotia**

Table of Contents

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

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WHEREAS the Royal Canadian Sea, Army and Air Cadets and the Navy League Cadets have a lengthy history of service in Nova Scotia;

AND WHEREAS the Royal Canadian Sea, Army and Air Cadets and the Navy League Cadets are a positive influence in today's society;

AND WHEREAS the Royal Canadian Sea, Army and Air Cadets and the Navy League Cadets provide young people with positive opportunities to develop self-confidence, self-esteem, self-discipline and respect for others;

AND WHEREAS the young people involved in the Royal Canadian Sea, Army and Air Cadets and the Navy League Cadets learn valuable life and work skills, such as teamwork, leadership, good citizenship and physical fitness, that will benefit them no matter what path they choose to follow;

AND WHEREAS the young people involved in the Royal Canadian Sea, Army and Air Cadets and the Navy League Cadets are rewarded with a sense of accomplishment, recognition from their peers and mentors, once-in-a-lifetime personal and professional growth experiences, lifelong friends and a chance to show their talents and maturity;

AND WHEREAS the hard work and dedication of all those involved in the Royal Canadian Sea, Army and Air Cadets and the Navy League Cadets should be recognized:

Short title

1 This Act may be cited as the *Sea, Army, Air and Navy League Cadets Day Act*. 2010, c. 7, s. 1.

Sea, Army, Air and Navy League Cadets Day

2 Throughout the Province, in each and every year, the first Saturday in October shall be kept and observed under the name of Sea, Army, Air and Navy League Cadets Day. 2010, c. 7, s. 2; 2013, c. 10, s. 17.

CHAPTER S-10

**An Act Respecting
a Memorial Day for Seamen**

Table of Contents

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

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Seamen's Memorial Day.....	2

Short title

1 This Act may be cited as the *Seamen's Memorial Day Act*. R.S., c. 417, s. 1.

Seamen's Memorial Day

2 Throughout the Province, in each and every year, the second Sunday in August shall be kept and observed under the name of Seamen's Memorial Day. R.S., c. 417, s. 2.

CHAPTER S-11

An Act Respecting Securities

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Short title

1 This Act may be cited as the *Securities Act*. R.S., c. 418, s. 1.

Purpose of Act

2 (1) The purpose of this Act is to provide investors with protection from practices and activities that tend to undermine investor confidence in the fairness and efficiency of capital markets and, where it would not be inconsistent with an adequate level of investor protection, to foster the process of capital formation.

(2) In pursuing the purpose of this Act, the Commission shall have regard to such factors as may be viewed by the Commission as appropriate in the circumstances, including any principles enunciated in the regulations. 1996, c. 32, s. 1.

Interpretation

3 (1) In this Act,

“adviser” means a person or company engaging in or purporting to engage in the business of advising others as to the investing in or the buying or selling of securities or derivatives;

“associate”, where used to indicate a relationship with any person or company, means

(a) any issuer of which such person or company beneficially owns, directly or indirectly, voting securities carrying more than 10% of the voting rights attached to all voting securities of the issuer for the time being outstanding;

(b) any partner of that person or company;

(c) any trust or estate in which such person or company has a substantial beneficial interest or as to which such person or company serves as trustee or in a similar capacity;

(d) any relative of that person who has the same home as that person;

(e) any person who has the same home as that person and to whom that person is married or with whom that person is living in a conjugal relationship outside of marriage; or

(f) any relative of a person mentioned in clause (e) who has the same home as that person;

“bank” means a bank to which the *Bank Act* (Canada) applies except to the extent that the regulations provide otherwise;

“Chair” means the Chair of the Commission;

“class of derivatives” includes a series of a class of derivatives;

“clearing agency” means a person or company who, in connection with trades

(a) in securities,

(i) acts as an intermediary in paying funds, delivering securities or doing both of those things,

(ii) provides centralized facilities through which trades in securities are cleared, or

(iii) provides centralized facilities as a depository of securities; or

(b) in derivatives, provides centralized facilities for the clearing and settlement of trades in derivatives and who, with respect to a contract, instrument or transaction,

(i) enables each party to a derivatives trade to substitute, through novation or otherwise, the credit of the clearing agency for the credit of the parties,

(ii) arranges or provides, on a multilateral basis, for the settlement or netting of obligations resulting from a derivatives trade, or

(iii) otherwise provides clearing services or arrangements that mutualize or transfer among participants in the clearing agency the credit risk arising from derivatives trades;

“Commission” means the Nova Scotia Securities Commission established pursuant to this Act;

“company” means any corporation, incorporated association, incorporated syndicate or other incorporated organization;

“contract” includes a trust agreement, declaration of trust or other similar instrument;

“contractual plan” means any contract or other arrangement for the purchase of shares or units of a mutual fund by payments over a specified period or by a specified number of payments where the amount deducted from any one of the payments as sales expense is larger than the amount that would have been deducted from such payment for sales expense if deductions had been made from each payment at a constant rate for the duration of the plan;

“control person” means

(a) a person or company who holds a sufficient number of the voting rights attached to all outstanding voting securities of an issuer to affect materially the control of the issuer and, where a person or company holds more than 20% of the voting rights attached to all outstanding voting securities of an issuer, the person or company is deemed, in the absence of evidence to the contrary, to hold a sufficient num-

ber of the voting rights to affect materially the control of the issuer; or

(b) each person or company in a combination of persons or companies acting in concert by virtue of an agreement, arrangement, commitment or understanding, who holds in total a sufficient number of the voting rights attached to all outstanding voting securities of an issuer to affect materially the control of the issuer and, where a combination of persons or companies holds more than 20% of the voting rights attached to all outstanding voting securities of an issuer, the combination of persons or companies is deemed, in the absence of evidence to the contrary, to hold a sufficient number of the voting rights to affect materially the control of the issuer;

“co-operative” means an association within the meaning of the *Co-operative Associations Act*;

“credit rating” means

(a) an assessment of the creditworthiness of an issuer, as an entity or with respect to specific securities or a specific pool of securities or assets, that is publicly disclosed or distributed by subscription; or

(b) a rating or class of ratings designated as a credit rating by an order made under Section 41,

but does not include a rating or class of ratings designated not to be a credit rating by an order made under Section 41;

“credit rating organization” means

(a) any person or company that issues credit ratings; or

(b) a person or company or class of persons or companies designated as a credit rating organization by an order made under Section 41,

but does not include a person or company or class of persons or companies designated not to be a credit rating organization by an order made under Section 41;

“dealer” means a person or company engaging in or purporting to engage in the business of trading in securities or derivatives as principal or agent;

“decision” means a direction, decision, order, ruling or other requirement made under a power or right conferred by this Act or the regulations or under a delegation or other transfer of an extra-provincial authority under Section 172;

“derivative” means

(a) an option, swap, future, forward or other financial or commodity contract or instrument whose market price, value, delivery obligations, payment obligations or settlement obligations are derived from, referenced to or based on an

underlying interest, which interest may include a value, price, index, event, probability or thing;

(b) a contract or instrument, or class of contracts or instruments, that is designated as a derivative under Section 41; or

(c) a contract or instrument, or class of contracts or instruments, that is prescribed as a derivative,

but does not include

(d) a contract or instrument that would be a derivative under clause (a) if the contract or instrument is an interest in or to a security and a trade in the security pursuant to the contract or instrument would constitute a distribution;

(e) a contract or instrument, or class of contracts or instruments, that is designated not to be a derivative under Section 41; or

(f) a contract or instrument, or class of contracts or instruments, that is prescribed not to be a derivative;

“derivatives trade repository” means a person or company who collects and maintains reports of trades of derivatives;

“derivatives trading facility” includes a person or company that

(a) constitutes, maintains or provides a market or facility for bringing together counterparties to derivatives;

(b) brings together orders for derivatives of multiple counterparties; or

(c) uses established methods under which orders interact with each other and counterparties entering the orders agree to the terms of a trade;

“designated rating” means, for a designated rating organization, the minimum ratings designated for the purpose of this Act and the regulations;

“designated rating organization” means a credit rating organization that has been designated by the Commission under Section 47;

“Director” means the Executive Director of the Commission, a Director or deputy director of the Commission or a person employed by the Commission in a position designated by the Commission for the purpose of this definition;

“director” means a director of a company or an individual performing a similar function or occupying a similar position for a company or for any other person;

“distribution”, where used in relation to trading in securities, means

(a) a trade in securities of an issuer that have not been previously issued;

(b) a trade by or on behalf of an issuer in previously issued securities of that issuer that have been redeemed or purchased by or donated to that issuer;

(c) a trade in previously issued securities of an issuer from the holdings of a control person;

(d) a trade by or on behalf of an underwriter in securities that were acquired by that underwriter, acting as underwriter, prior to October 15, 1987, if those securities continue on October 15, 1987, to be owned by or for that underwriter, so acting;

(e) a first trade made in securities by a vendor who acquired them pursuant to a trade that was in contravention of Section 80 or 88,

(f) a trade specified to be a distribution by the regulations;

(g) a trade specified in a decision of the Commission to be a distribution,

and includes a distribution referred to in Nova Scotia securities laws, and also includes any transaction or series of transactions involving a purchase and sale or a repurchase and resale in the course of or incidental to a distribution;

“distribution company” means a person or company distributing securities under a distribution contract;

“distribution contract” means a contract between a mutual fund or its trustees or other legal representative and a person or company under which that person or company is granted the right to purchase the shares or units of the mutual fund for distribution or to distribute the shares or units of the mutual fund on behalf of the mutual fund;

“form of proxy” means a written or printed form that, upon completion and execution by or on behalf of a security holder, becomes a proxy;

“forward-looking information” means disclosure regarding possible events, conditions or financial performance that is based on assumptions about future economic conditions and courses of action, and includes future-oriented financial information with respect to prospective financial performance, financial position or cash flows that is presented either as a forecast or a projection;

“group insurance” has the same meaning as in the *Insurance Act*;

“individual” means a natural person, but does not include a partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, or a natural person in the person’s capacity as trustee, executor, administrator or other legal representative;

“insider” means

(a) a director or officer of an issuer;

(b) a director or officer of a person or company that is itself an insider or subsidiary of an issuer;

(c) a person or company that has

(i) beneficial ownership of, or control or direction over, directly or indirectly, or

(ii) a combination of beneficial ownership of, and control or direction over, directly or indirectly,

securities of an issuer carrying more than 10% of the voting rights attached to all the issuer's outstanding voting securities, excluding, for the purpose of the calculation of the percentage held, any securities held by the person or company as underwriter in the course of a distribution;

(d) an issuer that has purchased, redeemed or otherwise acquired a security of its own issue, for so long as it continues to hold that security;

(e) a person or company designated as an insider in an order made under subsection 41(1); or

(f) a person or company that is in a class of persons or companies designated by the regulations,

but does not include any person or company, or a class of persons or companies, that is designated not to be an insider by an order made under subsection 41(1) or a regulation;

“insurance company” means a company defined as such in the regulations for the purpose of this Act;

“investment fund” means a mutual fund or a non-redeemable investment fund;

“investment fund manager” means a person or company that directs the business, operations or affairs of an investment fund;

“issuer” means a person or company who has outstanding, issues or proposes to issue, a security;

“loan company” means a company defined as such in the regulations for the purpose of this Act;

“management company” means a person or company who provides investment advice under a management contract;

“management contract” means a contract under which a mutual fund is provided with investment advice, along or together with administrative or management services, for valuable consideration;

“material change” means,

(a) where used in relation to an issuer other than an investment fund,

(i) a change in the business, operations or capital of the issuer that would reasonably be expected to have a significant effect on the market price or value of a security of the issuer, or

(ii) a decision to implement a change referred to in subclause (i) made by the directors of the issuer or by senior management of the issuer who believe that confirmation of the decision by the directors is probable; and

(b) where used in relation to an issuer that is an investment fund,

(i) a change in the business, operations or affairs of the issuer that would be considered important by a reasonable investor in determining whether to purchase or to continue to hold a security of the issuer, or

(ii) a decision to implement a change referred to in subclause (i) made by

(A) the directors of the issuer or the directors of the investment fund manager of the issuer,

(B) senior management of the issuer who believe that confirmation of the decision by the directors is probable, or

(C) senior management of the investment fund manager of the issuer who believe that confirmation of the decision by the directors of the investment fund manager of the issuer is probable;

“material fact”, where used in relation to securities issued or proposed to be issued, means a fact that would reasonably be expected to have a significant effect on the market price or value of the securities;

“Minister” means the Minister of Finance and Treasury Board or such other member of the Executive Council as is charged with the administration of this Act;

“misrepresentation” means

(a) an untrue statement of material fact; or

(b) an omission to state a material fact that is required to be stated or that is necessary to make a statement not misleading in the light of the circumstances in which it was made;

“mutual fund” means

(a) an issuer whose primary purpose is to invest money provided by its security holders and whose securities entitle the holder to receive on demand, or within a specified period after demand, an amount computed by reference to the value of a proportionate interest in the whole or in part of the total equity or net assets attributable to security holders, including a separate fund or trust account, of the issuer; or

(b) an issuer that is designated as a mutual fund under Section 41 or in accordance with the regulations,

but does not include an issuer, or class of issuers, that is designated under Section 41 not to be a mutual fund;

“mutual fund in the Province” means a mutual fund that is a reporting issuer or that is organized under the laws of the Province, but does not include a private mutual fund;

“non-redeemable investment fund” means

(a) an issuer

(i) whose primary purpose is to invest money provided by its security holders,

(ii) that does not invest

(A) for the purpose of exercising or seeking to exercise control of an issuer, other than an issuer that is a mutual fund or a non-redeemable investment fund, or

(B) for the purpose of being actively involved in the management of any issuer in which it invests, other than an issuer that is a mutual fund or a non-redeemable investment fund, and

(iii) that is not a mutual fund; or

(b) an issuer that is designated as a non-redeemable investment fund under Section 41 or in accordance with the regulations,

but does not include an issuer, or class of issuers, that is designated under Section 41 not to be a non-redeemable investment fund;

“Nova Scotia securities laws” means this Act, the regulations, any decisions made by the Commission or the Director and any extra-provincial securities laws adopted or incorporated by reference under Section 174;

“offering memorandum” means

(a) a document, together with any amendments to that document, purporting to describe the business and affairs of an issuer that has been prepared primarily for delivery to and review by a prospective purchaser to assist the prospective purchaser to make an investment decision in respect of securities being sold in a distribution to which Section 80 would apply but for the availability of one or more of the exemptions contained in Nova Scotia securities laws, but does not include

(i) a document setting out current information about an issuer for the benefit of a prospective purchaser familiar with the issuer through prior investment or business contacts, or

(ii) a document or class of documents designated not to be an offering memorandum by an order made under Section 41; or

(b) a document or class of documents designated as an offering memorandum by an order made under Section 41; “officer”, with respect to an issuer or registrant, means

(a) a chair or vice-chair of the board of directors, a chief executive officer, chief operating officer, chief financial officer, president, vice-president, secretary, assistant secretary, treasurer, assistant treasurer and general manager;

(b) an individual who is designated as an officer under a bylaw or similar authority of the issuer or registrant; and

(c) an individual who performs functions for a person or company similar to those normally performed by an individual referred to in clause (a) or (b);

“patronage dividend” means an amount that a co-operative allocates among and credits or pays to members of the co-operative based on the business done by each member with or through the co-operative, at a rate in relation to the quantity, quality or value of the goods or services acquired, marketed, handled, dealt in or sold by the co-operative on behalf of the member, allocated in the form of cash, shares or other forms of equity, including member loans and debentures of the co-operative;

“person” means an individual, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, trustee, executor, administrator or other legal representative;

“portfolio securities”, where used in relation to a mutual fund, means securities held or proposed to be purchased by the mutual fund;

“prescribed securities” means securities prescribed by the Commission for the purpose of clause (d) of the definition of “underwriter”;

“price check-off” means the allocation by a co-operative of a percentage or portion of the price paid to members of the co-operative for goods or services sold through or to the co-operative, to the purchase of shares or other forms of member equity, including member loans and debentures of the co-operative;

“producer co-operative” means a co-operative that collectively markets or sells the goods of its producer members;

“producer members” means the members of a co-operative who produce, harvest or manufacture goods for the co-operative;

“promoter” means

(a) a person or company who, acting alone or in conjunction with one or more other persons, companies or a combination thereof, directly or indirectly, takes the initiative

in founding, organizing or substantially reorganizing the business of an issuer; or

(b) a person or company who, in connection with the founding, organizing or substantial reorganizing of the business of an issuer, directly or indirectly, receives in consideration of services or property, or both services and property, 10% or more of any class of securities of the issuer or 10% or more of the proceeds from the sale of any class of securities of a particular issue, but a person or company who receives such securities or proceeds either solely as underwriting commissions or solely in consideration of property shall not be a promoter within the meaning of this definition if such person or company does not otherwise take part in founding, organizing, or substantially reorganizing the business;

“proxy” means a completed and executed form of proxy by means of which a security holder has appointed a person or company as the security holder’s nominee to attend and act for the security holder and on the security holder’s behalf at a meeting of security holders;

“recognized self-regulatory organization” means a self-regulatory organization recognized by the Commission pursuant to Section 40;

“register” means register under this Act;

“registrant” means a person or company registered or required to be registered;

“regulations” means the regulations made pursuant to this Act and, except in Sections 181, 182 and 183, includes the rules;

“related derivative” means, with respect to a security, a derivative that is related to the security because the derivative’s market price, value, delivery obligations, payment obligations or settlement obligations are, in a material way, derived from, referenced to or based on the market price, value, delivery obligations, payment obligations or settlement obligations of the security;

“reporting issuer” means an issuer

(a) that has filed

(i) a prospectus for which the Director has issued a receipt under this Act, or

(ii) a securities exchange take-over bid circular under this Act on or before February 6, 2007;

(b) that has exchanged its securities with another issuer or with the holders of the securities of that other issuer in connection with an amalgamation, merger, reorganization, arrangement or similar transaction if one of the parties to the amalgamation, merger, reorganization, arrangement or similar transaction was a reporting issuer at the time of the amalgamation, merger, reorganization, arrangement or similar transaction;

(c) that is designated as a reporting issuer by an order made under Section 41;

(d) that is declared to be a reporting issuer in an order which the Commission may make pursuant to subsection 100(2);

(e) that is deemed to be a reporting issuer pursuant to subsection 100(4); or

(f) that is a reporting issuer as defined or specified in the regulations,

and includes a class of issuers designated as reporting issuers by an order made under Section 41, but does not include an issuer or class of issuers designated not to be a reporting issuer by an order made under that Section;

“rules” means, unless the context otherwise requires, the rules of the Commission made pursuant to this Act;

“security” includes

(a) any document, instrument or writing commonly known as a security;

(b) any document constituting evidence of title to or interest in the capital, assets, property, profits, profit or loss or royalties of any person or company;

(c) any document constituting evidence of an interest in an association of legatees or heirs;

(d) any contract or instrument where the contract or instrument is an interest in or to a security and a trade in the security pursuant to the contract or instrument would constitute a distribution;

(e) any bond, debenture, note or other evidence of indebtedness, share, stock, unit, unit certificate, participation certificate, certificate of share or interest, preorganization certificate or subscription other than a contract of insurance issued by an insurance company or an evidence of deposit issued by a bank, a loan company or a trust company;

(f) any agreement under which the interest of the purchaser is valued for purposes of conversion or surrender by reference to the value of a proportionate interest in a specified portfolio of assets, except a contract issued by an insurance company that provides for payment at maturity of an amount not less than three quarters of the premiums paid by the purchaser for a benefit payable at maturity;

(g) any agreement providing that money received will be repaid or treated as a subscription to shares, stock, units or interests at the option of the recipient or of any person or company;

(h) any certificate of share or interest in a trust, estate or association;

- (i) any profit-sharing agreement or certificate;
- (j) any certificate of interest in an oil, natural gas or mining lease, claim or royalty voting trust certificate;
- (k) any oil or natural gas royalties or leases or fractional or other interest therein;
- (l) any collateral trust certificate;
- (m) any income or annuity contract not issued by an insurance company;
- (n) any investment contract;
- (o) any document constituting evidence of an interest in a scholarship or educational plan or trust;
- (p) any contract or instrument or class of contracts or instruments that is designated as a security under Section 41; and
- (q) any contract or instrument or class of contracts or instruments that is prescribed as a security,

whether any of the foregoing relate to an issuer or proposed issuer, but does not include a derivative;

“self-regulatory organization” means a person or company that is organized for the purpose of regulating the operations and the standards of practice and business conduct of its members and their representatives with a view to promoting the protection of investors and the public interest;

“trade” or “trading” includes

- (a) any sale or disposition of a security for valuable consideration, whether the terms of payment be on margin, instalment or otherwise, but does not include a purchase of a security or, except as provided in clause (g), a transfer, pledge or encumbrance of securities for the purpose of giving collateral for a bona fide debt;
- (b) entering into a derivative or making a material amendment to, terminating, assigning, buying, selling or otherwise acquiring or disposing of a derivative;
- (c) a novation of a derivative, other than a novation with a clearing agency;
- (d) any participation as a trader in any transaction in a security through the facilities of any exchange or quotation and trade reporting system;
- (e) any participation as a trader in the trade of a derivative through the facilities of a derivatives trading facility;
- (f) any receipt by a registrant of an order to buy or sell a security or an order to buy, sell, enter into, amend, terminate, assign or novate a derivative;

(g) any transfer, pledge or encumbrancing of securities of an issuer from the holdings of any person or company or combination of persons or companies described in clause (c) of the definition of “distribution” for the purpose of giving collateral for a bona fide debt; and

(h) any act, advertisement, solicitation, conduct or negotiation directly or indirectly in furtherance of any of the foregoing;

“trust company” means a company defined as such in the regulations for the purpose of this Act;

“underwriter” means a person or company who, as principal, agrees to purchase securities with a view to distribution or who, as agent, offers for sale or sells securities in connection with a distribution and includes a person or company who has a direct or indirect participation in any such distribution, but does not include

(a) a person or company whose interest in the transaction is limited to receiving the usual and customary distributor’s or seller’s commission payable by an underwriter or issuer;

(b) a mutual fund that, under the laws of the jurisdiction to which it is subject, accepts its shares or units for surrender and resells them;

(c) a company that, under the laws of the jurisdiction to which it is subject, purchases its shares and resells them; or

(d) a bank with respect to prescribed securities or banking transactions;

“variable insurance contract” means a contract of life insurance within the meaning of the *Insurance Act* under which the interest of the purchaser is valued for purposes of conversion or surrender by reference to the value of a proportionate interest in a specified portfolio of assets;

“voting security” means any security other than a debt security of an issuer carrying a voting right either under all circumstances or under some circumstances that have occurred and are continuing.

(2) A person or company is deemed to be an affiliate of another person or company if one of them is a subsidiary of the other or if both are subsidiaries of the same person or company or if each of them is controlled by the same person or company.

(3) An issuer is deemed to be controlled by a person or company or by two or more persons or companies if

(a) voting securities of the issuer carrying more than 50% of the votes for the election of directors are held, otherwise than by way of security only, by or for the benefit of the person or company or by or for the benefit of the persons or companies; and

(b) the votes carried by such securities are entitled, if exercised, to elect a majority of the board of directors of the issuer.

- (4) An issuer is deemed to be a subsidiary of another issuer if
- (a) it is controlled by,
 - (i) that other,
 - (ii) that other and one or more issuers each of which is controlled by that other, or
 - (iii) two or more issuers each of which is controlled by that other; or
 - (b) it is a subsidiary of an issuer that is that other's subsidiary.

(5) A person is deemed to own beneficially securities beneficially owned by an issuer controlled by the person or by an affiliate of such issuer.

(6) A company is deemed to own beneficially securities beneficially owned by its affiliates.

(7) Every management company and every distribution company of a mutual fund that is a reporting issuer and every insider of such management company or distribution company is deemed to be an insider of the mutual fund.

(8) Where a person or company would be in a special relationship with a reporting issuer for the purpose of any Section of this Act if any issuer were a reporting issuer and, pursuant to the regulations, the issuer is required to comply with all or any of the provisions of this Act that apply to reporting issuers then, for the purpose of this Section, the person or company is deemed to be in a special relationship with the issuer and the issuer is deemed to be a reporting issuer. R.S., c. 418, s. 2; 1990, c. 15, s. 19; 1996, c. 32, s. 2; 2001, c. 41, s. 24; 2002, c. 39, s. 1; 2005, c. 26, s. 1; 2005, c. 27, s. 1; 2006, c. 46, s. 1; 2008, c. 32, s. 1; 2010, c. 73, s. 1; 2012, c. 34, s. 1; 2014, c. 28, s. 1; 2014, c. 34, s. 61; 2018, c. 42, s. 1.

Experts

4 (1) The Commission may appoint one or more experts to assist the Commission in such a manner as the Commission may consider expedient.

(2) The Commission may submit any agreement, prospectus, financial statement, report or other document to one or more experts appointed pursuant to subsection (1) for examination, and the Commission has the like power to summon and enforce the attendance of witnesses before the expert and to compel them to produce documents, records and things as is vested in the Commission, and subsections 28(2) and (3) apply with necessary changes.

(3) An expert appointed pursuant to subsection (1) must be paid such amounts for services and expenses as are determined by the Governor in Council. 1990, c. 15, s. 20.

Nova Scotia Securities Commission

5 (1) The Governor in Council may appoint not more than eight persons who constitute the Nova Scotia Securities Commission.

(2) The Governor in Council shall designate one of the members of the Commission to be the Chair, and another member to be the Vice-chair.

(3) The members shall, before entering office, take an oath or affirmation as prescribed by the regulations. R.S., c. 418, s. 4; 2006, c. 46, s. 2; 2012, c. 34, s. 2.

Duties, powers and functions of Commission

6 (1) The Commission shall perform such duties as are vested in or imposed upon the Commission by this Act or the regulations, the Governor in Council or the Minister.

(2) The Commission is authorized and empowered to hold hearings relating to the exercise of its powers and the discharge of its duties and functions assigned to it by this Act or the regulations, the Governor in Council or the Minister.

(3) For the purpose of any hearing pursuant to this Act, the Commission and each member of the Commission have and may exercise all the powers, privileges and immunities of a commissioner appointed pursuant to the *Public Inquiries Act*. R.S., c. 418, s. 5.

Review of decision by Commission

7 (1) The Executive Director shall forthwith notify the Commission of every decision refusing registration under Section 61 or refusing to issue a receipt for a prospectus under Section 87 and the Commission may, within 30 days of the decision, notify the Executive Director and any person or company directly affected of its intention to convene a hearing to review the decision.

(2) Any person or company directly affected by a decision of the Director may, by notice in writing sent by registered mail to the Commission within 30 days after the mailing of the notice of the decision, request and be entitled to a hearing and review thereof by the Commission.

(3) Upon a hearing and review, the Commission may, by order, confirm the decision under review or make such other decision as the Commission considers proper.

(4) Notwithstanding that a person or company requests a hearing and review pursuant to subsection (2), the decision under review takes effect immediately, but the Commission may grant a stay until disposition of the hearing and review. 2006, c. 46, s. 3; 2010, c. 73, s. 2.

Chief executive officer and duties and remuneration of members

8 (1) The Chair is the chief executive officer of the Commission.

(2) The members of the Commission shall devote as much time as may be necessary for the due performance of their duties as members of the Commission.

(3) The members of the Commission must be paid such remuneration and expenses as the Governor in Council determines. R.S., c. 418, s. 7; 1990, c. 15, s. 22; 2012, c. 34, s. 3.

Unfinished matter upon resignation or retirement

9 (1) Where a member of the Commission resigns office, retires or is appointed to another position in the public service, the member shall, during such period of time as the Governor in Council designates in respect of any application, appeal, proceedings, matter or thing heard before the member or commenced by the member as a member of the Commission, have and exercise the jurisdiction of a member, including the power to complete any unfinished matter and give a decision therein as if the member had not so resigned, retired or been appointed.

(2) A designation by the Governor in Council pursuant to subsection (1) may be made before or after such resignation, retirement or appointment, and may be retroactive in effect. R.S., c. 418, s. 8.

Conflict or disability

10 (1) Where any member of the Commission is so interested in any matter before the Commission that the member or the Chair considers that the member cannot act, or where any member is unable to act by reason of illness, absence or other cause, the Governor in Council, on the request of the Chair, may appoint some disinterested person to act as a member in the member's stead in and about such matter or until such disability comes to an end.

(2) Any person so appointed may complete any unfinished business in which the person has taken part, even if the member that is replaced has returned or becomes able to act.

(3) No determination of the Commission made in good faith may be set aside solely by reason of the interest in the matter of a member of the Commission that was not known to any member of the Commission at the time the determination was made.

(4) In determining whether a member of the Commission is interested in a matter for the purpose of this Act, the regulations or rules made pursuant to Section 181 respecting conflict of interest apply. R.S., c. 418, s. 9; 1990, c. 15, s. 23; 2012, c. 34, s. 4.

Acting member

11 The Governor in Council on the recommendation of the Chair of the Commission may appoint as an acting member of the Commission a person who, in the opinion of the Commission, is specially qualified to assist the Commission with respect to any particular proceeding or matter, and the person so appointed has all the powers of a member of the Commission with respect to the proceeding or matter and is entitled to such remuneration as the Governor in Council authorizes. R.S., c. 418, s. 10; 2012, c. 34, s. 5.

Secretary, employees and specialists

12 (1) The Commission shall appoint a Secretary.

(2) The Secretary

(a) may accept service of all notices and other documents on behalf of the Commission;

(b) where authorized by the Commission, may sign a decision made by the Commission as a result of a hearing;

(c) may certify under the Secretary's hand a decision made by the Commission or a document, record or thing used in connection with a hearing by the Commission if certification is required for a purpose other than that stated in subsection 27(3);

(d) may exercise such other powers as are vested in the Secretary by this Act or the regulations; and

(e) shall perform such duties as are imposed on the Secretary by this Act or the regulations or by the Commission.

(3) Where the Secretary is absent for any reason, the Commission may designate another individual to act in the capacity of Secretary and the individual designated has all the powers and duties of the Secretary.

(4) A certificate purporting to be signed by the Secretary is, without proof of the office or signature, admissible in evidence, so far as it is relevant, for all purposes in any action, prosecution or other proceeding.

(5) The Commission may employ, in accordance with the *Civil Service Act*, such deputy directors, clerks, stenographers or other persons as it considers advisable to carry out the business of the Commission and their compensation must be paid by the Commission.

(6) The Commission may engage persons having technical or special knowledge of matters or subjects within the jurisdiction of the Commission or in question before the Commission to assist the Commission in an advisory or other capacity. R.S., c. 418, s. 11; 1990, c. 15, s. 24; 2006, c. 46, s. 4.

Public Service Superannuation Act

13 (1) In this Section, "person employed by the Commission" does not include a member of the Commission unless that person is an employee of the Commission.

(2) For the purpose of the *Public Service Superannuation Act*, every person employed by the Commission otherwise than temporarily is deemed to be a person employed in the public service of the Province and service in the employment of the Commission is deemed to be public service.

(3) The Commission shall deduct monthly from the salary of every employee thereof such amount as is directed by the Governor in Council to be deducted from the salary of every employee in the public service of the Province and shall pay over the same to the Minister of Finance and Treasury Board, which

amounts when so received must be paid into and form part of the Superannuation Fund pursuant to the *Public Service Superannuation Act*.

(4) Where by the *Public Service Superannuation Act* any payment is directed to be made into the Superannuation Fund by the Government or the Minister of Finance and Treasury Board or where by such Act any superannuation allowance or other sum is directed to be paid out of the General Revenue Fund, then in respect of any employee of the Commission such payment, superannuation allowance or other sum must be defrayed by the Commission and forms part of the annual expenses of the Commission. R.S., c. 418, s. 12; 1990, c. 15, s. 25; 2014, c. 34, s. 62.

Use of public servants

14 For the purpose of carrying out the duties of the Commission, the Commission may avail itself of the services of any officer or other employee of any board, commission or department of the Province subject to the approval of the Minister or other person in charge of the administration of the service in which the officer or employee is employed. R.S., c. 418, s. 13.

Appropriations

15 The Legislature may appropriate money in such amount as it considers fit to enable the Commission and its members to carry out their duties, powers and authorities. R.S., c. 418, s. 14.

Duties and powers of Chair

16 (1) The Chair shall assign the members of the Commission to its various sittings and may change any such assignment at any time.

(2) The Chair may direct any officer or member of the staff of the Commission to attend any of the sittings of the Commission and may prescribe that member's duties.

(3) The Chair shall prescribe the number of members to attend the hearing of an application, appeal or other matter before the Commission and shall prescribe the quorum with respect to such application, appeal or other matter.

(4) The Chair is responsible for ensuring the efficient and expeditious handling of the business of the Commission.

(5) The Chair, when present, shall preside at all sittings of the Commission and, in the Chair's absence, the Vice-chair shall preside and, if both the Chair and the Vice-chair are absent, the member designated by the Chair to preside shall preside. R.S., c. 418, s. 15; 2012, c. 34, s. 6.

Absence of Chair

17 In case of the absence of the Chair or the Chair's inability to act, the Vice-chair shall exercise the powers of the Chair and, in such case, all regulations, orders and other documents signed by the Vice-chair have the same force and effect as if signed by the Chair. R.S., c. 418, s. 16; 2012, c. 34, s. 7.

Concurrent sittings and effect of vacancy

18 (1) The members may sit separately at the same time to hear and determine matters before the Commission if there is a quorum in each case.

(2) A vacancy in the Commission does not impair the right of the remaining members to act. R.S., c. 418, s. 17.

Inquiry by member

19 (1) The Chair may authorize any member of the Commission to inquire into and report to the Commission upon any matter within the jurisdiction of the Commission or pending before the Commission and, when so authorized, that member has, for the purpose of taking evidence or obtaining information for such report, all the powers of the Commission.

(2) Any member who has made any inquiry into a matter pursuant to subsection (1) may not sit on any hearing of the Commission in connection with the matter. 1990, c. 15, s. 26; 2012, c. 34, s. 8.

Power to publish

20 (1) The Commission may

(a) issue and publish, in such manner as the Commission considers appropriate, policy statements and interpretation notes; and

(b) publish decisions of the Commission and the Director and publish rulings, orders, motions and other information that the Commission considers ought to be published.

(2) Policy statements and interpretation notes issued pursuant to clause (1)(a) are not regulations within the meaning of the *Regulations Act* and do not constitute a predetermined exercise of discretion pursuant to this Act. 1996, c. 32, s. 3; 2006, c. 46, s. 5.

Orders

21 In any matter before it, the Commission shall grant an order, either as specified in the application or notice of appeal or as the Commission decides, and may by order dismiss the application or appeal. R.S., c. 418, s. 20.

Face of order

22 It is not necessary that any order of the Commission show upon its face that any proceeding or notice was had or given, or any circumstances existed necessary to give it jurisdiction to make such order. R.S., c. 418, s. 21.

Enforcement of order made by commission

23 (1) Any decision or order made by the Commission may be made a rule or order of the Supreme Court of Nova Scotia and must be enforced in like manner as any rule, order, decree or judgment of that Court.

(2) To make a decision or order of the Commission a rule or order of the Supreme Court of Nova Scotia, the Secretary may make a certified copy of the decision or order upon which must be endorsed:

Make the within a rule or order of the Supreme Court of Nova Scotia.

Dated this day of , 20.

.....

Chair, Nova Scotia
Securities Commission

(3) The endorsement must be signed by the Chair.

(4) The Secretary shall forward the certified copy so endorsed to a prothonotary of the Supreme Court of Nova Scotia, who shall upon receipt thereof enter the same as of record, and it thereupon is an order of the Supreme Court and enforceable as any rule, order, decree or judgment thereof.

(5) Where a decision or order of the Commission has been made a rule or order of the Supreme Court of Nova Scotia, any decision or order of the Commission rescinding or varying the same is deemed to rescind or vary the rule or order, and may in like manner be made a rule or order of the Supreme Court. R.S., c. 418, s. 22; 2012, c. 34, s. 9; 2018, c. 42, s. 2.

Enforcement of order made by recognized self-regulatory organization

24 (1) Any decision or order made by a recognized self-regulatory organization may be made a rule or order of the Supreme Court of Nova Scotia, and shall be enforced in like manner as any rule, order, decree or judgment of that Court.

(2) To make a decision or order of a recognized self-regulatory organization a rule or order of the Supreme Court of Nova Scotia, the recognized self-regulatory organization may make a certified copy of the decision or order upon which must be endorsed:

Make the within a rule or order of the Supreme Court of Nova Scotia.

Dated this day of , 20.

.....

Officer, [Self-regulatory Organization]

(3) The endorsement must be signed by an officer of the recognized self-regulatory organization.

(4) The recognized self-regulatory organization shall forward the certified copy so endorsed to a prothonotary of the Supreme Court of Nova Scotia who shall, upon receipt thereof, enter the same as of record, and it thereupon is an order of the Supreme Court and enforceable as any rule, order, decree or judgment thereof.

(5) Where a decision or order of a recognized self-regulatory organization has been made a rule or order of the Supreme Court of Nova Scotia, any decision or order of the recognized self-regulatory organization rescinding or

varying the same is deemed to rescind or vary the rule or order, and may in like manner be made a rule or order of the Supreme Court. 2018, c. 42, s. 3.

Executive Director of Securities

25 (1) The Governor in Council may appoint a person to be Executive Director of Securities, who shall be the chief administrative officer of the Commission and who is paid such salary as the Governor in Council determines.

(2) The Executive Director shall perform such duties as are vested in or imposed upon the Executive Director by this Act or the regulations, the Governor in Council, the Minister or the Commission.

(3) A quorum of the Commission may assign to the Executive Director or to another Director any of its powers and duties under this Act, except the powers and duties under Sections 7, 28 to 34 and 181.

(4) The Commission may revoke, in whole or in part, an assignment of powers and duties under subsection (3).

(5) An assignment under this Section is subject to such terms and conditions as set out in the assignment.

(6) Where the Executive Director is absent or incapable of acting, the Commission may designate another individual to act as Executive Director. R.S., c. 418, s. 23; 1990, c. 15, s. 28; 2006, c. 46, s. 6; 2010, c. 73, s. 3.

Refunds

26 Where

(a) an application for registration or renewal of registration is abandoned; or

(b) a preliminary prospectus or prospectus is withdrawn,

the Director may, upon the application of the person or company who made the application or filed the preliminary prospectus or prospectus, recommend to the Minister of Finance and Treasury Board that a refund of the fee paid on the making of the application or the filing of the preliminary prospectus or prospectus or such part thereof as the Director considers fair and reasonable be made, and the Minister of Finance and Treasury Board may make such refund from the General Revenue Fund. R.S., c. 418, s. 24; 1990, c. 15, s. 80; 2014, c. 34, s. 63.

Appeal

27 (1) Any person or company directly affected by a decision of the Commission other than a decision made pursuant to Section 28, 41, 99, 100 or 103, subsection 109(2), Section 117, subsection 119(2), 120(2), 126(2) or 187(1) or other than an order made pursuant to Section 186 revoking or varying any decision of the Commission where the decision, which is revoked or varied, was a decision made pursuant to one of the said Sections or subsections, may appeal to the Nova Scotia Court of Appeal within 30 days after the later of the making of the decision or the issuing of the reasons for the decision.

(2) Notwithstanding that an appeal is taken under this Section, the decision appealed from takes effect immediately, but the Commission or a judge of the Nova Scotia Court of Appeal may grant a stay until disposition of the appeal.

(3) The Secretary of the Commission shall certify to the registrar of the Court of Appeal

- (a) the decision that has been reviewed by the Commission;
- (b) the decision of the Commission together with any statement of reasons therefor;
- (c) the record of the proceedings before the Commission;
- and
- (d) all written submissions to the Commission or other material that is relevant to the appeal.

(4) The Minister and the Commission are entitled to be heard by counsel or otherwise upon the argument of an appeal pursuant to this Section.

(5) Where an appeal is taken under this Section, the Court may by its order direct the Commission to make such decision or to do such other act as the Commission is authorized and empowered to do under this Act or the regulations and as the Court considers proper, having regard to the material and submissions before it and to this Act and the regulations, and the Commission shall make such decision or do such act accordingly.

(6) Notwithstanding an order of the Court on an appeal, the Commission may make any further decision upon new material or where there is a significant change in the circumstances, and every such decision is subject to this Section. R.S., c. 418, s. 26; 1990, c. 15, s. 29; 1996, c. 32, s. 4; 2006, c. 46, s. 8; 2008, c. 32, s. 2; 2010, c. 73, s. 4; 2012, c. 34, s. 10.

Investigation

28 (1) The Commission may, by order, appoint one or more persons to make any investigation the Commission considers expedient

- (a) for the administration of Nova Scotia securities laws;
- (b) to assist in the administration of the securities or derivatives laws of another jurisdiction;
- (c) in respect of matters relating to trading in securities or derivatives in the Province;
- (d) in respect of matters in the Province relating to trading in securities or derivatives in another jurisdiction; or
- (e) in respect of any person or company.

(2) For the purpose of an investigation ordered pursuant to this Section, any person appointed to make the investigation may investigate, inquire into and examine

- (a) the affairs of the person or company in respect of whom the investigation is being made and any books, papers, docu-

ments, correspondence, communications, negotiations, transactions, investigations, loans, borrowings and payments to, by, on behalf of or in relation to or connected with the person or company and any property, assets or things owned, acquired or alienated in whole or in part by the person or company or by any person or company acting on behalf of or as agent for the person or company; and

(b) the assets at any time held by, the liabilities, debts, undertakings and obligations at any time existing by, the financial or other conditions at any time prevailing in or in relation to or in connection with the person or company and the relationship that may at any time exist or have existed between the person or company and any other person or company by reason of investments, commissions promised, secured or paid, interests held or acquired, the loaning or borrowing of money, stock or other property, the transfer, negotiation or holding of stock, interlocking directorates, common control, undue influence or control or any other relationship.

(3) Any person making an investigation pursuant to this Section has the same power to summon and enforce the attendance of witnesses and compel them to give evidence on oath or otherwise, and to produce documents, records and things, as is vested in the Supreme Court of Nova Scotia in civil actions, and the failure or refusal of a person or company to attend, to answer questions or to produce such documents, records or things as are in the person's or company's custody, control or possession makes the person or company liable to be committed for contempt by a judge of the Supreme Court of Nova Scotia as if in breach of an order or judgment of that Court, provided that no provision of the *Evidence Act* exempts any bank or any officer or employee thereof from the operation of this Section.

(4) A person or company giving evidence at an investigation pursuant to this Section may be represented by counsel.

(5) A person authorized by the Commission may apply to a judge of the Supreme Court of Nova Scotia for a warrant authorizing any person named therein to enter and search any building, receptacle or place for any documents, records, securities, derivatives, contracts or things that may afford evidence as to the contravention of the provisions of Nova Scotia securities laws or the securities or derivatives laws of another jurisdiction or the commission of an offence under the *Criminal Code* (Canada) in connection with a trade in securities or derivatives and to seize and take possession of the documents, records, securities, derivatives, contracts or things.

(6) An application pursuant to subsection (5) must be supported by information on oath establishing the facts on which the application is based.

(7) A judge of the Supreme Court of Nova Scotia may issue the warrant referred to in subsection (5) where the judge is satisfied that there are reasonable grounds to believe that

(a) there has been a contravention of Nova Scotia securities laws or the securities or derivatives laws of another jurisdiction or the commission of an offence under the *Criminal Code* (Canada);

(b) a document, record, security, derivative, contract or thing that may afford evidence of such a contravention or commission of such an offence is likely to be found; and

(c) the building, receptacle or place specified in the application is likely to contain such a document, record, security, derivative, contract or thing,

and not otherwise.

(8) A warrant issued pursuant to subsection (7) must refer to the contravention or offence for which it is issued, identify the building, receptacle or place to be searched and the person alleged to have committed the contravention or offence and it must be reasonably specific as to any document, record, security, derivative, contract or thing to be searched for and seized.

(9) Any person who executes a warrant pursuant to this Section may seize, in addition to the document, record, security, derivative, contract or thing referred to in the warrant, any other document, record, security, derivative, contract or thing that the person believes on reasonable grounds affords evidence of a contravention of any of the provisions of Nova Scotia securities laws or the securities or derivatives laws of another jurisdiction or the commission of an offence under the *Criminal Code* (Canada) in connection with a trade in securities or derivatives and shall, as soon as practicable, bring such other document, record, security, derivative, contract or thing before the judge who issued the warrant or, where the judge is unable to act, another judge of the Supreme Court of Nova Scotia to be dealt with by the judge in accordance with subsection (17) or (18).

(10) Documents, records, securities, derivatives, contracts or things seized pursuant to this Section must be delivered to the person conducting an investigation pursuant to subsection (1) or, if there is no investigation, to the Director, as soon as practical and must, at a time and place mutually convenient to the person or company from whom they were seized and the person conducting the investigation or the Director, as the case may be, be made available for inspection and copying by that person or company if a request for an opportunity to inspect or copy is made by that person or company to the person conducting the investigation or the Director, as the case may be.

(11) Where

(a) documents, records, securities, derivatives, contracts or things are seized pursuant to this Section; and

(b) the matter for which the documents, records, securities, derivatives, contracts or things were seized is concluded,

the Commission, or the Minister if the Minister is in possession thereof, shall return the documents, records, securities, derivatives, contracts or things to the person or company from whom they were seized within 60 days from the day the matter is concluded.

(12) Where

(a) documents, records, securities, derivatives, contracts or things are seized pursuant to this Section; and

(b) the person or company from whom the documents, records, securities, derivatives, contracts or things are seized alleges that the documents, records, securities, derivatives, contracts or things are not relevant in respect of the matter for which they were seized,

that person may apply to a judge of the Supreme Court of Nova Scotia for the return of the documents, records, securities, derivatives, contracts or things.

(13) On hearing an application pursuant to subsection (12), a judge of the Supreme Court of Nova Scotia shall order the return of any documents, records, securities, derivatives, contracts or things that the judge determines are not relevant to the matter for which they were seized.

(14) Where an investigation is ordered pursuant to this Section, the Commission may appoint an accountant or other expert to examine documents, records, properties and matters of the person or company whose affairs are being investigated.

(15) Every person appointed pursuant to subsection (1) or (14) shall, at the request of the Chair, provide the Chair with a full and complete report of the investigation, including any transcript of evidence and material in that person's possession relating to the investigation.

(16) The report referred to in subsection (15) is privileged.

(17) Where a document, record, security, derivative, contract or thing is brought before a judge pursuant to subsection (9), the judge may, of the judge's own motion or on summary application by a person or company with an interest in the document, record, security, derivative, contract or thing, on three clear days notice of application to the person authorized by the Commission pursuant to subsection (5), order that the document, record, security, derivative, contract or thing be returned to the person or company from whom it was seized or the person or company who is otherwise legally entitled thereto, if the judge is satisfied that the document, record, security, derivative, contract or thing was not seized in accordance with the warrant or this Section.

(18) Where a judge has not made an order pursuant to subsection (17) within 10 days following a document, record, security, derivative, contract or thing being brought before the judge, the judge shall, unless the judge orders otherwise, order the return thereof to the person conducting the investigation or, if there is no investigation, to the Director, and the person or company from whom it was seized shall have the rights contained in subsection (10). 1990, c. 15, s. 30; 1996, c. 32, s. 5; 2005, c. 27, s. 2; 2006, c. 46, ss. 9, 64; 2008, c. 32, s. 3; 2012, c. 34, s. 11; 2014, c. 28, s. 2.

Appointment of investigator by Minister

29 The Minister may, by order, appoint any person to make an investigation into any matter referred to in subsection 28(1) and Section 28 applies with necessary changes to the person and the investigation. 1990, c. 15, s. 30.

Confidentiality

30 (1) Except in accordance with Section 31, no person or company shall disclose at any time, except to their counsel,

(a) the nature or content of an order under Section 28 or 29; or

(b) the name of any person examined or sought to be examined under Section 28, any testimony given under Section 28, any information obtained under Section 28, the nature or content of any questions asked under Section 28, the nature or content of any demands for the production of any document or other thing under Section 28 or the fact that any document or other thing was produced under Section 28.

(2) Where the Commission issues an order under Section 28 or the Minister issues an order under Section 29, all reports provided under subsection 28(15) or Section 32, all testimony given under Section 28 and all documents and other things obtained under Section 28 relating to the investigation or examination that is the subject of the order are for the exclusive use of the Commission or of such other regulator as the Commission may specify in the order, and shall not be disclosed or produced to any other person or company or in any other proceeding except as permitted under Section 31. 2006, c. 46, s. 11.

Order authorizing disclosure

31 (1) Where the Commission considers that it would be in the public interest, it may make an order authorizing the disclosure to any person or company of

(a) the nature or content of an order under Section 28;

(b) the name of any person examined or sought to be examined under Section 28, any testimony given under Section 28, any information obtained under Section 28, the nature or content of any questions asked under Section 28, the nature or content of any demands for the production of any document or other thing under Section 28 or the fact that any document or other thing was produced under Section 28; or

(c) all or part of a report provided under subsection 28(15).

(2) No order may be made under subsection (1) unless the Commission has, where practicable, given reasonable notice and an opportunity to be heard to

(a) persons and companies named by the Commission; and

(b) in the case of disclosure of testimony given or information obtained under Section 28, the person or company that gave the testimony or from which the information was obtained.

(3) Notwithstanding subsection (2), where the Commission considers that it would be in the public interest, it may make an order without notice, and without giving an opportunity to be heard, authorizing the disclosure of the information described in clauses (1)(a) to (c) to any other securities, derivatives or financial regulatory authorities, self-regulatory bodies or organizations, law enforcement and other governmental or regulatory authorities.

(4) Without the written consent of the person from whom the testimony was obtained, no order may be made under subsection (1) or (3) authorizing the disclosure of testimony given under subsection 28(3) to

(a) a municipal, provincial, federal or other police force or a member of a police force; or

(b) a person responsible for the enforcement of the criminal law of Canada or of any other country or jurisdiction.

(5) An order under subsection (1) or (3) may be subject to terms and conditions imposed by the Commission.

(6) A court having jurisdiction over a prosecution under the *Summary Proceedings Act* initiated by the Commission may compel production to the court of any testimony given or any document or other thing obtained under Section 28 and, after inspecting the testimony, document or thing and providing all interested parties with an opportunity to be heard, the court may order the release of the testimony, document or thing to the defendant if the court determines that it is relevant to the prosecution, is not protected by privilege and is necessary to enable the defendant to make full answer and defence, but the making of an order under this subsection does not determine whether the testimony, document or thing is admissible in the prosecution.

(7) A person appointed to make an investigation or examination under this Act may disclose or produce anything mentioned in subsection (1), but may do so only in connection with

(a) a proceeding commenced or proposed to be commenced by the Commission under this Act; or

(b) an examination of a witness, including an examination of a witness under Section 28.

(8) Without the written consent of the person from whom the testimony was obtained, no disclosure shall be made under subsection (7) of testimony given under subsection 28(3) to

(a) a municipal, provincial, federal or other police force or a member of police force; or

(b) a person responsible for the enforcement of the criminal law of Canada or of any other country or jurisdiction.

(9) Testimony given under Section 28 may not be admitted in evidence against the person from whom the testimony was obtained in a prosecution for an offence under Section 127 or in any other prosecution governed by the *Summary Proceedings Act*. 2006, c. 46, s. 11; 2014, c. 28, s. 3.

Report to Minister

32 Where an investigation has been made pursuant to Section 28, the Commission may, and, where an investigation has been made pursuant to Section 29, the person making the investigation shall, report the result thereof, including the evidence, findings, comments and recommendations, to the Minister and the Minister may cause the report to be published, in whole or in part, in such manner as the Minister considers proper. 1990, c. 15, s. 30.

Freeze direction

33 (1) Where the Commission considers it expedient for the due administration of Nova Scotia securities laws or the regulation of the capital markets in the Province or expedient to assist in the due administration of the securities or derivatives laws or the regulation of the capital markets in another jurisdiction, the Commission may

(a) direct a person or company having on deposit or under its control or for safekeeping any funds, securities, derivatives or property of any person or company to retain those funds, securities, derivatives or property;

(b) direct a person or company to refrain from withdrawing any funds, securities, derivatives or property from another person or company who has them on deposit, under control or for safekeeping; or

(c) direct a person or company to maintain funds, securities, derivatives or property and to refrain from disposing of, transferring, dissipating or otherwise dealing with or diminishing the value of those funds, securities or property.

(2) A direction under subsection (1) applies until the Commission, in writing, revokes the direction or consents to release funds, securities or property from the direction, or until the Supreme Court of Nova Scotia orders otherwise.

(3) A direction under subsection (1) that names a bank or other financial institution applies only to the branches of the bank or other financial institution identified in the direction.

(4) A direction under subsection (1) does not apply to funds, securities, derivatives or property in a clearing agency or to securities or derivatives in process of transfer by a transfer agent unless the direction so states.

(5) The Commission may order that a direction under subsection (1) be certified to a registrar of deeds or the Minister of Natural Resources and Renewables and that it be registered or recorded against the lands or claims identified in the direction, and on registration or recording of the certificate it has the same effect as a certificate of pending litigation.

(6) As soon as practicable and not later than 10 days after a direction is issued under subsection (1), the Commission shall apply to the Supreme Court of Nova Scotia to continue the direction or for such other order as the court considers appropriate.

(7) An order may be made under subsection (6) if the Supreme Court of Nova Scotia is satisfied that the order would be reasonable and expedient in the circumstances, having due regard to the public interest and

(a) the due administration of Nova Scotia securities laws or the securities laws of another jurisdiction; or

(b) the regulation of capital markets in the Province or another jurisdiction.

(8) A direction under subsection (1) may be made without notice but, in that event, copies of the direction must be sent forthwith by such means as the Commission may determine to all persons and companies named in the direction.

(9) A person or company directly affected by a direction may apply to the Commission for clarification or to have the direction varied or revoked. 2006, c. 46, s. 12; 2014, c. 28, s. 4; 2015, c. 51, ss. 1, 10.

Appointment of receiver

34 (1) The Commission may apply to the Supreme Court of Nova Scotia for an order appointing a receiver, receiver and manager, trustee or liquidator of all or any part of the property of any person or company.

(2) No order may be made under subsection (1) unless the court is satisfied that

(a) the appointment of a receiver, receiver and manager, trustee or liquidator of all or any part of the property of the person or company is in the best interests of the creditors of the person or company or of persons or companies any of whose property is in the possession or under the control of the person or company or the security holders of or subscribers to the person or company; or

(b) it is appropriate for the due administration of Nova Scotia securities laws.

(3) Upon an *ex parte* application made by the Commission pursuant to this Section, a judge may make an order pursuant to subsection (2) appointing a receiver, receiver and manager, trustee or liquidator for a period not exceeding 15 days.

(4) A receiver, receiver and manager, trustee or liquidator of the property of any person or company appointed pursuant to this Section shall be the receiver, receiver and manager, trustee or liquidator of all or any part of the property belonging to the person or company or held by the person or company on behalf of or in trust for any other person or company, and the receiver, receiver and manager, trustee or liquidator shall have authority, if so directed by the judge, to wind up or manage the business and affairs of the person or company and all powers necessary or incidental thereto.

(5) Where an order is made appointing a receiver, receiver and manager, trustee or liquidator of the property of a person or company under this Section, the powers of the directors of the company that the receiver, receiver and manager, trustee or liquidator is authorized to exercise may not be exercised by the directors until the receiver, receiver and manager, trustee or liquidator is discharged by the court.

(6) An order made pursuant to this Section may be enforced in the same manner as any order or judgment of the Supreme Court of Nova Scotia and may be varied or discharged upon an application made by notice.

(7) Upon an application made pursuant to this Section, the *Civil Procedure Rules* apply. 1990, c. 15, s. 30; 2005, c. 27, s. 6; 2006, c. 46, ss. 13, 64.

Appointment of examiner

35 (1) The Commission may, in writing, appoint any person to examine at any time

(a) the financial and business affairs including, without limitation, the books, records, accounts, communications and other documents, whether in paper, electronic or other form, of a registrant or reporting issuer; and

(b) the books and records of a custodian of assets of a mutual fund or of a custodian of shares or units of a mutual fund under a custodial agreement or other agreement with a person or company engaged in the distribution of shares or units of the mutual fund,

and prepare such financial or other statements and reports that may be required by the Commission for the purpose of determining whether Nova Scotia securities laws are being complied with.

(2) The Commission may, in writing, appoint any person to examine at any time the business, conduct, financial affairs and records of a self-regulatory organization, an exchange, a quotation and trade reporting system, a clearing agency, a credit rating organization, a derivatives trading facility or a derivatives trade repository for the purpose of determining whether Nova Scotia securities laws are being complied with.

(3) The Commission may, in writing, appoint any person to examine at any time the books, records and documents of an issuer that has distributed securities in reliance on an exemption from the prospectus requirement for the purpose of determining whether the issuer has complied with the requirements, conditions and restrictions of the exemption relied on for the distribution.

(4) The Commission may, in writing, appoint any person to examine at any time the books, records and documents that are required to be kept by a person or company under the regulations with respect to derivatives.

(5) The person making an examination pursuant to this Section may inquire into and examine all books of account, securities, derivatives, cash, documents, bank accounts, vouchers, communications and records of every description of the person or company who is the subject of the examination, and no person or company shall withhold, destroy, conceal or refuse to give any information or thing reasonably required for the purpose of the examination.

(6) For an examination pursuant to this Section, on production of the appointment, the person making the examination may

(a) enter the business premises of the person or company who is being examined during business hours; and

(b) make copies of the books, records and documents referred to in this Section.

(7) In exercising the power to make copies under clause (6)(b), the person making the examination under this Section may

(a) carry out the copying at the business premises of the person or company who is being examined; or

(b) on giving an appropriate receipt, remove the documents and records for the purpose of copying them at other premises specified in the receipt.

(8) Records removed under clause (7)(b) for copying must be promptly returned to the person or company from whom they were received.

(9) The Commission may charge such fees as may be prescribed by the regulations for any examination made pursuant to this Section. 1990, c. 15, s. 30; 2005, c. 27, s. 7; 2014, c. 28, s. 5; 2015, c. 51, s. 2.

Review of disclosures

36 (1) The Commission, or any member, employee or agent of the Commission, may conduct a review of the disclosures that have been made or that ought to have been made by a reporting issuer or mutual fund in the Province on a basis to be determined at the discretion of the Commission or the Director.

(2) The Commission, or any member, employee or agent of the Commission, may conduct a review of an issuer other than a reporting issuer or mutual fund in the Province for the purpose of determining whether disclosure requirements under Nova Scotia securities laws applicable to the issuer are being complied with, on a basis to be determined at the discretion of the Commission or the Director.

(3) An issuer that is subject to a review under this Section shall, at such time or times as the Commission or Director may require, deliver to the Commission or Director any information and documents relevant to the review.

(4) Notwithstanding the *Freedom of Information and Protection of Privacy Act*, information and documents obtained pursuant to a review under this Section are exempt from disclosure under that Act if the Commission determines that the information and documents should be maintained in confidence.

(5) An issuer, or any person or company acting on behalf of an issuer, shall not make any representation, written or oral, that the Commission has in any way passed upon the merits of the disclosure record of the issuer. 2008, c. 32, s. 4; 2015, c. 51, s. 3.

Person shall comply with undertaking

37 A person or company that gives an undertaking in writing, including by electronic means, to the Commission or Director shall comply with the undertaking. 2021, c. 17, s. 1.

Prohibition—obstruction

38 (1) A person or company shall not and shall not attempt to withhold, conceal or destroy any information, document, record or thing that is reasonably required for a hearing, an opportunity to be heard, a review, an investigation, an examination or an inspection under Nova Scotia securities laws, if the person or company knows or reasonably ought to know that the hearing, opportunity to be

heard, review, investigation, examination or inspection is being, or is likely to be, conducted.

(2) A person or company shall not obstruct a member, employee or agent of the Commission in the performance of the member's, employee's or agent's powers or duties under this Act. 2021, c. 17, s. 1.

Solicitor-client privilege

39 (1) Nothing in Section 28, 29, 30, 32, 33, 34, 35 or this Section shall be interpreted so as to affect the privilege that exists between a solicitor and the solicitor's client.

(2) Where a person is about to examine or seize, pursuant to this Act, any documents, records, securities, derivatives, contracts or things in the possession of a solicitor and the solicitor with respect to those documents, records, securities, derivatives, contracts or things claims that a privilege might exist between the solicitor and the solicitor's client, the person who was about to examine or seize the documents, records, securities, derivatives, contracts or things shall, without examining or copying them,

(a) seize the documents, records, securities, derivatives, contracts or things;

(b) seal the documents, records, securities, derivatives, contracts or things in a marked package so that the package can be identified; and

(c) place the package in the custody of

(i) the Prothonotary of the Supreme Court of Nova Scotia, or

(ii) a person that the parties agree upon.

(3) On an application being brought by the solicitor, client or the person seizing the documents, records, securities, derivatives, contracts or things, a judge of the Supreme Court of Nova Scotia shall hear the matter in camera and determine whether the claim of the privilege is proper.

(4) Where the judge of the Supreme Court of Nova Scotia determines

(a) that the claim of privilege is proper, the judge shall order that the documents, records, securities, derivatives, contracts or things seized be delivered to the solicitor; or

(b) that the claim is not proper, the judge shall order that the documents, records, securities, derivatives, contracts or things be delivered to the person who seized them.

(5) The notice of the application referred to in subsection (3) and the supporting documents must be served on the Commission, the person having custody of the package and the parties to the application other than the one making the application not less than three days before the application is to be heard.

(6) On being served with the notice of the application and the supporting documents, the person having custody of the package shall promptly deliver the package to the custody of the Prothonotary of the Supreme Court of Nova Scotia.

(7) In determining the matter before it, the judge of the Supreme Court of Nova Scotia may open the package and inspect its contents.

(8) Following the inspection of the package and its contents pursuant to subsection (7), a judge of the Supreme Court of Nova Scotia shall reseal the contents in the package. 1990, c. 15, s. 30; 2002, c. 39, s. 2; 2006, c. 46, s. 64; 2014, c. 28, s. 6.

Self-regulatory organization

40 (1) The Commission may, on the application of a person or company, recognize the person or company as a self-regulatory organization if the Commission is satisfied that to do so would be in the public interest.

(2) A recognition under this Section must be made in writing and is subject to such terms and conditions as the Commission may impose.

(3) A recognized self-regulatory organization shall regulate the operations and the standards of practice and business conduct of its members and their representatives in accordance with its bylaws, rules, regulations, policies, procedures, interpretations and practices.

(4) The authority of a self-regulatory organization to regulate the operations and the standards of practice and business conduct of its members and their representatives under subsection (3) extends to

- (a) any former member;
- (b) any former representative of a member; and
- (c) any former representative of a former member,

with respect to that person's or company's operations and conduct while a member of the self-regulatory organization or a representative of a member of the self-regulatory organization.

(5) The Commission may revoke or accept the voluntary surrender of the recognition of any person or company as a self-regulatory organization.

(6) Any member of a self-regulatory organization who trades in securities or derivatives within the Province shall comply with the bylaws, rules, regulations and policies of the self-regulatory organization except to the extent that such bylaws, rules or regulations are inconsistent with this Act, the regulations or the policies of the Commission.

(7) The Commission may, where the Commission considers that it is in the public interest to do so, make any decision with respect to any bylaw, rule, regulation, policy, procedure, interpretation or practice of a recognized self-regulatory organization.

(8) The Commission may delegate, on such terms and conditions as the Commission may determine, to a self-regulatory organization any powers or

duties of the Director or the Commission pursuant to this Act or the regulations respecting the registration of persons or companies that are members of the self-regulatory organization, the conduct of audits of those persons and companies and the responsibility for ensuring compliance with the requirements of this Act and the regulations.

(9) The Commission or, with the approval of the Commission, the Director may, at any time, revoke, in whole or in part, a delegation of powers or duties made under subsection (8).

(10) The Director or any person or company that is a registrant and directly affected by a decision, order or ruling of a self-regulatory organization is entitled to a hearing and review of the decision, order or ruling by the Commission to the same extent as if the decision, order or ruling had been a decision of the Director.

(11) Section 7 applies to the hearing and review of a decision, order or ruling under subsection (10) in the same manner as that Section applies to a hearing and review of a decision of the Director.

(12) A self-regulatory organization shall provide to the Commission or to the Director, at the request of the Commission or the Director, any information or record in its possession relating to

- (a) a registrant or a client of a registrant;
- (b) an issuer; or
- (c) trading in securities or derivatives.

(13) Where a recognized self-regulatory organization is empowered under the bylaws or rules of the self-regulatory organization to conduct investigations,

(a) the self-regulatory organization, or a person appointed by the self-regulatory organization to conduct the investigation, has the same power as is vested in the Supreme Court of Nova Scotia for the trial of civil actions to

- (i) summon and enforce the attendance of a person,
 - (ii) compel a person to testify on oath or otherwise,
- and
- (iii) summon and compel a person or company to produce documents, records, securities, derivatives, contracts and things; and

(b) the failure or refusal of a person to attend or to answer questions or of a person or company to produce such documents, records, securities, derivatives, contracts and things as are in the person's or company's custody or possession, or the failure of a person or company to comply with an order made by the self-regulatory organization under subsection (16) makes the person or company liable to be committed for contempt by a judge of the Court as if in breach of an order or judgment of that Court.

(14) Where a recognized self-regulatory organization is empowered under the bylaws or rules of the self-regulatory organization to conduct hearings, the following applies for the purpose of a hearing:

(a) a person conducting a hearing has the same power as is vested in the Supreme Court of Nova Scotia for the trial of civil actions to

(i) summon and enforce the attendance of witnesses,

(ii) compel witnesses to give evidence on oath or otherwise, and

(iii) compel witnesses to produce documents, records, securities, derivatives, contracts and things;

(b) the failure or refusal of a person summoned as a witness under clause (a) to attend a hearing, to answer questions or to produce documents, records, securities, derivatives, contracts and things that are in that person's custody or possession makes that person, on application to the Court by the person conducting the hearing, liable 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 that court;

(c) a person conducting a hearing may take evidence under oath;

(d) a person conducting a hearing or a person authorized by a person conducting a hearing may administer oaths for the purpose of taking evidence;

(e) the self-regulatory organization may, on behalf of a person conducting a hearing,

(i) summon and enforce the attendance of witnesses, and

(ii) make applications to the Court under clause (b).

(15) A person or company giving evidence at an investigation pursuant to subsection (13) and a witness for a hearing pursuant to subsection (14) may be represented by counsel.

(16) A recognized self-regulatory organization may, by order, prohibit a person or company from communicating information related to an investigation or a hearing to anyone except the person's or company's counsel. 1990, c. 15, s. 31; 2006, c. 46, s. 14; 2008, c. 32, s. 5; 2010, c. 73, s. 5; 2014, c. 28, s. 7; 2018, c. 42, s. 4.

Designation by Commission

41 (1) The Commission may, if the Commission considers that it would not be prejudicial to the public interest to do so, make an order designating

(a) a good, article, service, right or interest, or a class of those, as a commodity;

(b) a contract or instrument or a class of contracts or instruments to be, or not to be, a derivative;

- (c) a contract or instrument or a class of contracts or instruments to be, or not to be, a security;
- (d) a person or company as an insider;
- (e) a person or company, or class of persons or companies, not to be an insider;
- (f) a rating or a class of ratings to be, or not to be, a credit rating;
- (g) a person or company or a class of persons or companies to be, or not to be, a credit rating organization;
- (h) the minimum designated rating required from a credit rating organization;
- (i) a document or class of documents to be, or not to be, an offering memorandum;
- (j) an issuer or a class of issuers to be, or not to be, a mutual fund;
- (k) an issuer or a class of issuers to be, or not to be, a non-redeemable investment fund; and
- (l) an issuer or a class of issuers to be, or not to be, a reporting issuer.

(2) An order made under subsection (1)

- (a) may be made by the Commission on its own motion or on the application of an interested person or company; and
- (b) may not be made without giving the affected or interested person or company an opportunity to have a hearing before the Commission. 2005, c. 26, s. 2; 2006, c. 46, s. 15; 2012, c. 34, s. 12; 2014, c. 28, s. 8.

Credit rating organizations

42 For the purpose of this Act, a credit rating organization shall comply with such requirements as may be prescribed with respect to the development, issuance and maintenance of credit ratings, including requirements relating to

- (a) the establishment, publication and enforcement of a code of conduct applicable to the credit rating organization's directors, officers and employees, including the minimum requirements for such a code;
- (b) prohibitions and procedures regarding conflicts of interest between the credit rating organization and the person or company whose securities are being rated; and
- (c) the maintenance of books and records necessary for the conduct of the credit rating organization's business and the issuance and maintenance of credit ratings. 2010, c. 73, s. 6.

Review of credit rating organizations

43 (1) The Commission, or any member, employee or agent of the Commission, may conduct a review of

- (a) the books, records and documents that may be required to be kept by a credit rating organization; and
- (b) the disclosures that have been made or that ought to have been made by a credit rating organization,

on a basis to be determined at the discretion of the Commission or the Director.

(2) A credit rating organization that is subject to a review under this Section shall, at such time or times as the Commission or the Director may require, deliver to the Commission or the Director or otherwise make available to the Commission or the Director

- (a) the books, records and documents that may be required to be kept by a credit rating organization; and
- (b) any information and documents relevant to the disclosures that have been made or that ought to have been made by the credit rating organization.

(3) Notwithstanding the *Freedom of Information and Protection of Privacy Act*, information and documents obtained pursuant to a review under this Section are exempt from disclosure under that Act if the Commission determines that the information and documents should be maintained in confidence. 2010, c. 73, s. 6.

Representations about Commission approval

44 A credit rating organization, or any person or company acting on behalf of a credit rating organization, shall not make any representation, written or oral, that the Commission has in any way passed upon the merits of the credit rating organization. 2010, c. 73, s. 6.

Review of practices and procedures

45 (1) The Commission may, where in its opinion it is in the public interest to do so, order that a credit rating organization submit to a review of its practices and procedures and institute such changes as may be ordered by the Commission.

(2) No order may be made under this Section without a hearing. 2010, c. 73, s. 6.

Application to be designated

46 A credit rating organization may apply to the Commission to be designated by the Commission if the credit rating organization wants its credit ratings to satisfy

- (a) a requirement in Nova Scotia securities laws that a credit rating be given by a credit rating organization designated by the Commission; or
- (b) a condition for an exemption under Nova Scotia securities laws. 2012, c. 34, s. 13.

Designation

47 (1) The Commission may, for the purpose of the regulations, designate or withdraw the designation of a credit rating organization if it determines that it is in the public interest to do so.

(2) The Commission shall not deny or withdraw the designation of a credit rating organization under this Section without giving the credit rating organization an opportunity to be heard. 2010, c. 73, s. 6.

Terms and conditions

48 An order under Section 45 or 47 may be subject to such terms and conditions as the Commission may impose. 2010, c. 73, s. 6.

Commission may not regulate content or methodologies

49 Nothing in Sections 42 to 48 is to be construed to permit the Commission to direct or regulate the content of credit ratings or the methodologies used to determine credit ratings. 2010, c. 73, s. 6.

Requirement for recognition

50 (1) Where the Commission is satisfied that to do so would be in the public interest, the Commission may, on the application of a person or company, recognize the person or company as

- (a) an exchange;
- (b) a quotation and trade reporting system;
- (c) a clearing agency;
- (d) a derivatives trading facility; or
- (e) a derivatives trade repository.

(2) A recognition under this Section must be made in writing and is subject to such terms and conditions as the Commission may impose.

(3) A person or company recognized under subsection (1) shall provide to the Commission or to the Director, at the request of the Commission or the Director, any information or record in its possession relating to

- (a) a registrant or a client of a registrant;
- (b) an issuer; or
- (c) trading in securities or derivatives.

(4) Where the Commission is satisfied that to do so would be in the public interest, the Commission may make any decision with respect to any bylaw, rule, regulation, policy, procedure, interpretation or practice of a person or company recognized under subsection (1).

(5) The Director or any person or company directly affected by a decision, order or ruling of a person or company recognized under subsection (1) is entitled to a hearing and review of the decision, order or ruling by the Commission to the same extent as if the decision, order or ruling had been a decision of the Director.

(6) Section 7 applies to the hearing and review of a decision, order or ruling under subsection (5) in the same manner as that Section applies to a hearing and review of a decision of the Director. 2014, c. 28, s. 9.

Prohibition on carrying on business without recognition

51 No person or company shall carry on business as an exchange, a quotation and trade reporting system, a clearing agency, a derivatives trading facility or a derivatives trade repository in the Province unless the person or company is recognized by the Commission pursuant to Section 50. 2014, c. 28, s. 9.

Decision in public interest

52 Where the Commission or the Director considers it to be in the public interest, the Commission or the Director may make a decision respecting

- (a) the trading of derivatives or classes of derivatives on or through the facilities of a derivatives trading facility;
- (b) the clearing of trades of derivatives or classes of derivatives on or through the facilities of a clearing agency; and
- (c) the reporting of trades of derivatives or classes of derivatives to or through the facilities of a derivatives trade repository. 2014, c. 28, s. 9.

Trade not void

53 Unless the terms of the derivative provide otherwise, a derivative trade is not void, voidable or unenforceable, and no counterparty to the trade is entitled to rescind the trade solely by reason that the transaction failed to comply with this Act or the regulations. 2014, c. 28, s. 9.

Interpretation of Sections 55 to 59

- 54 (1) In Sections 55 to 59,
- “benchmark” means a price, estimate, rate, index or value that is
- (a) determined by reference to an assessment of one or more underlying interests;
 - (b) made available to the public, either free of charge or on payment; and
 - (c) used for reference for any purpose, including
 - (i) determining the interest payable, or other sums that are due, under a contract, derivative, instrument or security,
 - (ii) determining the value of a contract, derivative, instrument or security or the price at which it may be traded,
 - (iii) measuring the performance of a contract, derivative, investment fund, instrument or security, and
 - (iv) any other use by an investment fund;

“benchmark administrator” means a person or company that administers a benchmark;

“benchmark contributor” means a person or company that engages or participates in the provision of information for use by a benchmark administrator for the purpose of determining a benchmark, including a person or company subject to a decision under Section 56;

“benchmark user” means a person or company that, in relation to a contract, derivative, investment fund, instrument or security, uses a benchmark;

“designated benchmark” means a benchmark that is designated by the Commission under subsection 55(1);

“designated benchmark administrator” means a benchmark administrator who is designated by the Commission under subsection 55(1) with respect to a designated benchmark. 2018, c. 42, s. 5.

Designation of benchmark or benchmark administrator

55 (1) A benchmark administrator, or the Director, may apply to the Commission to request the designation of a benchmark or a benchmark administrator.

(2) Where the Director applies for a designation, the Commission shall give the affected benchmark or benchmark administrator the opportunity to be heard before making a decision under subsection (3).

(3) After receiving an application pursuant to subsection (1), the Commission may, where it considers it in the public interest to do so, designate the benchmark as a designated benchmark or designate the benchmark administrator as a designated benchmark administrator of a designated benchmark, as appropriate.

(4) A designation under subsection (3) may be made subject to any terms and conditions the Commission considers advisable.

(5) The Commission may, where it considers it in the public interest to do so, cancel the designation of a designated benchmark or a designated benchmark administrator or impose or change the terms and conditions of the designation.

(6) The Commission may not refuse to designate a benchmark or benchmark administrator, cancel the designation of a designated benchmark or designated benchmark administrator, or impose or change the terms and conditions to which a designation is subject, without giving the benchmark administrator an opportunity to be heard.

(7) The Commission may, where it considers it in the public interest to do so, assign a designated benchmark to a prescribed category or categories of designated benchmarks. 2018, c. 42, s. 5.

Order to provide information

56 (1) The Commission may, in response to an application by the Director, require a person or company to provide information to a designated benchmark administrator in relation to the designated benchmark if the Commission considers it in the public interest to do so.

(2) The Commission shall give the affected person or company and benchmark administrator the opportunity to be heard before making an order under subsection (1).

(3) An order under subsection (1) may be made subject to any terms and conditions the Commission considers advisable.

(4) Subject to subsection (5), the Commission may, where it considers it in the public interest to do so, cancel or change an order made under subsection (1) or impose or change the terms and conditions of the order.

(5) The Commission may not cancel or change an order made under subsection (1) or impose or change the terms and conditions of the order made under subsection (3) without giving the person or company and the benchmark administrator an opportunity to be heard. 2018, c. 42, s. 5.

Compliance with requirements

57 (1) A benchmark administrator shall comply with such requirements as may be prescribed by the regulations, including requirements relating to

(a) benchmarks, benchmark administrators, benchmark contributors and benchmark users; and

(b) the establishment, publication and enforcement of a code of conduct by a benchmark administrator.

(2) A benchmark contributor shall comply with such requirements as may be prescribed by the regulations, including requirements relating to benchmarks, benchmark administrators, benchmark contributors and benchmark users.

(3) Benchmark administrators, benchmark contributors and their respective directors, officers and employees, and any of their service providers or security holders that are in a prescribed class, shall comply with

(a) a code of conduct established by a benchmark administrator in accordance with the regulations;

(b) requirements established by the regulations relating to the prohibitions against and procedures regarding conflicts of interest involving them; and

(c) requirements established by the regulations relating to prohibition or restriction of any matter or conduct involving a benchmark.

(4) A benchmark user shall comply with such requirements as may be prescribed by the regulations, including requirements

- (a) relating to benchmarks, benchmark administrators, benchmark contributors and benchmark users;
 - (b) prohibiting the use of a non-designated benchmark;
- and
- (c) respecting disclosure and other requirements relating to the use of a benchmark. 2018, c. 42, s. 5.

False or misleading information

58 (1) A person or company shall not, directly or indirectly, engage or participate in the provision of information to another person or company for the purpose of determining a benchmark if the person or company knows or reasonably ought to know that the information, at the time and in the circumstances in which it is provided, is false or misleading.

(2) A person or company shall not, directly or indirectly, attempt to engage or participate in the conduct described in subsection (1). 2018, c. 42, s. 5.

Improper conduct

59 (1) A person or company shall not, directly or indirectly, engage or participate in conduct relating to a benchmark that improperly influences the determination of the benchmark or produces or contributes to the production of a false or misleading determination of the benchmark.

(2) A person or company shall not, directly or indirectly, attempt to engage or participate in the conduct described in subsection (1). 2018, c. 42, s. 5.

Registration required

60 (1) No person or company shall act as a dealer or as an underwriter unless the person or company is registered as

- (a) a dealer; or
- (b) a representative of a registered dealer and is acting on behalf of the registered dealer.

(2) No person or company shall act as an adviser unless the person or company is registered as

- (a) an adviser; or
- (b) a representative of a registered adviser and is acting on behalf of the registered adviser.

(3) No person or company shall act as an investment fund manager unless the person or company is

- (a) registered as an investment fund manager; or
- (b) acting on behalf of a registered investment fund manager.

(4) No person or company shall act as a registered representative, registered dealer, registered adviser or registered investment fund manager unless

the registration of the person or company has been made in accordance with Nova Scotia securities laws. 2008, c. 32, s. 6.

Grant of registration

61 (1) Unless it appears to the Director that the applicant is not suitable for registration or reinstatement of registration or that the proposed registration, reinstatement of registration or amendment to registration is objectionable, the Director shall grant registration, reinstatement of registration or amendment to registration to an applicant.

(2) The Director may in the Director's discretion restrict a registration by imposing terms and conditions thereon and, without limiting the generality of the foregoing, may restrict the duration of a registration and may restrict the registration to trade in certain securities or derivatives or a certain class of securities or derivatives.

(3) The Director shall not refuse to grant, reinstate or amend a registration, or impose terms and conditions on a registration, without giving the applicant an opportunity to be heard. R.S., c. 418, s. 32; 1990, c. 15, s. 80; 2008, c. 32, s. 7; 2014, c. 28, s. 10.

Director's authority regarding registration

62 (1) The Director may suspend or terminate a registration, or impose terms and conditions on a registration, if it appears to the Director that the registrant is not suitable for its registration or the registration is otherwise objectionable.

(2) The Director shall not make a decision under subsection (1) without giving the registrant an opportunity to be heard. 2008, c. 32, s. 8.

Suspension or surrender of registration

63 (1) Where a registrant applies to surrender its registration, the Director may accept the surrender, subject to such terms and conditions as the Director may impose, unless the Director considers it prejudicial to the public interest to do so.

(2) On receiving an application under subsection (1), the Director may, without providing an opportunity to be heard, suspend the registration or impose conditions or restrictions on the registration. R.S., c. 418, s. 33; 1990, c. 15, s. 32; 2006, c. 46, s. 17; 2008, c. 32, s. 9.

Form of application

64 An application for registration or an amendment to a registration must be made in accordance with the regulations and be accompanied by such fee as may be prescribed by the regulations. 2006, c. 46, s. 19.

Address for service

65 Except as otherwise provided in this Act, all notices under this Act or the regulations are sufficiently served on a registrant for all purposes if delivered or sent by prepaid mail to the latest address for service specified in the application of the registrant. 2008, c. 32, s. 10.

Further information

66 The Director may require any further information or material to be submitted by an applicant or a registrant within a specified time and may require verification by affidavit or otherwise of any information or material then or previously submitted or may require the applicant or the registrant or any partner, officer, director, governor or trustee of, or any person performing a like function for, or any employee of, the applicant or of the registrant to submit to examination under oath by a person designated by the Director. R.S., c. 418, s. 37; 1990, c. 15, s. 80.

Duty to act honestly and in good faith

67 (1) Every registered dealer and every registered adviser shall deal fairly, honestly and in good faith with its clients.

(2) Every registered representative of a registered dealer and every registered representative of a registered adviser shall deal fairly, honestly and in good faith with that person's clients.

(3) Every investment fund manager shall exercise

(a) the powers and discharge the duties of its office honestly, in good faith and in the best interests of the investment fund; and

(b) the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances. 2008, c. 32, s. 11.

Exemption of certain trades or securities

68 (1) Subject to the regulations, registration is not required in respect of the following trades:

(a) a trade in a security made by a co-operative in the course of a distribution by the co-operative of the security to a member of the co-operative or to a purchaser who becomes a member of the co-operative by virtue of the trade unless

(i) the aggregate acquisition cost of the security to the member or the purchaser and of all other securities of the co-operative purchased by the member or the purchaser in the preceding 365 days exceeds \$1,000, or

(ii) the aggregate acquisition cost of the security to the member or the purchaser and of all other securities of the co-operative owned by the member or the purchaser exceeds \$10,000;

(b) a trade that is a distribution but for clause 96(5)(a), (b) or (c); or

(c) a trade in respect of which the regulations provide that registration is not required.

(2) In applying clause (1)(a), where the security is distributed

(a) in respect of a patronage dividend declared by the co-operative;

(b) in respect of the operation of a price check-off;

(c) in respect of a sale to a member of a producer co-operative; or

(d) pursuant to a prospectus,

the security must not be taken into consideration.

(3) Subject to the regulations, a co-operative shall file with the Director

(a) within 60 days after the calendar year end, a report prepared and executed in accordance with the regulations, describing all distributions of securities of the co-operative made in reliance on clause (1)(a), other than distributions referred to in subsection (2), if the total aggregate subscription price of the securities distributed in the calendar year exceeds \$200,000; and

(b) a copy of an offering memorandum that is sent or delivered to a member of a co-operative or a purchaser in connection with a distribution made in reliance on clause (1)(a), other than a distribution referred to in subsection (2), at least 10 days before the trade that is the first trade in respect of which the offering memorandum is sent or delivered.

(4) Subject to the regulations, registration is not required to trade in the following securities or derivatives:

(a) shares of a credit union within the meaning of the *Credit Union Act*; or

(b) securities or derivatives in respect of which the regulations provide that registration is not required.

(5) For the purpose of subsection (1),

(a) a trust company is deemed to be acting as principal when it trades as trustee or as agent for accounts fully managed by it;

(b) a portfolio manager or a person or company who, but for the applicability of an exemption pursuant to this Act or the regulations, would be required to be a portfolio manager in order to be in compliance with this Act is deemed to be acting as principal when it trades as agent for accounts fully managed by it. R.S., c. 418, s. 41; 1990, c. 15, ss. 35, 80; 1996, c. 32, s. 6; 2001, c. 41, s. 25; 2006, c. 46, s. 21; 2014, c. 28, s. 11.

Order prohibiting calls to residences

69 (1) In this Section, “residence” includes any building or part of a building in which the occupant resides either permanently or temporarily and any premises appurtenant thereto.

(2) The Commission may, by order, suspend, cancel, restrict or impose terms and conditions upon the right of any person or company or class of persons or companies named or described in the order to

(a) call at any residence; or

(b) telephone from within the Province to any residence within or outside the Province,

for the purpose of trading in any security or derivative or in any class of securities or derivatives.

(3) The Commission shall not make an order under subsection (2) without giving the person or company or class of persons or companies affected an opportunity to be heard.

(4) For the purpose of this Section, a person or company is deemed conclusively to have called or telephoned where an officer, director, employee or agent of the person or company calls or telephones on its behalf. R.S., c. 418, s. 43; 1990, c. 15, s. 36; 2010, c. 73, s. 8; 2014, c. 28, s. 12.

Representations prohibited

70 (1) No person or company, with the intention of effecting a trade in a security, other than a security that carries an obligation of the issuer to redeem or purchase, or a right of the owner to require redemption or purchase, shall make any representation, written or oral, that the person or company or any person or company will

- (a) resell or repurchase; or
- (b) refund all or any of the purchase price of,

such security.

(2) No person or company, with the intention of effecting a trade in a derivative, shall make any representation, written or oral, that the person or company or any person or company will

- (a) refund all or part of any margin put up or premium paid with respect to the derivative; or
- (b) assume all or part of an obligation under the derivative.

(3) No person or company, with the intention of effecting a trade in a security or derivative, shall give any undertaking, written or oral, relating to the future value or price of such security or derivative.

(4) Subject to the regulations, no person or company, with the intention of effecting a trade in a security or derivative, shall, except with the written permission of the Director, make any written or oral representation that the security or derivative will be listed on an exchange or quoted on a quotation and trade reporting system, or that application has been or will be made to list the security or derivative on an exchange or quote the security or derivative on a quotation and trade reporting system, unless

- (a) in the case of a security, application has been made to list or quote the security and other securities issued by the same issuer are already listed on an exchange or quoted on a quotation and trade reporting system; or
- (b) the exchange or quotation and trade reporting system has granted approval to the listing or quoting of the security or deriv-

ative, conditional or otherwise, or has consented to, or indicated that it does not object to, the representation.

(5) This Section does not apply to any representation referred to in subsection (1) or (2) if the representation is contained in an enforceable written agreement and

(a) in the case of a representation in respect of a security, the security has an aggregate acquisition cost of more than \$50,000; or

(b) in the case of representation in respect of a derivative, the derivative is in a class of derivatives prescribed by the regulations. R.S., c. 418, s. 44; 1990, c. 15, s. 80; 2012, c. 34, s. 14; 2014, c. 28, s. 13.

Unfair practice

71 (1) In this Section, “unfair practice” includes

(a) putting unreasonable pressure on a person to purchase, hold or sell a security or trade or hold a derivative;

(b) taking advantage of a person’s inability or incapacity to reasonably protect the person’s own interest because of physical or mental infirmity, ignorance, illiteracy, age or inability to understand the character, nature or language of any matter relating to a decision to purchase, hold or sell a security or trade or hold a derivative; or

(c) imposing terms or conditions that make a transaction in securities or derivatives manifestly inequitable.

(2) No person or company shall engage in an unfair practice. 2002, c. 39, s. 3; 2014, c. 28, s. 14.

Use of name of another registrant

72 No registrant shall use the name of another registrant on letterheads, forms, advertisements or signs, as correspondent or otherwise, unless the registrant is a partner, officer or agent of or is authorized to do so in writing by the other registrant. R.S., c. 418, s. 49.

Representation as registered

73 (1) A person or company shall not represent that the person or company is registered under this Act unless

(a) the representation is true; and

(b) in making the representation, the person or company specifies the person’s or company’s category of registration under this Act and the regulations.

(2) A person or company shall not make a statement about something that a reasonable investor would consider important in deciding whether to enter into or maintain a trading or advising relationship with the person or company if the statement is untrue or omits information necessary to prevent the statement from being false or misleading in the circumstances in which it is made. 2006, c. 46, s. 22.

Advertising approval

74 No person or company shall make any representation, written or oral, that the Director or the Commission has in any way passed upon the financial standing, fitness or conduct of any registrant or upon the merits of any security, derivative, underlying interest of a derivative or issuer. R.S., c. 418, s. 52; 1990, c. 15, s. 80; 2014, c. 28, s. 15.

Margin contracts

75 (1) Where a person, or a partner or employee of a partnership, or a director, officer or employee of a company, after the person, partner, employee, director or officer or the partnership or company has contracted as a registered dealer with any customer to buy and carry upon margin any securities of any issuer either in Canada or elsewhere, and while such contract continues, sells or causes to be sold securities of the same issuer for any account in which

- (a) the person, partner, employee, director or officer;
- (b) the person's, partner's, employee's, director's or officer's firm or a partner thereof; or
- (c) the company or a director thereof,

has a direct or indirect interest, if the effect of such sale would, otherwise than unintentionally, be to reduce the amount of such securities in the hands of the dealer or under the dealer's control in the ordinary course of business below the amount of such securities that the dealer should be carrying for all customers, any such contract with a customer is, at the option of the customer, voidable and the customer may recover from the dealer all money paid with interest thereon or securities deposited in respect thereof.

(2) The customer may exercise such option by a notice to that effect sent by prepaid mail addressed to the dealer at the dealer's address for service in the Province. R.S., c. 418, s. 53.

Declaration as to short position

76 Any person or company who places an order for the sale of a security through an agent acting for the person or company that is a registered dealer and who

- (a) at the time of placing the order, does not own the security; or
- (b) if acting as agent, knows the person's or company's principal does not own the security,

shall, at the time of placing the order to sell, declare to the person's or company's agent that the person or company or the person's or company's principal, as the case may be, does not own the security. R.S., c. 418, s. 54.

Voting of shares by registrant or custodian

77 (1) For the purpose of this Section, "custodian" means a custodian of securities issued by a mutual fund held for the benefit of plan holders under a custodial agreement or other arrangement.

(2) Subject to subsection (5), voting securities of an issuer registered in the name of

- (a) a registrant or in the name of the registrant's nominee;
- or
- (b) a custodian or in the name of the custodian's nominee, where such issuer is a mutual fund that is a reporting issuer,

that are not beneficially owned by the registrant or the custodian, as the case may be, may not be voted by the registrant or custodian at any meeting of security holders of the issuer.

(3) Forthwith after receipt of a copy of a notice of a meeting of security holders of an issuer or of a take-over bid circular, issuer bid circular, directors' circular or director's or officer's circular or other similar and relevant material, the registrant or custodian shall, where the name and address of the beneficial owner of securities registered in the name of the registrant or custodian are known, send or deliver to each beneficial owner of such security as registered at the record date for notice of meeting or at the date of the take-over bid or issuer bid a copy of any notice, financial statement, information circular, take-over bid circular, issuer bid circular, directors' circular or director's or officer's circular or other similar and relevant material but the registrant or custodian is not required to send or deliver such material unless the issuer or other sender of the material or the beneficial owner of such securities has agreed to pay the reasonable costs to be incurred by the registrant or custodian in so doing.

(4) At the request of a registrant or custodian, the person or company sending material referred to in subsection (3) shall forthwith furnish to the registrant or custodian, at the expense of the sender, the requisite number of copies of the material.

(5) A registrant or custodian shall vote or give a proxy requiring a nominee to vote any voting securities referred to in subsection (2) in accordance with any written voting instructions received from the beneficial owner.

(6) A registrant or custodian shall, if requested in writing by a beneficial owner, give to the beneficial owner or the beneficial owner's nominee a proxy enabling the beneficial owner or the beneficial owner's nominee to vote any voting securities referred to in subsection (2). R.S., c. 418, s. 55.

Advertising

78 (1) In this Section,

“advertising” includes television and radio commercials, newspaper and magazine advertisements and all other sales material generally disseminated through the communications media;

“sales literature” includes audio and visual recordings in any media, written matter and all other material designed for use in a presentation to a purchaser, whether such material is given or shown to the purchaser, but does not include

- (a) preliminary prospectuses;
- (b) prospectuses; and

(c) disclosure documents, with respect to derivatives, that satisfy the requirements prescribed by the regulations.

(2) The Commission may, after giving the registered dealer an opportunity to be heard, and upon being satisfied that the registered dealer's past conduct with respect to the use of advertising and sales literature affords reasonable grounds for belief that it is necessary for the protection of the public to do so, order that the registered dealer shall deliver to the Commission, at least seven days before it is used, copies of all advertising and sales literature that the registered dealer proposes to use in connection with trading in securities or derivatives.

(3) Where the Commission has issued an order pursuant to subsection (2), the Commission may prohibit the use of the advertising and sales literature so delivered or may require that deletions or changes be made prior to its use.

(4) Where an order has been made pursuant to subsection (2), the Commission on application of the registered dealer at any time after the date thereof, may rescind or vary the order where, in its opinion, it is not contrary to the public interest to do so. R.S., c. 418, s. 56; 1990, c. 15, s. 37; 2014, c. 28, s. 16.

Prospecting syndicate agreement

79 (1) Upon the filing of a prospecting syndicate agreement and the issuance of a receipt therefor by the Director the liability of the members of the syndicate or parties to the agreement is limited to the extent provided by the terms of the agreement where

(a) the sole purpose of the syndicate is the financing of prospecting expeditions, preliminary mining development or the acquisition of mining properties, or any combination thereof;

(b) the agreement clearly sets out

(i) the purpose of the syndicate,

(ii) the particulars of any transaction effected or in contemplation involving the issue of units for a consideration other than cash,

(iii) the maximum amount, not exceeding 25% of the sale price, that may be charged or taken by a person or company as commission upon the sale of units in the syndicate,

(iv) the maximum number of units in the syndicate, not exceeding 33⅓% of the total number of units of the syndicate, that may be issued in consideration of the transfer to the syndicate of mining properties,

(v) the location of the principal office of the syndicate and that the principal office must at all times be maintained in the Province and that the Director and the members of the syndicate shall be notified immediately of any change in the location of the principal office,

(vi) that a person or company holding mining properties for the syndicate shall execute a declaration of trust in favour of the syndicate with respect to such mining properties,

(vii) that, after the sale for cash of any issued units of the syndicate, no mining properties may be acquired by the syndicate other than by staking unless such acquisition is approved by members of the syndicate holding at least two thirds of the issued units of the syndicate that have been sold for cash,

(viii) that the administrative expenditures of the syndicate, including, in addition to any other items, salaries, office expenses, advertising and commissions paid by the syndicate with respect to the sale of its units, are limited to one third of the total amount received by the treasury of the syndicate from the sale of its units,

(ix) that a statement of the receipts and disbursements of the syndicate must be furnished to the Director and to each member annually,

(x) that 90% of the vendor units of the syndicate must be escrowed units and may be released upon the consent of the Director and that any release of such units may not be in excess of one vendor unit for each unit of the syndicate sold for cash, and

(xi) that no securities, other than those of the syndicate's own issue, and no mining properties owned by the syndicate or held in trust for the syndicate may be disposed of unless such disposal is approved by members of the syndicate holding at least two thirds of the issued units of the syndicate other than escrowed units; and

(c) the agreement limits the capital of the syndicate to a sum not exceeding \$250,000.

(2) The Director may, in the Director's discretion, issue a receipt for a prospecting syndicate agreement filed under this Section and is not required to determine whether it is in conformity with clauses (1)(a), (b) and (c).

(3) After a receipt is issued by the Director for a prospecting syndicate agreement, the requirements of the *Partnerships and Business Names Registration Act* as to filing do not apply to the prospecting syndicate.

(4) No registered dealer shall trade in a security issued by a prospecting syndicate either as agent for the prospecting syndicate or as principal.

(5) The Director shall not refuse to issue a receipt under subsection (1) without giving the person or company who filed the prospecting syndicate agreement an opportunity to be heard. R.S., c. 418, s. 57; 1990, c. 15, s. 80.

Preliminary prospectus and prospectus

80 (1) Subject to any exemption in Nova Scotia securities laws, no person or company shall trade in a security on the person's or company's own

account or on behalf of any other person or company, if such trade would be a distribution of such security, unless a preliminary prospectus and a prospectus have been filed and receipts therefore have been issued by the Director.

(2) A preliminary prospectus and a prospectus may be filed in accordance with this Act to enable the issuer to become a reporting issuer, notwithstanding the fact that no distribution is contemplated. R.S., c. 418, s. 58; 1990, c. 15, s. 80; 2006, c. 46, s. 23.

Preliminary prospectus

81 (1) A preliminary prospectus must substantially comply with the requirements of this Act and the regulations respecting the form and content of a prospectus, except that the report or reports of the auditor or accountant required by the regulations need not be included.

(2) A preliminary prospectus may exclude information with respect to the price to the underwriter and offering price of any securities and other matters dependent upon or relating to such prices. R.S., c. 418, s. 59.

Receipt for preliminary prospectus

82 The Director shall issue a receipt for a preliminary prospectus forthwith upon the filing thereof. R.S., c. 418, s. 60; 1990, c. 15, s. 80.

Content of prospectus

83 (1) A prospectus must provide full, true and plain disclosure of all material facts relating to the securities issued or proposed to be distributed and must comply with the requirements of this Act and the regulations.

(2) The prospectus must contain or be accompanied by such interim financial reports and annual financial statements, reports or other documents as are required by this Act or the regulations. R.S., c. 418, s. 61; 2010, c. 73, s. 9.

Filing of amendment

84 (1) An amendment to a preliminary prospectus or a prospectus must be filed and delivered in accordance with the regulations.

(2) Where an amendment to a prospectus is filed for the purpose of distributing securities in addition to the securities previously disclosed in the prospectus or an amendment to the prospectus, the additional distribution must comply with the regulations. 2006, c. 46, s. 24.

Certificates required

85 A prospectus or an amendment to a prospectus filed under this Act must contain certificates in accordance with the regulations. 2006, c. 46, s. 24.

Required statements in offering memorandum

86 Every offering memorandum that has been furnished to a prospective purchaser in connection with a distribution of a security under an exemption from Section 80 that is specified in the regulations for the purpose of Section 143 must contain a statement of

(a) the rights given to a purchaser by Section 143 and a statement that such rights are in addition to any other right or remedy available at law to the purchaser; and

(b) the limits on the time within which an action to enforce a right under Section 143 must be commenced. R.S., c. 418, s. 65; 1990, c. 15, s. 40; 2006, c. 46, s. 25; 2014, c. 28, s. 17.

Receipt for prospectus

87 (1) Subject to subsection (2) and subsection 89(3), the Director shall issue a receipt for a prospectus filed unless it appears to the Director that it is not in the public interest to do so.

(2) The Director shall not issue a receipt for a prospectus if it appears to the Director that

(a) the prospectus or any document required to be filed with it

(i) does not comply in any substantial respect with any of the requirements of this Act or the regulations,

(ii) contains any statement, promise, estimate or forward-looking information that is misleading, false or deceptive, or

(iii) contains a misrepresentation;

(b) an unconscionable consideration has been paid or given or is intended to be paid or given for any services or promotional purposes or for the acquisition of property;

(c) the aggregate of

(i) the proceeds from the sale of the securities under the prospectus that are to be paid into the treasury of the issuer, and

(ii) the other resources of the issuer,

is insufficient to accomplish the purpose of the issue stated in the prospectus;

(d) the issuer cannot reasonably be expected to be financially responsible in the conduct of its business because of the financial condition of

(i) the issuer,

(ii) any of the issuer's officers, directors, promoters or control persons, or

(iii) the investment fund manager of the issuer or any of the investment fund manager's officer, directors or control persons;

(e) the business of the issuer may not be conducted with integrity and in the best interests of the security holders of the issuer because of the past conduct of

(i) the issuer,

- (ii) any of the issuer's officers, directors, promoters or control persons, or
 - (iii) the investment fund manager of the issuer or any of the investment fund manager's officers, directors or control persons;
 - (f) a person or company that has prepared or certified any part of the prospectus, or that is named as having prepared or certified a report or valuation used in connection with the prospectus, is not acceptable;
 - (g) an escrow or pooling agreement in the form that the Director considers necessary or advisable with respect to the securities has not been entered into; or
 - (h) adequate arrangements have not been made for the holding in trust of the proceeds payable to the issuer from the sale of securities pending the distribution of the securities.
- (3) The Director shall not refuse to issue a receipt under subsection (1) or (2) without giving the person or company who filed the prospectus an opportunity to be heard.
- (4) Where it appears to the Director that a preliminary prospectus, *pro forma* prospectus or prospectus raises a material question involving the public interest under subsection (1) or a new or novel question of interpretation under subsection (2) that might result in the Director refusing to issue a receipt under subsection (1) or (2), the Director may refer the question to the Commission for determination.
- (5) The Director shall state the question in writing setting out the facts upon which the question is based.
- (6) The question, together with any additional material, must be lodged by the Director with the Secretary of the Commission and a copy of the question must forthwith be served by the Secretary upon any interested person or company.
- (7) The Commission, after giving the parties an opportunity to be heard, shall consider and determine the question and refer the matter back to the Director for final consideration pursuant to subsections (1) and (2).
- (8) Subject to any order of the Nova Scotia Court of Appeal made under Section 27, the decision of the Commission on the question is binding on the Director.
- (9) In determining whether to issue a receipt for a prospectus pursuant to subsection (1), the Director shall consider those matters contained in the regulations and the published policies of the Commission. R.S., c. 418, s. 66; 1990, c. 15, ss. 41, 80; 2006, c. 46, s. 26.

Distribution after lapse date

88 (1) No distribution of a security to which subsection 80(1) applies continues after the prescribed lapse date, unless the distribution is in accordance with the regulations.

(2) Where a distribution to which subsection (1) applies is not in accordance with the regulations, all trades completed after the prescribed lapse date may be cancelled at the option of the purchaser in accordance with the regulations. 2006, c. 46, s. 27.

Short form prospectus and summary statement

89 (1) A person or company may, where permitted by the regulations, file a short form of preliminary prospectus, short form of prospectus, *pro forma* prospectus, preliminary simplified prospectus, simplified prospectus or *pro forma* simplified prospectus under Section 80 or 88 in the prescribed form and any such prospectus that complies with the regulations applicable thereto is, for the purpose of Section 83, considered to provide sufficient disclosure of all material facts relating to the securities issued or proposed to be distributed under the prospectus.

(2) A person or company may, if permitted by the regulations, file a summary statement as a separate document in the prescribed form together with a prospectus filed pursuant to Section 80 or 88.

(3) Where a summary statement is filed with a prospectus, the Director shall not issue a receipt for the prospectus if it appears to the Director that the summary statement does not comply with the regulations applicable thereto.

(4) A summary statement filed with a prospectus for which a receipt has been issued may be sent or delivered by a dealer to a purchaser of securities instead of a prospectus as required in Section 95, and, where a dealer so elects, the provisions of Sections 95 and 147 with respect to a prospectus apply with necessary modifications to a summary statement.

(5) Every summary statement sent or delivered to a purchaser must contain a statement informing the purchaser that a copy of the prospectus that was filed with the summary statement will be provided to the purchaser on request, and each person or company who signs or causes to be signed, as the case may be, the certificate contained in the prospectus shall ensure compliance with any such request.

(6) Where, during the distribution of a security under a prospectus, an order is made to cease trading in the security, or the receipt issued by the Director for the prospectus is revoked or the prospectus lapses or the use of a prospectus is otherwise prohibited by the Act, the regulations or by a decision of the Commission or an order of a court, a summary statement filed with the prospectus ceases to have force and effect for the purpose of Section 94 unless the Director otherwise orders.

(7) Nothing in this Section is to be construed to provide relief from liability arising under Section 142 where a misrepresentation is contained in a prescribed short form prospectus and, for the purpose of Section 142, where a misrepresentation is contained in a summary statement filed with a prospectus, the mis-

representation is deemed to be contained in the prospectus. R.S., c. 418, s. 68; 1990, c. 15, s. 80; 2006, c. 46, s. 28.

Orders to furnish information and waiver of requirements

90 (1) Where a person or company proposing to make a distribution of previously issued securities of an issuer is unable to obtain from the issuer of the securities information or material that is necessary for the purpose of complying with Sections 80 to 89 or the regulations, the Director may order the issuer of the securities to furnish to the person or company that proposes to make the distribution such information and material as the Director considers necessary for the purpose of the distribution, upon such terms and subject to such conditions as the Director considers proper, and all such information and material may be used by the person or company to whom it is furnished for the purpose of complying with Sections 80 to 89 and the regulations.

(2) Where a person or company proposing to make a distribution of previously issued securities of an issuer is unable to obtain any or all of the signatures to the certificates required by this Act or the regulations, or otherwise to comply with Sections 80 to 89 or the regulations, the Director may, upon being satisfied that all reasonable efforts have been made to comply with Sections 80 to 89 and the regulations and that no person or company is likely to be prejudicially affected by such failure to comply, make such order waiving any of the provisions of Sections 80 to 89 or the regulations as the Director considers advisable, upon such terms and subject to such conditions as the Director considers proper. R.S., c. 418, s. 69; 1990, c. 15, s. 80.

Distribution during waiting period

91 (1) In this Section, “waiting period” means the interval, as prescribed by the regulations, or, where no waiting period is prescribed, the interval between the issuance by the Director of a receipt for a preliminary prospectus relating to the offering of the security and the issuance by the Director of a receipt for the prospectus.

(2) Notwithstanding Section 80, but subject to Sections 69 to 78 inclusive, it is permissible during the waiting period

(a) to distribute a notice, circular, advertisement or letter to or otherwise communicate with any person or company identifying the security proposed to be issued, stating the price thereof, if then determined, the name and address of a person or company from whom purchases of the security may be made and containing such further information as may be permitted or required by the regulations, if every such notice, circular, advertisement, letter or other communication states the name and address of a person or company from whom a preliminary prospectus may be obtained;

(b) to distribute a preliminary prospectus; and

(c) to solicit expressions of interest from a prospective purchaser if, prior to such solicitation or forthwith after the prospective purchaser indicates an interest in purchasing the security, a copy of the preliminary prospectus is forwarded to the prospective purchaser. R.S., c. 418, s. 70; 1990, c. 15, s. 80; 2006, c. 46, s. 29.

Defective preliminary prospectus

92 Where it appears to the Director that a preliminary prospectus is defective in that it does not substantially comply with the requirements of this Act and the regulations as to form and content, the Director may, without giving notice, order that the trading permitted by subsection 91(2) in the security to which the preliminary prospectus relates must cease until a revised preliminary prospectus satisfactory to the Director is filed and forwarded to each recipient of the defective preliminary prospectus in accordance with the regulations. R.S., c. 418, s. 73; 1990, c. 15, s. 80; 2006, c. 46, s. 31.

Material given on distribution

93 From the date of the issuance by the Director of a receipt for a prospectus relating to a security, a person or company trading in the security in a distribution, either on the person's or company's own account or on behalf of any other person or company, may distribute the prospectus, any document filed with or referred to in the prospectus and any notice, circular, advertisement or letter of the nature described in clause 91(2)(a) or in the regulations, but shall not distribute any other printed or written material respecting the security that is prohibited by the regulations. R.S., c. 418, s. 74; 1990, c. 15, s. 80.

Order to cease trading

94 (1) Where it appears to the Commission after the filing of a prospectus under this Act and the issuance of a receipt therefor, that any of the circumstances set out in subsection 87(2) exist, the Commission may order that the distribution of the securities under the prospectus cease.

(2) No order may be made pursuant to subsection (1) without a hearing unless in the opinion of the Commission the length of time required for a hearing could be prejudicial to the public interest, in which case a temporary order may be made that expires 15 days from the date of the making thereof unless the hearing is commenced, in which case the Commission may extend the order until the hearing is concluded.

(3) A notice of every order made pursuant to this Section must be served upon the issuer to whose securities the prospectus relates, and forthwith upon the receipt of the notice

(a) distribution of the securities under the prospectus by the person or company named in the order must cease; and

(b) any receipt issued for the prospectus is revoked. R.S., c. 418, s. 75; 1990, c. 15, s. 43; 2002, c. 39, s. 4.

Obligation to deliver prospectus or prescribed disclosure document

95 (1) A dealer not acting as agent of the purchaser who receives an order or subscription for a security offered in a distribution to which subsection 80(1) or Section 88 is applicable shall, unless the dealer has previously done so, send by prepaid mail or deliver to the purchaser the latest prospectus and any amendment to the prospectus filed either before entering into an agreement of purchase and sale resulting from the order or subscription or not later than midnight on the second day, exclusive of Saturdays and holidays, after entering into such agreement.

(2) Subsection (1) does not apply to the dealer in respect of a purchase and sale of an investment fund security offered in a distribution described in that subsection if the regulations prescribe a disclosure document that is required in respect of the purchase and sale and the time and manner in which the disclosure document is to be sent or delivered to a purchaser.

(3) Subsection (1) does not apply in respect of a distribution of an investment fund security trading on an exchange or an alternative trading system prescribed by the regulations.

(4) A dealer acting as agent of the purchaser who receives an order from the purchaser for a purchase of an investment fund security trading on an exchange or an alternative trading system prescribed by the regulations shall send or deliver to the purchaser a prescribed disclosure document in accordance with the regulations.

(5) An agreement of purchase and sale referred to in subsection (1) is not binding upon the purchaser, if the dealer from whom the purchaser purchases the security receives written or telegraphic notice evidencing the intention of the purchaser not to be bound by the agreement of purchase and sale not later than midnight on the second day, exclusive of Saturdays and holidays, after receipt by the purchaser of

- (a) the latest prospectus and any amendment to the prospectus; or
- (b) the prescribed disclosure document referred to in subsection (2).

(6) A purchase referred to in subsection (4) is not binding on the purchaser in the circumstances prescribed by the regulations.

(7) Subsection (5) does not apply if the purchaser is a registrant or if the purchaser sells or otherwise transfers beneficial ownership of the security referred to in subsection (5), otherwise than to secure indebtedness, before the expiration of the time referred to in subsection (5).

(8) For the purpose of this Section, where the latest prospectus, any amendment to the prospectus or the prescribed disclosure document referred to in subsection (2) or (4) is sent by prepaid mail, it is conclusively deemed to have been received in the ordinary course of mail by the person or company to whom it was addressed.

(9) The receipt of the latest prospectus, any amendment to the prospectus or the prescribed disclosure document referred to in subsection (2) by a dealer who is acting as agent of or who thereafter commences to act as agent of the purchaser with respect to the purchase of a security to which subsection (1) or (2) applies is, for the purpose of this Section, receipt by the purchaser as of the date on which the agent received such latest prospectus, amendment to the prospectus or prescribed disclosure document, as the case may be.

(10) The receipt of the notice referred to in subsection (5) by a dealer who acted as agent of the vendor with respect to the sale of the security referred to in subsection (1) is, for the purpose of this Section, receipt by the vendor as of the date on which the agent received such notice.

(11) For the purpose of this Section, except subsection (4), a dealer shall not be considered to be acting as agent of the purchaser unless the dealer is acting solely as agent of the purchaser with respect to the purchase and sale in question and has not received and has no agreement to receive compensation from or on behalf of the vendor with respect to the purchase and sale.

(12) The onus of proving that the time for giving notice pursuant to subsection (5) has expired is upon the dealer from whom the purchaser has agreed to purchase the security. R.S., c. 418, s. 76; 2012, c. 34, s. 15; 2015, c. 51, s. 4.

Exemption from prospectus requirements

96 (1) Subject to the regulations, Sections 80 and 88 do not apply to a distribution where the trade is made by a co-operative in the course of a distribution by the co-operative of a security to a member of the co-operative or to a purchaser who becomes a member of the co-operative by virtue of the trade unless

(a) the aggregate acquisition cost of the security to the member or the purchaser and of all other securities of the co-operative purchased by the member or the purchaser in the preceding 365 days exceeds \$1,000; or

(b) the aggregate acquisition cost of the security to the member or the purchaser and of all other securities of the co-operative owned by the member or the purchaser exceeds \$10,000.

(2) In applying subsection (1), where the security is distributed

(a) in respect of a patronage dividend declared by the co-operative;

(b) in respect of the operation of a price check-off;

(c) in respect of a sale to a member of a producer co-operative; or

(d) pursuant to a prospectus,

the security must not be taken into consideration.

Director (3) Subject to the regulations, a co-operative shall file with the

(a) within 60 days after the calendar year end, a report prepared and executed in accordance with the regulations, describing all distributions of securities of the co-operative made in reliance on subsection (1), other than distributions referred to in subsection (2), if the total aggregate subscription price of the securities distributed in the calendar year exceeds \$200,000; and

(b) a copy of an offering memorandum that is sent or delivered to a member of a co-operative or a purchaser in connection with a distribution made in reliance on subsection (1), other than a distribution referred to in subsection (2), at least 10 days before the trade that is the first trade in respect of which the offering memorandum is sent or delivered.

(4) A copy of an offering memorandum that is required to be sent or delivered to a purchaser pursuant to subsection (1) or the regulations or is otherwise furnished to a purchaser in connection with a distribution to which Sections 80 and 88 do not apply by virtue of subsection (1) or the regulations shall be delivered to the Director, either in paper or electronic form, concurrently with or before the date upon which a report of the trade referred to in the regulations is required to be filed with the Director.

(5) The first and any subsequent trade by a member of a co-operative in a security of the co-operative previously acquired by the member pursuant to a distribution exempted from Sections 80 and 88 by subsection (1) is a distribution unless the trade is made to

- (a) the spouse of the member;
- (b) a child of the member or the member's spouse; or
- (c) a company controlled, in law and in fact, directly or indirectly, by the member, the spouse of the member, one or more children of the member, one or more children of the member's spouse or any combination of the foregoing.

(6) The Commission may publish a list of reporting issuers who are in default of any requirement of this Act or the regulations.

(7) Subject to the regulations, for the purpose of this Section and the regulations that apply for the purpose of this Section, an issuer is deemed to have been a reporting issuer from the date that it met the condition of the appropriate clause of the definition of "reporting issuer" in subsection 3(1) provided that in each case it is currently in compliance with the requirements of Nova Scotia securities laws. R.S., c. 418, s. 77; 1990, c. 15, ss. 45, 80; 2001, c. 41, s. 26; 2002, c. 39, s. 5; 2005, c. 27, s. 8; 2006, c. 46, s. 33; 2015, c. 51, s. 5; 2018, c. 42, s. 6.

Deemed trade by beneficial owner

97 A trade in a security by a lender, pledgee, mortgagee or other encumbrancer for the purpose of liquidating a bona fide debt by selling or offering for sale a security pledged, mortgaged or otherwise encumbered in good faith as collateral for the debt where the security is not beneficially owned by the lender, pledgee, mortgagee or other encumbrancer is deemed to be a trade on behalf of the beneficial owner for the purpose of clause (c) of the definition of "distribution" in subsection 3(1) and an exemption from Section 80 contained in Nova Scotia securities laws and the lender, pledgee, mortgagee or other encumbrancer may file all reports, notices, declarations and make disclosure to the Director on behalf of the beneficial owner. 1990, c. 15, s. 46; 2005, c. 27, s. 9.

Prospectus not required

98 Sections 80 and 88 do not apply to a distribution of securities

- (a) referred to in subsection 68(4), excepting clause (b) thereof; or
- (b) that are exempted by the regulations. R.S., c. 418, s. 78; 1990, c. 15, ss. 47, 80; 2006, c. 46, s. 34; 2008, c. 32, s. 12; 2010, c. 73, s. 10.

Determination by Commission

99 The Commission may, upon the application of an interested person or company, grant an exemption from Section 60 or 80 where it is satisfied that to do so would not be prejudicial to the public interest and may impose such terms and conditions as are considered necessary. 2008, c. 32, s. 13.

Determination by Commission

100 (1) The Commission may order or rule that any trade, intended trade, security, derivative, person or company is not subject to Section 60, 80 or 88 where it is satisfied that to do so would not be prejudicial to the public interest, and may impose such terms and conditions as are considered necessary.

(2) On the application of an issuer or the Director the Commission may, if in the opinion of the Commission to do so would not be prejudicial to the public interest, make an order declaring that a person or company is a reporting issuer and may impose such terms and conditions as are considered necessary.

(3) An order pursuant to subsection (2)

(a) may not be made without giving the person or company in respect of which the order is made an opportunity to have a hearing before the Commission; and

(b) may, at the direction of the Commission, come into force on a date prior to the day on which the order is made but must not result in the issuer being in non-compliance with a provision of this Act where, but for the order, the issuer was in compliance during the period the order was in force prior to the day on which it was made.

(4) An issuer who accepted or relied upon or accepts or relies upon an order, ruling or decision of the Commission made pursuant to Section 99 or subsection (1), either before or after July 15, 1991, is deemed to be a reporting issuer if such order, ruling or decision declares that the issuer is deemed to be a reporting issuer for any purpose of this Act or the regulations or if such order, ruling or decision is conditional upon the issuer complying with the Act as if it were a reporting issuer.

(5) The Commission may order or rule that any trade or class of trades is specified to be a distribution where, in the opinion of the Commission, to do so is in the public interest. 1990, c. 15, s. 49; 1996, c. 32, s. 7; 2014, c. 28, s. 18.

Disclosure by reporting issuer

101 (1) A reporting issuer shall, in accordance with the regulations, provide

(a) prescribed periodic disclosure about its business and affairs;

(b) disclosure of a material change; and

(c) other prescribed disclosure.

(2) An issuer that is not a reporting issuer shall disclose prescribed information in accordance with the regulations. 2006, c. 46, s. 35.

Material change and trading where undisclosed

102 (1) In this Section,

“person or company in a special relationship with a reporting issuer” means

(a) a person or company that is an insider, affiliate or associate of

(i) the reporting issuer,

(ii) a person or company that is considering or evaluating whether to make a take-over bid, as defined in Section 106, or that proposes to make a take-over bid, as defined in Section 106, for the securities of the reporting issuer, or

(iii) a person or company that is considering or evaluating whether to become a party, or that proposes to become a party, to a reorganization, amalgamation, merger, arrangement or similar business combination with the reporting issuer or to acquire a substantial portion of its property;

(b) a person or company that is engaging in any business or professional activity, that is considering or evaluating whether to engage in any business or professional activity or that proposes to engage in any business or professional activity where the business or professional activity is with or on behalf of the reporting issuer or with or on behalf of a person or company described in subclause (a)(ii) or (iii);

(c) a person who is a director, officer or employee of the reporting issuer, a subsidiary of the reporting issuer, a person or company that controls, directly or indirectly, the reporting issuer or a person or company described in subclause (a)(ii) or (iii) or clause (b);

(d) a person or company that learned of the material fact or material change with respect to the reporting issuer while the person or company was a person or company described in clause (a), (b) or (c); or

(e) a person or company that learns of a material fact or material change with respect to the issuer from any other person or company described in this definition, including a person or company described in this clause, and knows or ought reasonably to have known that the other person or company is a person or company in such a relationship;

“reporting issuer” means

(a) a reporting issuer; or

(b) any other issuer with a real and substantial connection to the Province and whose securities are publicly traded.

(2) No person or company in a special relationship with a reporting issuer shall purchase or sell securities of the reporting issuer with the knowledge of a material fact or material change with respect to the reporting issuer that has not been generally disclosed.

(3) No reporting issuer and no person or company in a special relationship with a reporting issuer shall inform, other than in the necessary course of business, another person or company of a material fact or material change with respect to the reporting issuer before the material fact or material change has been generally disclosed.

(4) No person or company that is considering or evaluating whether, or that proposes

(a) to make a take-over bid, as defined in Section 106, for the securities of a reporting issuer;

(b) to become a party to a reorganization, amalgamation, merger, arrangement or similar business combination with a reporting issuer; or

(c) to acquire a substantial portion of the property of a reporting issuer,

shall inform another person or company of a material fact or a material change with respect to the reporting issuer before the material fact or material change has been generally disclosed except where the information is given in the necessary course of business relating to the take-over bid, business combination or acquisition.

(5) No person or company shall be found to have contravened subsection (2), (3) or (4) if the person or company proves that the person or company reasonably believed that the material fact or material change had been generally disclosed.

(6) For the purpose of subsection (1), a security of the reporting issuer is deemed to include

(a) a put, call, option or other right or obligation to purchase or sell securities of the reporting issuer;

(b) a security, the market price of which varies materially with the market price of the securities of the issuer; or

(c) a related derivative. 1990, c. 15, s. 51; 2012, c. 34, s. 16; 2014, c. 28, s. 19.

Order relieving reporting issuer

103 Upon the application of a reporting issuer, the Commission may order, subject to such terms and conditions as it may impose, that the reporting issuer is deemed to have ceased to be a reporting issuer if it is satisfied that to do so would not be prejudicial to the public interest. 2006, c. 46, s. 37.

Compliance with regulations

104 (1) Where the regulations provide for the form, content, filing and sending of information circulars or form of proxy, any person or company that sends

or is required to send an information circular or a form of proxy to security holders of a reporting issuer shall do so in accordance with the regulations.

(2) A proxy that is executed by a security holder may confer authority, and is subject to any restrictions, as prescribed or otherwise provided for under the regulations. 2006, c. 46, s. 38.

Voting where proxies

105 The chair at a meeting has the right not to conduct a vote by way of ballot on any matter or group of matters in connection with which the form of proxy has provided a means whereby the person or company whose proxy is solicited may specify how such person or company wishes the securities registered in the person's or company's name to be voted unless

(a) a poll is demanded by any security holder present at the meeting in person or represented thereat by proxy; or

(b) proxies requiring that the securities represented thereby be voted against what would otherwise be the decision of the meeting in relation to such matters or group of matters total more than five per cent of all the voting rights attached to all the securities entitled to be voted and be represented at the meeting. R.S., c. 418, s. 93; 2012, c. 34, s. 17.

Interpretation of Sections 106 to 110

106 In this Section and Sections 107 to 110,

“interested person” means

(a) an issuer whose securities are the subject of a take-over bid, issuer bid or other offer to acquire;

(b) a security holder, director or officer of an issuer described in clause (a);

(c) an offeror;

(d) the Director; and

(e) any person or company not referred to in clauses (a) to (d) who, in the opinion of the Commission or the Supreme Court of Nova Scotia, as the case may be, is a proper person to make an application under Section 109 or 110;

“issuer bid” means a direct or indirect offer to acquire or redeem a security or a direct or indirect acquisition or redemption of a security that is

(a) made by the issuer of the security; and

(b) within a prescribed class of offers, acquisitions or redemptions;

“take-over bid” means a direct or indirect offer to acquire a security that is

(a) made directly or indirectly by a person or company other than the issuer of the security; and

(b) within a prescribed class of offers to acquire. 2006, c. 46, s. 39.

Requirement for take-over bid

107 A person or company shall not make a take-over bid or issuer bid, whether alone or acting jointly or in concert with one or more persons or companies, except in accordance with the regulations. 2006, c. 46, s. 39.

Acceptance or rejection of bid

108 (1) When a take-over bid has been made, the directors of the issuer whose securities are the subject of the bid shall

(a) determine whether to recommend acceptance or rejection of the bid or determine not to make a recommendation; and

(b) make the recommendation, or a statement that they are not making a recommendation, in accordance with the regulations.

(2) An individual director or officer of the issuer described in subsection (1) may recommend acceptance or rejection of the take-over bid if the recommendation is made in accordance with the regulations. 2006, c. 46, s. 39.

Order by Commission

109 (1) On application by an interested person, where the Commission considers that a person or company has not complied or is not complying with Sections 106 to 110 or the regulations, the Commission may make an order

(a) restraining the distribution of any document, record or materials used or issued in connection with a take-over bid or issuer bid;

(b) requiring an amendment to or variation of any document, record or materials used or issued in connection with a take-over bid or issuer bid and requiring the distribution of amended, varied or corrected information;

(c) directing any person or company to comply with Sections 106 to 110 or the regulations;

(d) restraining any person or company from contravening Sections 106 to 110 or the regulations;

(e) directing the directors and officers of any person or company to cause the person or company to comply with or to cease contravening Sections 106 to 110 or the regulations.

(2) On application by an interested person, the Commission may order that a person or company is exempt from any requirement under Sections 106 to 110 or the regulations if the Commission considers it would not be prejudicial to the public interest to do so. 2006, c. 46, s. 39.

Order by Supreme Court

110 (1) On application by an interested person, where the Supreme Court of Nova Scotia is satisfied that a person or company has not complied with Sections 106 to 110 or the regulations, the Supreme Court of Nova Scotia may make

an interim or final order as the court sees fit, including, without limiting the foregoing, an order

(a) compensating any interested person who is a party to the application for damages suffered as a result of a contravention of Sections 106 to 110 or the regulations;

(b) rescinding a transaction with any interested person, including the issue of a security or a purchase and sale of a security;

(c) requiring any person or company to dispose of any securities acquired pursuant to or in connection with a take-over bid or issuer bid;

(d) prohibiting any person or company from exercising any or all of the voting rights attached to any securities; or

(e) requiring the trial of an issue.

(2) Where the Director is not the applicant under subsection (1),

(a) must be given notice of the application; and

(b) is entitled to appear at the hearing and make representations to the Supreme Court of Nova Scotia. 2006, c. 46, s. 39.

Interpretation of Sections 111 to 126

111 (1) For the purpose of this Section and Sections 112 to 126,

“mutual fund” means, except in Section 115, a mutual fund that is a reporting issuer;

“related mutual funds” includes more than one mutual fund under common management;

“related person or company” in relation to a mutual fund means a person in whom, or a company in which, the mutual fund, its management company and its distribution company are prohibited by the provisions of this Section and Sections 112 to 126 from making any investment.

(2) For the purpose of this Section and Sections 112 to 126,

(a) any issuer in which a mutual fund holds in excess of 10% of the voting securities or in which the mutual fund and related mutual funds hold in excess of 20% of the voting securities is deemed to be a related person or company of that mutual fund or of each of those mutual funds; and

(b) the acquisition or disposition of a put, call or other option with respect to a security is deemed a change in the beneficial ownership of the security to which such put, call or other option relates. R.S., c. 418, s. 112; 1990, c. 15, s. 57; 2006, c. 46, s. 40.

Report of and disclosure by insider

112 An insider of a reporting issuer shall file reports and make disclosure in accordance with the regulations. 2006, c. 46, s. 41.

Disclosure of and compliance by beneficial owner or person controlling

113 Where a person or company acquires beneficial ownership, directly or indirectly of, or direct or indirect control or direction over, securities of a prescribed type or class of a reporting issuer representing a prescribed percentage of the outstanding securities of that type or class, the person or company and any person or company acting jointly or in concert with the person or company shall make and file disclosure in accordance with the regulations and comply with any prohibitions in the regulations on transactions in securities of the reporting issuer. 2006, c. 46, s. 41.

Interpretation of Sections 115 to 119

114 For the purpose of Sections 115 to 119,

(a) “investment” means a purchase of any security of any class of securities of an issuer including bonds, debentures, notes or other evidences of indebtedness thereof, and a loan to persons or companies but does not include an advance or loan, whether secured or unsecured, that is made by a mutual fund, its management company or its distribution company that is merely ancillary to the main business of the mutual fund, its management company or its distribution company;

(b) a person or company or a group of persons or companies has a significant interest in an issuer, if

(i) in the case of a person or company, the person or company, as the case may be, owns beneficially, either directly or indirectly, more than 10%, or

(ii) in the case of a group of persons or companies, they own beneficially, either individually or together and either directly or indirectly, more than 50%, of the outstanding shares or units of the issuer;

(c) a person or company or a group of persons or companies is a substantial security holder of an issuer if that person or company or group of persons or companies owns beneficially, either individually or together or directly or indirectly, voting securities to which are attached more than 20% of the voting rights attached to all the voting securities of the issuer for the time being outstanding, but in computing the percentage of voting rights attached to voting securities owned by an underwriter, there shall be excluded any voting securities acquired by the underwriter as underwriter in a distribution of such securities but such exclusion ceases to have effect on completion or cessation of the distribution by the underwriter;

(d) where a person or company or group of persons or companies owns beneficially, directly or indirectly, or pursuant to this clause is deemed to own beneficially, voting securities of an issuer, that person or company or group of persons or companies is deemed to own beneficially a proportion of voting securities of any other issuer that are owned beneficially, directly or indirectly, by the first mentioned issuer, which proportion shall equal the proportion of the voting securities of the first mentioned issuer that are owned beneficially, directly or indirectly, or that pursuant to this clause are deemed to be owned beneficially, by that person or company or group of persons or companies. R.S., c. 418, s. 118.

Prohibited investment by mutual fund

115 (1) No mutual fund in the Province shall knowingly make an investment by way of loan to

(a) any officer or director of the mutual fund, its management company or distribution company or an association of any of them; or

(b) any individual, where the individual or an associate of the individual is a substantial security holder of the mutual fund, its management company or distribution company.

(2) No mutual fund in the Province shall knowingly make an investment

(a) in any person or company who is a substantial security holder of the mutual fund, its management company or distribution company;

(b) in any person or company in which the mutual fund, alone or together with one or more related mutual funds, is a substantial security holder; or

(c) in an issuer in which

(i) any officer or director of the mutual fund, its management company or distribution company or an associate of any of them, or

(ii) any person or company who is a substantial security holder of the mutual fund, its management company or its distribution company,

has a significant interest.

(3) No mutual fund in the Province or its management company or its distribution company shall knowingly hold an investment made after October 15, 1987, that is an investment described in this Section. R.S., c. 418, s. 119.

Prohibited arrangement respecting mutual fund

116 No mutual fund or its management company or its distribution company shall knowingly enter into any contract or other arrangement that results in its being directly or indirectly liable or contingently liable in respect of any investment by way of loan to, or other investment in, a person or company to whom it is by Section 115 prohibited from making a loan or in which it is prohibited from making any other investment, and for the purpose of Section 115 any such contract or other arrangement is deemed to be a loan or an investment, as the case may be. R.S., c. 418, s. 120.

Relieving order

117 Upon an application of an interested person or company, the Commission may, where it is satisfied

(a) that a class of investment or a particular investment represents the business judgment of responsible persons uninfluenced by considerations other than the best interests of a mutual fund; or

(b) that a particular investment is in fact in the best interests of a mutual fund,

order, subject to such terms and conditions as it may impose, that Section 115 or 116 does not apply to the class of investment, particular investment, contract or other arrangement, as the case may be. R.S., c. 418, s. 121; 1990, c. 15, s. 60.

Exception to investment prohibition

118 Notwithstanding clause 114(d), a mutual fund is not prohibited from making an investment in an issuer only because a person or company or a group of persons or companies who own beneficially, directly or indirectly, or are deemed to own beneficially, voting securities of the mutual fund or its management company or its distribution company are by reason thereof deemed to own beneficially voting securities of the issuer. R.S., c. 418, s. 122.

Fees on investment

119 (1) No mutual fund shall make any investment in consequence of which a related person or company of the mutual fund will receive any fee or other compensation except fees paid pursuant to a contract that is disclosed in any preliminary prospectus or prospectus, or any amendment to either of them, that is filed by the mutual fund and is accepted by the Director.

(2) The Commission may, upon the application of a mutual fund and where it is satisfied that it would not be prejudicial to the public interest to do so, order, subject to such terms and conditions as it may impose, that subsection (1) does not apply to the mutual fund. R.S., c. 418, s. 123; 1990, c. 15, ss. 61, 80.

Filing by management company

120 (1) Every management company shall file a report prepared in accordance with the regulations of

(a) every transaction of purchase or sale of securities between the mutual fund and any related person or company;

(b) every loan received by the mutual fund from, or made by the mutual fund to, any of its related persons or companies;

(c) every purchase or sale effected by the mutual fund through any related person or company with respect to which the related person or company received a fee either from the mutual fund or from the other party to the transaction or from both; and

(d) any transaction in which, by arrangement other than an arrangement relating to insider trading in portfolio securities, the mutual fund is a joint participant with one or more of its related persons or companies,

in respect of each mutual fund to which it provides services or advice, within 30 days after the end of the month in which it occurs.

(2) The Commission may, upon the application of the management company of a mutual fund and where it is of the opinion that it would not be prejudicial to the public interest to do so, order, subject to such terms and conditions as it may impose, that subsection (1) does not apply to any transaction or class of transactions. R.S., c. 418, s. 125; 1990, c. 15, s. 62.

Trades by mutual fund insiders

121 No person or company who has access to information concerning the investment program of a mutual fund or the investment portfolio managed for a client by a portfolio manager shall purchase or sell securities of an issuer for the person's or company's account where the portfolio securities of the mutual fund or the investment portfolio managed for a client by a portfolio manager includes securities of that issuer and where the information is used by the person or company for the person's or company's direct benefit or advantage. R.S., c. 418, s. 127.

Approved transaction

122 Where the regulations so provide, a body established under subsection 125(1) by an investment fund may approve a transaction that is prohibited under Sections 111 to 121 and, in that case, the prohibition does not apply to the transaction. 2006, c. 46, s. 43.

“prescribed” defined

123 In Sections 124 and 125, “prescribed” means prescribed in the regulations. 2006, c. 46, s. 43.

Compliance with requirements

124 For the purpose of this Act, a reporting issuer shall comply with such requirements as may be prescribed with respect to the governance of reporting issuers, including requirements relating to

- (a) the composition of its board of directors and qualifications for membership on the board, including matters respecting the independence of members;
- (b) the establishment of specified types of committees of the board of directors, the mandate, functioning and responsibilities of each committee, the composition of each committee and the qualifications for membership on the committee, including matters respecting the independence of members;
- (c) the establishment and enforcement of a code of business conduct and ethics applicable to its directors, officers and employees and applicable to persons or companies that are in a special relationship with the reporting issuer, including the minimum requirements for such a code; and
- (d) procedures to regulate conflicts of interest between the interests of the reporting issuer and those of a director or officer of the issuer. 2006, c. 46, s. 43.

Oversight body

125 (1) Where required to do so by the regulations, an investment fund shall establish and maintain a body for the purpose of overseeing activities of the investment fund and the investment fund manager, reviewing or approving prescribed matters affecting the investment fund, including transactions referred to in Section 122, and disclosing information to security holders of the fund, to the investment fund manager and to the Commission.

(2) The body referred to in subsection (1) has such powers and duties as may be prescribed. 2006, c. 46, s. 43.

Exemption

126 (1) Where the laws of the jurisdiction in which the reporting issuer is incorporated, organized or continued require substantially the same reports in that jurisdiction as are required by this Act, the filing requirements of this Act may be complied with by filing reports required by the laws of such jurisdiction manually signed or certified in accordance with the regulations.

(2) Subject to subsection (1), the Commission may

(a) upon the application of an interested person or company

(i) where a requirement of Sections 111 to 126, conflicts with a requirement of the laws of the jurisdiction under which the reporting issuer is incorporated, organized or continued, or

(ii) where otherwise satisfied in the circumstances of the particular case that there is adequate justification for so doing; or

(b) of its own motion,

make an order on such terms and conditions as seem to the Commission just and expedient, exempting in whole or in part, a person or company, class of persons or companies or class of transactions from the requirements of Sections 111 to 126. R.S., c. 418, s. 128; 1990, c. 15, s. 64.

Offences

127 (1) Every person or company who

(a) makes a statement in any material, evidence or information submitted or given under Nova Scotia securities laws to the Commission, its representative, the Director or any person appointed to make an investigation or audit under this Act that, at the time and in the light of the circumstances under which it is made, is a misrepresentation;

(b) makes a statement in any application, release, report, preliminary prospectus, prospectus, offering memorandum, return, financial statement, information circular, take-over bid circular, issuer bid circular or other document required to be filed, sent, delivered or furnished under Nova Scotia securities laws that, at the time and in the light of the circumstances under which it is made, is a misrepresentation;

(c) contravenes Nova Scotia securities laws; or

(d) fails to observe or to comply with any direction, decision, ruling, order or other requirement made under Nova Scotia securities laws,

is guilty of an offence and is liable to a fine of not more than \$5,000,000 or to imprisonment for a term of not more than five years less a day, or to both.

(2) Clauses (1)(a) and (b) do not apply to a statement made or given to the Commission in a submission in respect of a proposed rule or policy.

(3) No person or company is guilty of an offence under clause (1)(a) or (b) if the person or company, as the case may be, did not know and in the exercise of reasonable diligence could not have known that the statement was a misrepresentation.

(4) No person is guilty of an offence under clause (1)(c) for contravening subsection 136(10) if the person did not know, and in the exercise of reasonable diligence would not have known, that the act or course of conduct in which the person engaged caused that person to contravene subsection 136(10).

(5) Where a company or a person other than an individual is guilty of an offence under subsection (1), every director or officer of such company or person who authorized, permitted or acquiesced in such offence is also guilty of an offence and on summary conviction is liable to a fine of not more than \$5,000,000 or to imprisonment for a term of not more than five years less a day, or to both.

(6) Notwithstanding subsection (1) and in addition to any imprisonment imposed under subsection (1), a person or company who is convicted of contravening subsection 102(2), (3) or (4) is liable to a minimum fine equal to the profit made or the loss avoided by the person or company by reason of the contravention and a maximum fine equal to the greater of

(a) \$5,000,000; and

(b) the amount equal to triple the amount of the profit made or the loss avoided by the person or company by reason of the contravention.

(7) Where it is not possible to determine the profit made or loss avoided by the person or company by reason of the contravention, subsection (6) does not apply but subsection (1) continues to apply.

(8) In subsections (6) and (7),

“loss avoided” means the amount by which the amount received for the security sold in contravention of subsection 102(2) exceeds the average trading price of the security in the 20 trading days following general disclosure of the material fact or the material change;

“profit made” means

(a) the amount by which the average trading price of the security in the 20 trading days following general disclosure of the material fact or the material change exceeds the amount paid for the security purchased in contravention of subsection 102(2);

(b) in respect of a short sale, the amount by which the amount received for the security sold in contravention of subsection 102(2) exceeds the average trading price of the security in the 20 trading days following general disclosure of the material fact or the material change; or

(c) the value of any consideration received for informing another person or company of a material fact or

material change with respect to the reporting issuer in contravention of subsection 102(3) or (4). R.S., c. 418, s. 129; 1990, c. 15, ss. 65, 80; 2006, c. 46, s. 44; 2016, c. 16, s. 1.

More than one offence

128 An information in respect of any contravention of this Act may be for one or more offences, and no information, summons, warrant, conviction or other proceeding in any prosecution is objectionable or insufficient by reason of the fact that it relates to two or more offences. R.S., c. 418, s. 131.

Execution of warrant

129 (1) Where a provincial judge, magistrate or justice of the peace of another province of Canada issues a warrant for the arrest of any person on a charge of contravening any provision of a statute of such province or territory similar to this Act, any judge of the Provincial Court or justice of the peace within whose jurisdiction that person is or is suspected to be, may, upon satisfactory proof of the handwriting of the provincial judge, magistrate or a justice of the peace who issued the warrant, make an endorsement thereon in the form prescribed by the regulations, and a warrant so endorsed is sufficient authority to the person bringing the warrant and to all other persons to whom it was originally directed and to all constables within the territorial jurisdiction of the judge of the Provincial Court or justice of the peace so endorsing the warrant to execute it within that jurisdiction and to take the person arrested thereunder either out of or anywhere in the Province and to rearrest such person anywhere in the Province.

(2) Any constable of the Province or of any other province of Canada who is passing through the Province having in the constable's custody a person arrested in another province under a warrant endorsed under subsection (1) is entitled to hold, take and rearrest the accused anywhere in the Province under such warrant without proof of the warrant or the endorsement thereof. R.S., c. 418, s. 132.

Misleading appearance or fraud

130 (1) A person or company shall not, directly or indirectly, engage or participate in any act, practice or course of conduct relating to securities, derivatives or the underlying interest of a derivative that the person or company knows or reasonably ought to know

(a) results in or contributes to a misleading appearance of trading activity in, or an artificial price for or artificial value of, a security, derivative or underlying interest of a derivative; or

(b) perpetrates a fraud on any person or company.

(2) A person or company shall not, directly or indirectly, attempt to engage or participate in any act, practice or course of conduct that is contrary to subsection (1). 2014, c. 28, s. 20.

Misleading or untrue statement

131 (1) A person or company shall not make a statement that the person or company knows or reasonably ought to know

(a) in a material respect and at the time and in the light of the circumstances under which it is made, is misleading or untrue or does not state a fact that is required to be stated or that is necessary to make the statement not misleading; and

(b) would reasonably be expected to have a significant effect on the market price or value of a security, derivative or underlying interest of a derivative.

(2) A breach of subsection (1) does not give rise to a statutory right of action for damages otherwise than under Sections 142 to 166. 2006, c. 46, s. 45; 2014, c. 28, s. 21.

Prohibition—abetting

132 No person or company shall do or omit to do anything the person or company knows or reasonably ought to know aids, abets or counsels any other person or company to contravene Nova Scotia securities laws. 2021, c. 17, s. 2.

Order for compliance

133 (1) The Commission may apply to the Supreme Court of Nova Scotia for a declaration that a person or company has not complied with or is not complying with Nova Scotia securities laws.

(2) The Commission is not required, before making an application under subsection (1), to hold a hearing to determine whether the person or company has not complied with or is not complying with Nova Scotia securities laws.

(3) An application under this Section may be made *ex parte* if the court considers it proper in the circumstances.

(4) Where the Supreme Court of Nova Scotia makes a declaration under subsection (1), the Supreme Court may, notwithstanding the imposition of any other penalty on the person or company and notwithstanding any order made by the Commission, make any order that the Supreme Court considers appropriate against the person or company, including, without limiting the generality of the foregoing, one or more of the following orders:

(a) an order that the person or company comply with Nova Scotia securities laws;

(b) an order requiring the person or company to submit to a review by the Commission of the person's or company's practices and procedures and to institute such changes as may be directed by the Commission;

(c) an order directing that a release, report, preliminary prospectus, prospectus, return, financial statement, information circular, take-over bid circular, issuer bid circular, offering memorandum, proxy solicitation or any other document described in the order

(i) be provided by the person or company to another person or company,

(ii) not be provided by the person or company to another person or company, or

- (iii) be amended by the person or company to the extent that amendment is practicable;
 - (d) an order rescinding any transaction entered into by the person or company relating to trading in securities including the issuance of securities;
 - (e) an order requiring the issuance, cancellation, purchase, exchange or disposition of any securities by the person or company;
 - (f) an order prohibiting the voting or exercise of any other right attaching to securities by the person or company;
 - (g) an order prohibiting the person from acting as officer or director or prohibiting the person or company from acting as promoter of any market participant permanently or for such period as is specified in the order;
 - (h) an order appointing officers and directors in place of or in addition to all or any of the officers and directors of the company then in office;
 - (i) an order directing the person or company to purchase securities of a security holder;
 - (j) an order directing the person or company to repay to a security holder any part of the money paid by the security holder for securities;
 - (k) an order requiring the person or company to produce to the court or an interested person financial statements in the form required by Nova Scotia securities laws or an accounting in such other form as the court may determine;
 - (l) an order directing rectification of the registers or other records of the company;
 - (m) an order requiring the person or company to compensate or make restitution to an aggrieved person or company;
 - (n) an order requiring the person or company to pay general or punitive damages to any other person or company;
 - (o) an order requiring the person or company to disgorge to the Minister any amounts obtained as a result of the non-compliance with Nova Scotia securities laws;
 - (p) an order requiring the person or company to rectify any past non-compliance with Nova Scotia securities laws to the extent that rectification is practicable;
 - (q) an order directing the officers and directors of the person or company to cause the person or company to comply with Nova Scotia securities laws.
- (5) On an application under this Section the Supreme Court of Nova Scotia may make such interim orders as it considers appropriate.
- (6) An appeal lies to the Nova Scotia Court of Appeal from an order made pursuant to subsection (4). R.S., c. 418, s. 133; 1990, c. 15, s. 66; 2006, c. 46, ss. 46, 64; 2008, c. 32, s. 15; 2018, c. 42, s. 8.

Order by Commission

134 (1) Where the Commission considers it to be in the public interest, the Commission, after a hearing, may order

(a) that a person or company comply with or cease contravening, and that the directors and senior officers of the person or company cause the person or company to comply with or cease contravening,

(i) a provision of Nova Scotia securities laws,

(ii) a decision, whether or not the decision has been made a rule or order of the Supreme Court of Nova Scotia, or

(iii) a bylaw, rule or other regulatory instrument or policy or a direction, decision, order or ruling made under a bylaw, rule or other regulatory instrument, or policy of a self-regulatory organization, exchange, quotation and trade reporting system, clearing agency, derivatives trading facility or derivatives trade repository, as the case may be, that has been recognized by the Commission;

(b) that

(i) all persons or companies,

(ii) the person or company or persons or companies named or described in the order, or

(iii) one or more classes of persons or companies,

cease trading in a specified security or derivative, in a class of securities or derivatives or in all classes of securities or derivatives;

(c) that the acquisition of any securities by a particular person or company is prohibited permanently or for the period specified in the order;

(d) that any or all of the exemptions contained in Nova Scotia securities laws do not apply to a person or company permanently or for such period as is specified in the order;

(e) that a person

(i) resign any position that the person holds as a director or officer of an issuer, registrant or investment fund manager, and

(ii) is prohibited from becoming or acting as a director or officer of any issuer, registrant or investment fund manager;

(f) where a person or company has not complied with Nova Scotia securities laws, that the person or company disgorge to the Commission any amounts obtained as a result of the non-compliance;

(g) that a registrant, issuer or investment manager

(i) is prohibited from disseminating to the public, or authorizing the dissemination to the public, of any information or record of any kind that is described in the order,

(ii) is required to disseminate to the public, by the method described in the order, any information or record relating to the affairs of the registrant or issuer or investment manager that the Commission considers must be disseminated, or

(iii) is required to amend, in the manner specified in the order, any information or record of any kind described in the order before disseminating the information or record to the public or authorizing its dissemination to the public;

(h) that the registration of a registrant is suspended, cancelled or restricted, subject to such terms and conditions as the Commission may impose, or that terms and conditions be imposed upon a registration;

(i) that a person or company is prohibited from becoming or acting as a registrant, investment fund manager or promoter; or

(j) that a person or company be reprimanded.

(2) The Commission may, after providing an opportunity to be heard, make an order under clauses (1)(a) to (j) against a director or officer of a company or of a person other than an individual who authorizes, permits or acquiesces in the contravention of Nova Scotia securities laws or conduct contrary to the public interest.

(3) Where the Commission considers that the length of time required to hold a hearing pursuant to subsection (1), other than pursuant to clause (1)(f) or subclause (1)(g)(ii) or (iii), could be prejudicial to the public interest, the Commission may make a temporary order without a hearing, to have effect for not longer than 15 days after the date the temporary order is made.

(4) Where the Commission considers it necessary and in the public interest, the Commission may, without a hearing, make an order extending a temporary order until a hearing is held and a decision is rendered.

(5) The Commission shall send written notice of every temporary order made pursuant to this Section to any person or company that is directly affected by the order.

(6) Where notice of a temporary order is sent pursuant to subsection (5), the notice must be accompanied by a notice of hearing and review to be held before the Commission, which hearing and review is deemed to be a hearing and review pursuant to Section 7.

(7) The Commission may make a cease trading order pursuant to clause (1)(b) notwithstanding a material change report being delivered to it on a confidential basis under the regulations. 1990, c. 15, s. 67; 2005, c. 27, s. 12; 2006, c. 46, s. 47; 2008, c. 32, s. 16; 2010, c. 73, s. 12; 2012, c. 34, s. 18; 2014, c. 28, s. 22; 2015, c. 51, s. 6; 2016, c. 16, s. 2.

Order without hearing

135 (1) For the reasons set out in subsection (2), the Commission or the Director may, without providing an opportunity to be heard, order one or more of the following:

- (a) that trading or purchasing cease in respect of any security specified in the order;
 - (b) that a person or company cease trading in or purchasing securities, specified securities or a class of securities specified in the order.
- (2) The Commission or the Director may make an order under subsection (1) if the issuer of the security or the person or company in respect of which the order is made
- (a) fails to file a document required to be filed under Nova Scotia securities laws; or
 - (b) files a document required to be filed under Nova Scotia securities laws that has not been completed in accordance with Nova Scotia securities laws.
- (3) An order made under subsection (1) must be revoked as soon as practicable after the document referred to in the order is completed in accordance with Nova Scotia securities laws and filed.
- (4) The Commission or the Director, as the case may be, shall send to any person or company directly affected by an order under subsection (1)
- (a) written notice of the order; and
 - (b) written notice of a revocation of the order, if any. 2014, c. 28, s. 23.

Extra-provincial orders

136 (1) In this Section,

“securities regulatory authority in Canada” means a securities commission, or another person or body, empowered by law to regulate trading in securities or derivatives in, or to administer or enforce the securities or derivatives laws of, any province of Canada, or any other person or body prescribed by the regulations, but does not include a self-regulatory organization, exchange, clearing agency, quotation and trade reporting system or credit rating organization;

“securities regulatory authority outside Canada” means a securities commission, a self-regulatory organization, an exchange or another person or body, empowered by law to regulate trading in securities or derivatives in, or to administer or enforce the securities or derivatives laws of, any jurisdiction outside of Canada.

- (2) Notwithstanding the requirement for a hearing in subsection 134(1), the Commission may, with or without providing an opportunity to be heard, make an order under clauses 134(1)(a) to (j) in respect of a person or company if the person or company
- (a) has been convicted in Canada or elsewhere of an offence
 - (i) arising from a transaction, business or course of conduct related to securities or derivatives, or

- (ii) under laws respecting trading in securities or derivatives;
- (b) has been found by a court in Canada or elsewhere to have contravened laws respecting trading in securities or derivatives;
- (c) is subject to an order made by
 - (i) a securities regulatory authority outside Canada,
 - (ii) a recognized self-regulatory organization in Canada, or
 - (iii) an exchange in Canada,
 imposing sanctions, conditions, restrictions or requirements on the person or company; or
- (d) has agreed with
 - (i) a securities regulatory authority outside Canada,
 - (ii) a recognized self-regulatory organization in Canada, or
 - (iii) an exchange in Canada,
 to be subject to sanctions, conditions, restrictions or requirements.

(3) Subject to subsection (5), an order made by a securities regulatory authority in Canada imposing sanctions, conditions, restrictions or requirements on a person or company takes effect in the Province, without notice to that person or company and without a hearing or opportunity to be heard, as if the order were made by the Commission, with such modifications as the circumstances require.

(4) Subject to subsection (5), where a person or company is subject to sanctions, conditions, restrictions or requirements pursuant to an agreement with a securities regulatory authority in Canada, those sanctions, conditions, restrictions or requirements apply to that person or company, without notice to that person or company and without a hearing or opportunity to be heard, as if the agreement had been made with the Commission, with such modifications as the circumstances require.

(5) An order referred to in subsection (3), or an agreement referred to in subsection (4), must have

- (a) arisen as a result of findings or admissions of a contravention of laws respecting the trading in securities or derivatives, or conduct contrary to the public interest; and
- (b) been made or entered into on or after May 20, 2016,

in order to satisfy the requirements of subsection (3) or (4), as the case may be.

(6) Where an order referred to in subsection (3), or an agreement referred to in subsection (4), does not satisfy the requirements of subsection (5), notwithstanding the requirement for a hearing in subsection 134(1), the Commission may, with or without providing an opportunity to be heard, make an order under clauses 134(1)(a) to (j) in respect of the person or company that is the subject of the order or agreement, as the case may be.

(7) Where an order is made by the Commission pursuant to subsection (2) or (6), the Commission shall send a copy of the order to the person or company against whom the order was made.

(8) Notwithstanding subsections (3) and (4),

(a) no person or company is required to pay the Commission or any other person or company any administrative penalty, costs or other funds as a result of the operation of this Section;

(b) no order issued by, or agreement entered into with, a securities regulatory authority in Canada solely based on

(i) an order issued by another securities regulatory authority in Canada imposing sanctions, conditions, restrictions or requirements, or

(ii) an agreement with another securities regulatory authority in Canada to be subject to sanctions, conditions, restrictions or requirements,

satisfies the requirements of subsection (3) or (4), as the case may be;

(c) where

(i) an order issued by a securities regulatory authority in Canada imposing sanctions, conditions, restrictions or requirements is overturned, vacated, revoked or otherwise held to be of no force and effect pursuant to applicable laws, or

(ii) an agreement with another securities regulatory authority in Canada to be subject to sanctions, conditions, restrictions or requirements is set aside, revoked or otherwise held to be of no force and effect either pursuant to applicable laws or on consent of the parties to the agreement,

that order or agreement ceases to satisfy the requirements of subsection (3) or (4), as the case may be; and

(d) where

(i) an order issued by a securities regulatory authority in Canada imposing sanctions, conditions, restrictions or requirements, other than an order excluded from this Section pursuant to clause (b), is varied or amended pursuant to applicable laws, or

(ii) an agreement with another securities regulatory authority in Canada to be subject to sanctions, conditions, restrictions or requirements, other than an agreement excluded from this Section pursuant to clause (b), is varied or amended either pursuant to applicable laws or on consent of the parties to the agreement,

that order or agreement applies in the Province as varied or amended.

- (9) On the application of
- (a) the Director, in respect of a person or company who is subject to sanctions, conditions, restrictions or requirements imposed by, or agreed to with, a securities regulatory authority in Canada; or
 - (b) a person or company who is subject to sanctions, conditions, restrictions or requirements imposed by, or agreed to with, a securities regulatory authority in Canada,

the Commission may, after providing the Director and the person or company an opportunity to be heard, make a declaration clarifying or varying the application of subsection (3) or (4), as the case may be, to the person or company, and that declaration is binding on the person or company and the Commission.

(10) A person or company shall comply with an order that is deemed to have been made pursuant to subsection (3) or an agreement that is deemed to have been made with the Commission pursuant to subsection (4), including any declaration made by the Commission pursuant to subsection (9). 2016, c. 16, s. 3.

Administrative penalty

137 Where the Commission, after a hearing,

- (a) determines that
 - (i) a person or company has contravened or failed to comply with any provision of Nova Scotia securities laws, or
 - (ii) a director or officer of a person or company or a person other than an individual authorized, permitted or acquiesced in a contravention or failure to comply with any provision of Nova Scotia securities laws by the person or company; and
- (b) considers it to be in the public interest to make the order,

the Commission may order the person or company to pay an administrative penalty of not more than \$1,000,000 for each contravention or failure to comply. 2006, c. 46, s. 48.

Payment of costs

138 The Commission may, after a hearing, order a person or company convicted of an offence or against whom an order has been made pursuant to Section 133, 134 or 137 to pay costs in connection with the investigation and prosecution of the offence or the investigation and conduct of the proceeding in respect of which the order was made pursuant to Section 133, 134 or 137, such costs not to exceed the costs prescribed in the regulations. 1996, c. 32, s. 9.

Costs of hearing

139 Where the Commission, after a hearing and review of a decision, order or ruling of a self-regulatory organization, considers it to be in the public interest to make an order, the Commission may order the self-regulatory organization or the person or company that requested the hearing and review to pay the costs of or related to the hearing and review that are incurred by or on behalf of the Commission. 2008, c. 32, s. 17.

Limitation period

140 (1) No proceedings may be commenced in a court more than six years from the date of the occurrence of the last event upon which the proceeding is based.

(2) No proceedings under this Act may be commenced before the Commission more than six years from the date of the occurrence of the last event upon which the proceeding is based. 2003, c. 7, s. 6.

Power to impose terms and conditions

141 Where the Commission makes an order pursuant to Section 134 or 137, the Commission may do so on such terms and conditions as the Commission considers necessary or appropriate. 1996, c. 32, s. 10.

Misrepresentation in prospectus

142 (1) Where a prospectus together with any amendment to the prospectus contains a misrepresentation, a purchaser who purchases a security offered thereby during the period of distribution is deemed to have relied on such misrepresentation if it was a misrepresentation at the time of purchase and has a right of action for damages against

(a) the issuer or a selling security holder on whose behalf the distribution is made;

(b) each underwriter of the securities that is in a contractual relationship with the issuer or selling security holder on whose behalf the distribution is made;

(c) every director of the issuer at the time the prospectus or the amendment to the prospectus was filed;

(d) every person or company whose consent to disclosure of information in the prospectus has been filed but only with respect to reports, opinions or statements that have been made by them; and

(e) every person or company who signed the prospectus or the amendment to the prospectus other than the persons or companies included in clauses (a) to (d),

or, where the purchaser purchased the security from a person or company referred to in clause (a) or (b) or from another underwriter of the securities, the purchaser may elect to exercise a right of rescission against such person, company or underwriter, in which case the purchaser has no right of action for damages against such person, company or underwriter.

(2) No person or company is liable under subsection (1) if the person or company proves that the purchaser purchased the securities with knowledge of the misrepresentation.

(3) No person or company, other than the issuer or selling security holder, is liable under subsection (1) if the person or company proves

(a) that the prospectus or the amendment to the prospectus was filed without the person's or company's knowledge or consent, and that, on becoming aware of its filing, the person or company forthwith gave reasonable general notice that it was so filed;

(b) that, after the issue of a receipt for the prospectus and before the purchase of the securities by the purchaser, on becoming aware of any misrepresentation in the prospectus or an amendment to the prospectus the person or company withdrew the person's or company's consent thereto and gave reasonable general notice of such withdrawal and the reason therefor;

(c) that, with respect to any part of the prospectus or the amendment to the prospectus purporting to be made on the authority of an expert or purporting to be a copy of or an extract from a report, opinion or statement of an expert, the person or company had no reasonable grounds to believe and did not believe that there had been a misrepresentation or that such part of the prospectus or the amendment to the prospectus did not fairly represent the report, opinion or statement of the expert or was not a fair copy of or extract from the report, opinion or statement of the expert;

(d) that, with respect to any part of the prospectus or the amendment to the prospectus purporting to be made on the person's or company's own authority as an expert or purporting to be a copy of or an extract from the person's or company's own report, opinion or statement as an expert but that contains a misrepresentation attributable to failure to represent fairly the person's or company's report, opinion or statement as an expert,

(i) the person or company had, after reasonable investigation, reasonable grounds to believe and did believe that such part of the prospectus or the amendment to the prospectus fairly represented the person's or company's report, opinion or statement, or

(ii) on becoming aware that such part of the prospectus or the amendment to the prospectus did not fairly represent the person's or company's report, opinion or statement as an expert, the person or company forthwith advised the Director and gave reasonable general notice that such use had been made and that the person or company would not be responsible for that part of the prospectus or the amendment to the prospectus; or

(e) that, with respect to a false statement purporting to be a statement made by an official person or contained in what purports to be a copy of or extract from a public official document, it was a correct and fair representation of the statement or copy of or extract from the document, and the person or company had reasonable grounds to believe and did believe that the statement was true.

(4) No person or company, other than the issuer or selling security holder, is liable under subsection (1) with respect to any part of the prospectus or the amendment to the prospectus purporting to be made on the person's or company's own authority as an expert or purporting to be a copy of or an extract from the person's or company's own report, opinion or statement as an expert unless the person or company

(a) failed to conduct such reasonable investigation as to provide reasonable grounds for a belief that there had been no misrepresentation; or

(b) believed there had been a misrepresentation.

(5) No person or company, other than the issuer or selling security holder, is liable under subsection (1) with respect to any part of the prospectus or the amendment to the prospectus not purporting to be made on the authority of an expert and not purporting to be a copy of or an extract from a report, opinion or statement of an expert unless the person or company

(a) failed to conduct such reasonable investigation as to provide reasonable grounds for a belief that there had been no misrepresentation; or

(b) believed there had been misrepresentation.

(6) No underwriter is liable for more than the total public offering price represented by the portion of the distribution underwritten by the underwriter.

(7) In an action for damages pursuant to subsection (1), the defendant is not liable for all or any portion of such damages that the defendant proves do not represent the depreciation in value of the security as a result of the misrepresentation relied upon.

(8) All or any one or more of the persons or companies specified in subsection (1) are jointly and severally liable, and every person or company who becomes liable to make any payment under this Section may recover a contribution from any person or company who, if sued separately, would have been liable to make the same payment provided that the court may deny the right to recover such contribution where, in all circumstances of the case, it is satisfied that to permit recovery of such contribution would not be just and equitable.

(9) In no case shall the amount recoverable under this Section exceed the price at which the securities were offered in the distribution to other than underwriters.

(10) The right of action for rescission or damages conferred by this Section is in addition to and without derogation from any other right the purchaser may have at law. R.S., c. 418, s. 137; 1990, c. 15, ss. 69, 80; 2005, c. 27, s. 14; 2006, c. 46, s. 49.

Misrepresentation in offering memorandum

143 (1) Where

(a) an offering memorandum sent or delivered to a purchaser, together with any amendment to the offering memorandum; or

(b) advertising or sales literature as defined by subsection 78(1),

contains a misrepresentation, a purchaser who purchases a security referred to in it is deemed to have relied on that misrepresentation, if it was a misrepresentation at the time of purchase, and

(c) has a right of action for damages against

(i) the seller,

(ii) every director of the seller at the date of the offering memorandum, and

(iii) every person who signed the offering memorandum; or

(d) may elect to exercise a right of rescission against the seller, in which case the purchaser has no right of action for damages against any person or company under clause (c).

(2) No person or company is liable under subsection (1) if the person or company proves that the purchaser purchased the securities with knowledge of the misrepresentation.

(3) No person or company is liable under subsection (1) if the person or company proves that

(a) the offering memorandum or the amendment to the offering memorandum was sent or delivered to the purchaser without the person's or company's knowledge or consent and that, on becoming aware of its delivery, the person or company gave reasonable general notice that it was delivered without the person's or company's knowledge or consent;

(b) after delivery of the offering memorandum or the amendment to the offering memorandum and before the purchase of the securities by the purchaser, on becoming aware of any misrepresentation in the offering memorandum, or amendment to the offering memorandum, the person or company withdrew the person's or company's consent to the offering memorandum, or amendment to the offering memorandum, and gave reasonable general notice of the withdrawal and the reason for it; or

(c) with respect to any part of the offering memorandum or amendment to the offering memorandum purporting

(i) to be made on the authority of an expert, or

(ii) to be a copy of, or an extract from, a report, an opinion or a statement of an expert,

the person or company had no reasonable grounds to believe and did not believe that

(iii) there had been a misrepresentation, or

(iv) the relevant part of the offering memorandum or amendment to the offering memorandum

(A) did not fairly represent the report, opinion or statement of the expert, or

(B) was not a fair copy of, or an extract from, the report, opinion or statement of the expert.

(4) No person or company is liable under subsection (1) with respect to any part of an offering memorandum or amendment to the offering memorandum not purporting

(a) to be made on the authority of an expert; or

(b) to be a copy of, or an extract from, a report, opinion or statement of an expert,

unless the person or company

(c) failed to conduct a reasonable investigation to provide reasonable grounds for a belief that there had been no misrepresentation; or

(d) believed that there had been a misrepresentation.

(5) Subsections (3) and (4) do not apply to the seller if the seller is also the issuer.

(6) In an action for damages under clause (1)(c), the defendant is not liable for all or any part of the damages that the defendant proves does not represent the depreciation in value of the security resulting from the misrepresentation.

(7) The liability of all persons or companies referred to in clause (1)(c) is joint and several with respect to the same cause of action.

(8) A defendant who is found liable to pay a sum in damages may recover a contribution, in whole or in part, from a person or company who is jointly and severally liable under this Section to make the same payment in the same cause of action unless, in all the circumstances of the case, the court is satisfied that it would not be just and equitable.

(9) The amount recoverable by a plaintiff under this Section may not exceed the price at which the securities were offered under the offering memorandum or amendment to the offering memorandum.

(10) The right of action for rescission or damages conferred by this Section is in addition to and not in derogation from any other right the purchaser may have.

(11) Where a misrepresentation is contained in a record incorporated by reference in, or deemed incorporated into, an offering memorandum or amendment to the offering memorandum, the misrepresentation is deemed to be contained in the offering memorandum or amendment to the offering memorandum.

(12) For the purpose of subsection (1), advertising or sales literature is deemed not to contain a misrepresentation unless the advertising or sales literature

(a) contains an untrue statement of material fact; or

(b) omits to state a material fact that is necessary to prevent a statement contained in the advertising or sales literature from being misleading in light of the circumstances in which the statement was made.

(13) In this Section, for greater certainty, “seller” includes the issuer where the securities are distributed by the issuer.

(14) This Section applies only with respect to an offering memorandum that has been furnished to a prospective purchaser in connection with a dis-

tribution of a security under an exemption from Section 80 that is specified in the regulations for the purpose of this Section. 2002, c. 39, s. 6; 2012, c. 34, s. 19.

Misrepresentation in circular

144 (1) Where a take-over bid circular sent to the security holders of an offeree issuer as required under this Act and the regulations or any notice of change or variation in respect thereof contains a misrepresentation, every such security holder is deemed to have relied on the misrepresentation and may elect to exercise a right of action for rescission or damages against the offeror or a right of action for damages against

- (a) every person who at the time the circular or notice, as the case may be, was signed was a director of the offeror;
- (b) every person or company whose consent in respect of the circular or notice, as the case may be, has been filed pursuant to a requirement of the regulations but only with respect to reports, opinions or statements that have been made by the person or company; and
- (c) each person who signed a certificate in the circular or notice, as the case may be, other than the persons included in clause (a).

(2) Where a directors' circular or a director's or officer's circular delivered to the security holders of an offeree issuer as required under this Act and the regulations or any notice of change or variation in respect thereof contains a misrepresentation, every such security holder is deemed to have relied on the misrepresentation and has a right of action for damages against every director or officer who signed the circular or notice that contained the misrepresentation.

(3) Subsection (1) applies with necessary modifications where an issuer bid circular or any notice of change or variation in respect thereof contains a misrepresentation.

(4) No person or company is liable pursuant to subsection (1), (2) or (3) if the person or company proves that the security holder had knowledge of the misrepresentation.

(5) No person or company, other than the offeror, is liable under subsection (1), (2) or (3) if the person or company proves

- (a) that the take-over bid circular, issuer bid circular, directors' circular or director's or officer's circular, as the case may be, was sent without the person's or company's knowledge or consent and that, on becoming aware of it, the person or company forthwith gave reasonable general notice that it was so sent;
- (b) that, after the sending of the take-over bid circular, issuer bid circular, directors' circular or director's or officer's circular, as the case may be, on becoming aware of any misrepresentation in the take-over bid circular, issuer bid circular, directors' circular or director's or officer's circular, the person or company withdrew the person's or company's consent thereto and gave reasonable general notice of the withdrawal and the reason therefor;

(c) that, with respect to any part of the circular purporting to be made on the authority of an expert or purporting to be a copy of or an extract from a report, opinion or statement of an expert, the person or company had no reasonable grounds to believe and did not believe that there had been a misrepresentation or that such part of the circular did not fairly represent the report, opinion or statement of the expert or was not a fair copy of or extract from the report, opinion or statement of the expert;

(d) that, with respect to any part of the circular purporting to be made on the person's or company's own authority as an expert or purporting to be a copy of or an extract from the person's or company's own report, opinion or statement as an expert, but that contains a misrepresentation attributable to failure to represent fairly the person's or company's report, opinion or statement as an expert,

(i) the person or company had, after reasonable investigation, reasonable grounds to believe and did believe that such part of the circular fairly represented the person's or company's report, opinion or statement as an expert, or

(ii) on becoming aware that such part of the circular did not fairly represent the person's or company's report, opinion or statement as an expert, the person or company forthwith advised the Director and gave reasonable general notice that such use had been made and that the person or company would not be responsible for that part of the circular; or

(e) that, with respect to a false statement purporting to be a statement made by an official person or contained in what purports to be a copy of or extract from a public official document, it was a correct and fair representation of the statement or copy of or extract from the document and the person or company had reasonable grounds to believe and did believe that the statement was true.

(6) No person or company, other than the offeror, is liable under subsection (1), (2) or (3) with respect to any part of the circular purporting to be made on the person's or company's own authority as an expert or purporting to be a copy of or an extract from the person's or company's own report, opinion or statement as an expert unless the person or company

(a) failed to conduct such reasonable investigation as to provide reasonable grounds for a belief that there had been no misrepresentation; or

(b) believed there had been a misrepresentation.

(7) No person or company, other than the offeror, is liable under subsection (1), (2) or (3) with respect to any part of the circular not purporting to be made on the authority of an expert and not purporting to be a copy of or an extract from a report, opinion or statement of an expert unless the person or company

(a) failed to conduct such reasonable investigation as to provide reasonable grounds for a belief that there had been no misrepresentation; or

(b) believed there had been a misrepresentation.

(8) All or any one or more of the persons or companies specified in subsection (1), (2) or (3) are jointly and severally liable, and every person or company who becomes liable to make any payment under this Section may recover a contribution from any person or company who, if sued separately, would have been liable to make the same payment provided that the court may deny the right to recover such contribution where, in all the circumstances of the case, it is satisfied that to permit recovery of such contribution would not be just and equitable.

(9) In an action for damages pursuant to subsection (1), (2) or (3) based on a misrepresentation affecting a security offered by the offeror company in exchange for securities of the offeree company, the defendant is not liable for all or any portion of such damages that the defendant proves do not represent the depreciation in value of the security as a result of the misrepresentation.

(10) The right of action for rescission or damages conferred by this Section is in addition to and without derogation from any other right the security holders of the offeree issuer may have at law. R.S., c. 418, s. 139; 1990, c. 15, ss. 71, 80; 2006, c. 46, s. 50.

Misrepresentation in forward-looking information

145 (1) A person or company is not liable in an action under Section 142, 143 or 144 for a misrepresentation in forward-looking information if the person or company proves all of the following things:

(a) the document containing the forward-looking information contained, proximate to that information,

(i) reasonable cautionary language identifying the forward-looking information as such, and identifying material factors that could cause actual results to differ materially from a conclusion, forecast or projection in the forward-looking information, and

(ii) a statement of the material factors or assumptions that were applied in drawing a conclusion or making a forecast or projection set out in the forward-looking information;

(b) the person or company had a reasonable basis for drawing the conclusions or making the forecasts and projections set out in the forward-looking information.

(2) Subsection (1) does not relieve a person or company of liability respecting forward-looking information in a financial statement or forward-looking information in a document released in connection with an initial public offering. 2006, c. 46, s. 51.

Standard of reasonableness

146 In determining what constitutes reasonable investigation or reasonable grounds for belief for the purpose of Sections 142, 143 and 144, the standard for reasonableness is that required of a prudent person in the circumstances of the particular case. R.S., c. 418, s. 140; 2005, c. 27, s. 15.

Liability of dealer, offeror, seller and underwriter

147 (1) Each of the following has a right of action for rescission or damages against the dealer or offeror who failed to comply with the applicable requirement:

(a) a purchaser of a security to whom a prospectus was required to be sent or delivered but was not sent or delivered in compliance with subsection 95(1);

(b) a purchaser of an investment fund security to whom a prescribed disclosure document referred to in subsection 95(2) was required to be sent or delivered but was not sent or delivered in compliance with the regulations;

(c) a purchaser of a prescribed investment fund security trading on an exchange or an alternative trading system to whom a prescribed disclosure document referred to in subsection 95(4) was required to be sent or delivered but was not sent or delivered in compliance with the regulations; and

(d) a security holder to whom a take-over bid and take-over bid circular or an issuer bid and issuer bid circular, or any notice of change or variation to any such bid or circular, was required to be sent or delivered but was not sent or delivered in compliance with this Act or the regulations.

(2) Where a security is traded in a distribution contrary to Section 80 or 88, a purchaser of the security has a right of action for rescission against the person from whom the security was purchased and a right of action for damages against the underwriter and the issuer or other person who sold the security.

(3) No action may be commenced to enforce a right created pursuant to subsection (2) more than

(a) in the case of an action for rescission, two years after the date of the transaction that gave rise to the cause of action; or

(b) in the case of an action for damages, three years after the date of the transaction that gave rise to the cause of action. 1990, c. 15, s. 72; 2006, c. 46, s. 52; 2012, c. 34, s. 20; 2015, c. 51, s. 7.

Material fact and special relationship

148 (1) Every person or company in a special relationship with a reporting issuer who purchases or sells securities of the reporting issuer with knowledge of a material fact or material change with respect to the reporting issuer that has not been generally disclosed is liable to compensate the seller or purchaser of the securities, as the case may be, for damages as a result of the trade unless

(a) the person or company in the special relationship with the reporting issuer proves that the person or company reasonably believed that the material fact or material change had been generally disclosed; or

(b) the material fact or material change was known or ought reasonably to have been known to the seller or purchaser, as the case may be.

- (2) Every
- (a) reporting issuer;
 - (b) person or company in a special relationship with a reporting issuer;
 - (c) person or company that is considering or evaluating whether to make a take-over bid, as defined in Section 106, or that proposes to make a take-over bid, as defined in Section 106, for the securities of a reporting issuer; and
 - (d) person or company that is considering or evaluating whether to become a party, or that proposes to become a party, to a reorganization, amalgamation, merger, arrangement or similar business combination with a reporting issuer or to acquire a substantial portion of its property,

who informs another person or company of a material fact or material change with respect to the reporting issuer that has not been generally disclosed is liable to compensate for damages any person or company that thereafter sells securities of the reporting issuer to or purchases securities of the reporting issuer from the person or company that received the information unless

- (e) the person or company who informed the other person or company proves that the informing person or company reasonably believed the material fact or material change had been generally disclosed;
- (f) the material fact or material change was known or ought reasonably to have been known to the seller or purchaser, as the case may be;
- (g) in the case of an action against a reporting issuer or a person or company in a special relationship with the reporting issuer, the information was given in the necessary course of business; or
- (h) in the case of an action against a person or company described in clause (c) or (d), the information was given in the necessary course of business relating to the take-over bid, business combination or acquisition.

(3) Any person or company who has access to information concerning the investment program of a mutual fund in the Province or the investment portfolio managed for a client by a portfolio manager or by a registered dealer acting as a portfolio manager and uses that information for the person's or company's direct benefit or advantage to purchase or sell securities of an issuer for the person's or company's account where the portfolio securities of the mutual fund or the investment portfolio managed for the client by the portfolio manager or registered dealer include securities of that issuer is accountable to the mutual fund or the client of the portfolio manager or registered dealer, as the case may be, for any benefit or advantage received or receivable as a result of such purchase or sale.

(4) Every person or company who is an insider, affiliate or associate of a reporting issuer that

- (a) sells or purchases the securities of the reporting issuer with knowledge of a material fact or material change with respect to the reporting issuer that has not been generally disclosed; or

(b) communicates to another person, other than in the necessary course of business, knowledge of a material fact or material change with respect to the reporting issuer that has not been generally disclosed,

is accountable to the reporting issuer for any benefit or advantage received or receivable by the person or company as a result of the purchase, sale or communication, as the case may be, unless the person or company proves that the person or company reasonably believed that the material fact or material change had been generally disclosed.

(5) Where more than one person or company in a special relationship with a reporting issuer is liable under subsection (1) or (2) as to the same transaction or series of transactions, their liability is joint and several.

(6) In assessing damages under subsection (1) or (2), the court shall consider

(a) where the plaintiff is a purchaser, the price that the plaintiff paid for the security less the average market price of the security in the 20 trading days following general disclosure of the material fact or material change; or

(b) where the plaintiff is a vendor, the average market price of the security in the 20 trading days following general disclosure of the material fact or material change less the price that the plaintiff received for the security,

but the court may instead consider such other measures of damages as may be relevant in the circumstances.

(7) In this Section, “person or company in a special relationship with a reporting issuer” and “reporting issuer” have the same meaning as in subsection 102(1).

(8) For the purpose of subsections (1) and (2), a security of the reporting issuer includes

(a) a put, call, option or other right or obligation to purchase or sell securities of the reporting issuer;

(b) a security, the market price of which varies materially with the market price of the securities of the issuer; or

(c) a related derivative. R.S., c. 418, s. 142; 1990, c. 15, s. 73; 2012, c. 34, s. 21; 2014, c. 28, s. 24; 2016, c. 16, s. 4.

Action on behalf of issuer or mutual fund

149 (1) Upon application by the Commission or by any person or company who was at the time of a transaction referred to in subsection 148(1) or (2) or is at the time of the application a security holder of the reporting issuer, a judge of the Supreme Court of Nova Scotia may, if satisfied that

(a) the Commission or the person or company has reasonable grounds for believing that the reporting issuer has a cause of action under subsection 148(4); and

- (b) either
 - (i) the reporting issuer has refused or failed to commence an action under Section 148 within 60 days after receipt of a written request from the Commission or such person or company to do so, or
 - (ii) the reporting issuer has failed to prosecute diligently an action commenced by it under Section 148,

make an order, upon such terms as to security for costs and otherwise as to the judge seems fit, requiring the Commission or authorizing such person or company or the Commission to commence or continue an action in the name of and on behalf of the reporting issuer to enforce the liability created by subsection 148(4).

(2) Upon the application by the Commission or any person or company who was at the time of a transaction referred to in subsection 148(3) or is at the time of the application a security holder of the investment fund, a judge of the Supreme Court of Nova Scotia may, if satisfied that

- (a) the Commission or the person or company has reasonable grounds for believing that the investment fund has a cause of action under subsection 148(3); and
- (b) the investment fund has either
 - (i) refused or failed to commence an action under subsection 148(3) within 60 days after receipt of a written request from the Commission or the person or company to do so, or
 - (ii) failed to prosecute diligently an action commenced by it under subsection 148(3),

make an order, upon terms as to security for costs or otherwise as to the judge seems proper, requiring the Commission or authorizing the person or company or the Commission to commence and prosecute or to continue an action in the name of and on behalf of the investment fund to enforce the liability created by subsection 148(3).

- (3)** Where an action under subsection 148(3) or (4) is
- (a) commenced;
 - (b) commenced and prosecuted; or
 - (c) continued,

by the directors of a reporting issuer, the trial judge or a judge of the Supreme Court of Nova Scotia may order that the costs properly incurred by the directors in commencing, commencing and prosecuting or continuing the action, as the case may be, must be paid by the reporting issuer, if the judge is satisfied that the action was *prima facie* in the best interests of the reporting issuer and the security holders thereof.

- (4)** Where an action under subsection 148(3) or (4) is
- (a) commenced;
 - (b) commenced and prosecuted; or
 - (c) continued,

by a person or company who is a security holder of the reporting issuer, the trial judge or a judge of the Supreme Court of Nova Scotia may order that the costs properly incurred by such person or company in commencing, commencing and prosecuting or continuing the action, as the case may be, must be paid by the reporting issuer, if the judge is satisfied that

(d) the reporting issuer failed to commence the action or had commenced it but had failed to prosecute it diligently; and

(e) the continuance of the action is prima facie in the best interests of the reporting issuer and the security holders thereof.

(5) Where an action under subsection 148(3) or (4) is

(a) commenced;

(b) commenced and prosecuted; or

(c) continued,

by the Commission, the trial judge or a judge of the Supreme Court of Nova Scotia shall order the reporting issuer to pay all costs properly incurred by the Commission in commencing, commencing and prosecuting or continuing the action, as the case may be.

(6) In determining whether an action or its continuance is prima facie in the best interests of a reporting issuer and the security holders thereof, the judge shall consider the relationship between the potential benefit to be derived from the action by the reporting issuer and the security holders thereof and the cost involved in the prosecution of the action.

(7) Notice of every application under subsection (1) or (2) must be given to the Commission, the reporting issuer or the investment fund, as the case may be, and each of them may appear and be heard thereon.

(8) Every order made under subsection (1) or (2) requiring or authorizing the Commission to commence and prosecute or continue an action must provide that the reporting issuer or investment fund, as the case may be, shall cooperate fully with the Commission in the commencement and prosecution or continuation of the action, and shall make available to the Commission all books, records, documents and other material or information known to the reporting issuer or investment fund or reasonably ascertainable by the reporting issuer or investment fund relevant to such action.

(9) An appeal lies to the Nova Scotia Court of Appeal from any order made pursuant to this Section. R.S., c. 418, s. 143; 1990, c. 15, s. 74; 2006, c. 46, ss. 53, 64.

Failure to disclose

150 (1) Where, contrary to Nova Scotia securities laws, a registered dealer fails to disclose to a person or company with whom the registered dealer effects a purchase or sale of a security that the registered dealer intended to act as principal in respect of the purchase or sale, the person or company may rescind the contract effecting the purchase or sale by mailing or delivering written notice of the rescission to the registered dealer within 60 days after the date of delivery of the security to or by the person or company, as the case may be.

(2) Where, contrary to Nova Scotia securities laws, a registered dealer fails to disclose to a person or company that the registered dealer has acted as principal in respect of a purchase or sale of a security, the person or company may rescind the contract effecting the purchase or sale by mailing or delivering written notice of the rescission to the registered dealer within seven days after the date of the delivery to the person or company of the written confirmation of the contract.

(3) For the purpose of subsection (2), a confirmation sent by ordinary letter mail is deemed to be delivered to the person or company to whom it was addressed in the ordinary course of mail.

(4) Subsections (1) and (2) do not allow the rescission of a contract effecting the purchase of a security by a person or company if the person or company no longer owns the security.

(5) In an action respecting a rescission to which subsection (1) or (2) applies, the onus of proving that a registered dealer disclosed that the registered dealer acted or intended to act as principal is on the registered dealer.

(6) No action respecting a rescission may be commenced under this Section after the expiration of a period of 90 days from the date of mailing or delivering the notice pursuant to subsection (1) or (2). 2012, c. 34 s. 22.

Rescission of purchase

151 (1) Every purchaser of a security of a mutual fund in the Province may, where the amount of the purchase does not exceed the sum of \$50,000, rescind the purchase by notice given to the registered dealer from whom the purchase was made within 48 hours after receipt of the confirmation for a lump sum purchase or within 60 days after receipt of the confirmation for the initial payment under a contractual plan but, subject to subsection (5), the amount the purchaser is entitled to recover on exercise of this right to rescind must not exceed the net asset value of the securities purchased, at the time the right is exercised.

(2) The right to rescind a purchase made under a contractual plan may be exercised only with respect to payments scheduled to be made within the time specified in subsection (1) for rescinding a purchase made under a contractual plan.

(3) The notice mentioned in subsection (1) must be in writing, and may be given by prepaid mail, telegram or other means.

(4) A confirmation sent by prepaid mail is deemed conclusively to have been received in the ordinary course of mail by the person or company to whom it was addressed.

(5) Every registered dealer from whom the purchase was made shall reimburse the purchaser who has exercised the purchaser's right of rescission in accordance with this Section for the amount of sales expense and fees relevant to the investment of the purchaser in the mutual fund in respect of the shares or units of which the notice of exercise of the right of rescission was given. R.S., c. 418, s. 145; 2010, c. 73, s. 14.

Limitation period

152 (1) Unless otherwise provided in this Act, no action may be commenced to enforce a right created more than

(a) in the case of an action for rescission, 180 days after the date of the transaction that gave rise to the cause of action; or

(b) in the case of any action, other than an action for rescission, the earlier of,

(i) 180 days after the plaintiff first had knowledge of the facts giving rise to the cause of action, or

(ii) three years after the date of the transaction that gave rise to the cause of action.

(2) Notwithstanding subsection (1), no action may be commenced to enforce the right created under Section 143 more than 120 days after the date on which payment was made for the securities or after the date on which the initial payment for the securities was made where payments subsequent to the initial payment are made pursuant to a contractual commitment assumed prior to, or concurrently with, the initial payment. R.S., c. 418, s. 146.

Interpretation of Sections 154 to 166

153 In this Section and Sections 154 to 166,

“compensation” means compensation received during the 12-month period immediately preceding the day on which the misrepresentation was made or on which the failure to make timely disclosure first occurred, together with the fair market value of all deferred compensation, including, without limiting the generality of the foregoing, options, pension benefits and stock appreciation rights, granted during the same period, valued as of the date that such compensation is awarded;

“core document” means

(a) a prospectus, a take-over bid circular, an issuer bid circular, a directors’ circular, a notice of change or variation in respect of a take-over bid circular, issuer bid circular or directors’ circular, a rights offering circular, management’s discussion and analysis, an annual information form, an information circular, annual financial statements and interim financial reports of the responsible issuer, where used in relation to

(i) a director of a responsible issuer who is not also an officer of the responsible issuer,

(ii) an influential person, other than an officer of the responsible issuer or an investment fund manager if the responsible issuer is an investment fund, or

(iii) a director or officer of an influential person who is not also an officer of the responsible issuer, other than an officer of an investment fund manager;

(b) a prospectus, a take-over bid circular, an issuer bid circular, a directors’ circular, a notice of change or variation in respect of a take-over bid circular, issuer bid circular or directors’ circular, a

rights offering circular, management's discussion and analysis, an annual information form, an information circular, annual financial statements, interim financial reports and a material change report required by this Act or the regulations of the responsible issuer, where used in relation to

(i) a responsible issuer or an officer of the responsible issuer,

(ii) an investment fund manager, if the responsible issuer is an investment fund, or

(iii) an officer of an investment fund manager, if the responsible issuer is an investment fund; or

(c) such other documents as may be prescribed by the regulations for the purpose of this definition;

“court” means the Supreme Court of Nova Scotia;

“document” means any written communication, including a communication prepared and transmitted only in electronic form,

(a) that is required to be filed with the Commission; or

(b) that is not required to be filed with the Commission and that

(i) is filed with the Commission,

(ii) is filed or required to be filed with a government or an agency of a government under applicable securities or corporate law or with any exchange or quotation and trade reporting system under its bylaws, rules or regulations, or

(iii) is any other communication the content of which would reasonably be expected to affect the market price or value of a security of the responsible issuer;

“expert” means a person or company whose profession gives authority to a statement made in a professional capacity by the person or company, including, without limitation, an accountant, actuary, appraiser, auditor, engineer, financial analyst, geologist or lawyer, but not including an entity that is designated as a designated rating organization under Sections 42 to 49;

“failure to make timely disclosure” means a failure to disclose a material change in the manner and at the time required under this Act or the regulations;

“influential person” means, in respect of a responsible issuer,

(a) a control person;

(b) a promoter;

(c) an insider who is not a director or officer of the responsible issuer; or

(d) an investment fund manager, if the responsible issuer is an investment fund;

“issuer’s security” means a security of a responsible issuer and includes a security

(a) the market price or value of which, or payment obligations under which, are derived from or based on a security of the responsible issuer; and

(b) which is created by a person or company on behalf of the responsible issuer or is guaranteed by the responsible issuer;

“liability limit” means

(a) in the case of a responsible issuer, the greater of

(i) five per cent of its market capitalization, as such term is defined in the regulations, and

(ii) \$1,000,000;

(b) in the case of a director or officer of a responsible issuer, the greater of

(i) \$25,000, and

(ii) 50% of the aggregate of the director’s or officer’s compensation from the responsible issuer and its affiliates;

(c) in the case of an influential person who is not an individual, the greater of

(i) five per cent of its market capitalization, as defined in the regulations, and

(ii) \$1,000,000;

(d) in the case of an influential person who is an individual, the greater of

(i) \$25,000, and

(ii) 50% of the aggregate of the influential person’s compensation from the responsible issuer and its affiliates;

(e) in the case of a director or officer of an influential person, the greater of

(i) \$25,000, and

(ii) 50% of the aggregate of the director’s or officer’s compensation from the influential person and its affiliates;

(f) in the case of an expert, the greater of

(i) \$1,000,000, and

(ii) the revenue that the expert and the affiliates of the expert have earned from the responsible issuer and its affiliates during the 12 months preceding the misrepresentation; and

(g) in the case of each person who made a public oral statement, other than an individual referred to in clause (d), (e) or (f), the greater of

(i) \$25,000, and

(ii) 50% of the aggregate of the person's compensation from the responsible issuer and its affiliates;

“management's discussion and analysis” means the section of an annual information form, annual report or other document that contains management's discussion and analysis of the financial condition and financial performance of a responsible issuer as required under Nova Scotia securities laws;

“public oral statement” means an oral statement made in circumstances in which a reasonable person would believe that information contained in the statement will become generally disclosed;

“release” means, with respect to information or a document, file with the Commission or any other securities regulatory authority in Canada or an exchange or to otherwise make available to the public;

“responsible issuer” means

(a) a reporting issuer or a reporting issuer under the laws of another province of Canada; or

(b) any other issuer with a real and substantial connection to the Province, any securities of which are publicly traded;

“trading day” means a day during which the principal market, as defined in the regulations, for the security is open for trading. 2006, c. 46, s. 55; 2010, c. 73, s. 15; 2014, c. 28, s. 25.

Exceptions

154 Sections 153 to 166 do not apply to

(a) the purchase of a security offered by a prospectus during the period of distribution;

(b) the acquisition of an issuer's security pursuant to a distribution that is exempt from Section 80 or 88, except as may be prescribed by the regulations;

(c) the acquisition or disposition of an issuer's security in connection with or pursuant to a take-over bid or issuer bid, except as may be prescribed by the regulations; or

(d) such other transactions or class of transactions as may be prescribed by the regulations. 2006, c. 46, s. 55.

Right of action for misrepresentation

155 (1) Where a responsible issuer or a person or company with actual, implied or apparent authority to act on behalf of a responsible issuer releases a document that contains a misrepresentation, a person or company who acquires or disposes of the issuer's security during the period between the time when the document was released and the time when the misrepresentation contained in the docu-

ment was publicly corrected has, without regard to whether the person or company relied on the misrepresentation, a right of action for damages against

- (a) the responsible issuer;
- (b) each director of the responsible issuer at the time the document was released;
- (c) each officer of the responsible issuer who authorized, permitted or acquiesced in the release of the document;
- (d) each influential person, and each director and officer of an influential person, who knowingly influenced
 - (i) the responsible issuer or any person or company acting on behalf of the responsible issuer to release the document, or
 - (ii) a director or officer of the responsible issuer to authorize, permit or acquiesce in the release of the document; and
- (e) each expert where
 - (i) the misrepresentation is also contained in a report, statement or opinion made by the expert,
 - (ii) the document includes, summarizes or quotes from the report, statement or opinion of the expert, and
 - (iii) where the document was released by a person or company other than the expert, the expert consented in writing to the use of the report, statement or opinion in the document.

(2) Where a person with actual, implied or apparent authority to speak on behalf of a responsible issuer makes a public oral statement that relates to the business or affairs of the responsible issuer and that contains a misrepresentation, a person or company who acquires or disposes of the issuer's security during the period between the time when the public oral statement was made and the time when the misrepresentation contained in the public oral statement was publicly corrected has, without regard to whether the person or company relied on the misrepresentation, a right of action for damages against

- (a) the responsible issuer;
- (b) the person who made the public oral statement;
- (c) each director and officer of the responsible issuer who authorized, permitted or acquiesced in the making of the public oral statement;
- (d) each influential person, and each director and officer of the influential person, who knowingly influenced
 - (i) the person who made the public oral statement to make the public oral statement, or
 - (ii) a director or officer of the responsible issuer to authorize, permit or acquiesce in the making of the public oral statement; and

- (e) each expert where
 - (i) the misrepresentation is also contained in a report, statement or opinion made by the expert,
 - (ii) the person making the public oral statement includes, summarizes or quotes from the report, statement or opinion of the expert, and
 - (iii) if the public oral statement was made by a person other than the expert, the expert consented in writing to the use of the report, statement or opinion in the public oral statement.

(3) Where an influential person or a person or company with actual, implied or apparent authority to act or speak on behalf of the influential person releases a document or makes a public oral statement that relates to a responsible issuer and that contains a misrepresentation, a person or company who acquires or disposes of the issuer's security during the period between the time when the document was released or the public oral statement was made and the time when the misrepresentation contained in the document or public oral statement was publicly corrected has, without regard to whether the person or company relied on the misrepresentation, a right of action for damages against

- (a) the responsible issuer, if a director or officer of the responsible issuer or, where the responsible issuer is an investment fund, the investment fund manager, authorized, permitted or acquiesced in the release of the document or the making of the public oral statement;
- (b) the person who made the public oral statement;
- (c) each director and officer of the responsible issuer who authorized, permitted or acquiesced in the release of the document or the making of the public oral statement;
- (d) the influential person;
- (e) each director and officer of the influential person who authorized, permitted or acquiesced in the release of the document or the making of the public oral statement; and
- (f) each expert where
 - (i) the misrepresentation is also contained in a report, statement or opinion made by the expert,
 - (ii) the document or public oral statement includes, summarizes or quotes from the report, statement or opinion of the expert, and
 - (iii) if the document was released or the public oral statement was made by a person other than the expert, the expert consented in writing to the use of the report, statement or opinion in the document or public oral statement.

(4) Where a responsible issuer fails to make a timely disclosure, a person or company who acquires or disposes of the issuer's security between the time when the material change was required to be disclosed in the manner required under this Act or the regulations and the subsequent disclosure of the material

change has, without regard to whether the person or company relied on the responsible issuer having complied with its disclosure requirements, a right of action for damages against

- (a) the responsible issuer;
- (b) each director and officer of the responsible issuer who authorized, permitted or acquiesced in the failure to make timely disclosure; and
- (c) each influential person, and each director and officer of an influential person, who knowingly influenced
 - (i) the responsible issuer or any person or company acting on behalf of the responsible issuer in the failure to make timely disclosure, or
 - (ii) a director or officer of the responsible issuer to authorize, permit or acquiesce in the failure to make timely disclosure.

(5) In an action under this Section, a person who is a director or officer of an influential person is not liable in that capacity if the person is liable as a director or officer of the responsible issuer.

- (6) In an action under this Section,
- (a) multiple misrepresentations having common subject-matter or content may, in the discretion of the court, be treated as a single misrepresentation; and
 - (b) multiple instances of failure to make timely disclosure of a material change or material changes concerning common subject-matter may, in the discretion of the court, be treated as a single failure to make timely disclosure.

(7) In an action under subsection (2) or (3), where the person who made the public oral statement had apparent authority, but not implied or actual authority, to speak on behalf of the issuer, no other person is liable with respect to any of the responsible issuer's securities that were acquired or disposed of before that other person became, or should reasonably have become, aware of the misrepresentation. 2006, c. 46, s. 55.

Proof required

156 (1) In an action under Section 155 in relation to a misrepresentation in a document that is not a core document, or a misrepresentation in a public oral statement, a person or company is not liable, subject to subsection (2), unless the plaintiff proves that the person or company

- (a) knew, at the time that the document was released or public oral statement was made, that the document or public oral statement contained the misrepresentation;
- (b) at or before the time that the document was released or public oral statement was made, deliberately avoided acquiring knowledge that the document or public oral statement contained the misrepresentation; or

(c) was, through action or failure to act, guilty of gross misconduct in connection with the release of the document or the making of the public oral statement that contained the misrepresentation.

(2) A plaintiff is not required to prove any of the matters set out in subsection (1) in an action under Section 155 in relation to an expert.

(3) In an action under Section 155 in relation to a failure to make timely disclosure, a person or company is not liable, subject to subsection (4), unless the plaintiff proves that the person or company

(a) knew, at the time that the failure to make timely disclosure first occurred, of the change and that the change was a material change;

(b) at the time or before the failure to make timely disclosure first occurred, deliberately avoided acquiring knowledge of the change or that the change was a material change; or

(c) was, through action or failure to act, guilty of gross misconduct in connection with the failure to make timely disclosure.

(4) A plaintiff is not required to prove any of the matters set out in subsection (3) in an action under Section 155 in relation to

(a) a responsible issuer;

(b) an officer of a responsible issuer;

(c) an investment fund manager; or

(d) an officer of an investment fund manager.

(5) A person or company is not liable in an action under Section 155 in relation to a misrepresentation or a failure to make timely disclosure if that person or company proves that the plaintiff acquired or disposed of the issuer's security

(a) with knowledge that the document or public oral statement contained a misrepresentation; or

(b) with knowledge of the material change.

(6) A person or company is not liable in an action under Section 155 in relation to

(a) a misrepresentation, if that person or company proves that

(i) before the release of the document or the making of the public oral statement containing the misrepresentation, the person or company conducted or caused to be conducted a reasonable investigation, and

(ii) at the time of the release of the document or the making of the public oral statement, the person or company had no reasonable grounds to believe that the document or public oral statement contained the misrepresentation; or

(b) a failure to make timely disclosure, if that person or company proves that

(i) before the failure to make timely disclosure first occurred, the person or company conducted or caused to be conducted a reasonable investigation, and

(ii) the person or company had no reasonable grounds to believe that the failure to make timely disclosure would occur.

(7) In determining whether an investigation was reasonable under subsection (6), or whether any person or company is guilty of gross misconduct under subsection (1) or (3), the court shall consider all relevant circumstances, including

(a) the nature of the responsible issuer;

(b) the knowledge, experience and function of the person or company;

(c) the office held, if the person was an officer;

(d) the presence or absence of another relationship with the responsible issuer, if the person was a director;

(e) the existence, if any, and the nature of any system designed to ensure that the responsible issuer meets its continuous disclosure obligations;

(f) the reasonableness of reliance by the person or company on the responsible issuer's disclosure compliance system and on the responsible issuer's officers, employees and others whose duties would in the ordinary course have given them knowledge of the relevant facts;

(g) the period within which disclosure was required to be made under the applicable law;

(h) in respect of a report, statement or opinion of an expert, any professional standards applicable to the expert;

(i) the extent to which the person or company knew, or should reasonably have known, the content and medium of dissemination of the document or public oral statement;

(j) in the case of a misrepresentation, the role and responsibility of the person or company in the preparation and release of the document or the making of the public oral statement containing the misrepresentation or the ascertaining of the facts contained in that document or public oral statement; and

(k) in the case of a failure to make timely disclosure, the role and responsibility of the person or company involved in a decision not to disclose the material change.

(8) A person or company is not liable in an action under Section 155 in respect of a failure to make timely disclosure if

(a) the person or company proves that the material change was disclosed by the responsible issuer in a report filed on a confidential basis with the Commission under this Act or the regulations;

(b) the responsible issuer had a reasonable basis for making the disclosure on a confidential basis;

(c) where the information contained in the report filed on a confidential basis remains material, disclosure of the material change was made public promptly when the basis for confidentiality ceased to exist;

(d) the person or company or responsible issuer did not release a document or make a public oral statement that, due to the undisclosed material change, contained a misrepresentation; and

(e) where the material change became publicly known in a manner other than the manner required under this Act or the regulations, the responsible issuer promptly disclosed the material change in the manner required under this Act or the regulations.

(9) A person or company is not liable in an action under Section 155 for a misrepresentation in forward-looking information if the person or company proves all of the following things:

(a) the document or public oral statement containing the forward-looking information contained, proximate to that information,

(i) reasonable cautionary language identifying the forward-looking information as such, and identifying material factors that could cause actual financial performance to differ materially from a conclusion, forecast or projection in the forward-looking information, and

(ii) a statement of the material factors or assumptions that were applied in drawing a conclusion or making a forecast or projection set out in the forward-looking information;

(b) the person or company had a reasonable basis for drawing the conclusions or making the forecasts and projections set out in the forward-looking information.

(10) The person or company is deemed to have satisfied the requirements of clause (9)(a) with respect to a public oral statement containing forward-looking information if the person who made the public oral statement,

(a) made a cautionary statement that the oral statement contains forward-looking information;

(b) stated that

(i) the actual financial performance could differ materially from a conclusion, forecast or projection in the forward-looking information, and

(ii) certain material factors or assumptions were applied in drawing a conclusion or making a forecast or projection as reflected in the forward-looking information; and

- (c) stated that additional information about
 - (i) the material factors that could cause actual financial performance to differ materially from the conclusion, forecast or projection in the forward-looking information, and
 - (ii) the material factors or assumptions that were applied in drawing a conclusion or making a forecast or projection as reflected in the forward-looking information,

is contained in a readily-available document or in a portion of such a document and has identified that document or that portion of the document.

(11) For the purpose of clause (10)(c), a document filed with the Commission or otherwise generally disclosed is deemed to be readily available.

(12) Subsection (9) does not relieve a person or company of liability respecting forward-looking information in a financial statement required to be filed under this Act or the regulations or forward-looking information in a document released in connection with an initial public offering.

(13) A person or company, other than an expert, is not liable in an action under Section 155 with respect to any part of a document or public oral statement that includes, summarizes or quotes from a report, statement or opinion made by the expert in respect of which the responsible issuer obtained the written consent of the expert to the use of the report, statement or opinion, if the consent had not been withdrawn in writing before the document was released or the public oral statement was made, if the person or company proves that

- (a) the person or company did not know and had no reasonable grounds to believe that there had been a misrepresentation in the part of the document or public oral statement made on the authority of the expert; and
- (b) the part of the document or oral public statement fairly represented the report, statement or opinion made by the expert.

(14) An expert is not liable in an action under Section 155 with respect to any part of a document or public oral statement that includes, summarizes or quotes from a report, statement or opinion made by the expert, if the expert proves that the written consent previously provided was withdrawn, in writing, before the document was released or the public oral statement was made.

(15) A person or company is not liable in an action under Section 155 in respect of a misrepresentation in a document, other than a document required to be filed with the Commission, if the person or company proves that, at the time of release of the document, the person or company did not know and had no reasonable grounds to believe that the document would be released.

(16) A person or company is not liable in an action under Section 155 for a misrepresentation in a document or a public oral statement, if the person or company proves that

- (a) the misrepresentation was also contained in a document filed by or on behalf of another person or company, other than

the responsible issuer, with the Commission or any other securities regulatory authority in Canada or an exchange and was not corrected in another document filed by or on behalf of that other person or company with the Commission or that other securities regulatory authority in Canada or exchange before the release of the document or the public oral statement made by or on behalf of the responsible issuer;

(b) the document or public oral statement contained a reference identifying the document that was the source of the misrepresentation; and

(c) when the document was released or the public oral statement was made, the person or company did not know and had no reasonable grounds to believe that the document or public oral statement contained a misrepresentation.

(17) A person or company, other than the responsible issuer, is not liable in an action under Section 155 if the misrepresentation or failure to make timely disclosure was made without the knowledge or consent of the person or company and if, after the person or company became aware of the misrepresentation before it was corrected, or the failure to make timely disclosure before it was disclosed in the manner required under this Act or the regulations,

(a) the person or company promptly notified the board of directors of the responsible issuer or other persons acting in a similar capacity of the misrepresentation or the failure to make timely disclosure; and

(b) where no correction of the misrepresentation or no subsequent disclosure of the material change in the manner required under this Act or the regulations was made by the responsible issuer within two business days after the notification under clause (a), the person or company, unless prohibited by law or by professional confidentiality rules, promptly and in writing notified the Commission of the misrepresentation or failure to make timely disclosure. 2006, c. 46, s. 55; 2010, c. 73, s. 16; 2014, c. 28, s. 26.

Damages

157 (1) Damages must be assessed in favour of a person or company that acquired an issuer's securities after the release of a document or the making of a public oral statement containing a misrepresentation or after a failure to make timely disclosure as follows:

(a) in respect of any of the securities of the responsible issuer that the person or company subsequently disposed of on or before the 10th trading day after the public correction of the misrepresentation or the disclosure of the material change in the manner required under this Act or the regulations, assessed damages must equal the difference between the average price paid for those securities, including any commissions paid in respect thereof, and the price received upon the disposition of those securities, without deducting any commissions paid in respect of the disposition, calculated taking into account the result of hedging or other risk limitation transactions;

(b) in respect of any of the securities of the responsible issuer that the person or company subsequently disposed of after the 10th trading day after the public correction of the misrepresentation or the disclosure of the material change in the manner required under this Act or the regulations, assessed damages must equal the lesser of

(i) an amount equal to the difference between the average price paid for those securities, including any commissions paid in respect thereof, and the price received upon the disposition of those securities, without deducting any commissions paid in respect of the disposition, calculated taking into account the result of hedging or other risk limitation transactions, and

(ii) an amount equal to the number of securities that the person disposed of, multiplied by the difference between the average price per security paid for those securities, including any commissions paid in respect thereof determined on a per security basis, and

(A) where the issuer's securities trade on a published market, the trading price of the issuer's securities on the principal market, as those terms are defined in the regulations, for the 10 trading days following the public correction of the misrepresentation or the disclosure of the material change in the manner required under this Act or the regulations, or

(B) where there is no published market, the amount that the court considers just;

(c) in respect of any of the securities of the responsible issuer that the person or company has not disposed of, assessed damages must equal the number of securities acquired, multiplied by the difference between the average price per security paid for those securities, including any commissions paid in respect thereof determined on a per security basis, and

(i) where the issuer's securities trade on a published market, the trading price of the issuer's securities on the principal market, as those terms are defined in the regulations, for the 10 trading days following the public correction of the misrepresentation or the disclosure of the material change in the manner required under this Act or the regulations, or

(ii) where there is no published market, the amount that the court considers just.

(2) Damages must be assessed in favour of a person or company that disposed of securities after a document was released or a public oral statement made containing a misrepresentation or after a failure to make timely disclosure as follows:

(a) in respect of any of the securities of the responsible issuer that the person or company subsequently acquired on or before the 10th trading day after the public correction of the misrepresentation or the disclosure of the material change in the manner required under this Act or the regulations, assessed damages must equal the

difference between the average price received upon the disposition of those securities, deducting any commissions paid in respect of the disposition, and the price paid for those securities, without including any commissions paid in respect thereof, calculated taking into account the result of hedging or other risk limitation transactions;

(b) in respect of any of the securities of the responsible issuer that the person or company subsequently acquired after the 10th trading day after the public correction of the misrepresentation or the disclosure of the material change in the manner required under this Act or the regulations, assessed damages must equal the lesser of

(i) an amount equal to the difference between the average price received upon the disposition of those securities, deducting any commissions paid in respect of the disposition, and the price paid for those securities, without including any commissions paid in respect thereof, calculated taking into account the result of hedging or other risk limitation transactions, and

(ii) an amount equal to the number of securities that the person disposed of, multiplied by the difference between the average price per security received upon the disposition of those securities, deducting any commissions paid in respect of the disposition determined on a per security basis, and

(A) where the issuer's securities trade on a published market, the trading price of the issuer's securities on the principal market, as those terms are defined in the regulations, for the 10 trading days following the public correction of the misrepresentation or the disclosure of the material change in the manner required under this Act or the regulations, or

(B) where there is no published market, the amount that the court considers just;

(c) in respect of any of the securities of the responsible issuer that the person or company has not acquired, assessed damages must equal the number of securities that the person or company disposed of, multiplied by the difference between the average price per security received upon the disposition of those securities, deducting any commissions paid in respect of the disposition determined on a per security basis, and

(i) where the issuer's securities trade on a published market, the trading price of the issuer's securities on the principal market, as such terms are defined in the regulations, for the 10 trading days following the public correction of the misrepresentation or the disclosure of the material change in the manner required under this Act and the regulations, or

(ii) where there is no published market, the amount that the court considers just.

(3) Notwithstanding subsections (1) and (2), assessed damages do not include any amount that the defendant proves is attributable to a change in the

market price of securities that is unrelated to the misrepresentation or the failure to make timely disclosure. 2006, c. 46, s. 55.

Apportionment of liability

158 (1) In an action under Section 155, the court shall determine, in respect of each defendant found liable in the action, the defendant's responsibility for the damages assessed in favour of all plaintiffs in the action, and each such defendant is liable, subject to the limits set out in subsection 159(1), to the plaintiffs for only that portion of the aggregate amount of damages assessed in favour of the plaintiffs that corresponds to that defendant's responsibility for the damages.

(2) Notwithstanding subsection (1), where, in an action under Section 155 in respect of a misrepresentation or a failure to make timely disclosure, a court determines that a particular defendant, other than the responsible issuer, authorized, permitted or acquiesced in the making of the misrepresentation or the failure to make timely disclosure while knowing it to be a misrepresentation or a failure to make timely disclosure, the whole amount of the damages assessed in the action may be recovered from that defendant.

(3) Each defendant in respect of whom the court has made a determination under subsection (2) is jointly and severally liable with each other defendant in respect of whom the court has made a determination under subsection (2).

(4) Any defendant against whom recovery is obtained under subsection (2) is entitled to claim contribution from any other defendant who is found liable in the action. 2006, c. 46, s. 55.

Damages payable

159 (1) Notwithstanding Section 157, the damages payable by a person or company in an action under Section 155 is the lesser of

(a) the aggregate damages assessed against the person or company in the action; and

(b) the liability limit for the person or company less the aggregate of all damages assessed after appeals, if any, against the person or company in all other actions brought under Section 155, and under comparable legislation in other provinces of Canada in respect of that misrepresentation or failure to make timely disclosure, and less any amount paid in settlement of any such actions.

(2) Subsection (1) does not apply to a person or company, other than the responsible issuer, if the plaintiff proves that the person or company authorized, permitted or acquiesced in the making of the misrepresentation or the failure to make timely disclosure while knowing that it was a misrepresentation or a failure to make timely disclosure, or influenced the making of the misrepresentation or the failure to make timely disclosure while knowing that it was a misrepresentation or a failure to make timely disclosure. 2006, c. 46, s. 55.

Leave of court

160 (1) No action may be commenced under Section 155 without leave of the court granted upon motion with notice to each defendant and the court shall grant leave only where it is satisfied that

- (a) the action is being brought in good faith; and
- (b) there is a reasonable possibility that the action will be resolved at trial in favour of the plaintiff.

(2) Upon an application under this Section, the plaintiff and each defendant shall serve and file one or more affidavits setting forth the material facts upon which each intends to rely.

(3) The maker of such an affidavit may be examined on it in accordance with the *Civil Procedure Rules*.

(4) A copy of the application for leave to proceed and any affidavits filed with the court must be sent to the Commission when filed. 2006, c. 46, s. 55.

Requirements on leave being granted

161 A person or company that has been granted leave to commence an action under Section 155 shall

- (a) promptly issue a news release disclosing that leave has been granted to commence an action under Section 155;
- (b) send a written notice to the Commission within seven days, together with a copy of the news release; and
- (c) send a copy of the statement of claim or other originating document to the Commission when filed. 2006, c. 46, s. 55.

Approval of court required

162 An action under Section 155 may not be discontinued, abandoned or settled without the approval of the court given on such terms as the court thinks fit, including, without limitation, terms as to costs, and in determining whether to approve the settlement of the action, the court shall consider, among other things, whether there are any other actions outstanding under Section 155 or under comparable legislation in other provinces of Canada in respect of the same misrepresentation or failure to make timely disclosure. 2006, c. 46, s. 55.

Costs

163 The prevailing party in an action under Section 155 is entitled to costs determined by a court in accordance with the *Civil Procedure Rules*. 2006, c. 46, s. 55.

Intervention by Commission

164 The Commission may intervene in an action under Section 155 and in an application for leave under Section 160. 2006, c. 46, s. 55.

No derogation

165 The right of action for damages and the defences to an action under Section 155 are in addition to, and without derogation from, any other rights or defences the plaintiff or defendant may have in an action brought otherwise than under Sections 153 to 166. 2006, c. 46, s. 55.

Commencement of action

166 (1) No action may be commenced under Section 155

(a) in the case of misrepresentation in a document, later than the earlier of

(i) three years after the date on which the document containing the misrepresentation was first released, and

(ii) six months after the issuance of a news release disclosing that leave has been granted to commence an action under Section 155 or under comparable legislation in the other provinces of Canada in respect of the same misrepresentation;

(b) in the case of a misrepresentation in a public oral statement, later than the earlier of

(i) three years after the date on which the public oral statement containing the misrepresentation was made, and

(ii) six months after the issuance of a news release disclosing that leave has been granted to commence an action under Section 155 or under comparable legislation in another province of Canada in respect of the same misrepresentation; and

(c) in the case of a failure to make timely disclosure, later than the earlier of

(i) three years after the date on which the requisite disclosure was required to be made, and

(ii) six months after the issuance of a news release disclosing that leave has been granted to commence an action under Section 155 or under comparable legislation in another province of Canada in respect of the same failure to make timely disclosure.

(2) A limitation period established by subsection (1) in respect of an action is suspended on the date a notice of motion for leave under Section 160 is filed with the court and resumes running on the date

(a) the court grants leave or dismisses the motion and

(i) all appeals have been exhausted, or

(ii) the time for filing an appeal has expired without an appeal being filed; or

(b) the motion is abandoned or discontinued. 2006, c. 46, s. 55; 2015, c. 51, s. 8.

Admissibility of documents

167 A statement as to

- (a) the registration or non-registration of any person or company;
- (b) the filing or non-filing of any document or material required or permitted to be filed;
- (c) any other matter pertaining to such registration, non-registration, filing or non-filing, or to any such person, company, document or material; or
- (d) the date the facts upon which any proceedings are to be based first came to the knowledge of the Director or the Commission,

purporting to be certified by the Director or a member of the Commission is, without proof of the office or signature of the person certifying, admissible in evidence, so far as relevant, for all purposes in any action, proceeding or prosecution. R.S., c. 418, s. 147; 1990, c. 15, s. 75.

Filing and inspection of material

168 (1) Where Nova Scotia securities laws require that material be filed, the filing must be effected, unless provided otherwise herein or in the regulations, by depositing the material, or causing it to be deposited, with the Director and all material so filed or filed as otherwise provided herein or in the regulations must, subject to subsection (2), be made available by the Director for public inspection during the normal business hours of the Director.

(2) Notwithstanding subsection (1), the Commission may require the Director to, and if so required the Director shall, hold material or any class of material required to be filed by Nova Scotia securities laws in confidence so long as the Commission is of the opinion that the material so held discloses intimate financial, personal or other information and that the desirability of avoiding disclosure thereof in the interests of any person or company affected outweighs the desirability of adhering to the principle that material filed with the Director be available to the public for inspection.

(3) Notwithstanding the *Freedom of Information and Protection of Privacy Act* and the *Personal Information International Disclosure Protection Act*, the Commission may provide information to and receive information from other securities, derivatives or financial regulatory authorities, exchanges, derivatives trading facilities, derivatives trade repositories, clearing agencies, alternative trading systems, self-regulatory bodies or organizations, law enforcement and other governmental or regulatory authorities and any information technology service provider approved by the Commission to facilitate the exchange of information pursuant to this Act, and the rules and regulations made thereunder, both in Canada and elsewhere, and any information so received by the Commission is exempt from disclosure under this Act if the Commission determines that the information should be maintained in confidence. R.S., c. 418, s. 148; 1990, c. 15, ss. 76, 80; 2001, c. 18, s. 4; 2005, c. 27, s. 16; 2006, c. 46, s. 56; 2014, c. 28, s. 27.

Prohibition—reprisal

169 (1) A person or company shall not take any measure of reprisal against another person, or counsel or direct that any measure of reprisal be taken against another person, solely by reason that the other person has, in good faith,

- (a) sought advice about making a disclosure, expressed an intent to make a disclosure or made a disclosure to the Commission, a recognized self-regulatory organization or a law enforcement agency;
- (b) given evidence at a hearing or similar proceeding; or
- (c) co-operated with a review, investigation, examination or inspection under this Act, in relation to criminal law relating to securities or derivatives, or under the bylaws or similar instruments of a recognized self-regulatory organization.

(2) For the purpose of subsection (1), a measure of reprisal is any measure taken against a person that adversely affects the person's employment or contract for services, and includes

- (a) a disciplinary measure;
- (b) a demotion;
- (c) a termination of employment or of a contract for services;
- (d) any measure that adversely affects the person's employment or working conditions; and
- (e) a threat to take any of the measures referred to in clauses (a) to (d).

(3) In a proceeding relating to a contravention of subsection (1), it is not necessary to prove that the person who is subject to the measure of reprisal

- (a) made, may have made or intended to make a disclosure; or
- (b) co-operated with a review, investigation, examination or inspection.

(4) Subsection (1) does not limit a person's right to any other remedy that the person may have, including, in the case of an employee, the employee's right to a remedy available to the employee under a collective agreement or contract. 2021, c. 17, s. 3.

Immunity

170 (1) No action or other proceeding for damages may be instituted against the Director or the Commission or any member thereof, or any officer, servant or agent of the Director or the Commission for any act done in good faith in the performance or intended performance of any duty or in the exercise or the intended exercise of any power under this Act or a regulation, or for any neglect or default in the performance or exercise in good faith of such duty or power.

(2) No action or other proceeding for damages may be instituted against a recognized self-regulatory organization or a director, officer, employee or agent of a recognized self-regulatory organization for

- (a) any act done in good faith in the performance or intended performance of any duty;

(b) in the exercise or the intended exercise of any power pursuant to an order recognizing the self-regulatory organization under subsection 40(1), or under this Act or a regulation; or

(c) for any neglect or default in the performance or exercise in good faith of such duty of power.

(3) No person or company has any rights or remedies and no proceedings lie or may be brought against any person or company for any act or omission of the last-mentioned person or company done or omitted in compliance with this Act, the regulations or any direction, decision, order, ruling or other requirement made or given under this Act or the regulations.

(4) For the purpose of subsection (3), where, pursuant to Section 4, the Commission appoints an expert, any act or omission done or omitted in good faith by the person so appointed, in the discharge or intended discharge of that person's duties, is considered to be done or omitted in compliance with this Act.

(5) Subsection (1) does not, by reason of subsections 5(2) and (3) of the *Proceedings against the Crown Act*, relieve the Crown of liability in respect of a tort committed by the Director or the Commission or any person referred to in subsection (1) to which the Crown would otherwise be subject and the Crown is liable under that Act for any such tort in a like manner as if subsection (1) had not been enacted.

(6) Notwithstanding any other enactment or law, no member, employee, officer, servant or agent of the Commission may be required in any civil proceeding, except a proceeding under this Act or a judicial review relating to a proceeding under this Act, to give testimony or to produce any book, record, document or thing respecting information obtained in the discharge of their duties under this Act. R.S., c. 418, s. 149; 1990, c. 15, ss. 77, 80; 2018, c. 42, s. 9.

Interpretation of Sections 171 to 181

171 (1) In this Section and in Sections 172 to 181,

“extra-provincial authority” means any power, function or duty of an extra-provincial securities commission that is, or is intended to be, performed or exercised by that commission under the extra-provincial securities laws under which that commission operates;

“extra-provincial securities commission” means a body empowered by the laws of a province of Canada other than the Province to regulate trading in securities or derivatives or to administer or enforce laws respecting trading in securities or derivatives;

“extra-provincial securities laws” means the laws of another province of Canada that, with respect to that province, deals with the regulation of securities or derivatives markets and the trading in securities or derivatives in that province;

“Nova Scotia authority” means any power, function or duty of the Commission or of the Director that is, or is intended to be, performed or exercised by the Commission or the Director under Nova Scotia securities laws.

(2) A reference to an extra-provincial securities commission includes, unless otherwise provided,

(a) its delegate; and

(b) any person or company who in respect of that extra-provincial securities commission exercises a power or performs a duty or function that is substantially similar to a power, duty or function exercised or performed by the Director under this Act. 2005, c. 26, s. 3; 2006, c. 46, s. 57; 2014, c. 28, s. 28.

Extra-provincial delegation

172 (1) Subject to any regulations made under Section 181, the Commission may, by order, for the purpose of Sections 172 to 180,

(a) delegate any Nova Scotia authority to an extra-provincial securities commission; and

(b) accept a delegation or other transfer of any extra-provincial authority from an extra-provincial securities commission.

(2) The Commission shall not delegate any power, function or duty of the Commission or of the Director that is, or is intended to be, performed or exercised by the Commission or the Director under Sections 4 to 27 or Sections 172 to 182. 2006, c. 46, s. 58.

Subdelegation

173 (1) Subject to any restrictions or conditions imposed by an extra-provincial securities commission with respect to a delegation of extra-provincial authority to the Commission, the Commission may subdelegate that extra-provincial authority in the manner and to the extent that the Commission or the Director, as the case may be, may delegate any Nova Scotia authority under the Nova Scotia securities laws.

(2) Subject to any restrictions or conditions imposed by the Commission with respect to a delegation of Nova Scotia authority to an extra-provincial securities commission, nothing in Sections 172 to 180 is to be construed as prohibiting the extra-provincial securities commission from subdelegating that Nova Scotia authority in the manner and to the extent that the extra-provincial securities commission can delegate its authority under the extra-provincial securities laws under which it operates. 2005, c. 26, s. 3.

Adoption of extra-provincial securities laws

174 (1) Subject to any regulations made under Section 181, the Commission may, by order, adopt or incorporate by reference as Nova Scotia securities laws all or any provisions of any extra-provincial securities laws of a jurisdiction to be applied to

(a) a person or company or class of persons or companies whose primary jurisdiction is that extra-provincial jurisdiction; or

(b) trades or other activities involving a person or company or a class of persons or companies referred to in clause (a).

(2) Where the Commission adopts or incorporates by reference an extra-provincial securities law under subsection (1), it may adopt or incorporate it by reference as amended, whether before or after the adoption or incorporation by reference, and with the necessary changes. 2006, c. 46, s. 59.

Exemption from Nova Scotia securities laws

175 Subject to any regulations made under Section 181, the Commission may, by order, exempt a person, company, security, derivative or trade or class of persons, companies, securities, derivatives or trades from all or any requirements of Nova Scotia securities laws if the person, company, security, derivative or trade or class of persons, companies, securities, derivatives or trades, as the case may be, satisfies the conditions set out in the order. 2006, c. 46, s. 60; 2014, c. 28, s. 29.

Similar decision

176 (1) Subject to any regulations made under Section 181, where the Commission or Director is empowered to make a decision regarding a person, company, trade, security or derivative, the Commission or the Director may make a decision on the basis that the Commission or the Director, as the case may be, considers that an extra-provincial securities commission has made a substantially similar decision regarding the person, company, trade, security or derivative.

(2) Subject to any regulations made under Section 181 and notwithstanding any other provision of this Act, the Commission or Director may make a decision referred to in subsection (1) without giving the person or company affected by the decision an opportunity to be heard. 2006, c. 46, s. 60; 2014, c. 28, s. 30.

No action lies re delegated Nova Scotia authority

177 (1) In this Section,

“Commission” includes the Director and any member, officer, employee, appointee or agent of the Commission;

“securities regulatory authority” means

(a) an extra-provincial securities commission referred to in subsection (2) and includes any member, officer, employee, appointee or agent of that commission;

(b) any person referred to in clause (2)(b);

(c) any exchange, derivatives trading facility, quotation and trade reporting system or self-regulatory organization referred to in clause (2)(c).

(2) This Section applies only with respect to a Nova Scotia authority that

(a) has been delegated by the Commission to an extra-provincial securities commission;

(b) is being, or intended to be, exercised by a person where that Nova Scotia authority has been subdelegated to that person by an extra-provincial securities commission and includes a subdelegate of that person but does not include an exchange, a derivatives trading facility, a quotation and trade reporting system or a self-regulatory

organization recognized or authorized by that extra-provincial securities commission; or

(c) is being, or intended to be, exercised by an exchange, a derivatives trading facility, a quotation and trade reporting system or a self-regulatory organization recognized or authorized by an extra-provincial securities commission to carry on business where that Nova Scotia authority has been subdelegated to it by an extra-provincial securities commission.

(3) No action or other proceeding for damages may be instituted against the Commission or a securities regulatory authority for

(a) any act done in good faith in the performance or exercise, or the intended performance or exercise of

(i) any Nova Scotia authority, or

(ii) a delegation, or the acceptance of a delegation, of any Nova Scotia authority; or

(b) any neglect or default in the performance or exercise in good faith of

(i) any Nova Scotia authority, or

(ii) a delegation, or the acceptance of a delegation, of any Nova Scotia authority. 2005, c. 26, s. 3; 2014, c. 28, s. 31.

No action lies re delegated extra-provincial authority

178 (1) In this Section,

“Commission” includes the Director and any member, officer, employee, appointee or agent of the Commission;

“securities regulatory authority” means

(a) any person referred to in clause (2)(b);

(b) any exchange, derivatives trading facility, quotation and trade reporting system or self-regulatory organization referred to in clause (2)(c).

(2) This Section applies only with respect to an extra-provincial authority that

(a) has been delegated by an extra-provincial securities commission to the Commission;

(b) is being, or intended to be, exercised by a person where that extra-provincial authority has been subdelegated to that person by the Commission and includes a subdelegate of that person but does not include a recognized exchange, a recognized derivatives trading facility, a recognized quotation and trade reporting system or a recognized self-regulatory organization; or

(c) is being, or intended to be, exercised by a recognized exchange, a recognized derivatives trading facility, a recognized quotation and trade reporting system or a recognized self-regulatory

organization where that extra-provincial authority has been subdelegated to it by the Commission.

- (3) No action or other proceeding for damages may be instituted against the Commission or a securities regulatory authority for
- (a) any act done in good faith in the performance or exercise, or the intended performance or exercise of
 - (i) any extra-provincial authority, or
 - (ii) a delegation, or the acceptance of a delegation, of any extra-provincial authority; or
 - (b) any neglect or default in the performance or exercise in good faith of
 - (i) any extra-provincial authority, or
 - (ii) a delegation, or acceptance of a delegation, of any extra-provincial authority. 2005, c. 26, s. 3; 2014, c. 28, s. 32.

Appeal of extra-provincial decision

179 (1) In this Section, “extra-provincial decision” means a decision of an extra-provincial securities commission made under a Nova Scotia authority delegated to that extra-provincial securities commission by the Commission.

(2) A person or company that is directly affected by an extra-provincial decision may appeal that extra-provincial decision to the Supreme Court of Nova Scotia.

(3) An appeal under this Section may be commenced by a notice of appeal filed with the Supreme Court of Nova Scotia within 30 days from the day that the extra-provincial securities commission serves the notice of its decision on the person or company appealing the decision.

(4) The practice and procedure in the Supreme Court of Nova Scotia in respect of an appeal under this Section is, with any necessary modification that the Court considers appropriate, the same as on an application to the Court in an action.

(5) The Supreme Court of Nova Scotia may, with respect to an appeal under this Section,

- (a) make any order or direction that it considers appropriate with respect to the commencement or conduct of, or any matter relating to, the appeal;
- (b) confirm, vary or reject the extra-provincial decision;
- (c) make any decision that the extra-provincial securities commission could have made and substitute the Court’s decision for that of the extra-provincial securities commission.

(6) The extra-provincial securities commission is the respondent to an appeal under this Section.

(7) A copy of the notice of appeal and supporting documents must, within the 30-day period referred to in subsection (3), be served on

- (a) the respondent; and
- (b) the secretary to the Commission.

(8) Notwithstanding that the Commission is not a respondent to an appeal under this Section, the Commission is entitled to be represented at the appeal and to make representations in respect of any matter before the Supreme Court of Nova Scotia that is related to the appeal.

(9) Notwithstanding that an appeal is commenced under this Section, the extra-provincial decision being appealed takes effect immediately, unless the extra-provincial securities commission, the Commission or the Supreme Court of Nova Scotia grants a stay pending disposition of the appeal.

(10) In this Section, a reference to an extra-provincial securities commission is a reference to the extra-provincial securities commission that made the extra-provincial decision that is being appealed under this Section. 2005, c. 26, s. 3.

Appeal of decision pursuant to delegated authority

180 (1) In this Section, “delegated authority” means any extra-provincial authority that is delegated to and accepted by the Commission under Section 172.

(2) A person or company that is directly affected by a decision of the Commission made pursuant to a delegated authority may appeal that decision to the Nova Scotia Court of Appeal.

(3) Subsections 27(2) to (6) apply to an appeal made under this Section.

(4) A person or company that has a right to appeal a decision under this Section may, subject to any direction of the Nova Scotia Court of Appeal, exercise that right of appeal whether or not that person or company may have a right to appeal that decision to a court in another jurisdiction.

(5) Notwithstanding subsection (4), if a decision referred to in subsection (2) is being appealed to a court in another jurisdiction, the Nova Scotia Court of Appeal may stay an appeal under this Section pending the determination of the appeal in the other jurisdiction. 2005, c. 26, s. 3; 2008, c. 32, s. 19.

Regulations and rules

181 The Governor in Council may make regulations and the Commission may make rules

- (a) respecting the delegation of any Nova Scotia authority to an extra-provincial securities commission;
- (b) respecting the acceptance by the Commission of any delegation of an extra-provincial authority from an extra-provincial securities commission;

- (c) respecting any amendments to, or the revocation of any delegation or acceptance of, a delegation referred to in clause (a) or (b);
- (d) respecting the adoption or incorporation of extra-provincial securities laws under Section 174, including the administration of those laws once adopted or incorporated.
- (e) respecting the administration of exemptions from Nova Scotia securities laws under Section 175;
- (f) respecting the adoption of decisions of extra-provincial securities commissions, including the administration of those decisions once adopted;
- (g) respecting the administration of extra-provincial securities laws arising from or as a result of any matters described in clauses (a) to (f);
- (h) respecting any matter necessary or advisable to regulate credit rating organizations, including prescribing requirements in respect of credit rating organizations, including requirements relating to
 - (i) the terms and conditions applicable to the designation of a credit rating organization for the purpose of securities legislation,
 - (ii) the disclosure or furnishing of information to the Commission by a credit rating organization,
 - (iii) the establishment, publication and enforcement of a code of conduct applicable to a credit rating organization's directors, officers and employees, including minimum requirements for such a code,
 - (iv) prohibitions and procedures regarding conflicts of interest between a credit rating organization and the person or company whose securities are being rated,
 - (v) the maintenance of books and records necessary for the conduct of the credit rating organization's business and the issuance and maintenance of credit ratings, and
 - (vi) the designation of a compliance officer or officers for the credit rating organization;
- (i) regulating the trading of derivatives, including, without limiting the generality of the foregoing, prescribing
 - (i) requirements relating to the clearing and settlement of trades,
 - (ii) requirements relating to the reporting of trades on or to a recognized derivatives trade repository,
 - (iii) derivatives or classes of derivatives in respect of which trades must be cleared or settled through a recognized clearing agency,
 - (iv) requirements that a derivative or class of derivatives be traded on a recognized derivatives trading facility,
 - (v) record keeping, reporting and transparency requirements,

- (vi) requirements respecting persons or companies trading derivatives including, without limiting the generality of the foregoing, trade reporting, clearing and settlement, margin, capital and collateral,
- (vii) requirements relating to position limits,
- (viii) requirements that a derivative or class of derivatives not be traded in the Province, and
- (ix) requirements relating to the holding or maintenance of margin or collateral;
- (j) prescribing that a contract or instrument or a class of contracts or instruments is a security or a class of securities;
- (k) prescribing that a contract or instrument or a class of contracts or instruments is a derivative or a class of derivatives;
- (l) prescribing that a contract or instrument or a class of contracts or instruments is not a derivative or a class of derivatives;
- (m) respecting any matter necessary or advisable to regulate clearing agencies, derivatives trading facilities or derivatives trade repositories;
- (n) in relation to disclosure documents relating to derivatives, including, without limiting the generality of the foregoing,
 - (i) prescribing disclosure requirements, including use of particular forms or types of documents,
 - (ii) prescribing specifics relating to the obligation to deliver disclosure documents to counterparties to a derivatives trade, including requirements related to the timing of delivery of the documents,
 - (iii) prescribing circumstances in which a disclosure document is deemed to be accepted for the purpose of this Act, including the circumstances where a disclosure document is accepted under the laws of another jurisdiction, and
 - (iv) prescribing additional requirements that must be satisfied before a disclosure document may be accepted;
- (o) respecting the transfer and pledging of securities or the trading of derivatives;
- (p) prescribing circumstances in which a person or company or a class of persons or companies is subject to an order imposing sanctions, conditions, restrictions, prohibitions or requirements, including the circumstance in which a securities regulatory authority in another jurisdiction has ordered that the person or company be subject to sanctions, conditions, restrictions, prohibitions or requirements;
- (q) prescribing circumstances in which an order imposing sanctions, conditions, restrictions, prohibitions or requirements on a person or company may be varied or revoked, including the circumstance in which a securities regulatory authority in another jurisdiction has ordered the variation or revocation of an order imposing sanctions, conditions, restrictions, prohibitions or requirements on a person or company;

- (r) prescribing the forms for use under this Act and the regulations or rules and authorizing the Commission or Director to vary such form in specified circumstances;
- (s) prescribing trades, securities or derivatives, referred to in Nova Scotia securities laws in respect of which there shall cease to be exemption from registration;
- (t) prescribing a category or categories of designated benchmarks for the purpose of subsection 55(7);
- (u) prescribing classes of service providers or security holders for the purpose of Section 57;
- (v) prescribing requirements relating to
 - (i) the designation of a benchmark or benchmark administrator under Section 55,
 - (ii) the making of orders under Section 56,
 - (iii) the disclosure or furnishing of information to the Commission, the public or any person or company by a benchmark administrator, a benchmark contributor or a benchmark user, including requirements for disclosure statements by a benchmark administrator in relation to a benchmark,
 - (iv) the quality, integrity and sufficiency of the data and the methodology used by a benchmark administrator to determine a benchmark, including requirements for a benchmark administrator to monitor benchmark contributors and data provided by benchmark contributors,
 - (v) the establishment, publication and enforcement by a benchmark administrator of codes of conduct applicable to benchmark administrators or benchmark contributors and their respective directors, officers and employees, and any of their service providers or security holders that are in a class prescribed under clause (u), and the minimum requirements to be included in such a code of conduct,
 - (vi) contractual arrangements related to a benchmark to be entered into by a benchmark administrator or a benchmark contributor and the minimum requirements to be included in the contractual arrangements,
 - (vii) the use by a benchmark administrator and a benchmark contributor of service providers,
 - (viii) prohibitions against and procedures regarding conflicts of interest involving a benchmark and benchmark administrators, benchmark contributors and their respective directors, officers and employees, and any of their service providers or security holders that are in a class prescribed under clause (u), including
 - (A) procedures to be followed to avoid conflicts of interest,
 - (B) procedures to be followed if conflicts of interest arise,

- (C) requirements for separation of roles, functions and activities, and
- (D) restrictions on ownership of a benchmark or benchmark administrator,
- (ix) prohibitions against the use of a benchmark that is not a designated benchmark by a benchmark user,
- (x) disclosure and other requirements respecting the use of a benchmark by a benchmark administrator, benchmark contributor or benchmark user,
- (xi) requiring information in relation to a benchmark to be provided for use by the benchmark administrator,
- (xii) the maintenance of books and records necessary for the conduct of a benchmark administrator's business and the establishment and maintenance of a benchmark,
- (xiii) the maintenance of books and records by a benchmark contributor relating to a benchmark,
- (xiv) the appointment by benchmark administrators and benchmark contributors of one or more compliance officers and any minimum standards that must be met or qualifications a compliance officer must have,
- (xv) the prohibition or restriction of any matter or conduct involving a benchmark by benchmark administrators, benchmark contributors and their respective directors, officers and employees, and any of their service providers or security holders that are in a class referred to in clause (u),
- (xvi) the design, determination and dissemination of a benchmark,
- (xvii) plans of a benchmark user where a benchmark changes or ceases to be provided and how these plans will be reflected in the contractual arrangements of the benchmark user,
- (xviii) the governance, compliance, accountability, oversight, audit, internal controls, policies and procedures of a benchmark administrator or benchmark contributor with respect to a benchmark, and
- (xix) the governance, compliance, accountability, oversight, audit, internal controls, policies and procedures of a benchmark administrator, benchmark contributor or benchmark user with respect to the use of a benchmark;
- (w) regulating submissions of information for the purpose of determining a benchmark;
- (x) requiring benchmark administrators or benchmark contributors to
 - (i) establish plans in the event that a benchmark changes or ceases to be provided or is subject to data failures or business continuity issues, and

- (ii) reflect the plans referred to in subclause (i) in the contractual arrangements of the benchmark administrator or benchmark contributor relating to the benchmark;
- (y) governing or restricting the payment of fees or other compensation to a benchmark administrator or benchmark contributor;
- (z) respecting the content and distribution of written, printed or visual material and advertising that may be distributed or used by a person or company with respect to a security or derivative whether in the course of distribution or otherwise;
- (aa) assigning to the Commission such powers and duties of the Director and reassigning any such powers and duties to the Commission;
- (ab) defining, enlarging or restricting the meaning of any word or expression used in this Act or the regulations or rules and not otherwise defined;
- (ac) authorizing the Commission to relieve reporting issuers or a class of reporting issuers from any provisions of this Act or the regulations or rules or modifying the application of any such provisions to such reporting issuers or class of reporting issuers where the Commission is satisfied that to do so would not be prejudicial to the public interest;
- (ad) further defining the meaning of “trust company”, “loan company” and “insurance company” for the purpose of this Act;
- (ae) requiring an offering memorandum to be sent or delivered to a purchaser or prospective purchaser as a condition of a vendor being entitled to rely on a certain exemption or certain exemptions contained in this Act or the regulations or rules from the requirements of Sections 80 and 88;
- (af) specifying the information that is required to be contained in offering memoranda generally or in an offering memorandum required by a particular provision of this Act or the regulations or rules;
- (ag) respecting the use and distribution of offering memoranda;
- (ah) modifying the application of subsection 96(7) with respect to a reporting issuer or class of reporting issuers;
- (ai) authorizing the Commission, where permitted to do so by another jurisdiction, to exercise, with respect to matters coming within the purview of the Commission by virtue of this Act, those powers and duties in that other jurisdiction that the Commission may exercise and perform in the Province, including the holding of hearings in that jurisdiction in conjunction with a board, commission, other agency or official established by that other jurisdiction that the Commission performs in the Province;
- (aj) authorizing a board, commission, other agency or official established by another jurisdiction that performs a similar function in that jurisdiction that the Commission performs in the Province to hold hearings together with the Commission with respect to matters coming within the jurisdiction of the Commission;
- (ak) describing persons or companies who are deemed to be holders of securities of an issuer whose latest address is in the Province;
- (al) varying the application of this Act to permit or require, and establishing requirements for and procedures in respect of, the use of an

electronic or computer-based system for the filing, delivery or deposit of all documents or information required under or governed by this Act or the regulations or rules and all documents determined by the regulations or rules to be ancillary to any such documents, including, without limiting the generality of the foregoing,

- (i) prescribing the format and means of transmission of such documents or information,
- (ii) prescribing the time at which documents or information filed, delivered or deposited to the use of such system are deemed to have been filed, delivered or deposited,
- (iii) prescribing the circumstances in which persons or companies are deemed to have signed or certified documents filed, delivered or deposited through the use of such system for all purposes of this Act, including, without limiting the generality of the foregoing, the civil liability provisions of Sections 142, 143 and 144,
- (iv) prescribing the use of one or more authorized service providers by persons or companies permitted or required to file, deliver or deposit documents or information with the Director or the Commission through the electronic or computer-based system, and prescribing or approving the fees payable by such persons or companies to such service providers;
- (am) respecting the conduct of the Commission and its employees in relation to duties and responsibilities and discretionary powers pursuant to this Act, including rules in relation to potential conflicts of interest of members of the Commission, the Director and staff of the Commission and providing that the rules are binding on and are a term of employment or appointment of such members, Director and staff;
- (an) enunciating principles to which the Commission shall have due regard in pursuing the purposes of this Act;
- (ao) providing for costs in respect of proceedings pursuant to this Act, and in respect of investigations, examinations or appointments made pursuant to this Act or the regulations;
- (ap) prescribing the circumstances under which an offering memorandum is required to be delivered or furnished to a prospective purchaser of securities and filed with the Commission or the Director;
- (aq) prescribing the uses or disposition of administrative penalties and amounts disgorged as a result of non-compliance paid to the Commission pursuant to this Act;
- (ar) prescribing procedures or practices to be followed in relation to matters coming before the Commission;
- (as) varying the application of this Act and the regulations to establish procedures for or requirements in respect of the preparation, form, content and filing of registration documents and the issuing of registration certificates that facilitate or expedite the granting of registrations and the issuing of such certificates;
- (at) approving any agreement, memorandum of understanding or arrangement entered into with another securities or financial regulatory

authority, including any self-regulating body or organization, whether recognized pursuant to Section 40 or not, or any jurisdiction;

(au) prescribing the conditions and circumstances under which a company may undertake the duties, responsibilities and activities which a person who is a registrant and a shareholder of the company is authorized to undertake by virtue of being a registrant, including the establishment of a scheme for the registration of the company and the category of such registration;

(av) imposing liability on a registrant who is a dealer or adviser for acts or omissions, of the type prescribed, of a company that is a registrant pursuant to a scheme established pursuant to the authority in clause (au) where the dealer or adviser has a prescribed contractual relationship with the company;

(aw) imposing liability on a person who is a registrant and a shareholder of a company for acts or omissions of the company where the company that performs the acts or fails to perform the acts is a registrant pursuant to a scheme established pursuant to the authority in clause (au);

(ax) prescribing the terms and conditions under which a person who is in a contractual relationship with a dealer is deemed to be an employee of the dealer for the purpose of this Act, the regulations and the rules and qualified for registration as a representative of the dealer;

(ay) imposing liability on a registrant who is a dealer for the acts and omissions, of the type prescribed, of a person deemed to be an employee of the dealer under a regulation or rule made pursuant to clause (ax);

(az) enabling a person or company that is required to be registered to appoint an individual to perform on its behalf a prescribed function or duty and prescribing that function or duty;

(ba) prescribing that subclauses 143(1)(c)(ii) and (iii) do not apply where the offering memorandum is of a type specified;

(bb) requiring evaluations of reporting issuers' internal control over financial reporting and requiring reporting issuers to obtain audits of their internal control over financial reporting, including their management's evaluation;

(bc) exempting a class of persons, companies, trades, securities or derivatives from one or more of the provisions of Nova Scotia securities laws or varying the provisions as they apply to any person, company, trade, security or derivative;

(bd) prescribing circumstances and conditions for the purpose of an exemption under clause (bc), including

(i) conditions relating to the laws of another jurisdiction of Canada or relating to an exemption from those laws granted by a body empowered by the laws of that jurisdiction to regulate trading in securities or derivatives or to administer or enforce laws respecting trading in securities or derivatives in that jurisdiction, or

(ii) conditions that refer to a person or company or to a class of persons or companies designated by the Commission;

(be) governing registration and, without limiting the generality of the foregoing, prescribing circumstances in which

(i) a person or company or a class of persons or companies is not required to be registered under Section 60, or

(ii) a person or company or a class of persons or companies is deemed to be registered for the purpose of this Act or the regulations,

including the circumstance in which a person or company or a class of persons or companies is registered under the laws of another jurisdiction respecting trading in securities or derivatives;

(bf) governing annual information forms, annual reports, preliminary prospectuses, prospectuses, *pro forma* prospectuses, short form prospectuses, *pro forma* short form prospectuses, exchange offering prospectuses, simplified prospectuses, risk disclosure statements, offering memoranda or any other disclosure documents and, without limiting the generality of the foregoing, prescribing procedures and requirements with respect to and providing for exemptions from circumstances in which

(i) Section 80 does not apply to a person or company or a class of persons or companies, or

(ii) a receipt is deemed to have been issued for the purpose of this Act,

including the circumstance in which a receipt has been issued for a preliminary prospectus or prospectus under the laws of another jurisdiction respecting trading in securities;

(bg) prescribing circumstances in which a person or company or a class of persons or companies is prohibited from trading or purchasing securities or derivatives, or a particular security or derivative, including the circumstances in which a body empowered by the laws of another jurisdiction to regulate trading in securities or derivatives or to administer or enforce securities or derivatives laws in that jurisdiction, has ordered that

(i) a person or company is prohibited from trading or purchasing securities or derivatives, or a particular security or derivative, or

(ii) trades or purchases of a particular security or derivative be prohibited;

(bh) prescribing requirements in respect of applications for registration and the renewal, amendment, expiration or surrender of registration and in respect of suspension, cancellation or reinstatement of registration;

(bi) prescribing categories or subcategories of registrants, classifying registrants into categories or subcategories and prescribing the conditions of registration or other requirements for registrants or any category or subcategory, including

(i) standards of practice and business conduct of registrants in dealing with their customers and clients and prospective customers and clients,

(ii) requirements that are advisable for the prevention or regulation of conflicts of interest,

- (iii) requirements in respect of membership in a self-regulatory organization,
- (iv) requirements that any person or company registered under this Act use specified titles,
- (v) requirements that apply to non-resident registrants,
- (vi) respecting dispute-resolution processes, including
 - (A) requirements with respect to participation in a dispute-resolution process, including a dispute-resolution process by a complaint-resolution service,
 - (B) any information sharing rules or requirements with respect to a dispute-resolution process or a complaint-resolution service,
 - (C) any processes or procedures with respect to a dispute-resolution process, including a dispute-resolution process by a complaint-resolution service,
 - (D) requiring any registrant or category of registrant to comply with a decision or order arising from a dispute-resolution process or complaint-resolution service,
 - (E) the enforcement of a decision or order arising from a dispute-resolution process or complaint-resolution service,
 - (F) the impact of dispute-resolution processes on other proceedings respecting the matter that is in dispute, and
 - (G) prescribing review or appeal processes respecting a decision or order arising from a dispute-resolution process or complaint-resolution service,
- (vii) requirements with respect to the handling of complaints,
- (viii) requirements with respect to systems of control and supervision, including requirements respecting the appointment and registration of individuals responsible for those systems, and the responsibilities of those individuals, and
- (ix) requirements respecting referral arrangements;
- (bj) extending any requirements prescribed under clause (bi) to unregistered directors, partners, salespersons and officers of registrants;
- (bk) prescribing requirements in respect of the residence in the Province or Canada of registrants;
- (bl) prescribing requirements in respect of notification by a registrant or other person or company in respect of a proposed change in beneficial ownership of, or control or direction over, securities of the registrant and authorizing the Commission to make an order that a proposed change may not be effected before a decision by the Commission as to whether it will exercise its powers under clause 134(1)(h) as a result of the proposed change;

(bm) prescribing requirements for persons and companies in respect of calling at or telephoning to residences for the purpose of trading in securities or derivatives;

(bn) prescribing requirements in respect of the disclosure or furnishing of information to the public or the Commission by registrants, unregistered directors, unregistered partners, unregistered salespersons, unregistered officers and control persons of registrants or providing for exemptions from or varying the requirements under this Act or the regulations or the regulations in respect of the disclosure or furnishing of information to the public or the Commission by registrants;

(bo) providing exemptions from or varying the registration requirements under this Act or the regulations;

(bp) regulating the listing or trading of publicly traded securities or the trading of derivatives, including rules

(i) relating to clearing and settling trades,

(ii) requiring the reporting of trades and quotations, and

(iii) prescribing classes of derivatives in respect of which trades must be cleared or settled through a clearing agency;

(bq) regulating recognized self-regulatory organizations, exchanges, quotation and trade reporting systems, alternative trading systems, clearing agencies, derivatives trading facilities and derivatives trade repositories, including prescribing requirements in respect of the recognition process and the review or approval by the Commission of any bylaw, rule, regulation, policy, procedure, interpretation or practice;

(br) regulating trading or advising in securities or derivatives to prevent trading or advising that is fraudulent, manipulative, deceptive or unfairly detrimental to investors;

(bs) prescribing categories or subcategories of issuers for purposes of the prospectus requirements under this Act or the regulations and classifying issuers into categories or subcategories;

(bt) regulating in respect of, or varying this Act to facilitate, expedite or regulate in respect of the distribution of securities or the issuing of receipts, including

(i) establishing requirements in respect of distributions of securities by means of a prospectus incorporating other documents by reference,

(ii) establishing requirements in respect of distributions of securities by means of a simplified or summary prospectus or other form of disclosure document,

(iii) establishing requirements in respect of distributions of securities on a continuous or delayed basis,

(iv) establishing requirements in respect of pricing of distributions of securities after the issuance of a receipt for the prospectus filed in relation thereof,

(v) establishing procedures for the issuing of receipts for prospectuses after expedited or selective review thereof,

- (vi) establishing provisions for the incorporation by reference of certain documents in a prospectus or other prescribed disclosure document and the effect, including from a liability and evidentiary perspective, of modifying or superseding statements,
- (vii) establishing requirements in respect of the form, and execution by persons or companies, of certificates relating to a preliminary prospectus, prospectus and an amendment to a preliminary prospectus or prospectus, and conferring on the Director the discretion to require the execution by a person or company of a certificate relating to a preliminary prospectus or prospectus in a form required by other persons or companies under a rule with modifications or lessen the scope of the certificate,
- (viii) establishing provisions for eligibility requirements to file a prospectus or obtain a receipt for, or distribute under, a particular form of prospectus and the loss of that eligibility,
- (ix) prescribing the circumstances in which a distribution may continue after the lapse date, and the circumstances in which a purchaser may cancel a purchase after the lapse date, and
- (x) prescribing a minimum interval of time between the issuance of a receipt for a preliminary prospectus and the issuance of a receipt for a prospectus;
- (bu) prescribing circumstances in which a person that purchases a security under a distribution may cancel the purchase, including
 - (i) prescribing the period in which the purchaser may cancel the purchase,
 - (ii) prescribing the principles for determining the amount of the refund if the purchaser cancels the purchase,
 - (iii) specifying the persons responsible for making and administering the payment of the refund and prescribing the period in which the refund must be paid, and
 - (iv) prescribing different circumstances, periods, principles or persons for different classes of securities, issuers or purchasers;
- (bv) prescribing requirements for the escrow of securities in connection with distributions;
- (bw) designating activities, including the use of documents or advertising, in which registrants or issuers are permitted to engage or are prohibited from engaging in connection with the trading or distribution of securities or derivatives;
- (bx) prescribing which distributions and trading in relation to the distributions are distributions and trading outside the Province;
- (by) providing for exemptions from the prospectus requirements under this Act;
- (bz) prescribing the circumstances in which the Director must refuse to issue a receipt for a prospectus and prohibiting the Director from issuing a receipt in those circumstances;

- (ca) conferring discretion on the Director to impose terms and conditions that must be satisfied before the Director will issue a receipt for a prospectus;
- (cb) prescribing requirements in respect of the preparation and dissemination and other use by reporting issuers of documents providing for continuous disclosure, including requirements in respect of
 - (i) annual financial statements and interim financial reports,
 - (ii) supplemental analysis of annual financial statements and interim financial reports,
 - (iii) an annual report,
 - (iv) a business acquisition report, and
 - (v) an annual information form;
- (cc) regulating the disclosure or furnishing of information to the public or the Commission by reporting issuers;
- (cd) prescribing requirements with respect to the disclosure by reporting issuers of material changes, including
 - (i) prescribing the time period within which a reporting issuer must make disclosure of a material change, and
 - (ii) prescribing the manner in which a reporting issuer must make disclosure of a material change;
- (ce) exempting reporting issuers from any requirement of Section 101 and the related regulations
 - (i) if the requirement conflicts with a requirement of the laws of the jurisdiction under which the reporting issuers are incorporated, organized or continued,
 - (ii) if the reporting issuers ordinarily distribute financial or other information to holders of their securities in a form, or at times, different from those required by a rule made under clauses (cb) to (cd),
 - (iii) under circumstances that the Commission considers justify the exemption;
- (cf) requiring issuers or other persons and companies to comply, in whole or in part, with Section 101, or rules made under clauses (cb) to (cd);
- (cg) prescribing requirements in respect of financial accounting, reporting and auditing for the purpose of this Act or the regulations, including
 - (i) defining accounting principles and auditing standards acceptable to the Commission,
 - (ii) financial reporting requirements for the preparation and dissemination of future-oriented financial information and *pro forma* financial statements,
 - (iii) standards of independence and other qualifications for auditors,

- (iv) requirements respecting a change in auditors by a reporting issuer or a registrant,
- (v) requirements respecting a change in the financial year of an issuer or in an issuer's status as a reporting issuer under this Act, and
- (vi) defining auditing standards for attesting to and reporting on a reporting issuer's internal controls;
- (ch) prescribing requirements for the validity and solicitation of proxies;
- (ci) providing for the application of Sections 101, 104 and 105 and the related regulations in respect of registered holders or beneficial owners of voting securities or equity securities of reporting issuers or other persons or companies on behalf of whom the securities are held, including requirements for reporting issuers, registered holders, registrants and other persons or companies who hold securities on behalf of persons or companies but who are not the registered holders;
- (cj) regulating take-over bids, issuer bids, insider bids, going-private transactions, business combinations and related party transactions, including
 - (i) prescribing requirements relating to the conduct or management of the affairs of any person or company and their directors and officers before, during or after an offer to acquire, acquisition, offer to redeem, redemption, going-private transaction, business combination or related party transaction,
 - (ii) prescribing requirements for disclosure, valuations, review by independent committees of boards of directors and approval by minority security holders,
 - (iii) prescribing requirements respecting defensive tactics in connection with take-over bids,
 - (iv) prohibiting a person or company from purchasing or trading a security or derivative before, during or after an offer to acquire, acquisition, offer to redeem, redemption, going-private transaction, business combination or related party transaction,
 - (v) prescribing types or classes of securities, percentages, disclosure requirements and prohibitions for the purpose of Section 113,
 - (vi) prescribing exemptions from the requirements of Sections 106 to 110;
- (ck) providing for exemptions from any requirement of Section 102 or from liability under Section 148 and prescribing standards or criteria for determining when a material fact or material change has been generally disclosed;
- (cl) varying or providing for exemptions from any requirement of Sections 111 to 126;
- (cm) regulating the disclosure or furnishing of information to the public or the Commission by insiders, including

- (i) prescribing requirements respecting the reporting by insiders of any direct or indirect beneficial ownership of, or control or direction over, securities of a reporting issuer or changes in ownership, control or direction,
- (ii) prescribing requirements respecting the reporting by insiders of any interest in or right or obligation associated with a related financial instrument or changes in such interests, rights or obligations,
- (iii) prescribing requirements respecting the reporting by insiders of any agreement, arrangement or understanding that alters, directly or indirectly, an insider's economic interest in a security or derivative or an insider's economic exposure to a reporting issuer or changes in such agreements, arrangements or understandings, and
- (iv) prescribing the circumstances when a person or company is deemed to have been an insider;
- (cn) extending any requirements prescribed under clause (cm) to other persons or companies;
- (co) regulating investment funds and the distribution and trading of the securities of investment funds, including
 - (i) prescribing disclosure requirements in respect of investment funds and requiring or permitting the use of particular forms or types of additional offering or other documents in connection with the funds,
 - (ii) prescribing requirements for investment funds in respect of derivatives,
 - (iii) prescribing
 - (A) investment fund securities trading on an exchange or an alternative trading system for the purpose of subsection 95(3),
 - (B) the disclosure document that is required in respect of prescribed investment fund securities under subsection 95(4),
 - (C) the time and manner for sending or delivering the disclosure document, and
 - (D) the circumstances in which a purchase is not binding on a purchaser for the purpose of subsection 95(6),
 - (iv) prescribing permitted investment policy and investment practices for investment funds and prohibiting or restricting certain investments or investment practices for investment funds,
 - (v) prescribing requirements governing the custodianship of assets of investment funds,
 - (vi) prescribing minimum initial capital requirements for investment funds making a distribution and prohibiting or restricting the reimbursement of costs in connection with the organization of a fund,

- (vii) prescribing matters affecting investment funds that require the approval of security holders of the fund, the Commission or the Director, including, in the case of security holders, the level of approval,
- (viii) prescribing requirements in respect of the calculation of the net asset value of investment funds,
- (ix) prescribing requirements in respect of the content and use of sales literature, sales communications or advertising relating to investment funds or the securities of investment funds,
- (x) designating mutual funds as private mutual funds and prescribing requirements for private mutual funds,
- (xi) respecting sales expense imposed by a distribution company or contractual plan service company under a contractual plan on purchasers of shares or units of an investment fund, and commissions or sales incentives to be paid to registrants in connection with the securities of an investment fund,
- (xii) prescribing the circumstances in which a planholder under a contractual plan has the right to withdraw from the contractual plan,
- (xiii) prescribing procedures applicable to investment funds, registrants and any other person or company in respect of sales and redemptions of investment fund securities and payments for sales and redemptions,
- (xiv) prescribing requirements in respect of, or in relation to, promoters, advisers or persons and companies who administer or participate in the administration of the affairs of investment funds, and
- (xv) regulating conflicts of interest between the interests of the investment fund and those of the investment fund manager;
- (cp) respecting fees payable by an issuer to an adviser as consideration for investment advice, alone or together with administrative or management services provided to an investment fund;
- (cq) prescribing requirements relating to the qualification of a registrant to act as an adviser to an investment fund;
- (cr) regulating commodity pools, including
 - (i) prescribing disclosure requirements in respect of commodity pools and requiring or permitting the use of particular forms or types of offering or other documents in connection with commodity pools,
 - (ii) prescribing requirements in respect of, or in relation to, promoters, advisers, persons and companies who administer or participate in the administration of the affairs of commodity pools,
 - (iii) prescribing standards in relation to the suitability of investors in commodity pools,
 - (iv) prohibiting or restricting the payment of fees, commissions or compensation by commodity pools or holders of securities of

commodity pools and restricting the reimbursement of costs in connection with the organization of commodity pools,

(v) prescribing requirements with respect to the voting rights of security holders, and

(vi) prescribing requirements in respect of the redemption of securities of a commodity pool;

(cs) relating or varying this Act in respect of derivatives, including

(i) providing exemptions from any requirement of this Act or the regulations,

(ii) prescribing disclosure requirements and requiring or prohibiting the use of particular forms or types of offering documents or other documents, and

(iii) prescribing requirements that apply to investment funds, commodity pools or other issuers;

(ct) varying this Act with respect to foreign issuers to facilitate distributions, compliance with requirements applicable or relating to reporting issuers and the making of take-over bids, issuer bids, insider bids, going-private transactions, business combinations and related party transactions where the foreign issuers are subject to requirements of the laws of other jurisdictions that the Commission considers are adequate in light of the purposes and principles of this Act;

(cu) prescribing requirements in respect of reverse take-overs, including requirements for disclosure that are substantially equivalent to that provided by a prospectus;

(cv) requiring or respecting the media, format, preparation, form, content, execution, certification, delivery, dissemination and other use, filing and review of all documents and information required under or governed by this Act or the regulations and all documents and information determined by the regulations to be ancillary to the documents and information, including

(i) applications for registration and other purposes,

(ii) preliminary prospectuses and prospectuses,

(iii) interim financial reports and annual financial statements,

(iv) proxies and information circulars, and

(v) take-over bid circulars, issuer bid circulars and directors' circulars;

(cw) governing the approval of any document described in clause (cv);

(cx) prescribing the circumstances in which persons or companies are deemed to have delivered or sent documents or information required under or governed by this Act or the regulations;

(cy) respecting the designation or recognition of any person, company or jurisdiction, if advisable, for the purpose of Nova Scotia securities laws, including

- (i) recognizing or designating exchanges, quotation and trade reporting systems, derivatives trading facilities, derivatives trade repositories, self-regulatory organizations and clearing agencies, and
 - (ii) designating a person or company for the purpose of the definitions of “insider”, “mutual fund” or “non-redeemable investment fund” to be, or not to be, an insider, mutual fund or non-redeemable investment fund;
- (cz) governing the designation or determination of issuers or a class of issuers to be, or not to be, reporting issuers and, without limiting the generality of the foregoing, circumstances in which
- (i) an issuer or a class of issuers is deemed to be, or is deemed to cease to be, a reporting issuer, or
 - (ii) an issuer or a class of issuers is deemed to be, or is deemed to cease to be, a reporting issuer for the purpose of Nova Scotia securities laws,
- including the circumstances in which an issuer or a class of issuers ceases to be a reporting issuer under the laws of another jurisdiction respecting trading in securities or derivatives;
- (da) respecting the conduct of the Commission and its employees in relation to duties and responsibilities and discretionary powers under this Act, including
- (i) the conduct of investigations and examinations carried out under Sections 28 to 39, and
 - (ii) the conduct of hearings;
- (db) prescribing the fees payable to the Commission, including those for filing, for applications for registration or exemptions, for trades in securities or derivatives, in respect of audits made by the Commission, and in connection with the administration of Nova Scotia securities laws;
- (dc) providing for electronic signatures for the signing of documents and prescribing the circumstances in which persons or companies are deemed to have signed or certified documents on an electronic or computer-based system for any purpose of this Act or the regulations;
- (dd) regulating scholarship plans and the distribution and trading of the securities of scholarship plans;
- (de) specifying the conditions under which any particular type of trade that would not otherwise be a distribution is a distribution;
- (df) permitting, requiring or varying this Act to permit or require methods of filing or delivery, to or by the Commission, issuers, registrants, security holders or others, of documents, information, notices, books, records, things, reports, orders, authorizations or other communications required under or governed by Nova Scotia securities laws;
- (dg) providing for exemptions from or varying the requirements set out in Sections 142 to 152;
- (dh) providing for exemptions from or varying the requirements of Section 88, 91 or 95;

- (di) prescribing the disclosure document that is required in respect of the purchase and sale of an investment fund security for the purpose of subsection 95(2), requiring dealers to provide the disclosure document to purchasers and prescribing the time and manner for sending or delivering the disclosure document;
- (dj) regulating or prohibiting the use of a class of disclosure documents during a distribution;
- (dk) prescribing requirements in respect of amendments to prospectuses or preliminary prospectuses, including
 - (i) prescribing the circumstances in which an amendment to a preliminary prospectus or prospectus must be filed and delivered, and
 - (ii) establishing requirements to obtain a receipt for an amendment to a preliminary prospectus or prospectus;
- (dl) prescribing requirements in connection with the first trade of securities previously acquired under an exemption from the prospectus requirement under this Act;
- (dm) prescribing documents for the purpose of the definition of “core document” in Section 153;
- (dn) providing for the application of Sections 153 to 166 to the acquisition of an issuer’s security pursuant to a distribution that is exempt from Section 80 or 88 and to the acquisition or disposition of an issuer’s security in connection with or pursuant to a take-over bid or issuer bid;
- (do) prescribing transactions or classes of transactions for the purpose of clause 154(d);
- (dp) prescribing, providing for exemptions from or varying any or all of the time periods in this Act or the regulations;
- (dq) prescribing requirements with respect to the governance of reporting issuers for the purpose of Section 124;
- (dr) requiring reporting issuers to appoint audit committees and prescribing requirements relating to the functioning and responsibilities of audit committees, including requirements in respect of
 - (i) the standard of review to be applied by audit committees in their review of documents filed under Nova Scotia securities laws,
 - (ii) the certification or other evidence of review by audit committees,
 - (iii) the scope and content of an audit committee’s review, and
 - (iv) the composition of audit committees and the qualifications of audit committee members, including independence requirements;
- (ds) requiring reporting issuers to devise and maintain a system of internal controls related to the effectiveness and efficiency of their operations, including financial reporting and asset control, sufficient to provide reasonable assurances that

- (i) transactions are executed in accordance with management's general or specific authorization,
 - (ii) transactions are recorded as necessary to permit preparation of interim financial reports and annual financial statements in accordance with generally accepted accounting principles or any other criteria applicable to those statements,
 - (iii) transactions are recorded as necessary to maintain accountability for assets,
 - (iv) access to assets is permitted only in accordance with management's general or specific authorization, and
 - (v) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences;
- (dt) requiring reporting issuers to devise and maintain disclosure controls and procedures sufficient to provide reasonable assurances that
- (i) information required to be disclosed under Nova Scotia securities laws is recorded, processed, summarized and reported, within the time periods specified under Nova Scotia securities laws, and
 - (ii) information required to be disclosed under Nova Scotia securities laws is accumulated and communicated to the reporting issuer's management, including its chief executive and financial officers, as appropriate, to allow timely decisions regarding required disclosure;
- (du) requiring chief executive officers and chief financial officers of reporting issuers, or persons performing similar functions, to provide a certification that addresses the reporting issuer's internal controls, including a certification that addresses
- (i) the establishment and maintenance of the internal controls,
 - (ii) the design of the internal controls, and
 - (iii) the evaluation of the effectiveness of the internal controls;
- (dv) requiring chief executive officers and chief financial officers of reporting issuers, or persons performing similar functions, to provide a certification that addresses the reporting issuer's disclosure controls and procedures, including a certification that addresses
- (i) the establishment and maintenance of the disclosure controls and procedures,
 - (ii) the design of the disclosure controls and procedures, and
 - (iii) the evaluation of the effectiveness of the disclosure controls and procedures;
- (dw) requiring investment funds to establish and maintain a body for the purpose described in Section 125, prescribing its powers and duties and prescribing requirements relating to

- (i) the mandate and functioning of the body,
 - (ii) the composition of the body and qualifications for membership on the body, including matters respecting the independence of members and the process for selecting the members,
 - (iii) the standard of care that applies to members of the body when exercising their powers, performing their duties and carrying out their responsibilities,
 - (iv) the disclosure of information to security holders of the investment fund, to the investment fund manager and to the Commission, and
 - (v) matters affecting the investment fund that require review by the body or the approval of the body;
- (dx) prescribing requirements for the certification of prospectuses by persons and companies in relation to the following:
- (i) where the issuer is a trust, requiring individuals who perform functions for the issuer similar to those performed by a chief executive officer or chief financial officer of an issuer to certify the prospectus,
 - (ii) where the issuer is a trust and its business or a material part of its business is conducted through a person or company other than the issuer, requiring a director and the chief executive officer and the chief financial officer of the person or company, or individuals who perform functions for the person or company similar to those performed by a chief executive officer or chief financial officer, to certify the prospectus,
 - (iii) where the issuer is a limited partnership, requiring the general partner of the issuer and individuals who perform functions for the issuer similar to those performed by a chief executive officer or a chief financial officer of an issuer to certify the prospectus, and
 - (iv) where the issuer is not organized as a company, trust or limited partnership, requiring persons or companies that perform functions similar to those performed by persons or companies to certify the prospectus;
- (dy) respecting the preparation, form and content requirements applicable to the public dissemination of forward-looking information by reporting issuers where the dissemination is not part of a required filing;
- (dz) in relation to those matters for which this Act refers to the regulations, prescribed matters or requirements or designations;
- (ea) respecting any matter that the Governor in Council or the Commission considers necessary or advisable to carry out effectively the intent and purpose of this Act. R.S., c. 418, s. 150; 1990, c. 15, ss. 78, 80; 1996, c. 32, s. 11; 2001, c. 18, s. 5; 2001, c. 41, s. 27; 2002, c. 39, s. 7; 2005, c. 26, s. 4; 2006, c. 46, s. 61; 2008, c. 32, s. 20; 2010, c. 73, s. 17; 2012, c. 34, s. 23; 2014, c. 28, s. 33; 2015, c. 51, s. 9; 2016, c. 16, s. 5; 2018, c. 42, s. 10; 2021, c. 17, s. 4.

Procedural rules

- 182 (1)** The Governor in Council may
- (a) make regulations prescribing the processes and procedures that the Commission shall abide by in exercising its power to make rules;
 - (b) by order, amend or repeal any rule made by the Commission.

- (2)** The Commission shall
- (a) give notice to the Minister of every rule approved by the Commission by sending a copy of the rule to the Minister within seven days of the date of approval by the Commission for consideration by the Minister; and
 - (b) publish in the Royal Gazette, or on a website maintained by the Commission or in such other manner as the Commission considers appropriate, as soon as practicable, a rule made by the Commission and give notice of the effective date of the rule.

(3) A rule is effective in accordance with its terms, but, subject to subsection (4), is not effective prior to the expiration of 75 days after the Commission approves the rule and, if, within 60 days after the Commission approves the rule, the Minister notifies the Commission that the Minister has disapproved the rule or if the Minister returns the rule to the Commission for further consideration, the rule is not effective until approved by the Minister.

(4) With the approval of the Minister, the time limit for the effective date of a rule may be abridged and the rule becomes effective on the date specified by the Minister.

(5) A rule has the force of law but is not a regulation within the meaning of the *Regulations Act* and is not subject to the *Regulations Act*.

(6) Where a rule conflicts with any regulation, the regulation shall, to the extent of the conflict, prevail.

(7) The Commission's *General Rules of Practice and Procedure* approved by order in council 88-188, dated February 23, 1988, are deemed to be rules effectively made pursuant to Section 181 and not to be regulations and remain in effect until amended or repealed by regulation or rule.

(8) The Commission's *Conflict of Interest Rules*, adopted on November 2, 1994, are deemed to be rules effectively made pursuant to Section 181 and remain in effect until amended or repealed by regulation or rule.

(9) The *Community Economic-Development Corporations Regulations* approved by order in council 2011-139, dated April 12, 2011, are deemed to be rules made pursuant to Section 181 and not to be regulations and remain in effect until amended or repealed by regulation or rule.

(10) Regulations made pursuant to Section 181 before December 20, 1996, are deemed to be rules effectively made pursuant to Section

181 on December 20, 1996, and not to be regulations and remain in effect until amended or repealed by regulation or rule. 1996, c. 32, s. 12; 2001, c. 18, s. 6; 2006, c. 46, s. 62; 2008, c. 32, s. 21; 2018, c. 42, s. 11.

Content of rules or regulations

183 (1) Where regulations or rules may be made pursuant to Section 181 in respect of registrants, issuers, other persons or companies, securities, derivatives, trades or other matters or things, the regulations or rules may be made in respect of any class or category of registrants, issuers, other persons or companies, securities, derivatives, trades or other matters or things.

(2) A regulation or rule may incorporate by reference, in whole or in part, any standard, procedure or guideline and may require compliance with any standard, procedure or guideline.

(3) A regulation or rule may be general or particular in its application, may be limited as to time and place and may exclude any place from the application of the regulation or rule. 1996, c. 32, s. 12; 2014, c. 28, s. 34.

Requirements of Minister

184 The Minister may, in writing, require the Commission to

- (a) provide such information about its activities and operations as requested by the Minister;
- (b) study and make recommendations in respect of any matter of a general nature or affecting this Act or the regulations; and
- (c) consider making a rule in respect of a matter specified by the Minister. 2006, c. 46, s. 63.

Deemed licence fees

185 Any fees paid under the authority of this Act, the regulations or the rules for applications to the Commission or accompanying materials filed with the Commission before or after June 7, 2007, are deemed to be licence fees for the purpose of raising a revenue for the Province as authorized by subsection 92(9) of the *Constitution Act, 1867*. 2007, c. 9, s. 40.

Discretion to revoke or vary order

186 The Director or the Commission may, where in the Director's or its opinion to do so would not be prejudicial to the public interest, make an order on such terms and conditions as may be imposed revoking or varying any decisions made under this Act or the regulations. R.S., c. 418, s. 151; 1990, c. 15, ss. 79, 80.

Power to exempt

187 (1) Where, in the opinion of the Commission, it is not prejudicial to the public interest, the Commission may, on its own motion or on the application of any interested person or company, by order, on such terms or conditions as the Commission considers necessary or appropriate, exempt

- (a) any person or company or category of persons or companies;

(b) any trade or distribution or category of trade or distribution,
from any or all of the provisions of this Act or the regulations.

(2) Subsection (1) is not limited or restricted in its application by virtue of the Commission having the power pursuant to this Act or the regulations to exempt any person, company, trade, intended trade or distribution from a particular provision of this Act or the regulations. 1996, c. 32, s. 13.

CHAPTER S-12

An Act Respecting the Transfer of Securities

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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 *Securities Transfer Act*. 2010, c. 8, s. 1.

PART I

INTERPRETATION

Interpretation

2 (1) In this Act,

“adverse claim” means a claim that

(a) the claimant has a property interest in a financial asset; and

(b) it is a violation of the rights of the claimant for another person to hold, transfer or deal with the financial asset;

“appropriate person” means

(a) with respect to an endorsement, the person specified by a security certificate or by an effective special endorsement to be entitled to the security;

(b) with respect to an instruction, the registered owner of an uncertificated security;

(c) with respect to an entitlement order, the entitlement holder;

(d) in the case of a person referred to in clause (a), (b) or (c), being deceased, that person’s successor taking under the law, other than this Act, or that person’s personal representative acting for the estate of the deceased person; and

(e) in the case of a person referred to in clause (a), (b) or (c) lacking capacity, that person’s guardian or other similar representative who has power under the law, other than this Act, to transfer the security or other financial asset;

“bearer form” means, in respect of a certificated security, a form in which the security is payable to the bearer of the security

certificate according to the security certificate's terms but not by reason of an endorsement;

“broker” means a dealer as defined in the *Securities Act*;

“certificated security” means a security that is represented by a certificate;

“clearing agency” means a person

(a) that carries on a business or activity as a clearing agency or clearing house within the meaning of the *Securities Act* or the securities regulatory law of another province or a territory of Canada;

(b) that is recognized or otherwise regulated as a clearing agency or clearing house by the Nova Scotia Securities Commission or by a securities regulatory authority of another province or a territory of Canada; and

(c) that is a securities and derivatives clearing house for the purpose of section 13.1 of the *Payment Clearing and Settlement Act* (Canada) or whose clearing and settlement system is designated under Part 1 of that Act;

“communicate” means

(a) sending a signed writing; and

(b) transmitting information by another means agreed by the person transmitting the information and the person receiving the information;

“control” has the meaning set out in Sections 23 to 26;

“corporation” means a body corporate, company or corporation whether or not it is incorporated under the laws of the Province;

“delivery”, with respect to a certificated or uncertificated security, has the meaning set out in Section 68;

“effective”, in relation to an endorsement, instruction or entitlement order, has the meaning set out in Sections 29 to 32;

“endorsement” means a signature that, alone or accompanied by other words, is made on a security certificate in registered form or on a separate document for the purpose of assigning, transferring or redeeming the security or granting a power to assign, transfer or redeem the security;

“entitlement holder” means a person identified in the records of a securities intermediary as the person having a security entitlement against the securities intermediary and includes a person who acquires a security entitlement by virtue of clause 95(1)(b) or (c);

“entitlement order” means a notice communicated to a securities intermediary directing the transfer or redemption of a financial asset to which the entitlement holder has a security entitlement;

“financial asset” means, except as otherwise provided in Sections 10 to 16,

(a) a security;

- (b) an obligation of a person that
 - (i) is, or is of a type, dealt in or traded on financial markets, or
 - (ii) is recognized in another market or area in which it is issued or dealt in as a medium for investment;
- (c) a share, participation or other interest in a person, or in property or an enterprise of a person, that
 - (i) is, or is of a type, dealt in or traded on financial markets, or
 - (ii) is recognized in another market or area in which it is issued or dealt in as a medium for investment;
- (d) a property that is held by a securities intermediary for another person in a securities account if the securities intermediary has expressly agreed with the other person that the property is to be treated as a financial asset under this Act; or
- (e) a credit balance in a securities account, unless the securities intermediary has expressly agreed with the person for whom the account is maintained that the credit balance is not to be treated as a financial asset under this Act;

“genuine” means free of forgery or counterfeiting;

“government” means

- (a) the Crown in right of Canada or in right of the Province or another province of Canada;
- (b) the government of a territory of Canada;
- (c) a municipality in Canada; or
- (d) the government of a foreign country or of a political subdivision of it;

“in collusion” means in concert, by conspiratorial arrangement or by agreement for the purpose of violating a person’s rights in respect of a financial asset;

“instruction” means a notice communicated to the issuer of an uncertificated security that directs that the transfer of the security be registered or that the security be redeemed;

“issuer”, with respect to a registration of a transfer of a security, means a person on whose behalf transfer books are maintained and, with respect to an obligation on or a defence to a security, includes

- (a) a person who places or authorizes the placing of the person’s name on a security certificate, other than as authenticating trustee, registrar, transfer agent or another like person, to evidence a share, participation or other interest in

the person's property or in an enterprise or the person's duty to perform an obligation represented by the security certificate;

(b) a person who creates a share, participation or other interest in the person's property or in an enterprise, or undertakes an obligation, that is an uncertificated security;

(c) a person who directly or indirectly creates a fractional interest in the person's rights or property, if the fractional interest is represented by a security certificate;

(d) a guarantor, to the extent of the guarantor's guarantee, whether or not the guarantor's obligation is noted on a security certificate; and

(e) a person that becomes responsible for, or in place of, another person described as an issuer in this clause;

"knowledge" means actual knowledge and actual knowing;

"overissue" means the issue of securities in excess of the amount that the issuer is authorized to issue;

"person" means an individual, including an individual in the individual's capacity as trustee, executor, administrator or other representative, a sole proprietorship, a partnership, an unincorporated association, an unincorporated syndicate, an unincorporated organization, a trust, including a business trust, a corporation, a government or agency of a government or another legal or commercial entity;

"protected purchaser" means a purchaser of a certificated or uncertificated security, or of an interest in the security, who

(a) gives value;

(b) does not have notice of an adverse claim to the security; and

(c) obtains control of the security;

"province of Canada" does not include a territory of Canada;

"purchase" means a taking by sale, discount, negotiation, mortgage, hypothec, pledge, security interest, issue or reissue, gift or any other voluntary transaction that creates an interest in property;

"purchaser" means a person who takes by purchase;

"registered form" means, in respect of a certificated security, a form in which

(a) the security certificate specifies a person entitled to the security; and

(b) a transfer of the security may be registered on books maintained for that purpose by or on behalf of the issuer, or the security certificate states that it may be so registered;

"representative" means a person empowered to act for another, including an agent, an officer of a corporation or association and a trustee, executor or administrator of an estate;

“secured party” means a secured party as defined in the *Personal Property Security Act*;

“securities account” means an account to which a financial asset is or may be credited in accordance with an agreement under which the person maintaining the account undertakes to treat the person for whom the account is maintained as entitled to exercise the rights that constitute the financial asset;

“securities intermediary” means

- (a) a clearing agency; or
- (b) a person, including a broker, bank or trust company, that in the ordinary course of its business maintains securities accounts for others and is acting in that capacity;

“security” means, except as otherwise provided in Sections 10 to 16, an obligation of an issuer or a share, participation or other interest in an issuer or in property or an enterprise of an issuer,

(a) that is represented by a security certificate in bearer form or registered form, or the transfer of which may be registered on books maintained for that purpose by or on behalf of the issuer;

(b) that is one of a class or series, or by its terms is divisible into a class or series, of shares, participations, interests or obligations; and

(c) that

(i) is, or is of a type, dealt in or traded on securities exchanges or securities markets, or

(ii) is a medium for investment and by its terms expressly provides that it is a security for the purpose of this Act;

“security certificate” means a certificate representing a security, but does not include a certificate in electronic form;

“security entitlement” means the rights and property interest of an entitlement holder with respect to a financial asset specified in Part VI;

“security interest” means a security interest as defined in the *Personal Property Security Act*;

“unauthorized” means, when used with reference to a signature or endorsement, a signature or endorsement that is made without actual, implied or apparent authority or that is forged;

“uncertificated security” means a security that is not represented by a certificate;

“value” means a consideration sufficient to support a simple contract and includes an antecedent debt or liability.

(2) Notwithstanding its definition in subsection (1), “financial asset” means, as the context requires, either the interest itself or the means by which

a person's claim to it is evidenced, including a certificated or uncertificated security, a security certificate and a security entitlement.

(3) The characterization of a person, business or transaction for the purpose of this Act does not determine the characterization of the person, business or transaction for the purpose of any other statute, law, regulation or rule.

(4) A security is valid if it is issued in accordance with the applicable law described in subsection 44(1) and constating provisions governing the issuer. 2010, c. 8, s. 2.

Notice and due diligence

3 (1) For the purpose of this Act, a person has notice of a fact if

- (a) the person has knowledge of it;
- (b) the person has received notice of it; or
- (c) information comes to the person's attention under circumstances in which a reasonable person would take cognizance of it.

(2) A person gives notice to another person by taking those steps that may be reasonably required to inform the other person in the ordinary course, whether or not the other person actually comes to know of it.

(3) A person receives notice or knowledge when

- (a) the notice or knowledge comes to the person's attention;
- (b) in the case of a notice under a contract, the notice is duly delivered to the place of business through which the contract was made; or
- (c) the notice is duly delivered to another place held out by that person as the place for receipt of those notices.

(4) Notice, knowledge or a notice received by an organization is effective for a particular transaction from the time when it is brought to the attention of the individual conducting that transaction and from the time when it would have been brought to the attention of that individual if the organization had exercised due diligence.

(5) For the purpose of subsection (4), an organization exercises due diligence if it maintains reasonable routines for communicating significant information to the individual conducting the transaction and there is reasonable compliance with those routines.

(6) For the purpose of subsection (4), due diligence does not require an individual acting for the organization to communicate information unless

- (a) that communication is part of the individual's regular duties; or
- (b) the individual has reason to know of the transaction and that the transaction would be materially affected by the information. 2010, c. 8, s. 3.

Good faith

4 (1) In this Section, “good faith” means honesty in fact and the observance of reasonable commercial standards of fair dealing.

(2) A contract to which this Act applies and a duty imposed by this Act imposes an obligation of good faith in its performance or enforcement. 2010, c. 8, s. 4.

Effect of Act

5 (1) The effect of this Act may be varied by agreement.

(2) Notwithstanding subsection (1), the obligations of good faith, diligence, reasonableness and care imposed by this Act may not be disclaimed by agreement, but the parties may by agreement determine the standards by which the performance of those obligations is to be measured so long as those standards are not manifestly unreasonable. 2010, c. 8, s. 5.

Principles of law and equity

6 Except in so far as they are inconsistent with this Act, the principles of law and equity supplement this Act and continue to apply, including

- (a) the law merchant;
- (b) the law relating to the capacity to contract, principal and agent, estoppel, fraud, misrepresentation, duress, coercion and mistake; and
- (c) other validating or invalidating rules of law. 2010, c. 8, s. 6.

Rules adopted by parties

7 A rule adopted by a clearing agency governing rights and obligations between the clearing agency and its participants or between participants in the clearing agency is effective even where the rule conflicts with this Act or the *Personal Property Security Act* and affects another person who does not consent to the rule. 2010, c. 8, s. 7.

Act binds the Crown

8 (1) This Act binds the Crown in right of the Province.

(2) Nothing in this Act limits the application of the *Proceedings against the Crown Act*. 2010, c. 8, s. 8.

Prior legal proceedings

9 This Act does not affect a legal proceeding that was commenced before September 8, 2010. 2010, c. 8, s. 9.

PART II

GENERAL MATTERS CONCERNING SECURITIES
AND OTHER FINANCIAL ASSETS**Security**

10 A share or similar equity interest issued by a corporation, business trust or similar entity is a security. 2010, c. 8, s. 10.

Mutual fund security

11 (1) A mutual fund security is a security.

(2) In this Section,

“mutual fund security” means a share, unit or similar equity interest issued by an open-end mutual fund, but does not include an insurance policy, endowment policy or annuity contract issued by an insurance company;

“open-end mutual fund” means an entity that makes a distribution to the public of its shares, units or similar equity interests and that carries on the business of investing the consideration it receives for the shares, units or similar equity interests it issues, and all or substantially all of which shares, units or similar equity interests are redeemable on the demand of their holders or owners. 2010, c. 8, s. 11.

Limited liability company

12 (1) In this Section, “limited liability company” means an unincorporated association, other than a partnership, formed under the laws of another jurisdiction, that grants to each of its members limited liability with respect to the liabilities of the association.

(2) An interest in a partnership or limited liability company is not a security unless

(a) that interest is dealt in or traded on securities exchanges or in securities markets;

(b) the terms of that interest expressly provide that the interest is a security for the purpose of this Act; or

(c) that interest is a mutual fund security within the meaning of Section 11.

(3) An interest in a partnership or limited liability company is a financial asset if it is held in a securities account. 2010, c. 8, s. 12.

Bill of exchange or promissory note

13 A bill of exchange or promissory note to which the *Bills of Exchange Act* (Canada) applies is not a security, but is a financial asset if it is held in a securities account. 2010, c. 8, s. 13.

Depository bill or note

14 A depository bill or depository note to which the *Depository Bills and Notes Act* (Canada) applies is not a security, but is a financial asset if it is held in a securities account. 2010, c. 8, s. 14.

Clearing house option

15 (1) In this Section, “clearing house option” means an option, other than an option on futures, issued by a clearing house to its participants.

(2) A clearing house option or similar obligation is not a security, but is a financial asset. 2010, c. 8, s. 15.

Futures contract

16 (1) In this Section, “futures contract” means a futures contract as defined in the *Personal Property Security Act*.

(2) A futures contract is not a security or a financial asset. 2010, c. 8, s. 16.

Acquiring security or interest

17 (1) A person acquires a security or an interest in a security under this Act if

(a) the person is a purchaser to whom a security is delivered under Section 68; or

(b) the person acquires a security entitlement to the security under Section 95.

(2) A person acquires a financial asset, other than a security, or an interest in a financial asset under this Act if the person acquires a security entitlement to the financial asset.

(3) A person who acquires a security entitlement to a security or other financial asset has the rights specified in Part VI, but is a purchaser of a security, security entitlement or other financial asset held by a securities intermediary only to the extent provided in Section 97.

(4) Unless the context of another statute, law, regulation, rule or agreement shows that a different meaning is intended, a person who is required by that statute, law, regulation, rule or agreement to transfer, deliver, present, surrender, exchange or otherwise put in the possession of another person a security or other financial asset satisfies that requirement by causing the other person to acquire an interest in the security or other financial asset as set out in subsection (1) or (2). 2010, c. 8, s. 17.

Notice of adverse claim

18 A person has notice of an adverse claim if

(a) the person knows of the adverse claim;

(b) the person is aware of facts sufficient to indicate that there is a significant probability that the adverse claim exists and deliberately avoids information that would establish the existence of the adverse claim; or

(c) the person has a duty, imposed by statute or regulation, to investigate whether an adverse claim exists and the investigation, if carried out, would establish the existence of the adverse claim. 2010, c. 8, s. 18.

Knowledge of transaction

19 (1) Having knowledge that a financial asset, or an interest in a financial asset, is being or has been transferred by a representative does not impose a duty of inquiry into the rightfulness of the transaction and is not notice of an adverse claim.

(2) Notwithstanding subsection (1), a person has notice of an adverse claim if that person knows that

(a) a representative has transferred a financial asset, or an interest in a financial asset, in a transaction; and

(b) the transaction is, or the proceeds of the transaction are being used,

(i) for the individual benefit of the representative, or

(ii) otherwise in breach of a duty owed by the representative. 2010, c. 8, s. 19.

Transfers that constitute notice of adverse claim

20 An act or event that creates a right to immediate performance of the principal obligation represented by a security certificate, or that sets a date on or after which a security certificate is to be presented or surrendered for redemption or exchange, does not by itself constitute notice of an adverse claim, except in the case of a transfer that takes place more than

(a) one year after a date set for presentation or surrender for redemption or exchange; or

(b) six months after a date set for payment of money against presentation or surrender of the security certificate, if money was available for payment on that date. 2010, c. 8, s. 20.

Security certificate and notice of adverse claim

21 (1) A purchaser of a certificated security has notice of an adverse claim if the security certificate

(a) whether in bearer form or registered form, has been endorsed “for collection” or “for surrender” or for some other purpose not involving a transfer; or

(b) is in bearer form and has on it an unambiguous statement that it is the property of a person other than the transferor.

(2) For the purpose of clause (1)(b), the mere writing of a name on a security certificate does not by itself constitute an unambiguous statement that the security certificate is the property of a person other than the transferor. 2010, c. 8, s. 21.

Financing statement

22 The registration of a financing statement under the *Personal Property Security Act* is not notice of an adverse claim. 2010, c. 8, s. 22.

Control of certificated security

23 (1) A purchaser has control of a certificated security that is in bearer form if the certificated security is delivered to the purchaser.

(2) A purchaser has control of a certificated security that is in registered form if the certificated security is delivered to the purchaser and

- (a) the security certificate is endorsed to the purchaser or in blank by an effective endorsement; or
- (b) the security certificate is registered in the name of the purchaser at the time of the original issue or registration of transfer by the issuer. 2010, c. 8, s. 23.

Control of uncertificated security

- 24 (1)** A purchaser has control of an uncertificated security if
- (a) the uncertificated security is delivered to the purchaser; or
 - (b) the issuer has agreed that the issuer will comply with instructions that are originated by the purchaser without the further consent of the registered owner.

(2) A purchaser to whom subsection (1) applies in relation to an uncertificated security has control of the uncertificated security, even if the registered owner retains the right

- (a) to make substitutions for the uncertificated security;
- (b) to originate instructions to the issuer; or
- (c) to otherwise deal with the uncertificated security. 2010, c. 8, s. 24.

Control of security entitlement

- 25 (1)** A purchaser has control of a security entitlement if
- (a) the purchaser becomes the entitlement holder;
 - (b) the securities intermediary has agreed that it will comply with entitlement orders that are originated by the purchaser without the further consent of the entitlement holder; or
 - (c) another person has control of the security entitlement on behalf of the purchaser or, having previously obtained control of the security entitlement, acknowledges that the person has control on behalf of the purchaser.

(2) A purchaser to whom subsection (1) applies in relation to a security entitlement has control of the security entitlement even if the entitlement holder retains the right

- (a) to make substitutions for the security entitlement;
- (b) to originate entitlement orders to the securities intermediary; or
- (c) to otherwise deal with the security entitlement. 2010, c. 8, s. 25.

Control by securities intermediary

26 Where an interest in a security entitlement is granted by the entitlement holder to the entitlement holder's own securities intermediary, the securities intermediary has control of the security entitlement. 2010, c. 8, s. 26.

Agreement pursuant to clause 24(1)(b)

27 (1) An issuer shall not enter into an agreement of the kind referred to in clause 24(1)(b) without the consent of the registered owner.

(2) An issuer that has entered into an agreement of the kind referred to in clause 24(1)(b) is not required to confirm the existence of the agreement to another person unless requested to do so by the registered owner.

(3) An issuer is not required to enter into an agreement of the kind referred to in clause 24(1)(b) even if the registered owner requests the agreement. 2010, c. 8, s. 27.

Agreement pursuant to clause 25(1)(b)

28 (1) A securities intermediary shall not enter into an agreement of the kind referred to in clause 25(1)(b) without the consent of the entitlement holder.

(2) A securities intermediary that has entered into an agreement of the kind referred to in clause 25(1)(b) is not required to confirm the existence of the agreement to another person unless requested to make that confirmation by the entitlement holder.

(3) A securities intermediary is not required to enter into an agreement of the kind referred to in clause 25(1)(b) even if the entitlement holder requests the agreement. 2010, c. 8, s. 28.

Effective endorsement, instruction or entitlement order

29 An endorsement, instruction or entitlement order is effective if

- (a) it is made by the appropriate person;
- (b) it is made by a person who, in the case of an endorsement or instruction, has the power under the law of agency to transfer the security, or in the case of an entitlement order, has the power under the law of agency to transfer the financial asset, on behalf of the appropriate person, including
 - (i) in the case of an instruction referred to in clause 24(1)(b), the person who has control of the uncertificated security, or
 - (ii) in the case of an entitlement order referred to in clause 25(1)(b), the person who has control of the security entitlement; or
- (c) the appropriate person has ratified it or is otherwise precluded from asserting its ineffectiveness. 2010, c. 8, s. 29.

Representative's endorsement, instruction or entitlement order

30 An endorsement, instruction or entitlement order made by a representative is effective even if

- (a) the representative has failed to comply with a controlling instrument or with the law of the jurisdiction governing the representative's rights and duties, including any law requiring the representative to obtain court approval of the transaction; or
- (b) the representative's action in making the endorsement, instruction or entitlement order or using the proceeds of the transaction is otherwise a breach of duty owed by the representative. 2010, c. 8, s. 30.

Representative no longer serving

31 Where a security is registered in the name of or specially endorsed to a person described as a representative, or where a securities account is maintained in the name of a person described as a representative, an endorsement, instruction or entitlement order made by the person is effective even if the person is no longer serving in that capacity. 2010, c. 8, s. 31.

Effectiveness determined as of date made

32 (1) The effectiveness of an endorsement, instruction or entitlement order is determined as of the date that the endorsement, instruction or entitlement order is made.

(2) An endorsement, instruction or entitlement order does not become ineffective by reason of a later change of circumstances. 2010, c. 8, s. 32.

Transferor for value warrants

33 A person who transfers a certificated security to a purchaser for value warrants to the purchaser and, where the transfer is by endorsement, also warrants to a subsequent purchaser that

- (a) the security certificate is genuine and has not been materially altered;
- (b) the transferor does not know of a fact that might impair the validity of the security;
- (c) there is no adverse claim to the security;
- (d) the transfer does not violate a restriction on transfer;
- (e) where the transfer is by endorsement, the endorsement is made by the appropriate person or, where the endorsement is by an agent, the agent has actual authority to act on behalf of the appropriate person; and
- (f) the transfer is otherwise effective and rightful. 2010, c. 8, s. 33.

Warranty of uncertificated security

34 (1) A person who originates an instruction for registration of transfer of an uncertificated security to a purchaser for value warrants to the purchaser that

- (a) the instruction is made by the appropriate person or, where the instruction is made by an agent, the agent has actual authority to act on behalf of the appropriate person;
- (b) the security is valid;
- (c) there is no adverse claim to the security; and
- (d) at the time that the instruction is presented to the issuer,
 - (i) the purchaser will be entitled to the registration of transfer,
 - (ii) the transfer will be registered by the issuer free from all liens, security interests, restrictions and claims other than those specified in the instruction,

(iii) the transfer will not violate a restriction on transfer, and

(iv) the transfer will otherwise be effective and rightful.

(2) A person who transfers an uncertificated security to a purchaser for value and does not originate an instruction in connection with the transfer warrants to the purchaser that

(a) the security is valid;

(b) there is no adverse claim to the security;

(c) the transfer does not violate a restriction on transfer; and

(d) the transfer is otherwise effective and rightful. 2010, c. 8, s. 34.

Endorser of security certificate warrants

35 A person who endorses a security certificate warrants to the issuer that

(a) there is no adverse claim to the security; and

(b) the endorsement is effective. 2010, c. 8, s. 35.

Instructor for registration warrants

36 A person who originates an instruction for the registration of transfer of an uncertificated security warrants to the issuer that

(a) the instruction is effective; and

(b) at the time that the instruction is presented to the issuer, the purchaser will be entitled to the registration of transfer. 2010, c. 8, s. 36.

Warranty to issuer

37 A person who presents a certificated security for the registration of transfer or for payment or exchange warrants to the issuer that the person is entitled to the registration, payment or exchange, but a purchaser for value and without notice of adverse claims to whom transfer is registered warrants to the issuer only that the person has no knowledge of an unauthorized signature in a necessary endorsement. 2010, c. 8, s. 37.

Warranty of agent

38 Where

(a) a person acts as agent of another person in delivering a certificated security to a purchaser;

(b) the identity of the principal was known to the person to whom the security certificate was delivered; and

(c) the security certificate delivered by the agent was received by the agent from the principal or from another person at the direction of the principal,

the person delivering the security certificate warrants, to the purchaser, only that the delivering person has authority to act for the principal and does not know of an adverse claim to the certificated security. 2010, c. 8, s. 38.

Warranty of secured party

39 A secured party who redelivers a security certificate received, or after payment and on order of the debtor delivers the security certificate to another person, makes only the warranties of an agent set out in Section 38. 2010, c. 8, s. 39.

Warranty of broker

40 (1) Except as otherwise provided in Section 38, a broker acting for a customer makes to the issuer and a purchaser the warranties set out in Sections 33 to 37.

(2) A broker that delivers a security certificate to the broker's customer makes to the customer the warranties set out in Section 33 and has the rights and privileges of a purchaser provided under Sections 33, 38 and 39.

(3) A broker that causes the broker's customer to be registered as the owner of an uncertificated security makes to the customer the warranties set out in Section 34 and has the rights and privileges of a purchaser provided under that Section.

(4) The warranties of and in favour of the broker acting as an agent are in addition to applicable warranties given by and in favour of the customer. 2010, c. 8, s. 40.

Warranty to securities intermediary

41 A person who originates an entitlement order to a securities intermediary warrants to the securities intermediary that

(a) the entitlement order is made by the appropriate person or, where the entitlement order is made by an agent, that the agent has actual authority to act on behalf of the appropriate person; and

(b) there is no adverse claim to the security entitlement. 2010, c. 8, s. 41.

Warranty on transfer for credit to securities account

42 (1) A person who delivers a security certificate to a securities intermediary for credit to a securities account makes to the securities intermediary the warranties set out in Section 33.

(2) A person who originates an instruction with respect to an uncertificated security directing that the uncertificated security be credited to a securities account makes to the securities intermediary the warranties set out in Section 34. 2010, c. 8, s. 42.

Warranty by securities intermediary

43 (1) Where a securities intermediary delivers a security certificate to its entitlement holder, the securities intermediary makes to the entitlement holder the warranties set out in Section 33.

(2) Where a securities intermediary causes its entitlement holder to be registered as the owner of an uncertificated security, the securities intermediary makes to the entitlement holder the warranties set out in Section 34. 2010, c. 8, s. 43.

Issuer's jurisdiction

44 (1) In this Section, "issuer's jurisdiction" means the jurisdiction determined in accordance with the following rules:

(a) where the issuer is incorporated under a law of Canada, the law, other than the conflict of law rules, of the province or territory of Canada in which the issuer has its registered or head office, or where permitted by the law of Canada, the law of another jurisdiction specified by the issuer;

(b) where the issuer is the Crown in right of Canada, the law, other than the conflict of law rules, of the jurisdiction specified by the issuer;

(c) where the issuer is the Crown in right of another province of Canada, the law, other than the conflict of law rules, of that province or, where permitted by the law of that province, the law of another jurisdiction specified by the issuer;

(d) where the issuer is the Commissioner of a territory in Canada, the law, other than the conflict of law rules, of the territory or, where permitted by the law of that territory, the law of another jurisdiction specified by the issuer; and

(e) in any other case, the law, other than the conflict of law rules, of the jurisdiction under which the issuer is incorporated or otherwise organized or, if permitted by the law of that jurisdiction, the law of another jurisdiction specified by the issuer.

(2) The validity of a security is governed by the following laws:

(a) where the issuer is incorporated under a law of Canada, the law, other than the conflict of law rules, of Canada;

(b) where the issuer is the Crown in right of Canada, the law, other than the conflict of law rules, of Canada;

(c) where the issuer is the Crown in right of a province of Canada, the law, other than the conflict of law rules, of that province;

(d) where the issuer is the Commissioner of a territory of Canada, the law, other than the conflict of law rules, of the territory; and

(e) in any other case, the law, other than the conflict of law rules, of the jurisdiction under which the issuer is incorporated or otherwise organized.

(3) The law of the issuer's jurisdiction governs

(a) the rights and duties of the issuer with respect to the registration of transfer;

- (b) the effectiveness of the registration of transfer by the issuer;
 - (c) whether the issuer owes duties to an adverse claimant to a security; and
 - (d) whether an adverse claim can be asserted against a person
 - (i) to whom the transfer of a certificated or uncertificated security is registered, or
 - (ii) who obtains control of an uncertificated security.
- (4) The following issuers may specify the law of another jurisdiction as the law governing the matters referred to in clauses (3)(a) to (d):
- (a) an issuer incorporated or otherwise organized under the law of the Province; and
 - (b) the Crown in right of the Province.
- (5) Whether a security is enforceable against an issuer notwithstanding a defence or defect described in Sections 57 to 59 is governed by the following laws:
- (a) where the issuer is incorporated under a law of Canada, the law, other than the conflict of law rules, of the province or territory of Canada in which the issuer has its registered or head office;
 - (b) where the issuer is the Crown in right of Canada, the law, other than the conflict of law rules, of the issuer's jurisdiction;
 - (c) where the issuer is the Crown in right of another province of Canada, the law, other than the conflict of law rules, of that province;
 - (d) where the issuer is the Commissioner of a territory of Canada, the law, other than the conflict of law rules, of the territory; and
 - (e) in any other case, the law, other than the conflict of law rules, of the jurisdiction under which the issuer is incorporated or otherwise organized. 2010, c. 8, s. 44.

Securities intermediary's jurisdiction

45 (1) In this Section, "securities intermediary's jurisdiction" means the jurisdiction determined in accordance with the following rules:

- (a) where an agreement between a securities intermediary and its entitlement holder governing the securities account expressly provides that a particular jurisdiction is the securities intermediary's jurisdiction for the purpose of the law of that jurisdiction, this Act or a provision of this Act, the jurisdiction expressly provided for is the securities intermediary's jurisdiction;
- (b) where clause (a) does not apply and an agreement between the securities intermediary and its entitlement holder gov-

erning the securities account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction;

(c) where neither clause (a) nor (b) applies and an agreement between a securities intermediary and its entitlement holder governing the securities account expressly provides that the securities account is maintained at an office in a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction;

(d) where none of the preceding clauses applies, the securities intermediary's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the entitlement holder's account is located; and

(e) where none of the preceding clauses applies, the securities intermediary's jurisdiction is the jurisdiction in which the chief executive office of the securities intermediary is located.

(2) The law, other than the conflict of law rules, of the securities intermediary's jurisdiction governs

(a) acquisition of a security entitlement from the securities intermediary;

(b) the rights and duties of the securities intermediary and entitlement holder arising out of a security entitlement;

(c) whether the securities intermediary owes a duty to a person asserting an adverse claim to a security entitlement; and

(d) whether an adverse claim may be asserted against a person who

(i) acquires a security entitlement from the securities intermediary, or

(ii) purchases a security entitlement, or interest in it, from an entitlement holder.

(3) In determining a securities intermediary's jurisdiction, the following matters shall not be taken into account:

(a) the physical location of certificates representing financial assets;

(b) where an entitlement holder has a security entitlement with respect to a financial asset, the jurisdiction in which the issuer of the financial asset is incorporated or otherwise organized; and

(c) the location of facilities for data processing or other record keeping concerning the securities account. 2010, c. 8, s. 45.

Law of jurisdiction at time of delivery

46 The law, other than the conflict of law rules, of the jurisdiction in which a security certificate is located at the time of delivery governs whether an adverse claim may be asserted against a person to whom the security certificate is delivered. 2010, c. 8, s. 46.

Civil enforcement of judgments

47 Subject to the necessary modifications for the purpose of permitting the operation of Sections 48 to 51, the laws governing the civil enforcement of judgments apply to seizures described in those Sections. 2010, c. 8, s. 47.

Seizure of interest in certificated security

48 (1) Except as otherwise provided in subsection (2) and in Section 51, the interest of a judgment debtor in a certificated security may be seized only by actual seizure of the security certificate by a sheriff.

(2) A certificated security for which the security certificate has been surrendered to the issuer may be seized by a sheriff serving a notice of seizure on the securities intermediary. 2010, c. 8, s. 48.

Seizure of interest in uncertificated security

49 Except as otherwise provided in Section 51, the interest of a judgment debtor in an uncertificated security may be seized only by a sheriff serving a notice of seizure on the issuer at the issuer's chief executive office. 2010, c. 8, s. 49.

Service of notice on securities intermediary

50 Except as otherwise provided in Section 51, the interest of a judgment debtor in a security entitlement may be seized only by a sheriff serving a notice of seizure on the securities intermediary with whom the judgment debtor's securities account is maintained. 2010, c. 8, s. 50.

Service of notice on secured party

51 The interest of a judgment debtor in one or more of the following may be seized by a sheriff serving a notice of seizure on the secured party:

- (a) a certificated security for which the security certificate is in the possession of a secured party;
- (b) an uncertificated security registered in the name of a secured party; and
- (c) a security entitlement maintained in the name of a secured party. 2010, c. 8, s. 51.

Contract for sale or purchase of security enforceable

52 A contract or modification of a contract for the sale or purchase of a security is enforceable whether or not there is some writing signed or record authenticated by a person against whom enforcement is sought. 2010, c. 8, s. 52.

Legal proceedings

- 53 (1)** In this Section,
- “defendant” includes respondent;
 - “plaintiff” means a person attempting to recover on a security certificate in a legal proceeding, whether described in that proceeding as a plaintiff, appellant, claimant, petitioner, applicant or another term.

(2) The evidentiary rules set out in this Section apply to a legal proceeding on a certificated security against the issuer of that security.

(3) Unless specifically denied in the pleadings, a signature on a security certificate or in a necessary endorsement must be admitted.

(4) A signature on a security is presumed to be genuine and authorized but, where the effectiveness of the signature is put in issue, the burden of establishing that it is genuine and authorized is on the party claiming under the signature.

(5) Where signatures on a security certificate are admitted or established, the production of the security certificate entitles a holder to recover on the security certificate unless the defendant establishes a defence or defect that goes to the validity of the security.

(6) Where it is shown that a defence or defect that goes to the validity of the security exists, the plaintiff has the burden of establishing that the defence or defect cannot be asserted against

- (a) the plaintiff; or
- (b) a person under whom the plaintiff claims. 2010, c. 8, s. 53.

Liability

54 (1) A securities intermediary that has transferred a financial asset in accordance with an effective entitlement order is not liable to a person having an adverse claim to, or a security interest in, the financial asset.

(2) A broker or other agent or bailee who has dealt with a financial asset at the direction of a customer or principal is not liable to a person having an adverse claim to, or a security interest in, the financial asset.

(3) Notwithstanding subsections (1) and (2), a securities intermediary referred to in subsection (1) or a broker or other agent or bailee referred to in subsection (2) is liable to a person having an adverse claim to, or a security interest in, the financial asset if the securities intermediary, broker or other agent or bailee did one or more of the following:

- (a) took the action described in subsection (1) or (2) after having been served with an injunction, restraining order or other legal process issued by a court of competent jurisdiction enjoining the securities intermediary, broker or other agent or bailee from doing so and after having had a reasonable opportunity to obey or otherwise abide by the injunction, restraining order or other legal process;
- (b) acted in collusion with the wrongdoer in violating the rights of the person who has the adverse claim or the person who has the security interest; and
- (c) in the case of a security certificate that has been stolen, acted with notice of the adverse claim. 2010, c. 8, s. 54.

Purchaser for value

55 (1) A securities intermediary that receives a financial asset and establishes a security entitlement to the financial asset in favour of an entitlement holder is a purchaser for value of the financial asset.

(2) A securities intermediary that acquires a security entitlement to a financial asset from another securities intermediary acquires the security entitlement for value if the securities intermediary acquiring the security entitlement establishes a security entitlement to the financial asset in favour of an entitlement holder. 2010, c. 8, s. 55.

PART III

ISSUE AND ISSUER

Terms

56 (1) Even against a purchaser for value and without notice, the terms of a certificated security include

(a) the terms stated on the security certificate; and

(b) terms made part of the security by reference on the security certificate to another instrument, indenture or other document or to a statute, regulation, rule or order, to the extent that those terms do not conflict with the terms stated on the security certificate.

(2) A reference described in clause (1)(b) does not by itself constitute notice to a purchaser for value of a defect that goes to the validity of the security, even if the security certificate expressly states that a person accepting it admits notice.

(3) The terms of an uncertificated security include those stated in any instrument, indenture or other document or in a statute, regulation, rule, order or the like under which the security is issued. 2010, c. 8, s. 56.

Security effective

57 (1) An unauthorized signature placed on a security certificate before or in the course of issue is ineffective, except that the signature is effective in favour of a purchaser for value of the certificated security if the purchaser is without notice of the lack of authority and the signing has been done by

(a) an authenticating trustee, registrar, transfer agent or other person entrusted by the issuer with the signing of the security certificate or of any similar security certificate or with the immediate preparation for signing of any of those security certificates; or

(b) an employee of the issuer, or of persons referred to in clause (a), entrusted with responsible handling of the security certificate.

(2) Except as provided in subsection (3), a security issued with a defect going to its validity is enforceable where it is held by a purchaser for value without notice of the defect.

(3) Subsection (2) does not apply to a security issued by a government or agency of it unless

(a) there has been substantial compliance with the legal requirements governing the issue; or

(b) the issuer has received all or a substantial part of the consideration for the issue as a whole or for the particular security and the purpose of the issue is one for which the issuer has power to borrow money or issue the security. 2010, c. 8, s. 57.

Lack of genuineness complete defence subject to subsection 57(1)

58 Except as otherwise provided in subsection 57(1), lack of genuineness of a certificated security is a complete defence, even against a purchaser for value and without notice of the lack of genuineness. 2010, c. 8, s. 58.

Purchaser for value without notice

59 All other defences of the issuer of a security that are not referred to in Sections 56 to 58, including non-delivery and conditional delivery of a security, are ineffective against a purchaser for value who has taken the security without notice of the particular defence. 2010, c. 8, s. 59.

Right to cancel if material change in security

60 Nothing in Sections 56 to 59 affects the right of a party to a “when, as and if issued” contract or a “when distributed” contract to cancel the contract in the event of a material change in the character of the security that is the subject of the contract or in the plan or arrangement under which the security is to be issued or distributed. 2010, c. 8, s. 60.

Notice of a defect

61 (1) After an act or event that creates a right to immediate performance of the principal obligation represented by a certificated security or that sets a date on or after which the security is to be presented or surrendered for redemption or exchange, a purchaser is considered to have notice of a defect in the security’s issue or of a defence of the issuer

(a) if

(i) the act or event requires that, on presentation or surrender of the security certificate, money be paid, a certificated security be delivered or a transfer of an uncertificated security be registered,

(ii) the money or security is available on the date set for payment or exchange, and

(iii) the purchaser takes delivery of the security more than one year after the date referred to in subclause (ii); or

(b) if

(i) the act or event is not one to which clause (a) applies, and

(ii) the purchaser takes delivery of the security more than two years after the date on which performance became due or the date set for presentation or surrender.

(2) Subsection (1) does not apply to a call that has been revoked. 2010, c. 8, s. 61.

Restriction on transfer of security

62 A restriction on the transfer of a security imposed by the issuer, other than a restriction contained in the memorandum of association or the articles of association of a company incorporated, continued or amalgamated under the *Companies Act* or in the constating provisions of any issuer incorporated or otherwise formed under or pursuant to any other Act of the Legislature, even if otherwise lawful, is ineffective against a person without knowledge of the restriction unless

(a) the security is a certificated security and the restriction is noted conspicuously on the security certificate; or

(b) the security is an uncertificated security and the registered owner has received notice of the restriction by a person required to give that notice in order to make the restriction effective. 2010, c. 8, s. 62.

Complete security certificate

63 (1) Where a security certificate contains the signatures necessary to the security's issue or transfer but is incomplete in another respect,

(a) a person may complete the security certificate by filling in the blanks in accordance with the person's authority; and

(b) even where a blank is incorrectly filled in, the security certificate as completed is enforceable by a purchaser who took the security certificate for value and without notice of the incorrectness.

(2) A complete security certificate that has been improperly altered, even if fraudulently, remains enforceable, but only according to its original terms. 2010, c. 8, s. 63.

Registered owner

64 (1) Before due presentation for registration of transfer of a certificated security in registered form or the receipt of an instruction requesting registration of transfer of an uncertificated security, an issuer or indenture trustee may treat the registered owner as the person exclusively entitled

(a) to vote;

(b) to receive notices;

(c) to receive an interest, dividend or other payments; and

(d) to otherwise exercise all the rights and powers of an owner.

(2) Nothing in this Act affects the liability of the registered owner of a security for a call, assessment or other like act. 2010, c. 8, s. 64.

Person signing security certificate warrants

65 (1) A person signing a security certificate as authenticating trustee, registrar, transfer agent or other like person warrants to a purchaser for value of the certificated security, if the purchaser is without notice of a particular defect in respect of that security, that

- (a) the security certificate is genuine;
- (b) the person's own participation in the issue of the security is within the person's capacity and within the scope of the authority received by the person from the issuer; and
- (c) the person has reasonable grounds to believe that the certificated security is in the form and within the amount the issuer is authorized to issue.

(2) Unless otherwise agreed, a person signing a security certificate under subsection (1) does not assume responsibility for the validity of the security in a respect other than that set out in subsection (1). 2010, c. 8, s. 65.

Lien in favour of issuer

66 Except as such lien relates to securities that are not fully-paid, a lien in favour of an issuer on a certificated security is valid against a purchaser only if the right of the issuer to the lien is noted conspicuously on the security certificate. 2010, c. 8, s. 66.

Identical security

67 (1) Except as otherwise provided in subsections (2) and (3), the provisions of this Act that make a security enforceable against an issuer, notwithstanding a defence or defect that compels a security's issue or reissue, do not apply to the extent that the application of that provision would result in an overissue.

(2) Where an identical security not constituting an overissue is reasonably available for purchase, a person entitled to the issue of a security or a person entitled to enforce a security against an issuer notwithstanding a defence or defect as provided under Section 57, 58 or 59 or under a similar law of another jurisdiction may compel the issuer to purchase the security and deliver it, if certificated, or register its transfer, if uncertificated, against surrender of a security certificate the person holds.

(3) Where an identical security not constituting an overissue is not reasonably available for purchase, a person entitled to issue of a security or a person entitled to enforce a security against an issuer notwithstanding a defence or defect as provided under Section 57, 58 or 59 or under a similar law of another jurisdiction may recover from the issuer the price that the last purchaser for value paid for the security with interest from the date of the person's demand.

(4) An overissue is considered not to have occurred if appropriate action has cured the overissue. 2010, c. 8, s. 67.

PART IV

TRANSFER OF CERTIFICATED
AND UNCERTIFICATED SECURITIES**Delivery****68**

- (1) Delivery of a certificated security to a purchaser occurs when
- (a) the purchaser acquires possession of the security certificate;
 - (b) another person, other than a securities intermediary, either
 - (i) acquires possession of the security certificate on behalf of the purchaser, or
 - (ii) having previously acquired possession of the security certificate, acknowledges that the person holds the security certificate for the purchaser; or
 - (c) a securities intermediary acting on behalf of the purchaser acquires possession of the security certificate, the security certificate is in registered form and the security certificate is
 - (i) registered in the name of the purchaser,
 - (ii) payable to the order of the purchaser, or
 - (iii) specially endorsed to the purchaser by an effective endorsement and has not been endorsed to the securities intermediary or in blank.

when

- (2) Delivery of an uncertificated security to a purchaser occurs
- (a) the issuer registers the purchaser as the registered owner, on the original issue or the registration of transfer; or
 - (b) another person, other than a securities intermediary, either
 - (i) becomes the registered owner of the uncertificated security on behalf of the purchaser, or
 - (ii) having previously become the registered owner, acknowledges that the person holds the uncertificated security for the purchaser. 2010, c. 8, s. 68.

Rights acquired**69**

- (1) Except as otherwise provided in subsections (2) and (3), a purchaser of a certificated or uncertificated security acquires all rights in the security that the transferor had or had power to transfer.
- (2) A purchaser of a limited interest in a security acquires rights only to the extent of the interest purchased.
- (3) A purchaser of a certificated security who as a previous holder had notice of an adverse claim does not improve that purchaser's position by virtue of taking from a protected purchaser. 2010, c. 8, s. 69.

Protected purchaser

70 A protected purchaser, in addition to acquiring the rights of a purchaser, also acquires the purchaser's interest in the security free of an adverse claim. 2010, c. 8, s. 70.

Endorsement

71 (1) An endorsement may be in blank or special.

(2) An endorsement in blank includes an endorsement to bearer.

(3) For an endorsement to be a special endorsement, the endorsement must specify to whom the security is to be transferred or who has power to transfer the security.

(4) A holder may convert an endorsement in blank to a special endorsement. 2010, c. 8, s. 71.

Endorsement of some units

72 An endorsement of a security certificate, where the endorsement purports to be in respect of only some of the units represented by the certificate, is effective to the extent of the endorsement if the units are intended by the issuer to be separately transferable. 2010, c. 8, s. 72.

Effective transfer

73 An endorsement of a security certificate, whether special or in blank, does not constitute a transfer of the security until the delivery of

(a) the security certificate on which the endorsement appears; or

(b) where the endorsement is on a separate document, both the security certificate and the document on which the endorsement appears. 2010, c. 8, s. 73.

Delivery without endorsement

74 Where a security certificate in registered form has been delivered to a purchaser without a necessary endorsement, the purchaser may become a protected purchaser only when the endorsement is supplied, but against the transferor, the transfer is complete on delivery and the purchaser has a specifically enforceable right to have any necessary endorsement supplied. 2010, c. 8, s. 74.

Purported endorsement

75 A purported endorsement of a security certificate in bearer form may constitute notice of an adverse claim to the security certificate, but the purported endorsement does not otherwise affect any right that the holder has. 2010, c. 8, s. 75.

Limited warranties by person making an endorsement

76 Unless otherwise agreed, a person making an endorsement makes only the warranties set out in Sections 33 and 35 and does not warrant that the security will be honoured by the issuer. 2010, c. 8, s. 76.

Incomplete instruction

77 Where an instruction has been originated by the appropriate person but is incomplete in another respect, a person may complete the instruction in accordance with the person's authority and the issuer may rely on the instruction as completed, even if it has been completed incorrectly. 2010, c. 8, s. 77.

Limited warranties by person originating instruction

78 Unless otherwise agreed, a person originating an instruction makes only the warranties set out in Sections 34 and 36 and does not warrant that the security will be honoured by the issuer. 2010, c. 8, s. 78.

Warranty by guarantor of signature of endorser

79 A person who guarantees a signature of an endorser of a security certificate warrants that, at the time of signing,

- (a) the signature was genuine;
- (b) the signer was the appropriate person to endorse or, where the signature is by an agent, the agent had actual authority to act on behalf of the appropriate person; and
- (c) the signer had legal capacity to sign. 2010, c. 8, s. 79.

Warranty by guarantor of signature of originator

80 (1) A person who guarantees a signature of the originator of an instruction warrants that, at the time of signing,

- (a) the signature was genuine;
- (b) where a person specified in the instruction as being the registered owner was, in fact, the registered owner, the signer was the appropriate person to originate the instruction or, where the signature is by an agent, the agent had actual authority to act on behalf of the appropriate person; and
- (c) the signer had legal capacity to sign.

(2) A person who guarantees a signature of the originator of an instruction does not by that guarantee warrant that the person who is specified in the instruction as the registered owner is in fact the registered owner. 2010, c. 8, s. 80.

Special guarantee of signature

81 A person who specially guarantees the signature of an originator of an instruction makes the warranties of a signature guarantor under Section 80 and also warrants that, at the time that the instruction is presented to the issuer,

- (a) the person specified in the instruction as the registered owner of the uncertificated security will be the registered owner; and
- (b) the transfer of the uncertificated security requested in the instruction will be registered by the issuer free from all liens, security interests, restrictions and claims other than those specified in the instruction. 2010, c. 8, s. 81.

Warrant of rightfulness of transfer

82 (1) A guarantor under Section 79 or 80 or a special guarantor under Section 81 does not otherwise warrant the rightfulness of the transfer.

(2) A person who guarantees an endorsement of a security certificate makes the warranties of a signature guarantor under Section 79 and also warrants the rightfulness of the transfer in all respects.

(3) A person who guarantees an instruction that requests the transfer of an uncertificated security makes the warranties of a special signature guarantor under Section 81 and also warrants the rightfulness of the transfer in all respects. 2010, c. 8, s. 82.

Issuer shall not require

83 An issuer shall not require a special guarantee of signature, a guarantee of endorsement or a guarantee of instruction as a condition to the registration of transfer. 2010, c. 8, s. 83.

Liability

84 (1) The warranties under Sections 79 to 82 are made to a person taking or dealing with the security in reliance on the guarantee and the guarantor is liable to the person for a loss resulting from a breach of those warranties.

(2) An endorser or an originator of an instruction whose signature, endorsement or instruction has been guaranteed is liable to a guarantor for a loss suffered by the guarantor resulting from any breach of the warranties of the guarantor. 2010, c. 8, s. 84.

Proof of authority

85 (1) Unless otherwise agreed, the transferor of a security shall, on demand, supply the purchaser with proof of authority to transfer or with another requisite necessary to obtain registration of the transfer of the security.

(2) Notwithstanding subsection (1), where the transfer is not for value, a transferor need not comply with a demand made under subsection (1) unless the purchaser pays the necessary expenses.

(3) Where the transferor fails within a reasonable time to comply with the demand made under subsection (1), the purchaser may reject or rescind the transfer. 2010, c. 8, s. 85.

PART V

REGISTRATION

Requirements

86 (1) Where a certificated security in registered form is presented to an issuer with a request to register a transfer of the certificated security or an instruction is presented to an issuer with a request to register a transfer of an uncertificated security, the issuer shall register the transfer as requested if

- (a) under the terms of the security, the proposed transferee is eligible to have the security registered in that person's name;
- (b) the endorsement or instruction is made by the appropriate person or by an agent who has actual authority to act on behalf of the appropriate person;
- (c) reasonable assurance is given that the endorsement or instruction is genuine and authorized;
- (d) an applicable law relating to the collection of taxes had been complied with;
- (e) the transfer does not violate a restriction on transfer imposed by statute or by the issuer in accordance with Section 62 or, in the case of an issuer incorporated, continued or amalgamated under the *Companies Act*, the transfer does not violate any restriction on transfer contained in the issuer's memorandum of association or articles of association, or in the case of an issuer, incorporated or otherwise formed under or pursuant to any other Act of the Legislature, the transfer does not violate any restriction contained in the issuer's constating provisions;
- (f) in the case of a demand made under Section 88 that the issuer not register a transfer,
 - (i) the demand has not become effective under Section 88, or
 - (ii) the issuer has complied with Section 89, but legal process has not been obtained or an indemnity bond has not been provided to the issuer in accordance with Section 90; and
- (g) the transfer is rightful or is to a protected purchaser.

(2) Where, under subsection (1), an issuer is under a duty to register a transfer of a security, the issuer is liable to a person presenting a certificated security or an instruction for registration, or to that person's principal, for a loss resulting from unreasonable delay in registration or the failure or refusal to register the transfer. 2010, c. 8, s. 86.

Assurance that endorsement or instruction genuine and authorized

87 (1) In this Section,

“appropriate evidence of appointment or incumbency” means

- (a) in the case of a fiduciary appointed or qualified by a court, a document issued by or under the direction or supervision of the court or an officer of the court and dated within 60 days before the date of presentation for transfer;
- (b) in any other case,
 - (i) a copy of a document showing the appointment,
 - (ii) a certificate certifying the appointment issued by or on behalf of a person reasonably believed by the issuer to be a responsible person, or

(iii) in the absence of a document or certificate referred to in subclause (i) or (ii), other evidence that the issuer reasonably considers appropriate;

“fiduciary” means a person acting in a fiduciary capacity, and includes a personal representative acting for the estate of a deceased person;

“guarantee” means a guarantee signed by or on behalf of a person reasonably believed by the issuer to be a responsible person.

(2) An issuer may require the following assurance that each necessary endorsement or each instruction is genuine and authorized:

(a) in all cases, a guarantee of the signature of the person making the endorsement or originating the instruction including, in the case of an instruction, reasonable assurance of identity;

(b) where the endorsement is made or the instruction is originated by an agent, appropriate assurance of actual authority to act;

(c) where the endorsement is made or the instruction is originated by a fiduciary or successor referred to in clause (d) or (e) of the definition of “appropriate person” in subsection 2(1), appropriate evidence of appointment or incumbency;

(d) where there is more than one fiduciary or successor referred to in clause (d) or (e) of the definition of “appropriate person” in subsection 2(1), reasonable assurance that all who are required to sign have done so; and

(e) where the endorsement is made or the instruction is originated by a person not referred to in clause (b), (c) or (d), assurance appropriate to the case corresponding as nearly as may be to the assurance required by clause (b), (c) or (d).

(3) An issuer may elect to require reasonable assurance beyond that specified in this Section.

(4) For the purpose of the definition of “guarantee” in subsection (1), an issuer may adopt standards with respect to responsibility so long as those standards are not manifestly unreasonable. 2010, c. 8, s. 87.

Demand not to register by appropriate person

88 (1) A person who is the appropriate person to make an endorsement or to originate an instruction may demand that the issuer not register a transfer of a security by communicating a notice to the issuer setting out

(a) the identity of the registered owner;

(b) the issue of which the security is a part; and

(c) an address of the person making the demand to which communications may be sent.

(2) A demand made under subsection (1) becomes effective when the issuer has had a reasonable opportunity to act on the demand, having regard to the time and manner of receipt of the demand by the issuer. 2010, c. 8, s. 88.

Notice by issuer

89 (1) Where, after a demand made under Section 88 becomes effective, a certificated security in registered form is presented to an issuer with a request to register a transfer or an instruction is presented to an issuer with a request to register a transfer of an uncertificated security, the issuer shall promptly give a notice as described in subsection (2) to the following persons:

- (a) the person who initiated the demand, at the address provided in the demand; and
- (b) the person who presented the security for the registration of transfer or originated the instruction requesting the registration of transfer.

(2) A notice given by an issuer under subsection (1) must state

- (a) that the certificated security has been presented for the registration of transfer or the instruction for the registration of transfer of the uncertificated security has been received;
- (b) that a demand that the issuer not register a transfer had previously been received; and
- (c) that the issuer will withhold registration of transfer for a period of time stated in the notice in order to provide the person who initiated the demand an opportunity to obtain legal process or to provide an indemnity bond referred to in Section 90.

(3) The period of time that may be provided for under clause (2)(c) may not exceed 30 days from the date the notice was given and the issuer may specify a shorter period of time in the notice so long as the shorter period of time being specified is not manifestly unreasonable. 2010, c. 8, s. 89.

Liability of issuer

90 (1) An issuer is not liable, to a person who initiated a demand under Section 88 that the issuer not register a transfer, for any loss that the person suffers as a result of the registration of a transfer in accordance with an effective endorsement or instruction if the person who initiated the demand does not, within the time stated in the issuer's notice given under Section 89, either

- (a) obtain an appropriate restraining order, injunction or other process from a court of competent jurisdiction enjoining the issuer from registering the transfer; or
- (b) provide the issuer with an indemnity bond sufficient in the issuer's judgement to protect the issuer and a transfer agent, registrar or other agent of the issuer involved from any loss that those persons may suffer by refusing to register the transfer.

(2) Nothing in subsection (1) or in Section 88 or 89 relieves an issuer from liability for registering a transfer under an endorsement or instruction that was not effective. 2010, c. 8, s. 90.

Wrongful registration of transfer

91 (1) Except as otherwise provided in Section 93, an issuer is liable for wrongful registration of transfer if

- (a) the issuer has registered a transfer of a security to a person not entitled to the security; and
- (b) the transfer was registered by the issuer
 - (i) under an ineffective endorsement or instruction,
 - (ii) after a demand that the issuer not register a transfer became effective under Section 88 and the issuer did not comply with Section 89,
 - (iii) after the issuer had been served with an injunction, restraining order or other legal process referred to in Section 90 enjoining the issuer from registering the transfer and the issuer had a reasonable opportunity to obey or otherwise abide by the injunction, restraining order or other legal process, or
 - (iv) acting in collusion with the wrongdoer.

(2) An issuer that is liable for the wrongful registration of transfer under subsection (1) shall, on demand, provide the person entitled to the security with

- (a) a like certificated or uncertificated security; and
- (b) payments or distributions that the person did not receive as a result of the wrongful registration.

(3) Where the provision of a security under subsection (2) would result in an overissue, the issuer's liability to provide the person with a like security is governed by Section 67.

(4) Except as otherwise provided in subsection (1) or in another applicable law of Canada or of a province or territory of Canada relating to the collection of taxes, an issuer is not liable to an owner or other person suffering loss as a result of the registration of transfer of a security if the registration was made under an effective endorsement or instruction. 2010, c. 8, s. 91.

Lost security certificate

92 (1) Where an owner of a certificated security, whether in registered form or bearer form, claims that the security certificate has been lost, destroyed or wrongfully taken, the issuer shall issue a new security certificate if the owner

- (a) makes a request for that issue before the issuer has notice that the lost, destroyed or wrongfully taken security certificate has been acquired by a protected purchaser;
- (b) provides the issuer with an indemnity bond sufficient in the issuer's judgement to protect the issuer from any loss that the issuer may suffer by issuing a new certificate; and
- (c) satisfies other reasonable requirements imposed by the issuer.

(2) Where, after the issue of a new security certificate, a protected purchaser of the original security certificate presents the original security certificate for the registration of transfer, the issuer

(a) shall register the transfer unless the registration would result in an overissue, in which case the issuer's liability is governed by Section 67;

(b) may exercise the rights the issuer may have under the indemnity bond referred to in clause (1)(b); and

(c) may recover the new security certificate from a person to whom it was issued or from a person, other than a protected purchaser, taking under that person. 2010, c. 8, s. 92.

Notice of lost security certificate

93 An owner of a security may not assert against the issuer a claim for wrongful registration of transfer under Section 91 or a claim to a new security certificate under Section 92 if

(a) a security certificate has been lost, apparently destroyed or wrongfully taken and the owner fails to give a notice to the issuer of that fact within a reasonable time after the owner has notice of it; and

(b) the issuer registers a transfer of the security before receiving a notice of the loss, apparent destruction or wrongful taking of the security certificate. 2010, c. 8, s. 93.

Obligation of acting issuer

94 A person acting as authenticating trustee, registrar, transfer agent or other agent for an issuer in the registration of a transfer of the issuer's securities, in the issue of new security certificates or uncertificated securities or in the cancellation of surrendered security certificates has the same obligation to the holder or owner of a certificated or uncertificated security with regard to the particular function performed as the issuer has in regard to that function. 2010, c. 8, s. 94.

PART VI

SECURITY ENTITLEMENTS

Acquiring and establishing

95 (1) Except as otherwise provided in subsections (3) and (4), a person acquires a security entitlement if a securities intermediary

(a) indicates by book entry that a financial asset has been credited to the person's securities account;

(b) receives a financial asset from the person or acquires a financial asset for the person and, in either case, accepts it for credit to the person's securities account; or

(c) becomes obligated under another statute, law, regulation or rule to credit a financial asset to the person's securities account.

(2) Where a condition of subsection (1) has been met, a person has a security entitlement even if the securities intermediary does not itself hold the financial asset.

(3) A person shall be treated as holding a financial asset directly rather than as having a security entitlement with respect to the financial asset if a securities intermediary holds the financial asset for that person and the financial asset

(a) is registered in the name of, payable to the order of or specially endorsed to that person; and

(b) has not been endorsed to the securities intermediary or in blank.

(4) Issuance of a security is not establishment of a security entitlement. 2010, c. 8, s. 95.

Legal proceeding

96 A legal proceeding based on an adverse claim to a financial asset, however framed, may not be brought against a person who acquires a security entitlement under Section 95 for value and without notice of the adverse claim. 2010, c. 8, s. 96.

Interests in financial asset

97 (1) To the extent necessary for a securities intermediary to satisfy all security entitlements with respect to a particular financial asset, all interests in that financial asset held by the securities intermediary

(a) are held by the securities intermediary for the entitlement holders;

(b) are not the property of the securities intermediary; and

(c) are not subject to claims of creditors of the securities intermediary, except as otherwise provided in Section 105.

(2) An entitlement holder's property interest with respect to a particular financial asset under subsection (1) is a proportionate property interest in all interests in that financial asset held by the securities intermediary, without regard to

(a) the time that the entitlement holder acquired the security entitlement; or

(b) the time that the securities intermediary acquired the interest in that financial asset.

(3) An entitlement holder's property interest with respect to a particular financial asset under subsection (1) may be enforced against the securities intermediary only by the exercise of the entitlement holder's rights under Sections 99 to 102.

(4) An entitlement holder's property interest with respect to a particular financial asset under subsection (1) may be enforced against a purchaser of the financial asset, or interest in it, only where

(a) bankruptcy or insolvency proceedings have been initiated by or against the securities intermediary;

(b) the securities intermediary does not have sufficient interests in the financial asset to satisfy the security entitlements of all of its entitlement holders to that financial asset;

(c) the securities intermediary violated its obligations under Section 98 by transferring the financial asset, or interest in it, to the purchaser; and

(d) the purchaser is not protected under subsection (7).

(5) For the purpose of subsection (4), a trustee or other liquidator acting on behalf of all entitlement holders having security entitlements with respect to a particular financial asset may recover the financial asset, or interest in it, from the purchaser.

(6) Where the trustee or other liquidator elects not to pursue the right provided under subsection (5), an entitlement holder whose security entitlement remains unsatisfied has the right to recover the entitlement holder's interest in the financial asset from the purchaser.

(7) A legal proceeding based on the entitlement holder's property interest with respect to a particular financial asset under subsection (1), however framed, may not be brought against a purchaser of a financial asset, or interest in it, who

(a) gives value;

(b) obtains control or possession; and

(c) does not act in collusion with the securities intermediary in violating the securities intermediary's obligations under Section 98. 2010, c. 8, s. 97.

Securities intermediary to maintain financial asset

98 (1) A securities intermediary shall promptly obtain and then maintain a financial asset in a quantity corresponding to the aggregate of all security entitlements that the securities intermediary has established in favour of its entitlement holders with respect to that financial asset.

(2) The securities intermediary may maintain the financial assets referred to in subsection (1) directly or through one or more other securities intermediaries.

(3) Except to the extent otherwise agreed to by its entitlement holder, a securities intermediary shall not grant a security interest in a financial asset it is obligated to maintain under subsection (1).

(4) A securities intermediary satisfies the duty imposed under subsection (1) where

(a) the securities intermediary acts with respect to the duty as agreed to by the entitlement holder and the securities intermediary; or

(b) in the absence of an agreement referred to in clause (a), the securities intermediary exercises due care in accordance with rea-

sonable commercial standards to obtain and maintain the financial asset.

(5) This Section does not apply to a clearing agency that is itself the obligor of an option or similar obligation to which its entitlement holders have security entitlements. 2010, c. 8, s. 98.

Duties of securities intermediary

99 (1) A securities intermediary shall take action to obtain a payment or distribution made by the issuer of a financial asset.

(2) A securities intermediary is obligated to its entitlement holder for a payment or distribution made by the issuer of a financial asset if the payment or distribution is received by the securities intermediary.

(3) A securities intermediary satisfies the duty imposed under subsection (1) if

(a) the securities intermediary acts with respect to the duty as agreed to by the entitlement holder and the securities intermediary; or

(b) in the absence of an agreement referred to in clause (a), the securities intermediary exercises due care in accordance with reasonable commercial standards to attempt to obtain the payment or distribution. 2010, c. 8, s. 99.

Rights exercised by securities intermediary

100 (1) A securities intermediary shall exercise rights with respect to a financial asset where directed to do so by an entitlement holder.

(2) A securities intermediary satisfies the duty imposed under subsection (1) if

(a) the securities intermediary acts with respect to the duty as agreed to by the entitlement holder and the securities intermediary; or

(b) in the absence of an agreement referred to in clause (a), the securities intermediary either

(i) places the entitlement holder in a position to exercise the rights directly, or

(ii) exercises due care in accordance with reasonable commercial standards to follow the direction of the entitlement holder. 2010, c. 8, s. 100.

Entitlement order

101 (1) A securities intermediary shall comply with an entitlement order if

(a) the entitlement order is originated by the appropriate person;

(b) the securities intermediary has had a reasonable opportunity to assure itself that the entitlement order is genuine and authorized; and

(c) the securities intermediary has had a reasonable opportunity to comply with the entitlement order.

(2) Where a securities intermediary transfers a financial asset under an ineffective entitlement order, the securities intermediary shall

(a) re-establish a security entitlement in favour of the person entitled to it; and

(b) pay or credit payments or distributions that the person did not receive as a result of the wrongful transfer.

(3) Where a securities intermediary does not re-establish a security entitlement in accordance with subsection (2), the securities intermediary is liable to the entitlement holder for damages.

(4) A securities intermediary satisfies the duty imposed under subsection (1) if

(a) the securities intermediary acts with respect to the duty as agreed to by the entitlement holder and the securities intermediary; or

(b) in the absence of an agreement referred to in clause (a), the securities intermediary exercises due care in accordance with reasonable commercial standards to comply with the entitlement order. 2010, c. 8, s. 101.

Direction of entitlement holder

102 (1) A securities intermediary shall act at the direction of an entitlement holder to

(a) change a security entitlement into another available form of holding for which the entitlement holder is eligible; or

(b) cause the financial asset to be transferred to a securities account of the entitlement holder with another securities intermediary.

(2) A securities intermediary satisfies the duty imposed under subsection (1) if

(a) the securities intermediary acts with respect to the duty as agreed to by the entitlement holder and the securities intermediary; or

(b) in the absence of an agreement referred to in clause (a), the securities intermediary exercises due care in accordance with reasonable commercial standards to follow the direction of the entitlement holder. 2010, c. 8, s. 102.

Duty under another statute, regulation or rule

103 (1) Where the substance of a duty imposed on a securities intermediary under Section 98, 99, 100, 101 or 102 is the subject of another statute, regulation or rule, compliance with that other statute, regulation or rule satisfies the duty.

(2) The obligation of a securities intermediary to perform the duties imposed under Sections 98 to 102 is subject to

(a) the rights of the securities intermediary arising out of a security interest, whether that security interest arises under a security agreement with the entitlement holder or otherwise; and

(b) the rights of the securities intermediary under another statute, law, regulation, rule or agreement to withhold performance of its duties as a result of unfulfilled obligations of the entitlement holder to the securities intermediary.

(3) Nothing in Sections 98 to 102 requires a securities intermediary to take an action that is prohibited by another statute, regulation or rule.

(4) To the extent that specific standards for the performance of duties of a securities intermediary or the exercise of the rights of an entitlement holder are not specified by another statute, regulation or rule or by agreement between the securities intermediary and the entitlement holder, the securities intermediary shall perform its duties and the entitlement holder shall exercise the entitlement holder's rights in a commercially reasonable manner. 2010, c. 8, s. 103.

Priority rules

104 (1) In a case not covered by the priority rules under the *Personal Property Security Act* or the rules set out in subsection (3), a legal proceeding based on an adverse claim to a financial asset or a security entitlement, however framed, may not be brought against a person who purchases a security entitlement, or interest in it, from an entitlement holder if that purchaser

(a) gives value;

(b) does not have notice of the adverse claim; and

(c) obtains control.

(2) Where a legal proceeding based on an adverse claim could not have been brought against an entitlement holder under Section 96, a legal proceeding based on an adverse claim may not be brought against a person who purchases a security entitlement, or interest in it, from the entitlement holder.

(3) In a case not covered by the priority rules under the *Personal Property Security Act*, the following rules apply:

(a) a purchaser for value of a security entitlement, or interest in it, who obtains control has priority over a purchaser of a security entitlement, or interest in it, who does not obtain control; and

(b) except as otherwise provided in subsection (4), purchasers who have control rank according to priority in time of

(i) the purchaser's becoming the person for whom the securities account in which the securities entitlement is carried is maintained, if the purchaser obtained control under clause 25(1)(a),

(ii) the securities intermediary's agreement to comply with the purchaser's entitlement orders with respect to security entitlements carried or to be carried in the securities account in which the security entitlement is carried, if the purchaser obtained control under clause 25(1)(b), or

(iii) where the purchaser obtained control through another person under clause 25(1)(c), the time on which priority would be based under this subsection if the other person were the purchaser.

(4) A securities intermediary as purchaser has priority over a conflicting purchaser who has control unless otherwise agreed by the securities intermediary. 2010, c. 8, s. 104.

Insufficient interests or financial assets

105 (1) Except as otherwise provided in subsections (2) and (3), where a securities intermediary does not have sufficient interests in a particular financial asset to satisfy both the securities intermediary's obligations to entitlement holders who have security entitlements to that financial asset and the securities intermediary's obligation to a creditor of the securities intermediary who has a security interest in that financial asset, the claims of entitlement holders, other than the creditor, have priority over the claim of the creditor.

(2) A claim of a creditor of a securities intermediary who has a security interest in a financial asset held by a securities intermediary has priority over claims of the securities intermediary's entitlement holders who have security entitlements with respect to that financial asset if the creditor has control over the financial asset.

(3) Where a clearing agency does not have sufficient financial assets to satisfy both the clearing agency's obligations to entitlement holders who have security entitlements with respect to a financial asset and the clearing agency's obligation to a creditor of the clearing agency who has a security interest in that financial asset, the claim of the creditor has priority over the claims of entitlement holders. 2010, c. 8, s. 105.

CHAPTER S-13

**An Act Respecting Support Services
for Disabled Persons in Self-managed Care**

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Short title

1 This Act may be cited as the *Self-managed Support-care Act*. 2005, c. 12, s. 1.

Interpretation

2 In this Act,

“approved recipient” means a disabled individual for whom a duly qualified care-needs assessor has certified to the Minister that self-managed support services are appropriate;

“approved setting” means a place or set of circumstances in which a duly qualified care-needs assessor has certified to the Minister it is appropriate for an approved recipient to receive support services;

“Minister” means the Minister of Health and Wellness;

“support services” includes personal-care services and home-support services and may include attendant care in social and volunteer settings. 2005, c. 12, s. 2.

Province-wide program

3 (1) Subject to subsection (3), the Minister shall, before December 31, 2005, establish a Province-wide self-managed support-care program that enables approved recipients to receive self-managed support services in their homes or other approved settings.

(2) Subject to subsection (3), the self-managed support-care program referred to in subsection (1) must

(a) permit the recipient of self-managed support services to select the person that provides the support services to the recipient; and

(b) provide funding for the payment for the support services to the recipient either directly to the recipient or through a funding delivery agent designated by the Minister.

(3) The money required for the purpose of subsections (1) and (2) must be paid out of money appropriated for that purpose by the Legislature. 2005, c. 12, s. 3.

Regulations

- 4 (1) The Governor in Council may make regulations
- (a) prescribing standards for support services;
 - (b) establishing funding criteria for support services;
 - (c) establishing standards and requirements for the self-managed support-care program;
 - (d) designating places or circumstances as approved settings;
 - (e) prescribing the terms and conditions for the receipt of support services;
 - (f) defining any word or expression used but not defined in this Act;
 - (g) further defining any word or expression defined in this Act;
 - (h) respecting any matter that the Governor in Council considers necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2005, c. 12, s. 4.

CHAPTER S-14

**An Act Respecting Property Tax Rebates
to Senior Citizens**

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Short title

1 This Act may be cited as the *Senior Citizens Property Tax Rebate Act*.
2018, c. 27, s. 1.

Purpose of property tax rebate

2 The purpose of a property tax rebate under this Act is to provide assistance to senior citizens so that they may remain in their own homes for as long a time as is possible. 2018, c. 27, s. 2.

Interpretation

3 In this Act,
“Administrator” means the Administrator appointed pursuant to this Act;
“Minister” means the Minister of Service Nova Scotia;
“recipient” means a person to whom a property tax rebate is granted.
2018, c. 27, s. 3; O.I.C. 2019-149.

Minister has supervision

4 The Minister has the general supervision of this Act. 2018, c. 27, s. 4.

Eligibility

5 Subject to this Act and the regulations, a senior citizen is eligible to apply for a property tax rebate. 2018, c. 27, s. 5.

Administrator

6 (1) The Minister shall appoint an Administrator who has the functions and duties set out in this Act and the regulations and such other functions and duties pursuant to this Act and the regulations as the Minister may determine.

(2) The Minister may, in the absence or incapacity of the Administrator or when the office of the Administrator is vacant, authorize another person to act in the Administrator's stead.

(3) A person appointed or authorized to act pursuant to this Section must be employed pursuant to the *Civil Service Act* and that Act applies to that person. 2018, c. 27, s. 6.

Administrator's duties

7 The Administrator shall receive applications for property tax rebates and, in accordance with the Act and the regulations,

- (a) determine whether the applicant is entitled to receive a property tax rebate;
- (b) where an applicant is so entitled, determine the amount of the property tax rebate and direct provision thereof; and
- (c) from time to time review the amount so determined. 2018, c. 27, s. 7.

Discontinuance or suspension of property tax rebate

8 The Administrator may discontinue or suspend a property tax rebate if

- (a) an applicant or recipient fails to provide the Administrator or the Administrator's representative with the information required to determine initial or continuing eligibility for a property tax rebate; or
- (b) the recipient fails to comply with any requirements under this Act or the regulations. 2018, c. 27, s. 8.

Principal residence

9 A property tax rebate may not be granted under this Act unless the person seeking the rebate or for whom the rebate is sought had the person's principal residence in the Province during at least part of the year for which the rebate is sought. 2018, c. 27, s. 9.

Rebate not assignable or subject to seizure

10 Subject to Section 13, a property tax rebate granted or that may be granted under this Act is not assignable or subject to seizure or garnishment. 2018, c. 27, s. 10.

Rebate may be paid to attorney or representative

11 The Administrator may pay a property tax rebate to

- (a) the recipient's attorney if the attorney has authority, express or otherwise, under a power of attorney to receive the rebate;
- (b) the recipient's representative under the *Adult Capacity and Decision-making Act* if the representative has authority, express or otherwise, under that Act to receive the rebate; or
- (c) for greater certainty, the Public Trustee if the Public Trustee is the guardian of the recipient's financial affairs. 2018, c. 27, s. 11.

Death of recipient

12 Subject to the regulations, where a recipient dies, payment of a property tax rebate may be made to an appropriate person determined by the Administrator. 2018, c. 27, s. 12.

Improper payment

13 (1) The Administrator may recover from a recipient or out of the estate of a deceased recipient, as a debt due by the recipient to the Province, any sum improperly paid by way of a property tax rebate, whether as a result of non-disclosure of fact, misrepresentation or any other cause, and may deduct from any sum payable by way of a property tax rebate an amount sufficient to repay any such sum.

(2) Where the Minister determines that the recovery from a person, or out of the estate of a deceased person, of a property tax rebate improperly granted or paid under this Act would cause undue hardship to the person or the person's family, the Minister may direct that the property tax rebate is deemed to have been properly granted or paid to the person. 2018, c. 27, s. 13.

Offence and penalty

14 (1) No person shall knowingly obtain or receive a property tax rebate that the person is not eligible to obtain or receive under this Act and the regulations.

(2) No person shall for the purpose of qualifying for a property tax rebate under this Act or the regulations make any false statement or misrepresentation in any application or other document or wilfully furnish any false or misleading information.

(3) No person shall knowingly aid or abet another person to obtain or receive a property tax rebate that the other person is not eligible to obtain or receive under this Act and the regulations.

(4) Every person who violates this Section is guilty of an offence under this Act and is liable on summary conviction to a fine of not more than \$5,000. 2018, c. 27, s. 14.

Limitation period

15 A prosecution for an offence under this Act 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 the evidence of the offence first came to the attention of the Administrator. 2018, c. 27, s. 15.

Regulations

- 16 (1)** The Governor in Council may make regulations
- (a) respecting the manner of making an application for a property tax rebate;
 - (b) providing for inquiries to be made concerning or on behalf of applicants or recipients in order to determine their eligibility for a property tax rebate;
 - (c) prescribing the material or proof of facts, including evidence under oath, required before a property tax rebate is paid or during the time a property tax rebate is being paid;
 - (d) providing for the time and manner of granting a property tax rebate;
 - (e) providing for the suspension, discontinuance, reduction, increase and resumption of a property tax rebate;
 - (f) prescribing the maximum amount of a property tax rebate that may be granted;
 - (g) respecting the form or forms of a property tax rebate that may be granted;
 - (h) respecting the duration of circumstances of need as a standard of eligibility for a property tax rebate;
 - (i) respecting the property or income or other qualifications to be possessed by applicants and persons receiving a property tax rebate;
 - (j) prescribing standards of eligibility for a property tax rebate in addition to those contained in this Act;
 - (k) prescribing methods by which the amount and forms of a property tax rebate to be granted under any provision or provisions of this Act are to be calculated or determined;
 - (l) respecting payment of a property tax rebate upon the death of an eligible applicant;
 - (m) defining any word or expression used but not defined in this Act;
 - (n) 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*. 2018, c. 27, s. 16.

Agreements with federal government

17 The Minister may enter into agreements for and on behalf of the Province with the Government of Canada whereby the Government of Canada may make grants of money as reimbursement or cost sharing in whole or in part of the costs incurred or committed in providing property tax rebates under this Act. 2018, c. 27, s. 17.

CHAPTER S-15

**An Act Respecting the Provision
of Social Services for Senior Citizens**

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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 *Senior Citizens Social Services Act*. R.S., c. 421, s. 1.

Interpretation

2 In this Act,
“Commission” means the Nova Scotia Senior Citizens Commission;
“Minister” means the Minister of Community Services. R.S., c. 421, s. 2.

Nova Scotia Senior Citizens Commission

3 (1) There is established a Commission to be known as the Nova Scotia Senior Citizens Commission, composed of not fewer than 10 members appointed by the Governor in Council, one of whom shall be designated Chair and one of whom shall be designated Vice-chair.

(2) Each member of the Commission holds office for three years or for such lesser term as is prescribed by the appointment and, in any case, is eligible for reappointment.

(3) A majority of the members of the Commission constitute a quorum for the transaction of the business of the Commission. R.S., c. 421, s. 3.

Executive officer and Secretary

4 A person in the employ of the Department of Community Services may be designated by the Minister as the executive officer and Secretary of the Commission and shall

- (a) keep and maintain the records of the Commission;
- (b) provide stenographic and such other services as may be required by the Commission; and
- (c) supervise any research or other projects undertaken by the Commission. R.S., c. 421, s. 4.

Personnel

5 Staff required for the purpose of the Commission may be appointed by the Public Service Commission with the approval of the Minister. R.S., c. 421, s. 5.

Function and powers of Commission

6 It is the function of the Commission and the Commission has power to

- (a) conduct, direct and promote fact finding studies and research related to aging;
- (b) seek out and encourage persons interested in providing voluntary services to citizen groups concerned with aging;
- (c) promote new activities and social services for senior citizens through voluntary agencies and through all levels of Government as may be considered appropriate;
- (d) review existing legislation and Government programs and make recommendations as to how these may be improved to provide more adequate services for senior citizens;
- (e) perform any duties assigned to the Commission by the Governor in Council or the Minister. R.S., c. 421, s. 6.

Powers of Minister

7 In order to accomplish the purpose of this Act and to implement the functions of the Commission, the Minister may

- (a) make grants from departmental appropriations for the encouragement of citizen groups and voluntary organizations concerned with the problem of aging and in furthering the objectives of this Act;
- (b) encourage organizations, institutions, the media and other interested groups in the dissemination of information respecting geriatrics and the problem of aging;
- (c) enter into agreements with the municipal level of Government, where appropriate, for the establishment, administration and operation of programs designed to assist senior citizens and voluntary groups interested in working with and providing services for senior citizens. R.S., c. 421, s. 7.

Grants and gifts

8 (1) The Commission is authorized and empowered to solicit funds, to accept grants, gifts or bequests and to administer the same for the purposes of the Commission.

(2) Where any such grant, gift or bequest is upon terms, conditions or trusts prescribed by the grantor, donor or testator, the Commission may execute any instrument required or necessary for carrying into effect those terms, conditions or trusts and, upon acceptance of the grant, gift or bequest, is bound by such terms, conditions, trusts and instruments and has power and is bound to fulfill and observe the same. R.S., c. 421, s. 8.

Acquisition of property

9 The Commission may, with the approval of the Governor in Council, acquire, by purchase, lease or otherwise, any land and buildings and any equipment, instruments, appliances and other materials and things as are necessary or advisable to carry out the purpose of this Act, and such land, buildings, equipment, instruments, appliances and other materials and things, when so acquired, shall be the property of the Crown in right of the Province. R.S., c. 421, s. 9.

Co-operation with organizations

10 The Commission is empowered to co-operate with the Canadian Association on Gerontology and such other national and international organizations as may be concerned with the provision of social services to senior citizens. R.S., c. 421, s. 10.

Program Consultant Panel

11 On the recommendation of the Minister, the Governor in Council may appoint a panel of senior citizens to be called the Program Consultant Panel to assist the Commission and the Minister in all matters relating to the provision of social services on behalf of senior citizens. R.S., c. 421, s. 11.

Powers on inquiry

12 For the purpose of making any inquiries with respect to its functions and powers, the Commission shall have all the powers of a commissioner appointed under the *Public Inquiries Act*. R.S., c. 421, s. 12.

Annual estimates

13 The Commission shall prepare for each fiscal year a budget estimating the expenditures of the Commission for that fiscal year and shall present the budget to the Minister for consideration as an integral part of the budget for the Department of Community Services. R.S., c. 421, s. 13.

Administration expenses

14 The cost, charges and expenses incurred in the administration of this Act may be paid out of funds appropriated therefor by the Legislature or from the General Revenue Fund. R.S., c. 421, s. 14.

Audit

15 The books of account and records of the Commission are subject to audit by the Auditor General. R.S., c. 421, s. 15.

CHAPTER S-16

An Act Respecting Senior Citizens' Week

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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 *Senior Citizens' Week Act*. R.S., c. 422, s. 1.

Senior Citizens' Week

2 The Governor in Council shall designate, for each year, a week to be kept and observed throughout the Province under the name of Senior Citizens' Week. R.S., c. 422, s. 2.

CHAPTER S-17

An Act Respecting Service Dogs

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Short title

1 This Act may be cited as the *Service Dog Act*. 2016, c. 4, s. 1.

Interpretation

2 In this Act,
“certificate” means a certificate issued or renewed under subsection 7(1);
“certified” means certified by the Registrar under subsection 7(1);
“dog member” means, in respect of a service dog team, retired service dog team or dog-in-training team, the member of the team that is a dog;
“dog trainer” means an individual who trains dogs for the purpose of the dogs becoming service dogs;
“dog-in-training” means a dog that
(a) is being trained by a dog trainer to become a service dog; and
(b) is certified as a dog-in-training;
“dog-in-training team” means a dog trainer and a dog-in-training that
(a) are working together to train the dog-in-training to become a service dog; and

(b) are certified as a dog-in-training team;

“human member” means, in respect of a service dog team, retired service dog team or dog-in-training team, the member of the team who is an individual;

“identification card” means an identification card issued under subsection 8(1);

“person with a disability” means an individual who

(a) has a disability, other than blindness or visual impairment; and

(b) requires, as a result of the disability, the assistance of a service dog for daily living;

“Registrar” means an individual designated under subsection 5(1) as the Registrar of Service Dogs;

“residential premises” has the same meaning as in the *Residential Tenancies Act*;

“retired service dog team” means an individual and a dog that were previously members of the same service dog team and that

(a) are living together; and

(b) are certified as a retired service dog team;

“service dog” means a dog that

(a) is trained to perform specific tasks to assist a person with a disability; and

(b) is certified as a service dog;

“service dog team” means a person with a disability and a service dog that are certified as a service dog team. 2016, c. 4, s. 2.

Blind Persons Rights Act and Human Rights Act

3 Nothing in this Act derogates from any right, privilege or obligation conferred or imposed by the *Blind Persons Rights Act* or the *Human Rights Act*. 2016, c. 4, s. 3.

Act binds Crown

4 This Act binds the Crown in right of the Province. 2016, c. 4, s. 4.

Registrar

5 (1) The Minister of Justice shall designate a person employed in the civil service of the Province as the Registrar of Service Dogs.

(2) The Registrar may delegate, in writing, any power or duty of the Registrar under this Act or the regulations to a person employed in the civil service of the Province. 2016, c. 4, s. 5.

Applying for certification

6 (1) Subject to the regulations, an individual may apply to the Registrar for the issuance or renewal of a certificate.

- (2) An application made under subsection (1) must
- (a) be made in the form and manner required by the Registrar; and
 - (b) include or be accompanied by any information or document prescribed by the regulations. 2016, c. 4, s. 6.

Certification

7 (1) Subject to subsection (2), the Registrar may issue or renew a certificate

- (a) where the applicant is a person with a disability, certifying that
 - (i) the dog identified on the certificate is a service dog, and
 - (ii) the person with a disability and the dog are a service dog team;
- (b) where the applicant is a dog trainer, certifying that
 - (i) the dog identified on the certificate is a dog-in-training, and
 - (ii) the dog trainer and the dog are a dog-in-training team; or
- (c) certifying that the individual and the dog identified on the certificate are a retired service dog team.

(2) The Registrar may not issue or renew a certificate unless the Registrar is satisfied that

- (a) the dog to be identified on the certificate
 - (i) has been trained, by a dog trainer or other person prescribed by the regulations, to perform physical tasks for an individual in conformity with the needs of the individual, and
 - (ii) satisfies all of the conditions, qualifications and requirements prescribed by the regulations; and
- (b) the individual to be identified on the certificate satisfies all of the conditions, qualifications and requirements prescribed by the regulations.

(3) Where the Registrar refuses to issue a certificate, the Registrar shall notify in writing the applicant of the Registrar's decision.

(4) A certificate is subject to any terms or conditions imposed by the Registrar.

(5) The Registrar may amend or remove a term or condition of a certificate.

(6) A certificate expires at the end of the day specified on the certificate. 2016, c. 4, s. 7.

Identification card

8 (1) The Registrar shall issue an identification card in respect of each service dog team, retired service dog team and dog-in-training team, identifying the human member of the team and the dog member of the team.

(2) An identification card issued under subsection (1) is proof, in the absence of evidence to the contrary, that a service dog team, retired service dog team or dog-in-training team identified on the card is certified.

(3) An individual to whom an identification card is issued shall, on the request of the Registrar, surrender the identification card to the Registrar. 2016, c. 4, s. 8.

Cancellation or refusal to renew certificate

9 (1) Subject to the regulations, the Registrar may cancel or refuse to renew a certificate

(a) if the Registrar is satisfied that the individual to whom the certificate is issued

(i) has ceased to satisfy any condition, qualification or requirement prescribed by the regulations,

(ii) has failed to comply with any term or condition to which the certificate is subject, or

(iii) has failed to comply with this Act or the regulations;

(b) if the dog identified on the certificate

(i) retires,

(ii) dies,

(iii) becomes permanently disabled, or

(iv) ceases to satisfy any condition, qualification or requirement prescribed by the regulations; or

(c) in any circumstance prescribed by the regulations.

(2) The Registrar shall notify in writing the individual to whom a certificate is issued of the Registrar's decision to cancel or refuse to renew the certificate under subsection (1).

(3) An individual to whom a certificate is issued shall, on the request of the Registrar, surrender the certificate to the Registrar. 2016, c. 4, s. 9.

Reconsideration of decision

- 10** (1) An individual may request the Registrar to reconsider a decision to
- (a) refuse to issue a certificate to the individual; or
 - (b) cancel or refuse to renew a certificate issued to the individual.
- (2) A request under subsection (1) must be made
- (a) within 30 days after receiving notice of the decision; or
 - (b) within such longer period as the Registrar may specify, if the Registrar is satisfied that special circumstances existed that precluded the filing of a request for reconsideration within 30 days after receiving notice of the decision.
- (3) A request under subsection (1) must
- (a) be in writing; and
 - (b) identify the error that the individual believes was made or the other grounds on which the request is being made.
- (4) On receiving a request under subsection (1), the Registrar shall
- (a) confirm or reverse the decision; and
 - (b) notify the individual in writing and provide reasons for confirming or reversing the decision.
- section (1) (5) The Registrar may conduct a hearing of a request under subsection (1)
- (a) in writing, electronically or orally; or
 - (b) by any combination of written, electronic or oral means. 2016, c. 4, s. 10.

Access to public places

- 11** (1) A service dog team or dog-in-training team may, in the same manner as would an individual who is not a member of either of those teams, enter and use any place, accommodation, building or conveyance to which the public is invited or has access, if the human member of the team
- (a) ensures that the dog member of the team does not occupy a seat in a place where food is served or dispensed to the public or in a public conveyance; and
 - (b) maintains control of the dog member of the team.
- (2) No person shall interfere with the exercise of the right of entry and use authorized by subsection (1). 2016, c. 4, s. 11.

Tenancy

- 12** (1) No person shall deny to a service dog team, retired service dog team or dog-in-training team residential premises advertised or otherwise repre-

sented as available for occupancy by a tenant on the basis that the human member of the team intends to keep the dog member of the team at the residential premises.

(2) No person shall impose, on the human member of a service dog team, retired service dog team or dog-in-training team, a term or condition for the tenancy of residential premises if the term or condition discriminates on the basis that the human member of the team intends to keep the dog member of the team at the residential premises.

(3) Subsections (1) and (2) do not apply in respect of residential premises if the only premises rented consist of one room in a dwelling house, the rest of which is occupied by the landlord or the landlord's family, and the landlord does not advertise the room for rental by sign or through any news media or listing with any housing, rental or tenants' agency. 2016, c. 4, s. 12.

False representation

13 No person shall falsely represent a dog as being a member of a service dog team, retired service dog team or dog-in-training team. 2016, c. 4, s. 13.

Production of identification card

14 Where requested to do so by

(a) the owner, operator or other person in charge of a place, accommodation, building or conveyance at which a service dog team or dog-in-training team is exercising or attempting to exercise its right of entry and use authorized by subsection 11(1); or

(b) a prospective landlord or landlord from whom the human member of a service dog team, retired service dog team or dog-in-training team is renting or seeking to rent residential premises to which subsections 12(1) and (2) apply,

the human member of the team shall produce the identification card issued to the human member in respect of the team. 2016, c. 4, s. 14.

Identification of service dogs

15 (1) The human member of a service dog team or dog-in-training team shall ensure that the dog member wears an identification collar or harness whenever the dog member is in public.

(2) The expression "service dog" or such other expression as the regulations may prescribe must be clearly displayed on an identification collar or harness referred to in subsection (1). 2016, c. 4, s. 15.

Duties

16 (1) The human member of a service dog team or dog-in-training team shall at all times maintain control of the dog member.

(2) The human member of a service dog team or dog-in-training team shall perform any duty prescribed by the regulations. 2016, c. 4, s. 16.

Liability for damages

17 The owner of a dog is solely liable for damages for injury, loss or damage to persons or property caused by the dog while it is acting as a service dog or dog-in-training. 2016, c. 4, s. 17.

Offence and penalty for contravention

18 A person who contravenes subsection 8(3), 9(3), 11(2) or 12(1) or (2) or Section 13 is guilty of an offence and liable on summary conviction to a fine of not less than \$500 and not more than \$3,000. 2016, c. 4, s. 18.

Regulations

- 19** (1) The Governor in Council may make regulations
- (a) respecting applications and applicants for the issuance or renewal of a certificate;
 - (b) prescribing information or documents that must be included in or accompany an application for the issuance or renewal of a certificate;
 - (c) respecting certificates, including, without limiting the generality of the foregoing, terms and conditions to which certificates are subject;
 - (d) prescribing persons for the purpose of subclause 7(2)(a)(i);
 - (e) prescribing conditions, qualifications and requirements that must be satisfied or continue to be satisfied by an individual or a dog, or both, for the purpose of the issuance or renewal of a certificate;
 - (f) prescribing conditions, qualifications and requirements that an individual must satisfy to be identified on a certificate;
 - (g) imposing requirements on service dog teams, retired service dog teams or dog-in-training teams respecting the carrying, producing or displaying of a certificate or identification card;
 - (h) prescribing the process the Registrar must follow when refusing to issue, cancelling or refusing to renew a certificate;
 - (i) prescribing circumstances in which the Registrar may cancel or refuse to renew a certificate;
 - (j) prescribing expressions for the purpose of subsection 15(2);
 - (k) prescribing duties in relation to the dog member of a service dog team or dog-in-training team that are to be performed by the human member of the team.

(2) A regulation made under subsection (1) may be of general application or may apply to such class or classes of individuals or dogs, such class or classes of certificates 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 individuals or dogs, different classes of certificates and different classes of matters or things.

(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*, 2016, c. 4, s. 19.

CHAPTER S-18

An Act Respecting Sexual Orientation and Gender Identity Protection

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Short title

1 This Act may be cited as the *Sexual Orientation and Gender Identity Protection Act*. 2018, c. 28, s. 1.

Purpose of Act

2 The purpose of this Act is to protect Nova Scotia youth from damaging efforts to change their sexual orientation or gender identity. 2018, c. 28, s. 2.

Interpretation

3 In this Act,

“change effort” means any counselling, behaviour modification techniques, administration or prescription of medication or any other purported treatment, service or tactic used with the objective of changing a person’s sexual orientation or gender identity;

“hospital” means a hospital within the meaning of the *Hospitals Act*, the *Health Services and Insurance Act* or the *Insured Health Services Act*;

“hospital service” means an in-patient service or an out-patient service that is provided in a hospital;

“professional service” means a service provided by a member of a regulated health profession in the course of the member’s scope of practice;

“regulated health profession” means a health profession regulated by any of the organizations listed in the Schedule to the *Regulated Health Profession Network Act*;

“resident” means a resident of the Province within the meaning of the *Health Services and Insurance Act* or pursuant to the *Insured Health Services Act*;

“scope of practice” means the roles and functions authorized for members of a regulated health profession by that profession’s governing statute, including counselling, behaviour modification techniques, the administering and prescribing of medication and any other purported treatment. 2018, c. 28, s. 3.

Not insured services

4 Notwithstanding the *Health Services and Insurance Act*, the *Insured Health Services Act* or the regulations made thereunder, or any other Act, any hospital service or professional service that seeks to change the sexual orientation or gender identity of a resident is not an insured service under those Acts. 2018, c. 28, s. 4.

Prohibited expenditure

5 The expenditure of public funds of the Province to cover the costs of any change effort with the objective to change the sexual orientation or gender identity of a person is prohibited and declared unlawful. 2018, c. 28, s. 5.

Prohibited services

6 (1) No member of a regulated health profession shall, in the course of the member’s scope of practice, provide any hospital service or professional service with the objective to change the sexual orientation or gender identity of a person under the age of 19 years.

(2) Subsection (1) does not apply where the person receiving the service is over the age of 16 years, capable of consenting to the service and consents to the service.

(3) Notwithstanding any other Act, a parent, guardian, substitute decision-maker or representative decision-maker may not give consent on a person’s behalf to the provision of any service described in subsection (1). 2018, c. 28, s. 6.

Change efforts

7 (1) No person in a position of trust or authority towards a young person under the age of 19 years shall make any change effort with respect to the young person.

(2) Subsection (1) does not apply where the young person is over the age of 16 years, capable of consenting to the change effort and consents to the change effort.

(3) Notwithstanding any other Act, a parent, guardian, substitute decision-maker or representative decision-maker may not give consent on a person’s behalf to the provision of any efforts described in subsection (1). 2018, c. 28, s. 7.

Covered services

8 For greater certainty, the services and change efforts referred to in Sections 4 and 5 and subsections 6(1) and 7(1) do not include

(a) services that provide acceptance, support or understanding of a resident or the facilitation of a resident's coping, social support or identity exploration or development; and

(b) gender-confirming surgery or any services related to gender-confirming surgery. 2018, c. 28, s. 8.

Regulations

9 (1) The Governor in Council may make regulations

(a) defining or further defining any word or expression used in this Act;

(b) 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*. 2018, c. 28, s. 9.

CHAPTER S-19

**An Act Respecting Shared Services
for Crown Corporations, Government
Departments and Public Sector Entities**

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Short title

1 This Act may be cited as the *Shared Services Act*. 2014, c. 38, s. 1.

Purpose of Act

2 The purpose of this Act is to standardize practices and procedures and to consolidate within shared-services organizations certain administrative services and activities that support Crown corporations, departments and public sector entities. 2014, c. 38, s. 2.

Interpretation

3 In this Act,

“Crown corporation” means a body corporate conferred such status pursuant to the *Finance Act* or any other Act of the Legislature and designated by the regulations as a Crown corporation for the purpose of this Act;

“department” means a department, office or agency created by or pursuant to the *Public Service Act*;

“designated employee” means an employee of a Crown corporation or a public sector entity who is designated by the Minister to become an employee of the Crown in right of the Province in a shared-services organization;

“Minister” means the Minister of Service Nova Scotia;

“public sector entity” means a health authority, a regional centre for education, the Conseil scolaire acadien provincial or any other entity designated in the regulations as a public sector entity;

“shared services” means the services provided by a shared-services organization in accordance with the regulations;

“shared-services organization” means the Department of Service Nova Scotia, the Department of Public Works, the Public Service Commission or any other department designated in the regulations as a shared-services organization. 2014, c. 38, s. 3; 2018, c. 1, Sch. A, s. 149.

Application of Act

- 4** This Act applies to
- (a) Crown corporations;
 - (b) departments; and
 - (c) public sector entities. 2014, c. 38, s. 4.

Conflicts

5 Notwithstanding any general or special Act, where there is a conflict between this Act and the regulations and any other enactment, this Act and the regulations prevail. 2014, c. 38, s. 5.

Act binds Provincial Crown

- 6** This Act binds the Crown in right of the Province. 2014, c. 38, s. 6.

Supervision of Act

7 The Minister is responsible for the supervision and management of this Act and the regulations. 2014, c. 38, s. 7.

Shared-services organization

8 (1) A shared-services organization shall provide the shared services it is required to provide as prescribed by the regulations to Crown corporations, departments and public sector entities.

(2) A shared-services organization may provide shared services that it is permitted to provide by the regulations to Crown corporations, departments and public sector entities.

(3) Notwithstanding subsection (2), shared services may not be provided by a shared-services organization to the Crown corporations, departments or public sector entities listed in the regulations pursuant to clause 12(1)(f).

(4) A shared-services organization shall abide by the terms and conditions made pursuant to the regulations for the provision of services.

(5) A shared-services organization may charge the fees made pursuant to the regulations to Crown corporations, departments and public sector entities for the provision of shared services. 2014, c. 38, s. 8; 2016, c. 2, s. 17.

Requirement to obtain shared services

9 Notwithstanding any other enactment, agreement or practice, every Crown corporation, department and public sector entity shall obtain shared services from a shared services organization in accordance with the regulations. 2014, c. 38, s. 9; 2016, c. 2, s. 18.

Records

10 (1) In this Section, “records” means records as defined in the *Freedom of Information and Protection of Privacy Act*.

(2) Records collected or used by a shared-services organization for the purpose of providing shared services to a Crown corporation, department or public sector entity may be deemed by the regulations to be in the custody or under the control of the shared-services organization, Crown corporation, department or public sector entity for the purpose of the *Freedom of Information and Protection of Privacy Act*. 2014, c. 38, s. 10.

Designated employees

11 The Minister may determine who is a designated employee for the purpose of this Act. 2014, c. 38, s. 11.

Regulations

- 12 (1)** The Governor in Council may make regulations
- (a) designating corporate entities previously conferred the status of Crown corporations as Crown corporations for the purpose of the definition of “Crown corporation” in Section 3;
 - (b) designating entities to be public sector entities;
 - (c) designating departments as shared-services organizations;
 - (d) respecting the shared services to be provided by a shared-services organization for the purpose of subsection 8(1);
 - (e) respecting the shared services that a shared-services organization may provide for the purpose of subsection 8(2);
 - (f) listing the Crown corporations, departments or public sector entities that a shared-services organization is not permitted to provide shared services to for the purpose of subsection 8(3);
 - (g) respecting the terms and conditions to be followed by shared-services organizations in the provision of services for the purpose of subsection 8(4);
 - (h) respecting the fees that may be charged for the provision of shared services;
 - (i) respecting the shared services that a Crown corporation, department and public sector entity must obtain pursuant to Section 9;
 - (j) deeming records to be or not to be in the custody or under the control of a shared-services organization, Crown corpora-

tion, department or public sector entity for the purpose of subsection 10(2);

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

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

(m) respecting any matter or thing the Governor in Council considers necessary or advisable to effectively carry out the intent and purpose of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2014, c. 38, s. 12; 2016, c. 2, s. 19.

CHAPTER S-20

An Act Respecting the Protection of Sheep

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Short title

1 This Act may be cited as the *Sheep Protection Act*. R.S., c. 424, s. 1; 1994-95, c. 7, s. 102.

Interpretation

2 In this Act,
“dog” means any dog, male or female;
“owner” of a dog includes any person who possesses or harbours a dog;
“sheep” means sheep of any age;
“injured” and “injuring” apply to injuries caused by wounding, worrying, terrifying or pursuing;
“Minister” means the Minister of Agriculture. R.S., c. 424, s. 6.

Right to kill dog

3 Any person may kill any dog that
(a) is found pursuing, worrying, wounding, killing or injuring sheep; or
(b) is found straying at any time, and not under proper control, upon premises where sheep are usually kept. R.S., c. 424, s. 7.

Liability of municipality

4 Whether the owner of any dog killing or injuring sheep is known or not, the municipality in which the sheep were killed or injured is liable to the owner of the sheep for the amount of damage ascertained by the sheep valuer or justice of the peace as hereinafter provided, and shall pay over such amount to the owner within 30 days after the owner has filed with the clerk an affidavit that to the best of the owner's knowledge and belief the sheep were killed or injured by a dog and that the dog was not owned by the owner or from the owner's household. R.S., c. 424, s. 8.

Sheep valuers

5 (1) The council of every municipality shall appoint one or more competent persons as sheep valuers.

(2) Within 48 hours after it is discovered by the owner that one or more of the owner's sheep have been killed or injured by a dog or dogs, the owner shall notify a sheep valuer, or the clerk of the municipality who shall forthwith notify a sheep valuer, and the valuer so notified shall immediately make the valuer's report in writing, within 10 days thereafter, giving in detail the extent and amount of the damage, and whether done by dogs, to the clerk of the municipality and shall at the time forward a copy of such report to the owner of the sheep.

(3) The carcass of the sheep must not be destroyed until it has been seen by the valuer.

(4) Where either the owner of the sheep or the mayor or warden of a city, town or municipality is dissatisfied with the report of the valuer, the city, town or municipality may appeal therefrom to any justice of the peace within the city, town or municipality, who may make a further investigation on oath and the decision and award of the justice of the peace is final and conclusive as to the amount of the damage done.

(5) The appeal shall be made within 30 days after the making of the report by the valuer and \$10 must be deposited with the justice of the peace at the time of the appeal to be forfeited if the report of the valuer is sustained.

(6) If no sheep valuers have been appointed or the clerk or valuer does not discharge the duty imposed upon the valuer by this Act, any justice of the peace within the municipality, on the application of the owner of the sheep, may make an investigation on oath, and the decision and award made by the justice of the peace is final and conclusive as to the amount of damage done, and the municipality, in addition to its liability to the owner of the sheep as provided by Section 8, shall forthwith pay the cost of such investigation as fixed by the justice of the peace not exceeding \$10. R.S., c. 424, s. 9.

Right of recovery and duty to kill

6 (1) A municipality, having paid to the owner of the sheep the amount of the damage ascertained as above provided, is entitled to recover the amount so paid from the owner of the dog if resident in the municipality or, if the owner of the dog resides within a city or incorporated town, from such city or incorporated town in any court of competent jurisdiction without proving that it was vicious or accustomed to worry sheep.

(2) In the event of payment by any city or incorporated town under this Act, the city or incorporated town is entitled to recover the amount so paid from the owner of the dog.

(3) In order to ascertain the owner of the dog that killed or injured the sheep, the sheep valuer or justice of the peace, as the case may be, in any investigation made under Section 4 or 5, may issue a subpoena calling upon any persons to attend before the sheep valuer or justice of the peace and may administer an oath to such persons and may examine such persons touching their knowledge of the matter.

(4) When it appears that the damage was caused by more dogs than one, the court, sheep valuer or justice of the peace, as the case may be, may apportion the damages as may be considered just, having regard to the strength, ferocity and character of the dogs concerned.

(5) Where a dog is known to have killed or injured sheep, the owner on being duly notified shall within 48 hours cause the dog to be killed.

(6) Where the owner refuses or neglects to kill the dog, the owner may be summoned before any justice of the peace who may order that the dog be killed and in such case a constable may enter upon the premises of the owner and may kill the dog.

(7) The justice of the peace may direct the owner to pay the costs of the proceedings and of the destruction of the dog and, if the justice of the peace considers the neglect or refusal of the owner to have been unreasonable, may impose on the owner a penalty not exceeding \$10. R.S., c. 424, s. 10.

Appeal from justice of the peace

7 An appeal against any decision, award, apportionment or order made by a justice of the peace, under this Act, may be made to a judge of the Supreme Court of Nova Scotia and the proceedings shall be the same as nearly as may be as on appeals under the *Summary Proceedings Act*. R.S., c. 424, s. 11.

Substantial compliance

8 The times and the method of procedure set out in this Act must be regarded as merely directory and a proceeding that is in substantial conformity with this Act is not open to objection on the ground that it is not in strict compliance therewith. R.S., c. 424, s. 12.

Fees and returns

9 Subject to Section 5, every justice of the peace is entitled to charge such fees in cases of proceedings under this Act as may be lawful for the justice of the peace to charge in other cases within the justice of the peace's jurisdiction, and the justice of the peace shall make the returns usual in cases of conviction and also a return in each case to the clerk of the municipality, whose duty it is to enter the same in a book to be kept for that purpose. R.S., c. 424, s. 13.

Penalty for shooting sheep

10 Every person, who shoots sheep or attempts to kill by shooting sheep in or upon a common pasture or a pasture in which the sheep of more than one owner are grazing, is liable to a penalty of not less than \$10 nor more than \$50. R.S., c. 424, s. 14.

Entitlement to recovered penalty

11 All penalties recovered under this Act belong to the municipality. R.S., c. 424, s. 15.

Use of money collected by municipality

12 All money, taxes, fees, fines, penalties and money collected and paid to any municipality under this Act constitute a fund for satisfying the damages that arise from dogs killing or injuring sheep in the municipality, the payment of costs of proceedings under this Act, the fees of sheep valuers and other expenses and disbursements incident to the enforcement or incurred in carrying out this Act, and the residue, if any, forms part of the funds of the municipality for the general purposes thereof. R.S., c. 424, s. 16.

Powers of municipal council

13 Every municipal council has power to

- (a) fix the compensation to be paid to sheep valuers appointed under this Act and appropriate, assess for and pay the same; and
- (b) assess for and pay such other expenses and disbursements as are necessarily incurred in the carrying out of this Act. R.S., c. 424, s. 17.

Appointment of sheep valuer by city or town

14 (1) Where the sheep were killed or injured within a city or incorporated town by a dog owned or harboured in a city or incorporated town, and the owner of the dog is not known, whether the dog was owned within the city or incorporated town or elsewhere, a sheep valuer to hold such inquiry under this Act shall be appointed by the city or town council.

(2) Such valuer shall make a report in writing to the clerk of the city or incorporated town giving in detail the extent of injuries and the amount of damage done.

(3) If the council of such city or town is satisfied that the damage was done by a dog owned within the city or town, or if it is not known whether such dog was owned within the city or incorporated town, or elsewhere, the council shall award to the aggrieved party for compensation a sum equal to the amount of the damage sustained by the aggrieved party as fixed by the sheep valuer and the treasurer of the city or town shall pay over to the person aggrieved the amount so awarded.

(4) In the event of the valuer finding that the dog was not owned in the city or town, then the time within which the owner of the sheep may apply under Section 5 to the clerk of the municipality within which such city or town is

situated is one month after the killing or injury or two weeks after such finding, whichever period expires last. R.S., c. 424, s. 18.

CHAPTER S-21

**An Act to Create a Sherbrooke
Planning Area and to Establish
a Sherbrooke Restoration Commission**

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Short title

1 This Act may be cited as the *Sherbrooke Restoration Commission Act*. 1969, c. 18, s. 1.

Interpretation

2 In this Act,
“Area” means the Sherbrooke Planning Area;
“Board” means the Board of Governors of the Nova Scotia Museum;
“Commission” means the Sherbrooke Restoration Commission;
“Minister” means the Minister of Communities, Culture, Tourism and Heritage;
“Project” means the Sherbrooke Restoration Project. 1972, c. 66, s. 1; revision corrected 1991.

Designation of Sherbrooke Planning Area

3 (1) The Governor in Council may by order designate an area within the Municipality of the District of St Mary’s, that includes Sherbrooke, as the Sherbrooke Planning Area.

(2) While a designation made pursuant to subsection (1) is in force, the provisions relating to the erection, use, occupancy, construction, reconstruction, restoration, alteration, repair, destruction or demolition of buildings, contained in a bylaw, an official plan or a land-use bylaw or in the *Municipal*

Government Act, a planning strategy or any enactment other than this Act, do not apply to the Area.

(3) The Governor in Council may by order alter or vary the boundaries of the Area.

(4) A copy of the order designating the Area or any order altering or varying the boundaries of the Area must be published in the Royal Gazette and registered in the office of the Registrar of Deeds for the Registration District of the District of the County of Guysborough.

(5) A copy of any order certified by the Clerk of the Executive Council is admissible in evidence in any proceeding without proof of the signature or office of the person purporting to certify the same as prima facie proof of the designation or boundaries of the Area. 1969, c. 18, s. 3.

Acquisition of land by Minister

4 (1) The Minister, with the approval of the Governor in Council, may purchase, expropriate or otherwise acquire land within the Area.

(2) Any land that the Minister considers necessary to acquire within the Area is deemed to be land acquired for a public purpose within the meaning of the *Expropriation Act*. 1969, c. 18, s. 4; 1973, c. 7, s. 82.

Sherbrooke Restoration Commission

5 (1) The Sherbrooke Restoration Commission is established, which is a body corporate and consists of the following members:

(a) the member of the Council of the Municipality of the District of St Mary's for the polling area that includes Sherbrooke;

(b) the Director of Cultural Services of the Department of Communities, Culture, Tourism and Heritage;

(c) not more than 10 additional members recommended to the Minister by the Board of Governors of the Nova Scotia Museum and appointed by the Governor in Council.

(2) Each member of the Commission appointed by the Governor in Council holds office for such term as is prescribed by the member's appointment.

(3) A member of the Commission who is a member by virtue of the member's position or office shall cease to be a member when the member ceases to hold that position or office.

(4) The Commission shall annually elect a Chair, a Vice-chair and such other officers as it may require and appoint such committees as, in its discretion, it considers necessary.

(5) No member of the Commission shall receive any remuneration or payment for the member's services as a member, but each member is entitled to actual and reasonable travelling and living allowances while attending meetings or travelling on behalf of the Commission. 1969, c. 18, s. 5; 1972, c. 66, s. 2; 2022, c. 51, s. 3.

Duties and responsibilities of Commission

6 (1) The Commission shall advise the Minister through the Board respecting the orderly restoration and development of the Area and propose regulations that may be required to regulate the use of land and the construction, alteration and use of buildings in the Area.

- (2) The Commission is responsible to the Board for
- (a) the proper use and administration of funds granted to the Commission by the Board;
 - (b) the preparation of capital and operating estimates of the Sherbrooke Restoration Project;
 - (c) the planning of programs within the Area that will best employ the resources and people of the Village of Sherbrooke and the surrounding district;
 - (d) the operation of the Project within the confines of programs and estimates approved by the Minister;
 - (e) the performance of other functions that may be required by the Minister or by the Governor in Council. 1972, c. 66, s. 3.

Powers of Commission

- 7** The Commission may, with the approval of the Board,
- (a) enter into agreements with persons, organizations or corporations to advance the purpose of this Act;
 - (b) make bylaws for the conduct of its business and to regulate the use of the buildings and their contents placed in its care. 1972, c. 66, s. 4.

If historic or scientific object acquired by Commission

8 The Commission shall register all historic and scientific objects, whether acquired by purchase, donation, devise, bequest or otherwise, in the accession records of the Nova Scotia Museum, and such objects are considered a part of the collections of the Nova Scotia Museum and their care and disposition is governed by the regulations pertaining thereto. 1972, c. 66, s. 5.

Annual inventory

9 The Commission shall submit an annual inventory of equipment and furnishings to the Nova Scotia Museum and that inventory is considered a part of the holdings and responsibility of the Nova Scotia Museum. 1972, c. 66, s. 6.

Financial statement

10 The Commission shall submit audited financial statements to the Board upon request. 1972, c. 66, s. 6.

Agreement by Minister

11 Upon recommendation from the Commission, the Minister, with the approval of the Governor in Council, may enter into an agreement or agreements with any municipality, with other departments of the Government of Nova Scotia or with the Government of Canada or any minister, department or agency thereof, or

any combination of them, for any purpose relating to the Area, to this Act or to the objects of the Commission. 1972, c. 66, s. 6.

Regulations

12 (1) The Minister, with the approval of the Governor in Council, may make regulations

(a) relating to the erection, use, occupancy, construction, reconstruction, restoration, alteration, repair, destruction or demolition of buildings in the Area;

(b) respecting any matter within the Area in respect of which a bylaw, an official plan, a planning strategy or a land-use bylaw may be made under the *Municipal Government Act* or any other enactment;

(c) respecting the restoration or development of the Area;

(d) implementing a proposal of the Commission for regulating the use of land or the construction, alteration or use of buildings in the Area;

(e) respecting any matter necessary for the attainment of the objects of this Act or for the more effective administration thereof.

(2) A copy of any regulations made pursuant to this Section may be filed in the office of the Clerk of the Municipality of the District of St Mary's and a copy must be transmitted to the Minister of Municipal Affairs and Housing. 1972, c. 66, s. 6.

CHAPTER S-22

**An Act to Establish
a Sickle Cell Awareness Day**

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

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WHEREAS sickle cell disease is characterized by a mutation in the shape of red blood cells from a smooth, circular shape to a crescent shape, which can result in the blockage of small blood vessels and the impairment of blood flow, leading to a reduction in red blood cell survival and subsequent anemia;

AND WHEREAS the poor blood oxygen levels and blood vessel blockages that result from sickle cell disease can lead to severe chronic pain, serious bacterial infections and tissue death;

AND WHEREAS blood vessel blockages can affect all parts of the body and result in organs becoming starved for oxygen and unable to function properly;

AND WHEREAS the lifespan of persons with severe sickle cell disease can be reduced by as much as 30 years;

AND WHEREAS approximately five per cent of the world’s population carries the trait gene for sickle cell disease, with the percentage of carriers of the gene being as high as 25% in some regions;

AND WHEREAS sickle cell disease is particularly common among people whose ancestors come from India, Saudi Arabia and Mediterranean and sub-Saharan African countries;

AND WHEREAS it is important to raise awareness of sickle cell disease, including the need for uniform screening of newborns and improved diagnosis and treatment of the disease;

AND WHEREAS June 19th is recognized annually by organizations such as the African Union, the World Health Organization and the United Nations, including the United Nations Educational, Scientific and Cultural Organization, as World Sickle Cell Day in order to promote awareness of the disease around the world:

Short title

1 This Act may be cited as the *Sickle Cell Awareness Day Act*. 2023, c. 16, s. 1.

Sickle Cell Awareness Day

2 Throughout the Province, in each and every year, June 19th shall be kept and observed under the name Sickle Cell Awareness Day. 2023, c. 16, s. 2.

CHAPTER S-23

An Act Respecting a Small Claims Court

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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 *Small Claims Court Act*. R.S., c. 430, s. 1.

Purpose

2 It is the intent and purpose of this Act to constitute a court wherein claims up to but not exceeding the monetary jurisdiction of the court are adjudicated informally and inexpensively but in accordance with established principles of law and natural justice. R.S., c. 430, s. 2.

Interpretation

- 3** In this Act,
“Small Claims Court” means the Small Claims Court of Nova Scotia;
“Supreme Court” means the Supreme Court of Nova Scotia.

Small Claims Court of Nova Scotia

4 (1) There is in the Province a court of law and of record to be called the Small Claims Court of Nova Scotia.

(2) The Small Claims Court shall hold sittings in courthouses, council chambers or elsewhere, at such locations and at such times within a municipality as the Attorney General determines and the municipality within which the Court sits shall provide and maintain such facilities as may be required for the sittings of the Court. R.S., c. 430, s. 3.

Supervision of Act

5 The Attorney General has the general management and supervision of this Act. R.S., c. 430, s. 4.

Restriction on corporation or partnership

6 (1) To better effect the intent and purpose of this Act and to prevent the procedure provided by this Act being used by a corporate person to collect a debt or a liquidated demand where there is no dispute, no partnership within the meaning of the *Partnerships and Business Names Registration Act* and no corporation may succeed upon a claim pursuant to this Act in respect of a debt or liquidated demand unless the claimant is one of the original parties to the contract or tort upon which the claim is based or unless the claim is raised by way of set-off or counterclaim.

(2) To better effect the intent and purpose of this Act and to facilitate the litigation of claims and defences of natural persons, the Attorney General may prescribe the days and hours during which a corporate person, its agent or solicitor, may not appear before the Small Claims Court as a plaintiff. R.S., c. 430, s. 5.

Adjudicators

7 (1) Each sitting of the Small Claims Court must be presided over by an adjudicator.

(2) The Governor in Council may appoint on the recommendation of the Attorney General such adjudicators as the Governor in Council considers necessary.

(3) No person may be appointed or serve as an adjudicator unless that person is a practising member in good standing of the Nova Scotia Barristers' Society.

(4) An adjudicator holds office for such term and upon such conditions and remuneration as the Governor in Council determines.

(5) The jurisdiction of an adjudicator extends throughout the Province.

(6) Before taking office, each adjudicator shall take and subscribe the following oath before a judge of the Supreme Court:

I, , of , in the County of , make oath and say, that I will well and truly serve our Sovereign in the office of Adjudicator of the Small Claims Court of Nova Scotia, and I will do right to all manner of people after the laws of the Province without fear, favour, affection or ill will.

Sworn to at ,
in the County of ,
this day of ,
20 , before me.
.

(7) The oath of office must be transmitted to the Attorney General.

(8) An adjudicator shall be described or designated as an Adjudicator of the Small Claims Court of Nova Scotia.

(9) Where an action is commenced before an adjudicator who dies, ceases to hold office, is incapacitated or is otherwise unable to complete the proceeding, the action may be continued or recommenced as determined by another adjudicator. R.S., c. 430, s. 6; 1992, c. 16, s. 115.

Administrator

8 (1) The Attorney General may appoint or designate a person in the public service to be the Administrator of the Small Claims Court.

(2) The Administrator shall perform such duties as are assigned to the Administrator by the Governor in Council, the Attorney General, this Act or the regulations. R.S., c. 430, s. 7.

Clerks

9 (1) The Attorney General may appoint or designate persons or classes of persons in the public service of the Province to be clerks of the Small Claims Court, upon such terms and conditions as the Attorney General determines.

(2) A person appointed or designated pursuant to subsection (1) shall perform the duties and functions of a clerk of the Small Claims Court in accordance with this Act and the regulations.

(3) Every prothonotary of the Supreme Court is a clerk of the Small Claims Court. R.S., c. 430, s. 8; 1992, c. 16, s. 116; 2005, c. 8, s. 20.

Jurisdiction

10 A person may make a claim under this Act

(a) seeking a monetary award in respect of a matter or thing arising under a contract or a tort, if the claim does not exceed \$25,000 inclusive of any claim for general damages but exclusive of interest;

(b) notwithstanding subsection 6(1), for municipal rates and taxes, except those that constitute a lien on real property, if the claim does not exceed \$25,000 exclusive of interest;

(c) notwithstanding subsection 6(1), for expenses that are payable pursuant to the *Animal Protection Act*, if the claim does not exceed \$25,000, exclusive of interest;

(d) requesting the delivery to the person of specific personal property, if the personal property does not have a value in excess of \$25,000; or

(e) respecting a matter or thing authorized or directed by an Act of the Legislature to be determined pursuant to this Act. R.S., c. 430, s. 9; 1992, c. 16, s. 117; 1999 (2nd Sess.), c. 8, s. 16; 2002, c. 10, s. 38; 2005, c. 58, s. 1; 2011, c. 50, s. 23.

Taxations

11 (1) An adjudicator has all the powers that were exercised by taxing masters appointed pursuant to the *Taxing Masters Act* immediately before the repeal of that Act, and may carry out any taxations of fees, costs, charges or disbursements that a taxing master had jurisdiction to perform pursuant to any enactment or rule.

(2) The monetary limits on the jurisdiction of the Small Claims Court over claims made pursuant to Section 10 and on orders made pursuant to Section 31 do not apply to taxations or to an appeal of an order of the Director of Residential Tenancies pursuant to Section 60 of the *Residential Tenancies Act*. 2000, c. 28, s. 92; 2002, c. 10, s. 39.

Exclusions from jurisdiction

12 Notwithstanding Section 10, no claim may be made under this Act

(a) for the recovery of land or an estate or interest therein;

(b) in respect of a dispute concerning the entitlement of a person under a will, or settlement, or on an intestacy;

(c) for defamation or malicious prosecution;

(d) that involves a dispute between a landlord and a tenant to which the *Residential Tenancies Act* applies, other than an appeal of an order of the Director of Residential Tenancies made pursuant to Section 60 of that Act; or

(e) for general damages in excess of \$100. R.S., c. 430, s. 10; 2002, c. 10, s. 40.

General damages

13 Notwithstanding any enactment or procedural rule, where a claim is for general damages or includes a claim for general damages, the claim for general damages or the portion of the claim relating to general damages is deemed to be a claim for an amount not exceeding \$100. R.S., c. 430, s. 11.

Division of claim

14 A claim may not be divided into two or more claims for the purpose of bringing it within the jurisdiction of the Small Claims Court. R.S., c. 430, s. 13.

Void provision in agreement

15 (1) Except as otherwise provided in an enactment, any provision or acknowledgement in an agreement is void if it

(a) in any way purports to exclude, limit or vary the jurisdiction of the Small Claims Court;

(b) provides for the place of hearing of a claim, matter or proceeding under this Act to be at a place other than as permitted by this Act; or

(c) states that the provisions of this Act or the regulations do not apply.

(2) Where a provision or acknowledgement contrary to this Act is a term of an agreement, it is severable from the agreement. R.S., c. 430, s. 14.

Claim before another court

16 The Small Claims Court does not have jurisdiction in respect of a claim where the issues in dispute are already before another court unless that proceeding is withdrawn, abandoned, struck out or transferred in accordance with Section 21. R.S., c. 430, s. 15; 1992, c. 16, s. 118.

Representation at hearing

17 A claimant or a defendant may appear at a hearing in person or by agent and may be represented by counsel. R.S., c. 430, s. 16.

Legal disability

18 (1) A person who is under the age of majority but over the age of 16 years may make a claim before the Small Claims Court as if that person were of the age of majority.

(2) Subject to subsection (1), a person under a legal disability, whether by age or otherwise, may commence or defend an action in this Court in the manner prescribed by the regulations. R.S., c. 430, s. 17.

Claim by or against partnership

19 Where a claim is made by or against a partnership within the meaning of the *Partnerships and Business Names Registration Act*, the claim may be made by or against the partnership in accordance with the regulations under this Act. R.S., c. 430, s. 18.

Commencement of claim or transfer of proceeding

20 (1) In this Section, “justice centre” means a justice centre established pursuant to Section 26 of the *Judicature Act*.

(2) A claim before the Small Claims Court must be commenced in the county in which

(a) the cause of action arose; or

(b) the defendant or one of several defendants resides or carries on business,

by filing a claim in the form prescribed by the regulations, accompanied by the prescribed fee, with the prothonotary of the Supreme Court in the proper county.

(3) Notwithstanding subsection (2), where there is no justice centre in a county, a claim may be filed with the prothonotary at a justice centre in an adjacent county and designated by the Minister to receive claims for the county or municipality in which

- (a) the cause of action arose; or
- (b) the defendant or one of several defendants resides or carries on business.

(4) Notwithstanding any other Act, where a proceeding commenced in the Supreme Court does not include a claim for general damages and is within the jurisdiction of the Small Claims Court, the defendant may elect to have the proceeding adjudicated in the Small Claims Court whereupon the prothonotary of the Supreme Court shall transfer the proceeding to the appropriate adjudicator in accordance with the regulations.

(5) Notwithstanding any other Act, where a proceeding commenced in the Supreme Court does not include a claim for general damages and is within the jurisdiction of the Small Claims Court, the claimant may elect to have the proceeding adjudicated in the Small Claims Court whereupon the prothonotary of the Supreme Court may transfer the proceeding to the appropriate adjudicator in accordance with the regulations.

(6) Notwithstanding any other Act, where a proceeding commenced in the Supreme Court does not include a claim for general damages and is within the jurisdiction of the Small Claims Court, a judge of the Supreme Court may transfer the proceeding to the appropriate adjudicator in accordance with the regulations. R.S., c. 430, s. 19; 1992, c. 16, s. 119; 2007, c. 10, s. 10.

Commencement of claim against non-resident

21 Where the defendant is a person who is not resident in the Province or a corporation not having its head office in the Province and the cause of action arose partly in one county and partly in another, the claimant may file the claim in either county. R.S., c. 430, s. 20.

Duties of clerks and service of documents

22 (1) Upon a claim being delivered to the prothonotary of the Supreme Court for the county in which an action is commenced, the clerk shall

- (a) open a file, affix an identifying number to the file and claim document, date stamp the document, insert the time within which the document is to be served on the defendant, insert the time and place within which any defence or counterclaim is to be filed and served on the claimant, insert the time and place of adjudication in accordance with the regulations; and
- (b) file the original claim document, issue a certified copy to the claimant and issue an additional certified copy or copies and a form of defence as required for service by the claimant on the defendant or defendants.

(2) The claimant shall serve each defendant with a certified copy of the original claim document and a form of defence.

(3) Service of all documents may be by personal service or such other manner of service or substituted service as prescribed by the regulations.

(4) It is the duty of the clerk of the Small Claims Court to

- (a) prepare the docket for the Court;
- (b) ensure the availability of facilities and equipment required for the Court to sit and conduct hearings;
- (c) be responsible for the transmission of files to and from the office of the prothonotary of the Supreme Court;
- (d) attend on such matters as the Attorney General may direct.

(5) Where the prothonotary of the Supreme Court is not the clerk of the Small Claims Court at the location in which the adjudicator is sitting, the prothonotary of the Supreme Court shall, upon the expiration of the time fixed for the filing of any defence or counterclaim and not later than 48 hours before the time fixed for the adjudication of the claim, notify the clerk of the Small Claims Court at the location in which the adjudicator is sitting of

- (a) the file number and names of the parties;
- (b) the documents filed; and
- (c) the time and place of adjudication. R.S., c. 430, s. 21; 1992, c. 16, s. 120; 1999 (2nd Sess.), c. 8, s. 17.

Time of hearing

23 A hearing before an adjudicator may take place after normal business hours as well as during normal business hours, at such time as is most suitable to the convenience of persons involved in the claim generally and, to better effect this intent and purpose, the Attorney General may give written instructions respecting the time when hearings generally are to take place. R.S., c. 430, s. 22.

Default of defence or appearance

24 (1) Where a defendant has not filed a defence to a claim within the time required by the regulations and the adjudicator is satisfied that

- (a) each defendant was served with the claim and the form of defence and with notice of the time and place of adjudication; and
- (b) based on the adjudicator's assessment of the documentary evidence accompanying the claim, the merits of the claim would result in judgment for the claimant,

the adjudicator may, without a hearing, make an order against the defendant.

(2) Where a defendant against whom an order has been made pursuant to subsection (1) appears, upon notice to the claimant, before the adjudicator who made the order and the adjudicator is satisfied that

- (a) the defendant has a reasonable excuse for failing to file a defence within the time required; and

(b) the defendant appeared before the adjudicator without unreasonable delay after learning of the order,

the adjudicator may set aside the order and set the claim down for hearing.

(3) Where a defendant has filed a defence but does not appear at the hearing and the adjudicator is satisfied that the defendant has been served with notice of the time and place of the hearing, the adjudicator, where satisfied on the evidence as to the case of the claimant, may, in the absence of the defendant, make an order against the defendant.

(4) Where a defendant against whom an order has been made pursuant to subsection (3) appears, upon notice to the claimant, before the adjudicator who made the order and the adjudicator is satisfied that

(a) the defendant has a reasonable excuse for not appearing at the hearing; and

(b) the defendant appeared before the adjudicator without unreasonable delay after learning of the order,

the adjudicator may set aside the order and set the claim down for hearing. 1992, c. 16, s. 121; 1996, c. 23, s. 38.

Adjournment upon insufficient service

25 (1) Where a defendant does not appear at the hearing and the adjudicator is not satisfied that the defendant has been served with the claim and notice of the time and place of the hearing, the adjudicator

(a) shall adjourn the hearing to another day to provide an opportunity for service on the defendant; and

(b) may give directions as to the manner and sufficiency of such service.

(2) Where the defendant does not appear at the hearing on the date to which it has been adjourned and the adjudicator is satisfied that the defendant has been served, either personally or in such manner as may be directed in accordance with subsection (1), the adjudicator, where satisfied on the evidence as to the case of the claimant, may make an order against the defendant. R.S., c. 430, s. 24; 1992, c. 16, s. 122.

Joinder of hearing of claims

26 Where an adjudicator is satisfied that there are two or more claims before the adjudicator that would be best dealt with together, the adjudicator may, in the adjudicator's discretion, hear the claims at the same time. R.S., c. 430, s. 25.

Transfer to other adjudicator

27 Where an adjudicator believes that the interests of all the parties would be best served, the adjudicator may request another adjudicator to act in the adjudicator's place and, notwithstanding that a claim has been filed, the other adjudicator may so act and may make any order or decision that the original adjudicator could have made. R.S., c. 430, s. 26.

Subpoena

28 A subpoena to require the attendance of a witness or the production of a document or thing may be issued and served in the form and style prescribed by the regulations. R.S., c. 430, s. 27.

Evidence

29 (1) An adjudicator may admit as evidence at a hearing, whether or not given or proven under oath or affirmation or admissible as evidence in a court,

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

relevant to the subject-matter of the proceedings and may act on such evidence, but the adjudicator may exclude anything unduly repetitious.

- (2)** Nothing is admissible in evidence at a hearing that
 - (a) would be inadmissible in a court by reason of any privilege under the law of evidence; or
 - (b) is inadmissible by any statute.

(3) Nothing in subsection (1) overrides the provisions of any Act expressly limiting the extent to or purposes for which any oral testimony, documents or things may be admitted or used in evidence in any proceedings. R.S., c. 430, s. 28.

Order of adjudicator

30 (1) Subject to the other provisions of this Act, not later than 60 days after the hearing of the claim of the claimant and any defence or counterclaim of the defendant, the adjudicator may

- (a) make an order
 - (i) dismissing the claim, defence or counterclaim,
 - (ii) requiring a party to pay money or deliver specific personal property in a total amount or value not exceeding \$25,000, and any pre-judgment interest as prescribed by the regulations, or
 - (iii) for any remedy authorized or directed by an Act of the Legislature in respect of matters or things that are to be determined pursuant to this Act; and
- (b) make an order requiring the unsuccessful party to reimburse the successful party for such costs and fees as may be determined by the regulations.

(2) No costs other than those authorized by this Act or the regulations may be awarded by an adjudicator.

(3) Notwithstanding that an adjudicator's term of appointment has expired, the adjudicator may make an order pursuant to subsection (1) respecting a claim or counterclaim that the adjudicator heard before the expiry of that term. R.S., c. 430, s. 29; 1994, c. 33, s. 1; 2000, c. 28, s. 93; 2002, c. 10, s. 41; 2005, c. 58, s. 2.

Order as discharge

31 An order in an action brought for the balance of an account, or for a part of a claim where the residue is abandoned to bring the claim within the jurisdiction of an adjudicator, is a full discharge of all demands in respect of the account for the balance of which such claim was brought or for the whole claim, as the case may be. R.S., c. 430, s. 30.

Enforcement of order

32 (1) An order of the Small Claims Court may be enforced in the same manner as an order of the Supreme Court and Section 62 of the *Judicature Act* applies.

(2) Notwithstanding the *Costs and Fees Act*, the fees and allowances for the enforcement of orders under this Act are in such amounts as are fixed by the regulations. R.S., c. 430, s. 31; 1992, c. 16, s. 123; 2003, c. 7, s. 7.

Appeal

33 (1) A party to proceedings before the Small Claims Court may appeal to the Supreme Court from an order or determination of an adjudicator on the ground of

- (a) jurisdictional error;
- (b) error of law; or
- (c) failure to follow the requirements of natural justice,

by filing a notice of appeal with the prothonotary of the Supreme Court.

(2) A notice of appeal filed pursuant to subsection (1) must be in the prescribed form and set out

- (a) the ground of appeal; and
- (b) the particulars of the error or failure forming the ground of appeal.

(3) Upon the filing of a notice of appeal in accordance with this Section, the prothonotary shall transmit a copy thereof to

- (a) the adjudicator; and
- (b) where the prothonotary is not the clerk of the Small Claims Court, to the clerk.

(4) Upon receipt of a copy of the notice of appeal, the adjudicator shall, within 30 days, transmit to the prothonotary a summary report of the findings of law and fact made in the case on appeal, including the basis of any findings raised in the notice of appeal and any interpretation of documents made by the adjudicator, and a copy of any written reasons for decision.

(5) Upon receipt of a copy of the notice of appeal, the clerk of the Small Claims Court, where the prothonotary is not the clerk, shall transmit the file for the case to the prothonotary.

(6) A decision of the Supreme Court pursuant to this Section is final and not subject to appeal. 1992, c. 16, s. 124; 1996, c. 23, s. 39.

Disposal of records

34 (1) In this Section, “court records” include all documents, records, letters, transcripts, recordings, exhibits and papers of any kind deposited or on file with or held by the Small Claims Court.

(2) Court records that are no longer required must be disposed of by

(a) destruction without photographing or preserving an image thereof in electronic or other form;

(b) destruction after having been photographed or an image thereof having been preserved in electronic or other form; or

(c) transfer to the Public Archives,

in accordance with the directions of the Deputy Attorney General, after consultation with the Provincial Archivist or such other employee of Public Archives of Nova Scotia as the Provincial Archivist may designate, or in accordance with a schedule for the retention and disposal of court records established by the Deputy Attorney General after consultation with the Provincial Archivist or such other officer or employee. 1992, c. 16, s. 125; 2002, c. 10, s. 42.

Regulations

35 (1) The Governor in Council may make regulations

(a) governing the practice and procedure relating to claims and appeals under this Act;

(b) governing the practice and procedures of taxations;

(c) governing the practice and procedures of appeals from orders of the Director of Residential Tenancies pursuant to the *Residential Tenancies Act*;

(d) respecting fees and allowances;

(e) prescribing forms to be used for the purpose of this Act;

(f) providing for costs, including costs on appeal;

(g) respecting service or substituted service of documents;

(h) prescribing rates for pre-judgment interest and circumstances in which pre-judgment interest may or may not be ordered;

(i) respecting the recommencement of a claim before another adjudicator if the adjudicator before whom a claim is commenced, dies, ceases to hold office or is otherwise unable to adjudicate the claim;

(j) respecting payments into court and the procedure whereby a person claiming a right to money paid into court may receive payment of the same;

(k) governing the practice and procedure relating to the transfer of matters from the Supreme Court;

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

(m) generally with respect to any matter that under this Act may be regulated;

(n) respecting such matters and things as are necessary for or incidental to the carrying out of the provisions of this Act in accordance with the purpose of this Act.

(2) The exercise of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. R.S., c. 430, s. 33; 1992, c. 16, s. 126; 1999 (2nd Sess.), c. 8, s. 18; 2000, c. 28, s. 94; 2002, c. 10, s. 43.

No action lies

36 No action for damages lies against the prothonotary or clerk, or any person for anything done in obedience to process or proceedings issued or taken inadvertently in any case filed with the clerk of the Small Claims Court. R.S., c. 430, s. 34; 1992, c. 16, s. 127.

Immunity

37 An adjudicator of the Small Claims Court has the same immunity from liability as a judge of the Supreme Court. 1992, c. 16, s. 128.

CHAPTER S-24

**An Act to Protect Young Persons
and Other Persons from Tobacco Smoke**

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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 *Smoke-free Places Act*. 2002, c. 12, s. 1.

Interpretation

2 In this Act,

“beach” means a beach as defined in the *Beaches Act* or a beach prescribed by the regulations;

“cannabis” means cannabis as defined in the *Cannabis Act* (Canada);

“electronic cigarette” means a vaporizer or inhalant-type device, whether called an electronic cigarette or any other name, containing a power source and heating element designed to heat a substance and produce a vapour intended to be inhaled;

“employer” includes any person who supervises employees in a place of employment;

“enclosed place” means the inside or other enclosed part of a building, vehicle or watercraft or other indoor space but does not include a private residence;

“inspector” means an inspector appointed pursuant to this Act;

“manager” of an enclosed place referred to in Section 5 or 7 means any person who has responsibility for and control over the activities of the place, and includes the owner of the place;

“Minister” means the Minister of Environment and Climate Change;

“outdoor public space” means an outdoor place to which the public is ordinarily invited or permitted access, irrespective of whether a fee is charged for entry;

“patio” means an outdoor area that is used or operated as part of, or in conjunction with, a restaurant or a place licensed to serve alcoholic beverages;

“place of employment” means an enclosed place, other than a vehicle, in which employees perform the duties of their employment and includes an adjacent corridor, lobby, stairwell, elevator, escalator, eating area, washroom, restroom or other common area frequented by employees during the course of their employment but does not include a rental unit of roofed accommodation within the meaning of the *Tourist Accommodations Registration Act*;

“playground equipment” includes slides, swings, climbing structures, splash pads, wading pools and sandboxes;

“post-secondary institution” means

(a) a university or other institution that receives regular and ongoing operating funds from the Crown in right of the Province for the purpose of providing post-secondary education; or

(b) an institution offering post-secondary education programs that is federated or affiliated with a university;

“provincial park” means a provincial park as defined in the *Provincial Parks Act*;

“school” means a public or private elementary or secondary school;

“smoke” means smoke, inhale or exhale smoke from, burn, carry, hold or otherwise have control over a lit or heated cigarette, cigar, pipe, water pipe, electronic cigarette or other device that burns or heats tobacco, cannabis or another substance that is intended to be smoked or inhaled;

“sports area” means an area that is

(a) used primarily for the purpose of sports; and

(b) owned by the Crown in right of the Province, an agent of the Crown in right of the Province, a municipality or an agent of a municipality,

and includes an area as described in clause (a) and (b) that is

(c) a sports field, or court;

(d) a pool; and

(e) spectator stands,

but does not include an enclosed place or a golf course;

“tobacco” means tobacco as defined in Part IV of the *Revenue Act*;

“water pipe” means any lighted or heated smoking equipment used to burn tobacco or non-tobacco substances or any combination thereof and draw the resulting smoke through a liquid before it is inhaled;

“work vehicle” means a vehicle owned or leased by an employer and used by employees during the course of their employment. 2002, c. 12, s. 2; 2005, c. 59, s. 1; 2014, c. 58, s. 1; 2018, c. 3, s. 66; 2019, c. 9, s. 10; 2020, c. 18, s. 1.

Application of Act

3 (1) This Act binds the Crown in right of the Province.

(2) Nothing in this Act affects the rights of aboriginal people respecting traditional aboriginal spiritual or cultural practices or ceremonies. 2002, c. 12, s. 3.

Supervision of Act

4 The Minister has the general supervision and management of this Act. 2002, c. 12, s. 4.

Enclosed places

- 5 (1)** No person shall smoke in any enclosed place that is or includes
- (a) a daycare or pre-school;
 - (b) a school, community college or university;
 - (c) a library, art gallery or museum;
 - (d) a healthcare facility;
 - (e) a cinema or theatre;
 - (f) a video arcade or pool hall;
 - (g) a recreational facility where the primary activity is physical recreation, including a bowling alley, fitness centre, gymnasium, pool or rink;
 - (h) a multi-service centre, community centre or hall, arena, fire hall or church hall;
 - (i) a meeting or conference room or hall, ballroom or conference centre;
 - (j) a retail shop, boutique, market or store or shopping mall;
 - (k) a laundromat;
 - (l) a ferry, ferry terminal, bus, bus station or shelter, taxi, taxi shelter, limousine or vehicle carrying passengers for hire;
 - (m) a work vehicle;
 - (n) the common area of a commercial building or multi-unit residential building, including corridors, lobbies, stairwells, elevators, escalators, eating areas, washrooms and restrooms;
 - (o) a restaurant;
 - (p) a lounge or beverage room;
 - (q) a private club;

- (r) a cabaret, club or other place licensed to serve alcoholic beverages;
- (s) a place that is being used for bingo;
- (t) a psychiatric facility as defined in the *Involuntary Psychiatric Treatment Act*;
- (u) offices of the Government of the Province, a municipality, a village or an education entity, or any agency thereof;
- (v) a provincial jail, prison, detention centre, lock-up or reformatory or another provincial penal institution; or
- (w) any building or facility designated by the regulations,

except as permitted by Section 7.

(2) No person shall smoke on the grounds of a school.

(3) No person shall smoke in a motor vehicle when any person under the age of 19 years is present in the vehicle regardless of whether any window, sunroof, cartop, door or other feature of the vehicle is open.

(4) No person shall smoke on a patio.

(5) No manager of an enclosed place referred to in subsection (1), of the grounds of a school or of a patio shall permit any person to smoke in that place, on those grounds or on that patio.

(6) No person shall smoke in an outdoor area within four metres of an intake for a building ventilation system, an open window of a place of employment or an entrance to a place of employment. 2002, c. 12, s. 5; 2005, c. 59, s. 2; 2007, c. 54, s. 1; 2018, c. 1, Sch. A, s. 150; 2018, c. 3, s. 67; 2020, c. 18, s. 2.

Outdoor areas

6 (1) Subject to this Section, no person shall smoke

- (a) in a provincial park;
- (b) on a beach;
- (c) in an area of an outdoor public place on which playground equipment is situated or within 20 metres of any point on the perimeter of the playground equipment;
- (d) on a trail of an outdoor public place or within nine metres of the trail; or
- (e) in a sports area or within 20 metres of any point on the perimeter of the sports area.

(2) Clause (1)(a) does not apply to a person smoking in any of the following areas within a provincial park:

- (a) an occupied campsite; and
- (b) an area designated by the Minister of Natural Resources and Renewables as a smoking area.

- (3) Clauses (1)(b) to (e) do not apply to a person smoking on
- (a) land upon which a private residence is situated; or
 - (b) an occupied campsite within a campground, other than a campground located in a provincial park.

(4) Clauses (1)(c) to (e) do not apply to a person smoking in an area that is separated by a road from the playground equipment, trail or sports area, as the case may be, referred to in those clauses. 2018, c. 3, s. 68; O.I.C. 2018-188.

Residential facilities

- 7 (1) No person shall smoke in any enclosed place that is or includes
- (a) any building or facility designated by the regulations; or
 - (b) a nursing home or residential care facility licensed under the *Homes for Special Care Act*, a home for aged or disabled persons to which the *Homes for Special Care Act* applies or a part of a healthcare facility used for the acute or long-term care of veterans,

except a resident of that place in an area that no person under the age of 19 years is permitted to enter or be in and that is separately enclosed and separately ventilated, as prescribed by the regulations, from any part of an enclosed place in which smoking is prohibited by this Act.

(2) No manager of an enclosed place referred to in subsection (1) shall permit any person to smoke in that place except as provided in that subsection.

(3) No person under the age of 19 years shall enter or be in an enclosed place referred to in subsection (1) in which smoking is permitted by that subsection.

(4) No manager of an enclosed place referred to in subsection (1) shall permit any person under the age of 19 years to enter or be in an area of that place in which smoking is permitted by that subsection. 2002, c. 12, s. 6; 2005, c. 42, s. 90; 2005, c. 59, s. 3.

Places of employment

8 (1) No person shall smoke in any place of employment except as permitted by Section 7.

(2) No employer shall permit any person to smoke in any place of employment except as permitted by Section 7. 2005, c. 59, s. 4.

Ashtrays not permitted

9 (1) No employer or manager shall permit any ashtrays in any place at any time when smoking is prohibited in that place by this Act.

(2) Subsection (1) does not apply to a motor vehicle. 2002, c. 12, s. 9; 2005, c. 54, s. 2.

Protection of employees

10 For greater certainty, Sections 44 to 47 of the *Occupational Health and Safety Act* apply to a place of employment under this Act. 2005, c. 59, s. 5.

Under age possession prohibited

11 (1) No person under the age of 19 years may possess tobacco or electronic cigarettes.

(2) Where a peace officer has reasonable grounds to believe that a person under the age of 19 years is in possession of tobacco or electronic cigarettes, the peace officer may search that person and confiscate any tobacco or electronic cigarettes in that person's possession.

(3) A person who believes that the confiscation of an item pursuant to subsection (2) was wrongful because

(a) the person from whom the item was confiscated was not under the age of 19 years at the time the item was confiscated; or

(b) the item confiscated was not tobacco or electronic cigarettes,

may, within seven days of the confiscation, apply to a judge of the Provincial Court for the return of the item confiscated.

(4) Where the judge is satisfied that the confiscation was wrongful for the reason set out in clause (3)(a) or (b), the judge shall order that the item be returned to the person from whom it was confiscated.

(5) In an application pursuant to subsection (3), the burden is upon the applicant to prove that the confiscation was wrongful.

(6) Where

(a) no application is made within seven days of the confiscation; or

(b) the application is dismissed,

the item confiscated is forfeited to the Crown in right of the Province.

(7) An item forfeited under subsection (6) may be disposed of as the Minister directs.

(8) Notwithstanding any enactment, subsection (1) does not create an offence except as provided by the regulations.

(9) Nothing in this Section prohibits the possession of tobacco or electronic cigarettes by a person under the age of 19 years for the purpose of enforcing, or ensuring compliance with, any enactment prohibiting or restricting the sale of tobacco or electronic cigarettes to persons under the age of 19 years if such possession is authorized by a person whose duty it is to enforce, or ensure compliance with, the enactment. 2002, c. 12, s. 11; 2005, c. 59, s. 6; 2020, c. 18, s. 3.

Inspectors

12 (1) The Minister may appoint or designate inspectors for the purpose of this Act.

(2) For the purpose of ensuring compliance with this Act and the regulations, an inspector may

(a) enter and inspect any place to which this Act applies, at any reasonable time without warrant or notice, and make such examinations and inquiries and conduct such tests as the inspector considers necessary or advisable;

(b) be accompanied and assisted by any person who, in the opinion of the inspector, has special knowledge or expertise;

(c) make enquiries of any person who is or was in a place to which this Act applies;

(d) require the production of drawings, specifications, floor plans, maintenance records or other documents for a place to which this Act applies and may inspect, examine, copy or seize them;

(e) exercise such other powers as are prescribed by the regulations;

(f) exercise such powers as are incidental to the powers set out in clauses (a) to (e).

(3) No person shall obstruct, interfere with or fail to co-operate with an inspector in the execution of the inspector's duties under this Act. 2002, c. 12, s. 12.

Compliance order

13 (1) Where an inspector finds that a manager or employer is not complying with a provision of this Act, the inspector may order the manager or employer to comply with the provision and may require the order to be carried out immediately or within such period of time as the inspector specifies.

(2) An order made pursuant to subsection (1) shall indicate generally the nature and, where appropriate, the location of the non-compliance with this Act. 2002, c. 12, s. 13.

Offences

14 (1) Every person, other than a manager or employer, who contravenes this Act or the regulations or fails to comply with an order made pursuant to this Act or the regulations is guilty of an offence and liable on summary conviction to a fine of not more than \$2,000.

(2) Every manager or employer who contravenes this Act or the regulations or fails to comply with an order made pursuant to this Act or the regulations is guilty of an offence and liable on summary conviction for a first offence to a fine of not more than \$2,000, for a second offence to a fine of not more than \$5,000 and for a third or subsequent offence to a fine of not more than \$10,000.

(3) In addition to any penalty levied pursuant to subsection (2) upon conviction for an offence contrary to this Act, an authority authorized to suspend or cancel any licence or permit issued in respect of the premises where the offence was committed may suspend or cancel that licence or permit. 2002, c. 12, s. 14.

Regulations

- 15 (1)** The Governor in Council may make regulations
- (a) prescribing beaches as being beaches within the meaning of this Act;
 - (b) designating any building or facility for the purpose of Section 5;
 - (c) designating any building or facility for the purpose of Section 7;
 - (d) prescribing the nature of any enclosure and ventilation for the purpose of Section 7;
 - (e) setting air-quality standards for any part of an enclosed place where smoking is not permitted by this Act if smoking is permitted in another part of that place;
 - (f) setting air-quality standards for any part of an enclosed place where smoking is permitted by this Act;
 - (g) determining design criteria for ventilation or for ensuring air quality;
 - (h) prescribing the obligations of employers and managers respecting the maintenance of air-quality standards set by the regulations;
 - (i) prescribing the records to be kept by employers and managers for the purpose of ensuring compliance with this Act and the regulations;
 - (j) requiring the posting of signs for the purpose of this Act;
 - (k) providing that subsection 11(1) creates an offence and determining the fine or other penalty for such offence;
 - (l) prescribing powers and duties of inspectors;
 - (m) defining “restaurant”, “lounge” and “beverage room”;
 - (n) defining any other word or expression used but not defined in this Act;
 - (o) further defining any word or expression defined in this Act;
 - (p) respecting any matter that the Governor in Council considers necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) A regulation made pursuant to this Act may be of general application or may apply to such individual or individuals, such class or classes of persons, such class or classes of places or such class or classes of matters or things as the Governor in Council determines and there may be different regulations with respect to different individuals, different classes of persons, different classes of places and different classes of matters or things.

(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*. 2002, c. 12, s. 15; 2002, c. 30, s. 19; 2005, c. 59, s. 7; 2018, c. 3, s. 69.

Conflict of Act with other authority

16 (1) Nothing in this Act affects any other authority, including the authority of the council of a municipality, to regulate, restrict or prohibit smoking.

(2) Where there is a conflict between this Act and any other authority, regulating, restricting or prohibiting smoking, the more restrictive authority prevails to the extent of the conflict. 2002, c. 12, s. 16; 2018, c. 3, s. 70.

CHAPTER S-25

**An Act to Require Downhill Skiers
and Snowboarders to Wear Helmets**

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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 *Snow Sport Helmet Act*. 2011, c. 47, s. 1.

Purpose of Act

2 The purpose of this Act is to protect the health of Nova Scotians by requiring people to wear protective helmets while downhill skiing or snowboarding at ski hills where people pay to ski or snowboard. 2011, c. 47, s. 2.

Interpretation

3 In this Act,

“downhill skiing” means skiing on a ski hill, and includes

- (a) snowboarding on a ski hill; and
- (b) riding on a seat or other device attached to skis or a snowboard in order to travel downhill on a ski hill;

“enforcement officer” means a person designated pursuant to this Act as an enforcement officer, and includes 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;

“Minister” means the Minister of Environment and Climate Change;

“owner” means a person who owns or operates a ski hill;

“ski hill” means skiable terrain that is normally used for skiing on skis with fixed-heel bindings or for snowboarding by people who pay to ski or snowboard there, regardless of whether there are groomed trails. 2011, c. 47, s. 3; 2021, c. 6, s. 53.

Enforcement officers

4 The Minister may designate persons or classes of persons as enforcement officers for the purpose of this Act. 2011, c. 47, s. 4.

Helmet required

5 (1) No person shall downhill ski unless the person is wearing a helmet that

- (a) is designed to be worn while downhill skiing or snowboarding;
- (b) fits snugly;
- (c) is fastened securely to the person's head by a chin strap that is securely fastened under the chin; and
- (d) complies with the regulations.

(2) No parent or guardian of a person under 16 years of age shall authorize or knowingly permit that person to contravene this Section.

(3) Every person who is 16 years of age or older who contravenes this Section is guilty of an offence and liable on summary conviction to a fine of not less than \$250. 2011, c. 47, s. 5.

Notification

6 (1) An owner shall post and maintain signs, in the form, displayed in the manner and including the information prescribed by the regulations, at or near the ski hill, to notify users of the ski hill of the requirement to wear a helmet pursuant to this Act.

(2) Where an owner posts a code of conduct for users of the ski hill, the owner shall add to and include in the code of conduct written notice of the requirement to wear a helmet pursuant to this Act.

(3) Every owner who contravenes this Section is guilty of an offence and liable on summary conviction to a fine not exceeding \$2,000. 2011, c. 47, s. 6.

Powers of enforcement officer

7 (1) For the purpose of enforcing this Act and the regulations, an enforcement officer may, without a warrant,

- (a) investigate any complaint of a contravention of this Act or the regulations and examine any person to determine if a contravention has occurred;
- (b) from time to time and at all reasonable times, enter the property or premises of an owner or any other person if it is reasonably necessary to do so in order to determine whether or not this Act and the regulations are being complied with;
- (c) request that a person remove the person's helmet and provide it for inspection;

(d) require a person to provide the person's name and address or proof of identity; and

(e) do any other thing necessary for the purpose of enforcing this Act and the regulations.

(2) An owner and any employees or agents of an owner shall give all reasonable assistance to an enforcement officer to enable the officer to exercise powers or carry out duties or functions pursuant to this Act.

(3) No person shall hinder, obstruct, interfere with or fail to cooperate with an enforcement officer who is exercising powers or carrying out duties or functions pursuant to this Act.

(4) No person shall knowingly make a false or misleading statement to an enforcement officer who is exercising powers or carrying out duties or functions pursuant to this Act.

(5) Where an enforcement officer finds that a person is not complying with a provision of this Act or the regulations, the officer may order the person to comply with the provision and may require the order be carried out immediately or within such period of time as the officer specifies.

(6) An order issued pursuant to subsection (5) must indicate generally the nature of the non-compliance with this Act or the regulations.

(7) A person shall obey the order of an enforcement officer issued pursuant to the Section. 2011, c. 47, s. 7.

Immunity from liability

8 No action lies against any person by reason that the person reports a contravention or alleged contravention of this Act or the regulations unless the reporting is done falsely and maliciously. 2011, c. 47, s. 8.

Owner's liability not affected

9 Nothing in this Act is to be construed to increase or decrease an owner's duty or liability for damages under the law as it existed immediately before November 1, 2012, with respect to any person using the ski hill. 2011, c. 47, s. 9.

Regulations

10 (1) The Governor in Council may make regulations

(a) prescribing standards that helmets must meet for the purpose of this Act;

(b) prescribing the form, manner of displaying and information that must be included on signs to be posted by owners for the purpose of Section 6;

(c) incorporating or adopting by reference, in whole or in part, a written standard, as it reads on a prescribed day or as it is amended from time to time;

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

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

(f) respecting any matter or thing that the Governor in Council considers necessary or advisable to effectively carry out the intent of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*, 2011, c. 47, s. 10.

CHAPTER S-26

An Act to Provide for Social Assistance

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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 *Social Assistance Act*. R.S., c. 432, s. 1.

Interpretation

2 In this Act,
 “Minister” means the Minister of Community Services or, in the case of homes for the aged and licensed nursing homes, means the Minister of Health and Wellness;
 “municipal unit” means a regional municipality, town or municipality of a country or district. R.S., c. 432, s. 2; 1994-95, c. 7, s. 105.

Administration of Act

3 The Minister has general supervision over the administration of this Act. R.S., c. 432, s. 3.

PART I

MUNICIPAL ASSISTANCE

INTERPRETATION

Interpretation of Part I

4 In this Part,
 “council” means the council of a municipal unit;
 “designated residence” means a residence designated pursuant to Section 9;
 “home” means a home for special care as defined in the Canada Assistance Plan and includes a home for the aged or the disabled, a licensed nursing home, a licensed boarding home and a social services institution designated by the Minister;
 “person in need” means a person who requires financial assistance to provide for the person in a home for special care or a community-based option;

“social services committee” means a social services committee of a municipal unit or, where no social services committee is appointed pursuant to subsection 5(3), a council meeting as a committee of the whole. R.S., c. 432, s. 4; 2000, c. 27, s. 22.

SOCIAL SERVICES COMMITTEE

Social services district

5 (1) Each municipal unit constitutes a social services district and continues as such until altered under this Act.

(2) The council of every municipal unit other than a regional municipality shall annually appoint a committee of not more than five members to be the social services committee of the municipal unit.

(3) The social services committee of a regional municipality must be constituted and appointed in the manner prescribed by the Act incorporating the regional municipality or, if there is no provision for its appointment in that Act, in the manner prescribed in subsection (2).

(4) Subject to the approval of the Minister, the councils of one or more municipal units may make and enter into an agreement to provide for the joint operation and administration of the social services committee of each municipal unit that enters into the agreement.

(5) If a person appointed to be a member of the social services committee of a municipal unit ceases to reside in the municipal unit for which the person was appointed or dies or is for any other reason unable to act, the council of the municipal unit may appoint a member to act in the person’s stead. R.S., c. 432, s. 5.

Annual estimate

6 (1) Each social services committee shall report to the council at its annual meeting, or at such other time as the council directs, the estimated amount required for the assistance of persons in need for the ensuing year.

(2) The amount required by a municipal unit for the assistance of persons in need, including amounts required for the erection and maintenance of homes and amounts paid by the unit for the care, maintenance, treatment and nursing of persons in hospitals and for services provided for them there, must be included by the council of the unit in its estimates for the year and raised, levied and collected as part of the general rate of levy on the whole unit and shall not be raised by an area rate. R.S., c. 432, s. 6.

Administration of responsibility of committees

7 The social services committee, with the approval of the council, may appoint a person to administer and manage or may enter into an agreement with the Minister or an agency approved by the Minister for the administration and management of all matters that are the responsibility of the social services committee and may, with the approval of the council, appoint such additional persons as may be required for the effective carrying out of social services responsibilities in the municipal unit or in co-operation with other municipal units. R.S., c. 432, s. 7.

Continuation of agreement

8 Any agreement entered into between a municipal unit or a social services committee and the Minister pursuant to Section 7 continues in force in so far as it is required to be in force for the purpose of enabling the Minister to

- (a) administer and manage all matters that are the responsibility of the social services committee or municipal unit under this Act and the regulations;
- (b) establish policies and procedures required to provide financial assistance to persons in need under this Act and the regulations. 2000, c. 27, s. 22.

DESIGNATION OF RESIDENCE

Designation of residence by person in need

9 (1) In this Section, “residence” of a person means a housing unit in the Province that was ordinarily inhabited by that person for at least two years, and includes land on which the housing unit is situated that may reasonably be regarded as contributing to the use and enjoyment of the housing unit as a residence or such land that the person establishes in accordance with the regulations is necessary to such use and enjoyment.

(2) A housing unit is deemed to have been inhabited for at least two years if that housing unit was purchased solely with the proceeds from the sale of another housing unit and the two housing units were inhabited for a total period of at least two years.

(3) A person in need may, before or after any assistance is given to that person, designate that person’s residence as a residence for the purpose of this Part.

(4) A person in need and that person’s spouse may not designate different residences for the purpose of this Part.

(5) Where there is a dispute as to whether or not particular real property constitutes a residence for the purpose of this Part, an application may be made to the Supreme Court of Nova Scotia for resolution of the dispute and the Court shall determine the matter. R.S., c. 432, s. 8.

GRANT OF ASSISTANCE

Assistance of person in need

10 (1) Subject to this Act and the regulations the social services committee shall furnish assistance to all persons in need, as defined by the social services committee, who reside in the municipal unit.

(2) Notwithstanding subsection (1), in making a determination pursuant thereto the social services committee shall not take into consideration the ownership of or an interest in a designated residence.

(3) Notwithstanding subsection (1), in making a determination pursuant thereto the social services committee shall not take into consideration the fact that land was sold for less than the maximum attainable amount if

(a) the land is sold for at least its assessed value as determined pursuant to the *Assessment Act*; and

(b) the land is land on which a housing unit that is a designated residence is situate and the land cannot reasonably be regarded as contributing to the use and enjoyment of the housing unit as a residence or cannot be established in accordance with the regulations as necessary to such use and enjoyment. R.S., c. 432, s. 9.

Statement respecting settlement

11 (1) Where a person makes application to a social services committee for assistance, the committee may require the person, as a condition of furnishing the assistance, to make a written statement under oath respecting the person's settlement and respecting matters relevant to the determination of the person's settlement.

(2) Where a municipal unit, pursuant to Section 12, seeks to recover from another municipal unit or the Minister any amount expended by it for the assistance of a person in need, it shall transmit the statement of the person made under subsection (1) with its demand for payment to the other unit or to the Minister. R.S., c. 432, s. 10.

Recovery of expense for assistance

12 (1) A person who is not liable for the support of a person in need, but has necessarily incurred expense for the assistance of the person in need, may recover the expense from the municipal unit in which the person in need has a residence or a settlement, if the person has, before incurring such expense, requested the social services committee to furnish such assistance and no provision has been made for the person in need.

(2) A municipal unit in which a person in need does not have a settlement but that

(a) has necessarily incurred any expense for the assistance of the person in need; or

(b) has been required to pay on the account of the person in need an amount under subsection (1),

may recover the expenses or the amount paid from the municipal unit in which the person in need has a settlement or from the Minister if the person has no settlement in the Province.

(3) A municipal unit or the Minister is not liable under this Section except to a municipal unit for the rent or for the use and occupation of any house or other building leased or occupied by any person in need. R.S., c. 432, s. 11.

RECOVERY FROM PERSONS ASSISTED

Recovery from person assisted

13 (1) Where assistance has been given by a social services committee to or for a person in need, the municipal unit may recover from the person or, in the case of the person's death, from the person's executor or administrator the expenses so incurred in an action brought by the clerk in the name of the municipal unit as a debt due the municipal unit, and the clerk may obtain as a creditor letters of administration of the estate of the person and may file a claim against the person's estate in a court of probate.

(2) A claim against an executor or administrator or an application for administration under subsection (1) may not be made later than one year after the death of the person to whom assistance was given. R.S., c. 432, s. 12.

Recovery of assistance payments

14 The Minister, or a person designated by the Minister, has the same rights as a municipal unit to recover amounts paid for the assistance of a person in need from that person or from that person's executor or administrator if the assistance is paid with respect to the maintenance of a person in a home for the aged or a licensed nursing home. 1994-95, c. 7, s. 106.

Protection of designated residence

15 (1) Notwithstanding Section 13, where assistance is given or to be given to a person pursuant to this Part by a social services committee, the municipal unit shall not as a result thereof

(a) recover or attempt to recover the expenses thereof from that person or that person's estate by means of the conveyance, sale, mortgage or encumbrance in any way of; or

(b) force or coerce that person to convey, sell, mortgage or encumber in any way,

that person's designated residence.

(2) Where a municipal unit holds a mortgage or security on a designated residence contrary to subsection (1), the mortgage or security is of no effect. R.S., c. 432, s. 13.

CONTRIBUTIONS BY RELATIVES

Liability of relatives and direction to assist

16 (1) The spouse, parent, child and children, of every person who seeks assistance from or to whom assistance is given by a social services committee under this Part, are jointly and severally liable for the assistance of the person and shall assist and maintain the person to such extent and in such manner as the social services committee may direct.

(2) In the case of a person in a home, the council of the municipal unit in which the person has a settlement may direct the extent to and the manner in which the persons named in subsection (1) shall assist and maintain the person.

(3) In the case of default by any person in complying with a direction made under subsection (1) or (2), the municipal unit in which the person in need has a settlement is entitled to recover from the person or persons in default such sum of money as the council may direct, not exceeding \$25 per week, in an action brought by the clerk in the name of the municipal unit. R.S., c. 432, s. 14.

Inquiry into means to assist

17 (1) If any person liable under Section 16 to maintain a person feels aggrieved by a direction made under Section 16, the person so liable may on affidavit obtain an order from the judge of the Family Court of the area in which the person in need has a settlement, fixing a date for the examination under oath of the person or persons liable, and upon that date the judge shall inquire into the means and ability of the person or persons to assist or maintain the person in need.

(2) The judge may, if the judge sees fit, summon and examine any of the persons mentioned in subsection 16(1) and may make such order as to the assistance and maintenance of the person in need as to the judge seems just in the circumstances.

(3) Five days notice in writing of the day, hour and place of the inquiry by the judge must be given to any person to be examined and to the clerk of the municipal unit.

(4) The judge may, in the judge's discretion, make such order as to the payment of the costs of and incidental to the examination and inquiry as to the judge seems just. R.S., c. 432, s. 15.

PROVINCIAL CONTRIBUTIONS

Reimbursement of municipal unit by Minister

18 (1) Subject to the regulations, the Minister may reimburse a municipal unit for part of the expenditures made by the unit in providing assistance under this Part, including expenditures made for the purpose of maintaining persons in a home and administrative expenses of the unit related to the provision of assistance.

(2) The amount or rate of reimbursement under subsection (1) shall be fixed by the regulations and may be at different amounts or rates for expenditures made for different purposes and at different amounts or rates for different municipal units. R.S., c. 432, s. 16.

Reimbursement regarding homes

19 Notwithstanding Section 18, the Minister shall reimburse a municipal unit for not less than two thirds of the expenditures made by the municipal unit in providing assistance pursuant to this Part for the purpose of maintaining persons in a home, if the assistance is granted in accordance with the standards prescribed pursuant to this Part and the regulations. R.S., c. 432, s. 17.

REGULATIONS

Regulations

20 The Governor in Council may make regulations

(a) prescribing standards for assistance to be granted by social services committees to persons in need;

(b) prescribing the terms and conditions upon which municipal units will be reimbursed by the Province for assistance expenditures made by them, prescribing assistance expenditures in respect of which such reimbursement will be made and providing for the calculation of the amount of such reimbursement;

(c) prescribing standards of administrative organization and defining administrative expenses;

(d) respecting the keeping of books and records and the making of returns to the Minister by municipal units and social services committees and providing for the examination and audit of those books and records;

(e) respecting the returns to be made by municipal units in claiming reimbursement from the Province for assistance expenditures;

(f) respecting the designation of a residence pursuant to this Part;

(g) defining a word or expression used in this Part and not defined in this Part. R.S., c. 432, s. 18.

Appeal

21 Any person who applies for or receives assistance pursuant to this Act on or after August 1, 2001, may appeal any decision related to the person's application or assistance received to an appeal board established pursuant to the *Employment Support and Income Assistance Act* and the provisions of that Act and any regulations made pursuant to that Act respecting appeals apply with necessary changes to appeals made pursuant to this Section. 2000, c. 27, s. 22.

PART II

REHABILITATION AND SOCIAL DEVELOPMENT

Activity centres and sheltered employment

22 Subject to the regulations, the Minister may, out of money appropriated by the Legislature, provide financial assistance for the establishment, maintenance and continuation of activity centres, sheltered workshops, work activity and sheltered employment. R.S., c. 432, s. 25.

Agreements

23 The Minister may enter into agreements to carry out the purpose of this Part with such persons, organizations, agencies, societies or municipal units as are determined by the regulations. R.S., c. 432, s. 26.

Regulations

24 The Governor in Council may make regulations with respect to this Part

- (a) defining activity centre, sheltered workshop, work activity and sheltered employment;
- (b) respecting the manner of applying for assistance and the information to be furnished by applicants and persons receiving assistance;
- (c) providing for the time and manner of granting assistance;
- (d) providing for the supervision, discontinuance, reduction, increase and resumption of assistance;
- (e) prescribing the maximum amount of assistance that may be granted;
- (f) prescribing methods by which the amount and form of assistance to be granted are to be calculated or determined;
- (g) determining the persons, organizations, agencies, societies or municipal units eligible for assistance and with which the Minister may enter into agreement;
- (h) generally for the better carrying out of this Part. R.S., c. 432, s. 27.

PART III

CONFIDENTIALITY

Restriction on availability of list of assisted persons

25 No list of persons who are receiving or have received assistance under this Act may be made available to any person who does not require this information to perform the person's lawful duty. R.S., c. 432, s. 28.

CHAPTER S-27

**An Act to Provide for
Social Services Councils**

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Short title

1 This Act may be cited as the *Social Services Councils Act*. R.S., c. 433, s. 1.

Interpretation

2 In this Act,
“Council” means the Nova Scotia Social Services Council;
“Minister” means the Minister of Community Services;
“regional council” means a regional social services council constituted under this Act, and includes a council or organization designated by the Minister as a regional council. R.S., c. 433, s. 2.

COUNCIL

Nova Scotia Social Services Council

3 (1) A council is constituted, to be known as the Nova Scotia Social Services Council, composed of not fewer than nine and not more than 15 persons appointed by the Governor in Council.

(2) The Governor in Council, on the recommendation of the Minister, shall designate one of the members of the Council to be Chair and one of the members to be Vice-chair.

(3) A person who is appointed as a member of the Council shall serve for a term of two years and a member may be reappointed. R.S., c. 433, s. 3.

SECRETARIAT

Staff and assistance

4 (1) The Minister shall appoint a person in the service of the Department of Community Services or in the public service to be the Secretary and chief executive officer of the Council, who shall

- (a) attend the meetings of the Council;
- (b) keep and maintain the records of the Council;
- (c) provide the stenographic and other services required by the Council; and
- (d) supervise any projects undertaken by the Council.

(2) Any assistance, services, facilities or staff required by the Council in order to carry out the functions or duties assigned to the Council may be provided by the Department of Community Services. R.S., c. 433, s. 4.

FUNCTIONS

Functions and powers of Council

5 (1) It is the function of the Council to advise and assist the Minister on any matter relating to social services, including planning for social services, facilities and resources, and the Council may

- (a) at the request of the Minister or the Governor in Council, perform any duty or review and consider any problem that has arisen in or in relation to the field of social services and make recommendations to the Minister or the Governor in Council;
- (b) promote interest in the improvement of social services, facilities and resources and assist other organizations and bodies engaged in activities related to social services;
- (c) coordinate the activities of regional councils and advise and assist regional councils;

(d) assist and coordinate the activities of existing organizations and groups that represent social services agencies and institutions.

(2) The Council may appoint an executive committee and may appoint other committees, consisting of members of the Council or persons who are not members of the Council, and may delegate to a committee such authority as the committee requires to perform its functions or duties. R.S., c. 433, s. 5.

REGIONAL COUNCILS

Regions and regional councils

6 (1) The Minister may designate one or more areas of the Province as a region and may constitute a regional council of social services for each region.

(2) The Minister, in lieu of constituting a regional council under subsection (1), may designate an existing social services council or organization as the regional council for a region.

(3) Where a regional council is constituted under subsection (1), the Minister, with the approval of the Governor in Council, may make regulations respecting the membership of a regional council, the functions and powers of a regional council and any other matter related to the constitution and operation of a regional council.

(4) A regional council shall report from time to time to the Minister through the Council.

(5) Where a social services council or organization is designated a regional council under subsection (2), the Minister and social services council or organization may make an agreement respecting membership, functions and powers and other matters related to the constitution and operation of the council or organization. R.S., c. 433, s. 6.

PROJECTS

Projects

7 (1) The Minister may request the Council, a committee of the Council or a regional council to undertake a project related to social services or the provision of social services, facilities or resources.

(2) The Council, a committee of the Council or a regional council that undertakes a project may, with the authority of the Minister, in order to carry out the project,

(a) obtain information from any department, commission or other agency of the Province or from any social services agency or institution; and

(b) hold public or restricted hearings or make or conduct inquiries and receive representations or submissions.

(3) The Minister may provide to the Council, a committee of the Council or a regional council that undertakes a project such assistance, facilities, services and resources as may be required to carry out the project.

(4) Upon completion of the project the Council, the committee of the Council or the regional council shall make a report to the Minister. R.S., c. 433, s. 7.

REPORTING

Reporting by Council or regional council

8 (1) In addition to any other report required by this Act, the Council shall make a report from time to time to the Minister and shall make an annual report to the Minister on the activities of the Council for each year.

(2) Each regional council shall make a report from time to time to the Minister and the Council and shall make an annual report to the Minister and the Council on the activities of the regional council for each year. R.S., c. 433, s. 8.

FINANCES

Source of funds

9 The money required for the purpose of this Act may be appropriated by the Legislature or may be paid from the General Revenue Fund. R.S., c. 433, s. 9.

Remuneration and expenses

10 The Minister, with the approval of the Governor in Council, may prescribe and provide for payment of the remuneration and expenses of members of the Council, a committee of the Council or a regional council. R.S., c. 433, s. 9.

CHAPTER S-28

**An Act to Regulate
the Practice of Social Work**

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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 *Social Workers Act*. 1993, c. 12, s. 1.

Interpretation

2 In this Act,

"approved faculty of social work" means the Maritime School of Social Work of Dalhousie University, or any other faculty or school of social work approved by the Council;

"Board" means the Board of Examiners continued by this Act;

"bylaws" means the bylaws made by the College pursuant to this Act;

"Code of Ethics" means the code of ethics as adopted pursuant to this Act;

"College" means the Nova Scotia College of Social Workers continued by this Act;

"Council" means the Council of the College;

"judge" means a judge of the Supreme Court of Nova Scotia;

"member of the College" means a member of the College in good standing;

"prescribed fees" means both the registration fee and the membership fee as determined pursuant to this Act;

"private practice" means the provision of social work services by a person who is self-employed as determined by the Board;

"social worker" means a person registered pursuant to this Act to practise social work in the Province, including a registered social worker (provisional), but does not include a social worker candidate;

"social worker candidate" means a person registered pursuant to this Act to practise social work in the Province as a candidate;

"Registrar" means a person employed by the College as Registrar of the Board;

"regulations" means the regulations made by the Council pursuant to this Act. 1993, c. 12, s. 2; 2001, c. 19, s. 1; 2015, c. 52, s. 1.

Exemptions from application of Act

- 3** This Act does not apply to
- (a) the practice of nursing;
 - (b) the practice of teaching by a teacher as defined in Section 3 of the *Education Act*;
 - (c) the practice of psychology by a person registered on the Register of Psychologists or the Register of Candidates pursuant to the *Psychologists Act*;
 - (d) the practice of any occupation, calling or profession authorized by an Act of the Province;
 - (e) the clergy;
 - (f) a person carrying out volunteer functions that may include, in part, components of the practice of social work, if the person does not perform such functions for remuneration and no representation is made by the person that the person is a social worker;
 - (g) a person carrying out, for remuneration, functions that include, in part, components of the practice of social work, if such functions are performed under the direct supervision of a social worker and no representation is made by the person that the person is a social worker; or
 - (h) a person employed by a volunteer social agency that is not providing to any significant extent social work services, carrying out functions that include, in part, components of the practice of social work, if such functions are restricted to carrying out the approved and recognized purposes and responsibilities of the agency and no representation is made by the person that the person is a social worker,

and nothing in this Act requires any person to become registered pursuant to this Act to perform such functions. 1993, c. 12, s. 3.

Nova Scotia College of Social Workers

4 (1) The Nova Scotia Association of Social Workers is continued as a body corporate under the name of the Nova Scotia College of Social Workers and is composed of the Association's members.

(2) For greater certainty, all assets, property and liabilities held by the Association are vested in the College. 2015, c. 52, s. 2.

Objects of College

- 5** In order to
- (a) serve and protect the public interest;
 - (b) preserve the integrity of the social-work profession; and
 - (c) maintain public confidence in the ability of the social-work profession to regulate itself,
- the College shall
- (d) regulate the practice of social work 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, and
- (iii) the development, approval and promotion of standards of practice, entry-level competencies and continuing competency requirements;
- (e) subject to clause (d), and in the public interest, advance and promote the practice of social work;
- (f) encourage members to participate in affairs promoting the practice of social work, in the best interest of the public;
- (g) advocate for the development, enhancement and promotion of policies to improve social conditions and promote social justice; and
- (h) do such other lawful acts and things as are incidental to the attainment of the purpose and objects of the College. 2015, c. 52, s. 3.

Practice of social work

6 (1) For the purpose of this Act, the practice of social work means the provision of professional services to clients through the use of social work knowledge, theory, skills, judgement and values acquired through a program from an approved faculty of social work.

(2) The professional services to clients referred to in subsection (1) may include

- (a) intervention through direct contact with clients, including assessment, case management, client-centered advocacy, education, consultation, counselling, crisis intervention and referral;
- (b) community development founded on the principles of social justice that focus on mobilizing individuals to employ their skills to effect community change by community capacity building and community-based participation research; and
- (c) direct or indirect provision of administrative, educational, policy or research services, including
 - (i) the development and promotion of social policies focused on improving social conditions and promoting social justice,
 - (ii) the development, the provision and the administration of social-work services programs, and
 - (iii) the supervision of individuals providing social work services; and
- (d) such other activities as may be prescribed by the regulations. 2015, c. 52, s. 3.

Members of College

7 (1) Subject to the bylaws, every person who is approved by the Board for registration pursuant to this Act is a member of the College.

(2) Each social worker and each social worker candidate shall pay to the College a registration fee set by the Council.

(3) Each member of the College shall pay to the College a membership fee set by the College. 1993, c. 12, s. 6; 2015, c. 52, s. 4.

Personal liability of members

8 No member of the College is personally liable for any debts or liabilities of the College unless such member expressly agrees to be liable. 1993, c. 12, s. 7; 2015, c. 52, s. 5.

Head office

9 The head office of the College shall be at such place as the Council determines. 1993, c. 12, s. 8; 2015, c. 52, s. 6.

Powers respecting property

10 The College may acquire, by purchase or otherwise, and hold, mortgage and sell real and personal property for the purpose of carrying out its objects. 1993, c. 12, s. 9; 2015, c. 52, s. 7.

Annual convention and officers and committees

11 (1) There must be a convention of the College not later than May 31st in each year.

(2) The College, at each convention, shall elect a President, Vice-president, Secretary and Treasurer and may elect or appoint such other officers and committees as it considers advisable. 1993, c. 12, s. 10; 2015, c. 52, s. 8.

Bylaws

- 12 (1) The College may make bylaws
- (a) providing for the government of the College and its members;
 - (b) providing for the admission of persons as student, associate or honorary members of the College;
 - (c) relating to the election or appointment of members of the Board and officers and members of the Council and the conduct and duties of members and officers of the College;
 - (d) providing for the fixing and collecting of annual and other fees;
 - (e) providing for establishing and maintaining a Register of Members of the College and for the issue of annual certificates of membership;
 - (f) providing for the acquisition, holding, mortgaging and selling of real and personal property;
 - (g) providing for the establishment of local branches of the College in any city, town or other locality within the Province;

(h) adopting the code of ethics of the Canadian Association of Social Workers and amending the code as it applies to members of the College;

(i) establishing a scale of suggested fees for social workers engaged in the private practice of social work;

(j) prescribing the requirements and qualifications necessary for a social worker to engage in private practice;

(k) establishing areas of specialization and prescribing the qualifications required to practise social work in such an area of specialization;

(l) prescribing standards of practice for social workers;

(m) providing for the borrowing of money for the purpose of the College and the giving of security therefor;

(n) relating to the powers of the College;

(o) relating to all such other acts and things as may be necessary for the conduct of the business and meetings of the College.

(2) The bylaws made pursuant to subsection (1) must be made by resolution of the members of the College present at a meeting of the College of which notice of the intention to make the bylaws has been given. 1993, c. 12, s. 11; 2001, c. 19, s. 2; 2015, c. 52, s. 9.

Council of College

13 (1) The Council of the College is continued and consists of

(a) the President, Vice-president, Secretary, Treasurer, Immediate Past President and such other members as are elected or appointed in the manner provided by the bylaws, who shall hold office as provided by the bylaws; and

(b) the Chair of the Board.

(2) In the case of the resignation, death or dismissal of the President, Vice-president or any elected member of the Council, the remaining members of the Council may fill, from among the members of the College, the vacancy so caused for the unexpired portion of the term.

(3) Where the Chair of the Board is unable to attend a meeting of the Council, the members of the Board may choose another member of the Board to attend in the place of the Chair of the Board. 1993, c. 12, s. 12; 2005, s. 60, s. 1; 2015, c. 52, s. 10.

Council meetings

14 (1) Meetings of the Council shall be held by order of the President or at the request of three members of the Council.

(2) The President, or in the President's absence, the Vice-president, or in the absence of both, a member of the Council chosen in accordance with the bylaws, shall chair all meetings of the Council.

(3) At any meeting of the Council, all matters shall be decided by a majority of the votes of the members of the Council present at the meeting and the chair may vote only when the votes are equally divided. 1993, c. 12, s. 13.

Powers of the Council

15 The Council has charge of the business and affairs of the College and has and may exercise such powers and functions as are conferred or imposed upon it by this Act or the bylaws. 1993, c. 12, s. 14; 2015, c. 52, s. 11.

Board of Examiners

- 16 (1) The Board of Examiners is continued and consists of
- (a) nine social workers appointed by the Council who represent the diversity of various fields of social-work practice and who reflect the sex, racial and ethnic composition of the College, one of whom is teaching at an approved school of social work; and
 - (b) three persons appointed by the Governor in Council who are neither social workers nor social worker candidates.
- (2) The members of the Board hold office for a term of two years and, subject to subsection (4), may be reappointed and may continue to serve until reappointed or replaced.
- (3) Notwithstanding subsection (2), the Council shall, for the initial term only, appoint five members of the Board to a three-year term.
- (4) No member of the Board may be reappointed to a fourth consecutive term.
- (5) A member of the Board ceases to hold office if that person
- (a) becomes incapable of exercising that person's duties due to illness;
 - (b) resigns;
 - (c) ceases to reside in the Province;
 - (d) is found guilty of an offence pursuant to this Act;
 - (e) misses three consecutive meetings of the Board without having, in the opinion of the remaining members of the Board, a reasonable excuse; or
 - (f) ceases to be a member of the College.
- (6) Where a vacancy occurs on the Board during any term, the position shall be filled in the same manner as the original appointment and that person shall complete the term of the office vacated. 1993, c. 12, s. 15; 2001, c. 19, s. 3; 2005, c. 60, s. 2; 2015, c. 52, s. 12.

Officers of Board

17 The Board shall elect from among its members a Chair of the Board, a Vice-chair and a Secretary. 1993, c. 12, s. 16; 2001, c. 19, s. 4.

Board meetings

18 (1) The Board shall meet once a year and at such other times as the Chair or a majority of members of the Board see fit and the Chair shall give notice of the time and place of each meeting to each member of the Board.

(2) Six members of the Board constitute a quorum. 1993, c. 12, s. 17; 2001, c. 19, s. 5.

Remuneration and expenses

19 Each member of the Board shall receive, in addition to reasonable travelling expenses, such remuneration as the Council determines for conducting business of the Board. 1993, c. 12, s. 18.

Examinations

20 The Board shall examine

(a) persons seeking to be registered as social workers or social worker candidates; and

(b) social workers seeking to engage in private practice. 1993, c. 12, s. 19.

Regulations by Council

21 The Council may make regulations

(a) prescribing the proofs to be furnished as to education, good character and experience;

(b) prescribing the subjects for examination of candidates for registration as social workers;

(c) relating to examinations and the duties and functions of examiners;

(d) respecting matters relating to applications, complaints or discipline;

(e) respecting professional development;

(f) respecting such other matters as the Council considers necessary or advisable for the more effective discharge of the functions or exercise of the powers of the Board;

(g) respecting the reinstatement of members of the College;

(h) respecting temporary registration;

(i) respecting the resignation of members of the College;

(j) respecting the complaint process;

(k) respecting the hearing process. 1993, c. 12, s. 20; 2015, c. 52, s. 13.

Evidentiary effect of certificate

22 A certificate signed or purporting to be signed by the Registrar that a person was or was not a social worker or social worker candidate, or that the registration was suspended or cancelled on a date or during a period specified in the cer-

tificate, is admissible in evidence without further proof and is prima facie proof of the facts therein. 1993, c. 12, s. 21.

Register of Social Workers

23 (1) The Board shall maintain a Register of Social Workers in which shall be entered the name of any person approved by the Board for registration.

- (2)** The Board shall register any person who
- (a) has obtained a doctoral or master's degree in social work, or a graduate-level diploma in social work, from an approved faculty of social work and
 - (i) has completed two years of experience that, in the opinion of the Board, demonstrates competence in the field of social work,
 - (ii) has passed the examinations required by the Board,
 - (iii) has filed with the Board proof as prescribed by the regulations, and
 - (iv) has paid the prescribed fees;
 - (b) has obtained a bachelor's degree in social work from an approved faculty of social work and
 - (i) has, subsequent to obtaining the degree, completed at least three years of experience that, in the opinion of the Board, demonstrates competence in the field of social work,
 - (ii) has passed the examinations required by the Board,
 - (iii) has filed with the Board proof as prescribed by the regulations, and
 - (iv) has paid the prescribed fees; or
 - (c) is a registered member in good standing of an association of social workers approved by the Council and who holds one or more of the degrees referred to in clauses (a) and (b) and who has completed at least two years of experience that, in the opinion of the Board, demonstrates competence in the field of social work. 1993, c. 12, s. 22; 2001, c. 19, s. 6; 2005, c. 60, s. 3.

Register of Social Workers (Provisional)

24 (1) The Board shall maintain a Register of Social Workers (Provisional) in which shall be entered the name of any person approved by the Board upon application who

- (a) is a registered member in good standing of a Canadian association of social workers approved by the Council;
- (b) is registered in an accredited faculty of social work;

(c) agrees to complete the requirements and obtain a bachelor of social work degree from an approved faculty of social work within a time frame approved by the Board, but not to exceed eight years from the date of application for registration pursuant to this Section;

(d) has filed with the Board proof as prescribed by the regulations;

(e) has paid the prescribed fee; and

(f) if employed, agrees to work under the supervision of a registered social worker, until qualifying as a registered social worker.

(2) Every person who meets the requirements of this Section and whose name appears on the Register of Social Workers (Provisional) may use the designation “Registered Social Worker (Provisional)” or initials designating the same.

(3) The Board shall, upon application, register as a registered social worker any registered social worker (provisional) who obtains a bachelor of social work degree from an accredited faculty of social work without any requirement of passing further examinations. 2001, c. 19, s. 7.

Membership of existing practitioners

25 A person who is registered as a social worker immediately before April 1, 1994, is deemed to be registered as a social worker pursuant to this Act, subject to the disciplinary proceedings pursuant to this Act and subject to payment of the prescribed fees pursuant to this Act. 1993, c. 12, s. 23; 2015, c. 52, s. 14.

Register of Social Worker Candidates

26 The Board shall maintain a Register of Social Worker Candidates in which shall be entered, upon application, the name of any person approved by the Board for registration who

(a) possesses a doctoral, master’s or bachelor’s degree in social work, or a graduate-level diploma in social work, from an approved faculty of social work or satisfies the Board that the applicant has successfully completed all the requirements for such a degree or diploma;

(b) has filed with the Board proof as prescribed by the regulations; and

(c) has paid the prescribed fees. 1993, c. 12, s. 24; 2005, c. 60, s. 4.

Refusal to register

27 (1) Notwithstanding Sections 23, 24 and 26, the Board may refuse to register, upon investigation by the Registrar, an applicant who, in the opinion of the Board,

(a) has obtained or attempted to obtain registration pursuant to this Act by fraud or misrepresentation;

(b) has violated the Code of Ethics;

- (c) has been convicted of an offence pursuant to this Act;
- (d) has been found guilty of conduct that is, in the opinion of the Board, conduct unbecoming of a registered social worker or registered social worker candidate;
- (e) displays incompetence in the practice of social work; or
- (f) has failed to renew registration through non-payment of the prescribed fees.

(2) The Board shall inform the applicant, in writing, of its refusal to register the applicant.

(3) An applicant who has been refused registration may apply to the Board, within 30 days from the date of written receipt of the refusal, for a review by the Board of its decision, by providing to the Registrar a notice in writing indicating the grounds for the review.

(4) The Board shall, in every review hearing, give an opportunity to the applicant to be heard, to present evidence and to make representation.

(5) The Board shall confirm or vary the decision reviewed and shall give reasons for its decision. 1993, c. 12, s. 25; 2001, c. 19, s. 8.

Jurisdiction over former member

28 Where a person ceases to be a member of the College for any reason or ceases to be registered for any reason, the person remains subject to the jurisdiction of the Board in respect of any disciplinary matter arising out of the person's conduct while a member or while registered. 2001, c. 19, s. 9; 2015, c. 52, s. 15.

Professional Development Committee

29 The Council may establish a Professional Development Committee to advise the Council respecting the professional development of the members of the College. 1993, c. 12, s. 26; 2015, c. 52, s. 16.

Complaints Committee

30 (1) A Complaints Committee is established, composed of three members of the Board, one of whom is a person appointed by the Governor in Council to the Board of Examiners.

(2) The Board shall name one alternate member of the Complaints Committee to be called upon by the chair to act as necessary.

(3) No person who is a member of the Discipline Committee shall be a member of the Complaints Committee.

(4) Three members of the Complaints Committee constitute a quorum. 1993, c. 12, s. 27.

Complaint

31 (1) Any person may make a written complaint to the College respecting a member of the College and, upon making a complaint, is entitled to be

kept informed in respect of the investigation of the complaint and in respect of any disciplinary proceedings and to receive a copy of any decision respecting the disposition of the complaint and written reasons for the decision.

(2) No action lies against a complainant pursuant to this Act in respect of any complaint made by the complainant in good faith. 1993, c. 12, s. 28; 2001, c. 19, s. 10; 2015, c. 52, s. 17.

Duties and powers of Complaints Committee

32 (1) The Complaints Committee shall consider and investigate written complaints regarding the conduct of any member of the College.

(2) The Complaints Committee and each member of the Complaints 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.

(3) Upon receipt of a written complaint, the Complaints Committee shall, in accordance with the procedures set out in the regulations, process the complaint.

(4) In a proceeding before the Complaints Committee, the respondent has the right to

- (a) be represented by legal counsel or by a union representative;
- (b) receive a copy of
 - (i) the written complaint,
 - (ii) written investigative reports provided to the Complaints Committee, if any, and
 - (iii) all other documents received by the Complaints Committee; and
- (c) make submissions to the Complaints Committee in response to the material set out in clause (b).

(5) The Complaints Committee, in accordance with the information it receives, 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) counsel the social worker or social worker candidate;
- (e) reprimand the social worker or social worker candidate, with that person's consent;
- (f) with the consent of the social worker or social worker candidate, require that person to undergo such treatment or re-education as the Committee considers necessary;

(g) refer the matter, in whole or in part, to the Discipline Committee.

(6) The Complaints Committee shall give its decision in writing to the Registrar for the purpose of subsection (7) and its reasons therefor.

(7) The Registrar shall deliver or send to the complainant, and to the member of the College complained against, a copy of the written decision of the Complaints Committee and its reasons therefor.

(8) Where, during an investigation, the Complaints Committee

(a) determines that it is desirable in the public interest to suspend the registration or restrict the registration of the person being complained of pending the completion of the investigation and, where the matter is referred to the Discipline Committee, the hearing and adjudication of the complaint;

(b) has furnished the person with the notice of such determination as is prescribed by the Complaints Committee; and

(c) has heard such explanation as is offered by the person at the suspension hearing or provided for in the notice,

the Complaints Committee may suspend the registration of the person or restrict the registration of the person on a temporary basis.

(9) A decision pursuant to subsection (8) continues in force until final resolution by the Discipline Committee. 1993, c. 12, s. 29; 2001, c. 19, s. 11; 2012, c. 48, s. 40; 2015, c. 52, s. 18.

Settlement agreement

33 (1) Where the Complaints Committee refers a matter to the Discipline Committee pursuant to clause 32(5)(g), the registered social worker, registered social worker (provisional) or social worker candidate complained of may, at any time prior to the commencement of the hearing before the Discipline Committee, tender to the Complaints Committee a proposed settlement agreement, in writing, consented to by the legal counsel for the Board that includes an admission of a discipline matter or violation and the registered social worker, registered social worker (provisional) or social worker candidate's consent to a specified disposition, conditional upon the acceptance of the agreement by the Discipline Committee.

(2) The Complaints Committee may, in its discretion, recommend or refuse to recommend acceptance of the proposed settlement agreement by the Discipline Committee.

(3) Where the Complaints Committee recommends the acceptance of the proposed settlement agreement, the Committee shall instruct legal counsel for the Board to advise the Discipline Committee hearing the complaint of its recommendation.

(4) Where the Complaints Committee refuses to recommend the proposed settlement agreement, the hearing shall proceed without reference to the proposed settlement agreement.

(5) Where the Discipline Committee appointed to hear the complaint accepts the recommendation of the Complaints Committee, the Discipline Committee shall confirm its acceptance by written decision that incorporates the settlement agreement.

(6) Where the Discipline Committee appointed to hear the complaint rejects the recommendation of the Complaints 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 Discipline Committee shall be appointed to hear the complaint and no member of the Discipline Committee that considered the proposed settlement agreement shall be a member of the new Discipline Committee; and
- (d) the Complaints Committee retains jurisdiction over the complaint until the commencement of the hearing by the new Discipline Committee. 2001, c. 19, s. 12.

Discipline Committee

34 (1) A Discipline Committee is established, composed of five persons appointed by the Board, three of whom are members of the Board, one of whom is a member of the College and one of whom is appointed to the Board by the Governor in Council.

(2) Members of the Board who are not appointed to the Discipline Committee, with the exception of the Registrar, are alternate members of the Committee and may be called upon by the chair of the Committee to act as necessary.

(3) Subject to subsection (4), five members of the Discipline Committee constitute a quorum and all disciplinary decisions require the vote of a majority of the members of the Discipline Committee present at the hearing.

(4) Where the Discipline Committee commences a hearing and not more than two members become unable to act, the remaining members may complete the hearing and have the same authority as the full committee.

(5) The Board shall name one member of the Discipline Committee to be chair.

(6) The Board, by resolution, may direct the Discipline Committee to hold a hearing and determine any allegation of professional misconduct, conduct unbecoming, incompetence or breach of the Code of Ethics on the part of a member of the College. 1993, c. 12, s. 30; 2001, c. 19, s. 13; 2015, c. 52, s. 19.

Notice of complaint

35 No disciplinary action may be taken against a member by the Disciplinary Committee unless that person has been given written notice of the complaint and of the time and place of the hearing of the complaint at least 30 days prior to the hearing. 1993, c. 12, s. 31.

Parties to disciplinary proceedings

36 (1) In proceedings before the Discipline Committee, the parties to the proceedings include

- (a) the Board; and
- (b) the member of the College whose conduct is being investigated.

(2) The following evidence is not admissible before a Discipline 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 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; or
- (c) in the case of evidence of a witness, the identity of the witness.

(3) Notwithstanding subsection (2), a Discipline Committee may in its discretion allow the introduction of evidence that would be otherwise inadmissible under subsection (2) and may make directions it considers necessary to ensure that a party is not prejudiced.

(4) Where the aggrieved person is not the complainant and is not a party to the proceedings before the Discipline Committee, the aggrieved person is, upon request, entitled to be kept informed in respect of the proceedings and to receive a copy of any decision respecting disposition of the complaint giving rise to the proceeding and written reasons for the decision. 1993, c. 12, s. 32; 2001, c. 19, s. 14; 2015, c. 52, s. 20.

Hearings by Discipline Committee

37 (1) A party to a hearing of a complaint against a member of the College may at a hearing

- (a) be represented by counsel or an agent;
- (b) call and examine witnesses and present arguments and submissions;
- (c) conduct cross-examinations of witnesses reasonably required for a full and fair disclosure of the facts in relation to which the witnesses have given evidence.

(2) The Discipline Committee shall

- (a) when so directed by the Board or the Complaints Committee, hear and determine allegations of professional misconduct, conduct unbecoming, incompetence or a breach of the Code of Ethics against a member;
- (b) hear and determine matters referred to it pursuant to Sections 32 and 34; and

(c) perform such other duties as are assigned to it by the Board.

(3) A member may be found guilty of professional misconduct by the Discipline Committee if

(a) the member has been convicted in a court of competent jurisdiction of an offence that, in the opinion of the Committee, is relevant to the member's suitability to practise social work; or

(b) the member has been guilty, in the opinion of the Committee, of professional misconduct.

(4) A member may be found guilty of conduct unbecoming by the Discipline Committee if the member has been guilty, in the opinion of the Committee, of

(a) conduct unbecoming as defined in the Code of Ethics; or

(b) misbehaviour done outside of a worker-client relationship that reflects on the member's integrity or competence and that could bring discredit to the profession.

(5) The Discipline Committee may determine a member to be incompetent if, in its opinion, the member has displayed in the member's professional responsibilities a lack of knowledge, skill or judgement or disregard for the welfare of the public of such nature or extent to demonstrate the member is unfit to carry out the responsibilities of a person engaged in the practice of social work. 1993, c. 12, s. 33; 2001, c. 19, s. 15; 2015, c. 52, s. 21.

Powers of Discipline Committee

38 Where the Discipline Committee finds a member of the College guilty of professional misconduct, conduct unbecoming, incompetence or a breach of the Code of Ethics it may do one or more of the following:

(a) revoke the member's right to practise social work;

(b) suspend the member's right to practise social work for a stated period, not exceeding 24 months;

(c) accept the undertaking of the member to limit the professional work of the member in the practice of social work to the extent specified in the undertaking;

(d) impose terms and conditions on the right to practise social work, including the successful completion of a particular course or courses of study, as are specified by the Committee;

(e) impose specific restrictions on the right to practise social work, including requiring the member to

(i) engage in the practice of social work only under the personal supervision and direction of another member,

(ii) not alone engage in the practice of social work,

(iii) accept periodic inspections by the Committee as the Committee may specify, on such matters with respect to the mem-

ber's practice, for such period and times, and in such form as the Committee may specify,

- (iv) report to the Registrar, or to such committee of the Board as the Committee may specify, on such matters with respect to the member's practice, for such period and times, and in such form as the Committee may specify;
- (f) reprimand or counsel the member and, if considered warranted, direct that the fact of the reprimand or counselling be recorded on the register;
- (g) revoke or suspend for a stated period of time the designation of the member by the College as a specialist in any branch of social work;
- (h) impose such fine as the Committee considers appropriate, to a maximum of \$2,000, to be paid by the member to the Treasurer;
- (i) require the member to repay, waive or reduce the fee charged by the member in respect of the practice of social work related to the finding of professional misconduct or incompetence;
- (j) subject to Section 42, direct that a finding or order of the Committee be published in an official publication of the College in detail or in summary and either with or without the name of the member;
- (k) fix the costs of any investigation or procedures by the Complaints Committee and the Discipline Committee to be paid by the member to the College, including legal fees and audit fees;
- (l) direct that the imposition of a penalty be suspended or postponed for such period and upon such terms or for such purpose as may be specified by the Committee, including
 - (i) the successful completion by the member of a particular course or courses of study,
 - (ii) the production to the Committee of evidence satisfactory to it that any mental disorder in respect of which the penalty was imposed has been overcome. 1993, c. 12, s. 34; 2001, c. 19, s. 16; 2015, c. 52, s. 22.

Consequence of failure to comply with order

39 Any member of the College who fails to comply with a disciplinary order of the Discipline Committee shall have the member's registration revoked by the Board. 1993, c. 12, s. 35; 2015, c. 52, s. 23.

Continued practice or use of designation

40 Where a member of the College whose registration has been suspended or revoked by the Discipline Committee continues to use the designation of a "social worker", or continues to practise social work without falling within any of the exemptions enumerated in Section 3, the Board may, by application to a judge, cause the person to be cited for contempt of court under the provisions of the rules of court in the same manner and to the same extent as if the person had refused to obey an order of the court. 1993, c. 12, s. 36; 2015, c. 52, s. 24.

Publication of revocation or suspension

41 Where the registration of a member of the College is revoked or suspended by the Complaints Committee or the Discipline Committee, the Registrar shall place a notice in such publication as the Registrar deems necessary in order to inform the public. 2001, c. 19, s. 17; 2015, c. 52, s. 25.

Publication of determination

42 The Discipline Committee shall, upon the request of the member of the College against whom the allegation was made, cause to be published, as provided for in the regulations, the determination by the Committee that an allegation of professional misconduct or incompetence or a violation of the Code of Ethics or conduct unbecoming was unfounded. 1993, c. 12, s. 38; 2001, c. 19, s. 18; 2015, c. 52, s. 26.

Effective date of decision

43 Where the Discipline Committee revokes or suspends the registration of a member of the College, the decision takes effect on such date as the Committee determines, notwithstanding that an appeal is taken from the decision, unless the court to which the appeal is taken otherwise orders. 1993, c. 12, s. 39; 2015, c. 52, s. 27.

Delivery of copy of decision

44 Where the Discipline Committee finds a member of the College guilty of professional misconduct or incompetence or a breach of the Code of Ethics, a copy of the decision must be delivered to the person complaining in respect of the conduct of the member. 1993, c. 12, s. 40; 2015, c. 52, s. 28.

Extension of membership on Discipline Committee

45 Where a proceeding is commenced before the Discipline Committee and the term of office of a member on the Board or on the Committee expires or is terminated, other than for cause, before the proceeding is disposed of but after evidence has been heard, the member is deemed to remain a member of the Discipline Committee for the purpose of completing the disposition of the proceeding in the same manner as if the term of office of the member had not expired or been terminated. 1993, c. 12, s. 41.

Restriction on members of Discipline Committee

46 Members of the Discipline Committee holding a hearing shall not take part before the hearing in any investigation of the subject-matter of the hearing other than as a member of the Board considering the referral of the matter to the Discipline Committee, or at a previous hearing of the Committee, and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or the representative of a party except upon notice to and with the opportunity for all parties to participate, but the Committee may seek legal advice with respect to matters referred to in this Section. 1993, c. 12, s. 42.

Private hearings

47 Hearings of the Discipline Committee must be held in private unless the party whose conduct is being investigated requests otherwise by notice delivered to the Registrar at least five days before the day fixed for the hearing, in which case the Committee shall conduct the hearing in public, except where

- (a) matters involving public security may be disclosed; or
- (b) the possible disclosure of intimate financial or personal matters outweighs the desirability of holding the hearing in public. 1993, c. 12, s. 43.

Powers, privileges and immunities of Committee

48 The Discipline Committee and each member of the Discipline Committee have all the powers, privileges and immunities of a commissioner appointed pursuant to the *Public Inquiries Act*. 2001, c. 19, s. 19.

Administration of oaths

49 The testimony of any witness must be taken under oath or affirmation, which may be administered by the chair of the Discipline Committee or any person designated to do so on behalf of the chair. 1993, c. 12, s. 46.

Failure to comply with summons

50 Where a person on whom a summons has been served, either personally or by leaving a copy of the summons with some adult person at the person's last or most usual place of residence or business, fails to appear before the Discipline Committee or, upon appearing, refuses to be sworn or refuses without sufficient cause to answer any question or refuses to produce such records, reports or other documents relevant to the hearing, the Committee may, by application to a judge, cause the person to be cited for contempt under the provisions of the rules of court in the same manner and to the same extent as if the alleged contempt took place in proceedings before the Supreme Court of Nova Scotia. 1993, c. 12, s. 48.

Recording of oral evidence

51 The oral evidence taken before the Discipline Committee must be recorded, and if a party requests a copy of the transcript, it shall be furnished at that party's expense. 1993, c. 12, s. 49.

Prerequisite to participation in decision

52 No member of the Discipline Committee shall participate in a decision of the Committee unless the member was present throughout the hearing and heard the evidence and argument of the parties. 1993, c. 12, s. 50.

Attendance at hearing

53 The member who is charged in a disciplinary matter shall appear at the hearing but, in the event of non-attendance by the member, the Discipline Committee, upon proof by affidavit, statutory declaration or other evidence acceptable to the Committee of service of a notice of the hearing, may proceed with the hearing and, without further notice to the member, render its decision and take such other action as it may take pursuant to this Act. 2001, c. 19, s. 21.

Appeal

54 (1) The member complained against may appeal on any point of law from the findings of the Discipline Committee to the Nova Scotia Court of Appeal.

(2) The notice of appeal must be served on the Registrar and the complainant.

(3) The record on appeal from the findings of a Discipline Committee must consist of a copy of the transcript of the proceedings, the decision of the Committee and the evidence before the hearing, 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 an appeal to the Nova Scotia Court of Appeal pursuant to this Section. 2001, c. 19, s. 21.

Return of items in evidence

55 Documents and things put in evidence at a hearing of the Discipline Committee must, upon the request of the party who produced them, be returned by the Committee within a reasonable time after the matter in issue has been finally determined. 1993, c. 12, s. 51.

Non-payment of fees

56 A hearing is not required to suspend a registrant who has failed to renew registration through non-payment of the prescribed fees. 1993, c. 12, s. 52.

Use of designation “Registered Social Worker”

57 Every person who meets the requirements of Section 23 or 25 and whose name appears on the Register of Social Workers has the right to use the designation “Registered Social Worker” or initials designating the same. 1993, c. 12, s. 53.

Use of designation “Social Worker Candidate”

58 Every person who meets the requirements of Section 26 and whose name appears on the Register of Social Worker Candidates has the right to use the designation “Social Worker Candidate” or initials designating the same. 1993, c. 12, s. 54.

Offences and penalties

59 (1) Except as provided in this Act or the bylaws, a person not registered to practise as a social worker pursuant to this Act, or whose registration is revoked or suspended, and who

- (a) practises as a social worker;
- (b) uses the title of social worker or registered social worker, or makes use of any abbreviation of such title, or any name, title or designation that may lead to the belief that the person is a social worker;
- (c) advertises or in any way or by any means represents the person as a social worker;
- (d) acts or represents the person in such manner as to lead to the belief that the person is authorized to fill the office of or to act as a social worker; or

(e) engages in private practice as a social worker without approval of the Board in accordance with the regulations,

commits an offence and is liable upon summary conviction for the first offence to a fine of not less than \$500 and not more than \$2,000 and costs, and for any subsequent offence to a fine of not less than \$1,000 and to a term of imprisonment of not more than six months, or both, and upon failure to pay a fine, to imprisonment for a term of not more than six months.

(2) A person who procures or attempts to procure admission to the College for that person or for another person by making, or causing to be made, any fraudulent representation or declaration, either oral or written, or who makes any false statement in any application, declaration or other document pursuant to this Act or the bylaws, commits an offence punishable on summary conviction.

(3) Upon conviction of a person for an offence pursuant to this Section, the judge convicting the person may, in addition to any other punishment imposed, immediately prohibit that person from engaging in the practice of social work or from doing anything for which the person was convicted.

(4) A person who fails to comply with an order pursuant to subsection (3) commits an offence and is liable on summary conviction to a fine of not less than \$1,000 and not more than \$5,000 or to imprisonment for a term of not more than six months, or both, and on failure to pay the fine, to imprisonment for not more than six months. 1993, c. 12, s. 55; 2015, c. 52, s. 29.

Injunction

60 (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) where 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 order as to costs as the judge considers proper in any proceedings pursuant to this Section. 1993, c. 12, s. 56; 2015, c. 52, s. 30.

Limitation on liability

61 The College, the Council, the Board, the Complaints Committee and the Discipline Committee are not liable for any loss or damage suffered by any person as a result of anything done by them in good faith in the administration of this Act, the bylaws or the regulations. 1993, c. 12, s. 57; 2015, c. 52, s. 31.

CHAPTER S-29

**An Act to Provide for the Incorporation
of Non-profit Societies**

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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 *Societies Act*. R.S., c. 435, s. 1.

INTERPRETATION

Interpretation

- 2** In this Act,
- “director” includes a trustee, an officer, a member of an executive committee and any other person occupying such a position by whatever name called;
- “memorandum” means the memorandum of association for incorporation of a society;
- “Registrar” means the Registrar of Joint Stock Companies appointed under the *Companies Act*, and includes the Deputy Registrar and a person authorized under that Act to perform the duties of the Registrar in the Registrar’s absence;
- “society” means a society incorporated under this Act;
- “special resolution” means a resolution passed by not less than three fourths of such members entitled to vote as are present in person or by proxy, if proxies are allowed, at a general meeting of which notice specifying the intention to propose the resolution as a special resolution has been duly given. R.S., c. 435, s. 2.

INCORPORATION

Purpose for incorporation of society

- 3** (1) A society may be incorporated under this Act to promote any benevolent, philanthropic, patriotic, religious, charitable, artistic, literary, educational, social, professional, recreational or sporting object or any other useful object, but not for the purpose of carrying on any trade, industry or business.
- (2) Where any Act, other than the *Companies Act*, provides for the incorporation of a society for a particular object, no society may be incorporated under this Act for that object. R.S., c. 435, s. 3.

No share capital or dividend or transferable interest

- 4** No society may have a capital divided into shares or declare any dividend or distribute its property among its members during the existence of the society and the interest of a member in a society is not transferable. R.S., c. 435, s. 4.

Procedure for incorporation

- 5** (1) Any five or more persons, desiring to incorporate a society, may make and subscribe a memorandum in the form prescribed by the regulations

and shall transmit it, with the bylaws of the society agreed upon by them for the administration of the society and the proper fees to the Registrar, together with a list of the persons appointed by the subscribers to act as the first directors, stating their full names, addresses and occupations and the period for which they will so act, the address of the registered office of the society and the place where its activities will be chiefly carried on.

(2) The Minister of Service Nova Scotia may make regulations prescribing forms for the purpose of subsection (1).

(3) The exercise by the Minister of Service Nova Scotia of the authority contained in subsection (2) is a regulation within the meaning of the *Regulations Act*.

(4) The form contained in Schedule A to Chapter 435 of the Revised Statutes, 1989, is deemed to be prescribed pursuant to this Section and to have been published in accordance with the *Regulations Act* and may be amended or repealed pursuant to this Act. R.S., c. 435, s. 5.

Registration and issue of certificate of incorporation

6 (1) Where the Registrar is satisfied that the memorandum and bylaws comply with this Act and that the objects of the society are within the scope of this Act and are sufficiently set forth, the Registrar shall register the memorandum and bylaws and issue a certificate that the society is incorporated.

(2) Where the Registrar is not satisfied that the memorandum and bylaws comply with this Act and that the objects of the society are within the scope of this Act and sufficiently set out, the Registrar may require that the memorandum and bylaws be altered so as to conform with this Act and may refuse to register them until they are so altered.

(3) The Registrar may refuse to register the memorandum of a society under a name that is identical with that of any subsisting company, society or association, incorporated or unincorporated, or so nearly resembles such a name as to be calculated to deceive or is in the opinion of the Registrar objectionable for any other reason. R.S., c. 435, s. 6.

Recognized agent

7 Every society incorporated pursuant to this Act shall appoint and have a recognized agent resident within the Province, service upon whom of any originating notice, summons, process, notice or document is sufficient service upon the society. R.S., c. 435, s. 7.

Certificate as evidence

8 A certificate of incorporation of a society issued by the Registrar is conclusive evidence that the requirements of this Act in respect of incorporation have been complied with and that the society is duly incorporated according to this Act. R.S., c. 435, s. 8.

Body corporate

9 From the date of the certificate of incorporation, the subscribers to the memorandum, and such other persons as may from time to time become members of the society, are a body corporate by the name contained in the memorandum, having perpetual succession and the right to a common seal. R.S., c. 435, s. 9.

POWERS**Powers**

10 In addition to the powers by law vested in a corporation or body corporate and politic, a society may

- (a) acquire and take by purchase, donation, devise, bequest or otherwise real estate and personal property, and hold, enjoy, sell, exchange, lease, let, improve and develop the same, and erect and maintain buildings and structures;
- (b) contract and be contracted with and sue or be sued in its corporate name;
- (c) use its funds and property for the attainment of its objects and purposes;
- (d) borrow, raise and secure the payment of money in such manner as it thinks fit and, with the sanction of a special resolution, issue debentures or mortgage its real property to secure the payment of money borrowed by it;
- (e) subject to its bylaws, draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange and other negotiable or transferable instruments;
- (f) by special resolution and subject to Section 11, change its name or alter its objects so as to add to or restrict or abandon any of its objects or the locality in which its activities are chiefly carried on;
- (g) where authorized by special resolution, subscribe to or become a member of any other society or association, whether incorporated or not, whose objects are in whole or in part similar to its own objects;
- (h) do all such other acts and things as are incidental or conducive to or consequential upon the exercise of its powers or the attainment of its objects. R.S., c. 435, s. 10.

Approval to change name or alter objects

11 (1) No resolution pursuant to clause 10(f) takes effect until the Registrar approves it.

(2) When the Registrar has given the Registrar's approval to the resolution, the Registrar shall issue a certificate setting forth the particulars of the change, but, where a society is in default in respect of any requirement of this Act, the Registrar may refuse to issue a certificate under this Section.

(3) A notice of any alteration referred to in this Section must, where the Registrar thinks it advisable, be published in the Royal Gazette by the Registrar at the cost of the society. R.S., c. 435, s. 11.

No power to grant certain degrees

12 No society has the power to grant or confer any degree or diploma of literary, technical or scientific character. R.S., c. 435, s. 12.

ADMINISTRATION

Bylaws

13 (1) A society may by special resolution make, amend or repeal bylaws, not inconsistent with this Act or with its memorandum, for the conduct and management of its activities and affairs.

(2) The bylaws of every society must contain provisions in respect of the several matters mentioned in the Schedule.

(3) No bylaw or amendment to bylaws takes effect until the Registrar approves it. R.S., c. 435, s. 13.

Fine for contravention of bylaw

14 (1) A society may by its bylaws impose a fine not exceeding five dollars on any member who contravenes any bylaw of the society.

(2) Any such fine may be recovered as a debt due from the member of the society and all fines so recovered belong to the society. R.S., c. 435, s. 14.

Members

15 (1) The members of a society are the subscribers to the memorandum and those persons admitted to membership of the society according to the bylaws.

(2) Subject to the bylaws,

(a) a person under the age of 19 years may be admitted as a member of a society, or appointed to any office therein, and is liable for the payment of any dues or subscription as if the person were of full age;

(b) every member of a society has a vote;

(c) a proxy entitling any person or member of the society to vote at more than one meeting or any adjournment of that meeting is void. R.S., c. 435, s. 15.

Virtual meetings

16 Subject to the society's bylaws, a meeting of a society may be held entirely or partially by telephonic or electronic means and a member who, through those means, votes at the meeting or establishes a communications link to the meeting is deemed, for the purpose of this Act, to be present at the meeting. 2022, c. 8, s. 7.

Directors

17 (1) Subject to the bylaws, the members of a society may nominate, elect or appoint any of its members as directors for conducting the business, discipline and management of the society and its affairs.

(2) The directors of a society may exercise any powers of the society not required by this Act or the bylaws to be exercised by the members of the society at a general meeting. R.S., c. 435, s. 16.

RECORDS AND RETURNS

Registered office

18 Every society must have a registered office in the Province to which all communications and notices may be sent and at which process may be served on the society, and shall file with the Registrar notice of every change of situation of that office within 14 days of the change. R.S., c. 435, s. 17.

Register of members

19 Every society shall maintain a register of its members and shall enter in the register the full names of the subscribers to the memorandum and the full name of every other person who is admitted as a member of the society, together with

- (a) the address and occupation of every such subscriber and person;
- (b) the date on which each person is admitted as a member; and
- (c) the date on which any person ceases to be a member. R.S., c. 435, s. 18.

Annual general meeting and financial statement

20 Every society shall hold an annual general meeting in the Province and within 14 days thereafter shall file with the Registrar a statement in the form of a balance sheet showing general particulars of its liabilities and assets and a statement of its income and expenditure in the preceding year audited and signed by its auditor or, where there is no auditor, by two directors. R.S., c. 435, s. 19.

List of directors

21 Every society shall file with the Registrar with its annual statement a list of its directors, with their addresses, occupations and dates of appointment or election, and shall within 14 days of a change of directors notify the Registrar of the change. R.S., c. 435, s. 20.

Filing of special resolution

22 Every society shall file with the Registrar a copy of every special resolution within 14 days after the resolution is passed. R.S., c. 435, s. 21.

Authentication of filed documents

23 Every notice, return or resolution required to be filed with the Registrar must be authenticated by a director, secretary or other authorized officer of the society. R.S., c. 435, s. 22.

Availability of memorandum and bylaws

24 Every society shall furnish to a member at the member's request, and on payment of such fee, not exceeding 50¢, as is fixed by its bylaws, a copy of its memorandum and bylaws. R.S., c. 435, s. 23.

DISSOLUTION

Companies Winding Up Act

25 The *Companies Winding Up Act* applies to a society. R.S., c. 435, s. 24.

Companies Act

26 Section 155 of the *Companies Act*, relating to the removal from the register of companies that are not carrying on business, applies with necessary changes to a society that has failed for two consecutive years to send or file any return, notice or document required to be made or filed with the Registrar pursuant to this Act, a society that is more than two years in arrears in the payment of fees required pursuant to this Act or if the Registrar has reasonable cause to believe that a society is not in operation. R.S., c. 435, s. 25; 1993, c. 42, s. 1.

Surrender of certificate of incorporation

27 A society may, by special resolution, surrender its certificate of incorporation and the Registrar, where satisfied that sufficient notice of the society's decision to dissolve has been given and that no debts or liabilities of the society are outstanding, may accept the surrender of the certificate, and cancel it, and fix a date from which the society is dissolved and its name removed from the register. R.S., c. 435, s. 26.

GENERAL

Liability of member

28 No member of a society is, in the member's individual capacity, liable for any debt or liability of the society beyond the amount of any subscription, dues or fees payable by the member to the society. R.S., c. 435, s. 27.

Contracts by society

29 Contracts on behalf of a society may be made as follows:

(a) any contract, that, where made between private persons, would be by law required to be in writing and to be under seal, may be made on behalf of the society in writing under the common seal of the society, and may in the same manner be varied or discharged;

(b) any contract, that, where made between private persons, would be by law required to be in writing and signed by the parties to be charged therewith, may be made on behalf of the society in writing signed by any person acting under its authority, express or implied, and may in the same manner be varied or discharged;

(c) any contract, that, where made between private persons, would by law be valid although made by parol only and not reduced into writing, may be made by parol on behalf of the society and by any person

acting under its authority, express or implied, and may in the same manner be varied or discharged. R.S., c. 435, s. 28.

Appeal from Registrar

30 Any society or person aggrieved by a decision or order of the Registrar under this Act may, within one month of the date of the decision or order, appeal from it to the Governor in Council who may confirm, modify or reverse the decision or order and direct the Registrar accordingly. R.S., c. 435, s. 29.

Penalty for contravention of Act

31 (1) Every society that contravenes or fails to observe any provision of this Act is liable on summary conviction to a penalty of not more than \$100.

(2) A director or officer of a society who knowingly authorizes or permits a contravention or failure to observe any provision of this Act by the society is liable on summary conviction to a penalty of not more than \$100, whether or not the society has been prosecuted or convicted. R.S., c. 435, s. 30.

Fees

32 (1) There must be paid to the Registrar for filing and registering a memorandum and bylaws and issuing a certificate of incorporation of a society a fee in the amount determined by the Governor in Council.

(2) Every society shall, in each year in the month in which the anniversary of its incorporation occurs, pay to the Registrar an annual registration fee in the amount determined by the Governor in Council.

(3) There must be paid to the Registrar for other services under this Act such fees, and in such amounts, as determined by the Governor in Council.

(4) The exercise by the Governor in Council of the authority contained in this Section is a regulation within the meaning of the *Regulations Act*. 1993, c. 42, s. 2.

SCHEDULE

(Section 13)

- (1) Terms of admission of members and their rights and obligations.
- (2) Conditions under which membership ceases and manner (if any) in which a member may be expelled.
- (3) Mode and time of calling general and special meetings of the society, number constituting a quorum at such meeting and rights of voting.
- (4) Appointment and removal of directors and other officers and their duties, powers and remuneration.
- (5) Exercise of borrowing powers.
- (6) Audit of accounts.

- (7) Custody and use of the seal of the society.
- (8) Manner of making, altering and rescinding bylaws.
- (9) Preparation and custody of minutes of proceedings of meetings of the society and of the directors and other books and records of the society.
- (10) Time and place at which the books and records of the society may be inspected by members.
- (11) Execution of contracts, deeds, bills of exchange and other instruments and documents on behalf of the society.

R.S., c. 435, Sch. B.

CHAPTER S-30

An Act to Provide for the Preservation, Regulation and Study of Archaeological and Historical Remains and Palaeontological and Ecological Sites

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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 *Special Places Protection Act*. R.S., c. 438, s. 1.

Purpose of Act

2 The purpose of this Act is to

(a) provide for the preservation, protection, regulation, exploration, excavation, acquisition and study of archaeological and historical remains and palaeontological sites that are considered important parts of the natural or human heritage of the Province;

(b) provide for the preservation, protection, regulation, acquisition and study of ecological sites that are considered important parts of the

natural heritage of the Province and, notwithstanding the generality of the foregoing, preserve, regulate, acquire and study those ecological sites that

- (i) are suitable for scientific research and educational purposes,
 - (ii) are representative examples of natural ecosystems within the Province,
 - (iii) serve as examples of ecosystems that have been modified by humans and offer an opportunity to study the natural recovery of ecosystems from such modification,
 - (iv) contain rare or endangered native plants or animals in their natural habitats,
 - (v) provide educational or research field areas for the long-term study of natural changes and balancing forces in undisturbed ecosystems; and
- (c) promote understanding and appreciation among the people of the Province of the scientific, educational and cultural values represented by the establishment of special places. R.S., c. 438, s. 2.

Interpretation

3 In this Act,

“Committee” means the Advisory Committee on the Protection of Special Places;

“heritage object” means an archaeological, historical or palaeontological object or remain but does not include a treasure to which the *Oak Island Treasure Act* applies;

“Minister” means the member of the Executive Council assigned responsibility for this Act;

“Museum” means the Nova Scotia Museum;

“Oak Island” means Oak Island as defined in the *Oak Island Treasure Act*;

“registered owner” means an owner of land whose interest in the land is defined and whose name is specified in an instrument in the registry of deeds, and includes a person shown as a tenant of land on the last revised assessment roll;

“special places” means those places referred to in Section 2. R.S., c. 438, s. 3; 1990, c. 45, s. 1; 2005, c. 28, s. 1; 2010, c. 39, s. 14.

Act binds Crown

4 This Act binds the Crown in right of the Province. R.S., c. 438, s. 4; 1990, c. 45, s. 2.

Advisory Committee on Protection of Special Places

5 (1) A committee to be known as the Advisory Committee on the Protection of Special Places is established.

- posed of
- (2) The Committee shall be appointed by the Minister and is composed of
- (a) one person employed by the department for which the Minister has responsibility, who is the chair of the Committee;
 - (b) three persons who are representative of
 - (i) the Department of Environment and Climate Change,
 - (ii) the Department of Communities, Culture, Tourism and Heritage, and
 - (iii) the Department of Natural Resources and Renewables; and
 - (c) up to six other persons who may include persons recognized as experts in fields pertinent to this Act and persons who represent aboriginal interests.
- (3) Members of the Committee may be appointed for such terms as the Minister determines.
- (4) Members of the Committee are eligible for reappointment.
- (5) A member of the Committee shall not receive any remuneration for being a member thereof, but must be reimbursed for actual expenses incurred in connection therewith. R.S., c. 438, s. 5; 2005, c. 28, s. 2.

Duties and powers

- 6 The Committee is responsible to the Minister and has power to
- (a) make recommendations to the Minister concerning the administration, classification and acquisition of special places;
 - (b) conduct research with respect to existing and possible future special places;
 - (c) recommend regulations to the Minister with respect to management plans and other matters related to ecological sites;
 - (d) conduct research concerning the possible removal from designation of existing special places;
 - (e) ensure that, if a special places designation is being considered that appears to effect the operation of some other public Act, the persons charged with the administration of that Act have the opportunity to make representations to the Committee before any recommendations are made to the Minister;
 - (f) do any other thing that the Minister may assign the Committee with respect to assisting the Minister in the proper administration of this Act. R.S., c. 438, s. 6.

Designation of protected site

- 7 (1) The Minister, with the approval of the Governor in Council, may designate any land within the Province, including land covered with water, that

has outstanding archaeological, historical or palaeontological significance as a protected site.

(2) A designation made pursuant to subsection (1) must contain a description of the land sufficient to identify it and a copy of the designation must be deposited in the registry of deeds for the registration district in which the land is situated.

(3) Every designation of a protected site must be published in one edition of the Royal Gazette and the effective date of such designation is the date of the publication of the aforesaid designation in the Royal Gazette.

(4) Such publication must contain a description of the protected site sufficient to identify the boundaries of same.

(5) The Minister may place appropriate signs or other devices at a protected site indicating that the land is a protected site, but no sign or device is required to be placed at a site.

(6) Where the land to be so designated is privately owned,

(a) the Minister shall cause notice of the intention to designate to be served upon each registered owner not less than 30 days prior to designation;

(b) the owner may comment upon the proposed designation within the period of time specified by the Minister; and

(c) no person is entitled to any damages for compensation for injurious affection as a result of the designation of land or land covered with water. R.S., c. 438, s. 7; 1990, c. 45, s. 3.

Termination of designation

8 (1) Where it appears to the Committee that the continued designation of land as a protected site is inappropriate, the Committee may recommend to the Minister that the designation be terminated.

(2) Before making a recommendation pursuant to subsection (1), the Committee shall give notice of the proposed recommendation in a newspaper circulating in the Province giving at least 30 days for receipt by the Committee of written submissions by the public and, where the land is privately owned, the notice must be served on the registered owner of the land.

(3) The Committee shall not make a recommendation pursuant to subsection (1) until 30 days following the deadline for receipt of written submissions pursuant to subsection (2).

(4) Upon receipt by the Minister of a recommendation pursuant to this Section to terminate a designation, the Minister may, with the approval of the Governor in Council, terminate the designation.

(5) Where the Minister terminates the designation of land, the Minister shall cause notice of the termination to be deposited in the registry of deeds

for the registration district in which the land is situate and, where the land is privately owned, to be sent to the registered owner of the land. 1990, c. 45, s. 4.

Heritage research permit

9 (1) No person shall carry out explorations or make excavations on any land in the Province, including land covered with water, for the purpose of seeking heritage objects, without a heritage research permit.

(2) The Minister, or a person authorized by the Minister, may issue heritage research permits authorizing archaeological, historical or palaeontological explorations and excavations in the Province.

(3) A heritage research permit is subject to the following:

(a) the application must be made on a form approved by the Minister;

(b) the applicant must be competent to conduct heritage research as proposed on the form provided;

(c) the permit holder shall submit a report on the work done to the Minister within the time specified on the permit and in such detail as the Minister requires; and

(d) the permit holder shall deliver possession of all heritage objects recovered while excavating, pursuant to the heritage research permit, to the Museum or to any other public institution that the Minister may designate, which objects become the property of the Province.

(4) Notwithstanding clause (3)(d), the Museum or other public institution designated by the Minister pursuant to said clause (3)(d) may return any heritage object received to the person who recovered it, subject to such conditions as to the care and disposition of the object as the Museum or other institution, as the case may be, determines. R.S., c. 438, s. 8; 1990, c. 45, s. 5.

Effect of permit

10 A permit issued under this Act does not

(a) authorize the permit holder to enter upon lands or remove heritage objects therefrom without the consent of the owner or person entitled to grant consent; or

(b) relieve the permit holder from compliance with any enactment, regulation or law relating to excavations on land. R.S., c. 438, s. 9.

Cancellation of permit

11 The Minister may cancel a permit at any time and the permit shall, upon cancellation, cease to be in force. R.S., c. 438, s. 10.

Seizure of heritage object

12 Where a heritage object has been recovered from any site in the Province by a person who is not a holder of a permit or by a permit holder in contravention of the permit holder's permit, the Minister or a person authorized by the

Minister may seize the heritage object and deliver it to the Museum, and the object becomes the property of the Province. R.S., c. 438, s. 11; 1994-95, c. 17, s. 1.

Prohibition where no permit

13 Notwithstanding the issue of a licence pursuant to the *Oak Island Treasure Act* or the former *Treasure Trove Act*, no person shall

(a) excavate or otherwise alter a protected site or remove any objects from a protected site unless the person is the holder of a permit;

(b) knowingly destroy, desecrate, deface or alter archaeological or historical remains or a palaeontological site whether designated or not unless the person holds a heritage research permit to excavate the specific site. R.S., c. 438, s. 12; 1990, c. 45, s. 6; 2010, c. 39, s. 15.

Stop order

14 (1) Where, in the opinion of the Minister, any special place, whether designated or not, is threatened with destruction by reason of commercial, industrial or other development or activity, the Minister may order the development or activity to cease in whole or in part for 30 days and, upon the recommendation of the Minister, the Governor in Council may continue the order until a site survey and, if necessary, a site investigation and salvage is carried out under the direction of the Museum.

(2) Where such a development or activity is carried out by a government department or agency or a developer, the Governor in Council may require that funds be provided by that department, agency or developer to cover the costs of site survey, investigation and salvage.

(3) Where a site survey, investigation or salvage is ordered, it must be carried out in such a manner that it will not cause undue hardship on the agency, owner or person responsible for the development or activity. R.S., c. 438, s. 13; 1990, c. 45, s. 7.

Designation of ecological site

15 (1) The Minister, with the approval of the Governor in Council, may on Crown land or on private land with the consent of the owner, including land covered with water, designate certain areas of the Province as ecological sites.

(2) The Minister may formulate a management plan for an ecological site at any time and may seek the assistance of the Committee when doing so.

(3) Every designation of an ecological site must be published in one edition of the Royal Gazette and the effective date of such designation is the date of the publication of the designation in the Royal Gazette.

(4) Such publication must contain a description of the ecological site sufficient to identify the boundaries of same.

(5) The Minister may place appropriate signs or other devices at an ecological site indicating that the land is a protected site, but no sign or device is required to be placed at a site.

(6) The ecological sites must be designated by a description of the lands sufficient to identify them and such designation must be registered as soon as possible by the Minister in the registry of deeds office for the registration district in which the lands are situated.

(7) Before the registration of the aforesaid designation, the Minister shall forthwith by registered mail give notice to the registered owner or owners of the lands so designated.

(8) A designation of an ecological site

(a) runs with the land to which it applies and binds all successors in title to the land or any estate in the land unless the designation is terminated pursuant to this Act; and

(b) is not affected by any tax deed conveying the land to which it applies.

(9) Subsection (8) applies to all designations of ecological sites whether made before, on or after July 9, 2004. R.S., c. 438, s. 14; 1990, c. 45, s. 8; 2004, c. 6, s. 31; 2005, c. 28, s. 3.

Termination of designation

16 (1) Where it appears to the Committee that the continued designation of land as an ecological site is inappropriate, the Committee may recommend to the Minister that the designation be terminated.

(2) Before making a recommendation pursuant to subsection (1), the Committee shall give notice of the proposed recommendation in a newspaper circulating in the Province giving at least 30 days for receipt by the Committee of written submissions by the public and, where the land is privately owned, the notice must be served on the registered owner of the land.

(3) The Committee shall not make a recommendation pursuant to subsection (1) until 30 days following the deadline for receipt of written submissions pursuant to subsection (2).

(4) Upon receipt by the Minister of a recommendation pursuant to this Section to terminate a designation, the Minister may, with the approval of the Governor in Council, terminate the designation.

(5) Where the Minister terminates the designation of land, the Minister shall cause notice of the termination to be deposited in the registry of deeds for the registration district in which the land is situated and, where the land is private land, to be sent to the registered owner of the land. 1990, c. 45, s. 9.

Management of designated Crown land

17 Crown lands designated as ecological sites are under the administration and control of the Minister. R.S., c. 438, s. 15.

Ecological research permit

18 (1) The Minister, or a person authorized by the Minister, may issue ecological research permits authorizing ecological research or other ecological activities within the designated ecological sites.

(2) Such permits so issued shall be subject to the following:

(a) an application for a permit must be made on a form approved by the Minister;

(b) the applicant must be competent to conduct ecological research or other ecological activities as proposed on the form provided;

(c) the permit holder shall submit a report on the work done or activities carried on to the Minister within the time specified on the permit; and

(d) the permit may be made subject to such conditions as the Minister, or a person authorized by the Minister, may prescribe in order to protect the designated ecological site or some part thereof from any such proposed research or activities, and, if the lands are privately held, such research or activities must be carried on with the written consent of the landowner.

(3) The Minister may cancel the permit at any time and the permit shall, upon cancellation, cease to be in force. R.S., c. 438, s. 16; 1990, c. 45, s. 10.

Ecological research permit

19 After the designation of an ecological site, no person shall carry on any activity that may alter any part of the terrain or of the vegetation or carry on any acts that may disturb the fauna or the flora within the designated site unless such person has first obtained an ecological research permit from the Minister, or a person authorized by the Minister. R.S., c. 438, s. 17; 1990, c. 45, s. 11.

Prohibition on disposal or grant of rights

20 (1) The Province, upon the designation of an ecological site upon Crown lands, and notwithstanding the provision of any other special or general statute, shall not grant, lease or otherwise dispose of lands that comprise such a site.

(2) Any grant of the Province of any rights under any other statute, including, but not so as to restrict the generality thereof, the mining rights, fishing and game rights, forestry rights and water rights, is forbidden on any ecological site designated and any grant purported to be made is null and void. R.S., c. 438, s. 18.

Restriction on expropriation

21 Notwithstanding any general or special Act, including the *Expropriation Act*, no expropriation power can be exercised within the limits of a designated ecological site without the express authorization of the Minister, in addition to any other authorization necessary to carry out such expropriation power. R.S., c. 438, s. 19.

Regulations

22 (1) The Governor in Council, upon the recommendation of the Minister, may make regulations for the protection, preservation and use of special places on Crown lands and with respect to special places on private lands with the further consent of the landowner and, generally and without restricting the generality thereof, may make regulations

- (a) establishing management plans for designated ecological sites;
- (b) for the classification of ecological sites and the uses to which each classification can be put;
- (c) for the control of entry onto a special place and the control of activities within such places;
- (d) respecting the control, regulation, restriction or prohibition of any kind of use, development or occupation of the land or of any of the natural resources in a special place;
- (e) respecting the sign, plaques and markers to be placed at a special place;
- (f) determining measures, including financial incentives, to encourage the identification, preservation and protection of special places;
- (g) respecting generally any other matter or thing necessary or incidental to the protection of special places.

(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. 438, s. 20; 1990, c. 45, s. 12.

Service of notice

23 (1) Service of any notice required to be made by this Act is sufficient if served upon the person by registered mail at the person's last known address.

(2) Where a person upon whom service should be made cannot be identified or the person's address is not known, service is sufficient if notice is affixed in a conspicuous place on the land and a copy is delivered to any occupant of the land. R.S., c. 438, s. 21.

Offence and penalty

24 (1) Every person who contravenes any provision of this Act or who, being the holder of a permit, fails to comply with any term or condition of any permit issued under this Act is guilty of an offence and is liable on summary conviction to a penalty not exceeding \$10,000.

(2) Where a corporation is convicted of an offence against this Act, the maximum penalty that may be imposed upon the corporation is \$100,000 and not as provided in subsection (1). R.S., c. 438, s. 22; 1990, c. 45, s. 13.

Existing designations and permits preserved

25 Notwithstanding the repeal of the former *Historical Objects Protection Act*, every designation made and permit issued under that Act remains good and valid. R.S., c. 438, s. 23.

CHAPTER S-31

An Act Respecting Statistics of Nova Scotia

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Short title

1 This Act may be cited as the *Statistics Act*. R.S., c. 441, s. 1.

Interpretation

2 In this Act,

“Agency” means the Nova Scotia Statistics Agency established by this Act;

“department” includes any department, board, commission or agency of the Province;

“Director” means the Director of Statistics designated under this Act;

“Minister” means the member of the Executive Council to whom the administration of this Act is assigned by the Governor in Council;

“statistical agency of Canada” means Statistics Canada or its successor. R.S., c. 441, s. 2.

Nova Scotia Statistics Agency

3 (1) There is established, within the public service of the Province, a statistical branch to be known as the Nova Scotia Statistics Agency.

(2) The Agency, for administrative purposes, is attached to and forms a part of the department of the Government designated by the Governor in Council. R.S., c. 441, s. 3.

Functions and powers

4 (1) It is the function of the Agency and the Agency has power to plan, promote and develop integrated social and economic statistics relating to the Province and, in particular, to

(a) collect, compile, analyze, abstract and publish statistical information relating to the commercial, industrial, financial, social, economic and general activities and condition of the Province and persons in the Province;

(b) collaborate with or assist departments in the collection, compilation and publication of statistical information, including statistics derived from the activities of those departments; and

(c) promote the avoidance of duplication in the information collected by the departments.

(2) In addition to the functions of the Agency under subsection (1), the Governor in Council may authorize and empower the Agency to carry out any statistical project or program or provide any statistical service that the Governor in Council considers necessary. R.S., c. 441, s. 4.

Director of Statistics and personnel

5 (1) The Minister may designate a person in the public service, including a person appointed in accordance with the *Civil Service Act*, as the Director of Statistics.

(2) The Director is the chief executive officer and manager of the Agency and shall

(a) advise the Minister on matters relating to the Agency;

(b) advise departments on and assist with statistical matters, projects and programs; and

(c) under the direction of the Minister, supervise the administration of this Act and matters arising under the Act.

(3) Such clerical, technical, professional and other staff as may be required for the administration of this Act must be appointed in accordance with this Act.

(4) The Minister may employ or engage persons or temporary assistants for the purpose of assisting with any matter, project or program undertaken by the Agency or under this Act and such persons or assistants for the purposes of this Act are deemed to be persons employed under this Act while employed or engaged.

(5) The Minister may, by order, prescribe such rules, instruction, schedules and forms as may be necessary for conducting the work and affairs of the Agency or the collecting, compiling and publishing of statistics and other information. R.S., c. 441, s. 5.

Oath of office

6 (1) The Director and every person employed for the purposes of this Act or employed or engaged in any matter, project or program to which this Act

applies shall, before entering upon the Director's or person's duties, take and subscribe an oath or affirmation in the following form:

I, , do solemnly swear/affirm that I will faithfully and honestly fulfill my duties prescribed by or under the Statistics Act and all rules and instructions thereunder and that I will not without due authority disclose or make known any matter or thing that comes to my knowledge by reason of my employment.

(2) The oath or affirmation referred to in subsection (1) must be taken before a barrister or commissioner of the Supreme Court, a notary public or a person authorized to administer an oath or affirmation within the Province and must be recorded in the manner directed by the Minister. R.S., c. 441, s. 6.

Discrimination

7 (1) The Minister, the Agency or the Director shall not, in the performance of their functions or the execution of the powers conferred by this Act, discriminate between individuals or companies to the prejudice of any such individual or company.

(2) Notwithstanding anything in this Act, the Minister may authorize the use of sampling methods for the collection of statistics. R.S., c. 441, s. 7.

Right of access of Director

8 (1) A person having the custody or charge of any documents or records that are maintained in any department or in any municipal office, company, business or organization, from which information sought in respect of the objects of this Act can be obtained or that would aid in the completion or correction thereof, shall grant access to the documents or records for those purposes to the Director or a person authorized by the Director.

(2) Any document purporting to be signed by the Minister or the Director that refers to any appointment or removal of, or setting forth any instructions to, any person employed in the administration of this Act is evidence of such appointment, removal or instructions, and that such letter was signed and addressed as it purports to be. R.S., c. 441, s. 8.

Secrecy

9 (1) Subject to this Section and except for the purpose of a prosecution under this Act,

(a) no person, other than a person employed or engaged under this Act and sworn under Section 6, shall be permitted to examine any identifiable individual return made for the purposes of this Act; and

(b) no person, who has been sworn under Section 6, shall disclose or knowingly cause to be disclosed by any means any information obtained under this Act in such manner that it is possible from any such disclosure to relate the particulars obtained from any individual return to any identifiable individual person, business or organization.

(2) The Minister may, by order, authorize

(a) the particulars of any information obtained in the course of administering this Act to be communicated to a statistical agency of Canada pursuant to an agreement under Section 11; and

(b) the particulars of any information collected jointly with a department or corporation pursuant to an agreement under Section 12 to be communicated to the department or corporation that was party to the collecting of the information.

(3) The Director may, by order, authorize the following information to be disclosed:

(a) information collected by persons, organizations or departments for their own purposes and communicated to the Agency, but such information when communicated to the Agency is subject to the same secrecy requirements to which it was subject when collected and may be disclosed by the Agency only in the manner and to the extent agreed upon by the collector thereof and the Director;

(b) information relating to a person or organization in respect of which disclosure is consented to in writing by the person or organization concerned;

(c) information relating to a business in respect of which disclosure is consented to in writing by the owner for the time being of the business;

(d) information available to the public under any statute or other law;

(e) information in the form of an index or list of

(i) the names and locations of individual establishments, firms or businesses,

(ii) the products produced, manufactured, processed, transported, stored, purchased or sold, or the services provided, by individual establishments, firms or businesses in the course of their business, or

(iii) the names and addresses of individual establishments, firms or businesses that are within specific ranges of numbers of employees or persons engaged in or constituting the work force. R.S., c. 441, s. 9.

Privileged information

10 (1) Except for the purpose of a prosecution under this Act, any return, made to the Agency or the Director pursuant to this Act, and any copy of the return in the possession of the respondent, is privileged and may not be used as evidence in any proceedings whatever, and no person sworn under Section 6 shall by an order of any court, tribunal or other body be required in any proceedings whatever to give oral testimony or to produce any return, document or record with respect to any information obtained in the course of administering this Act.

(2) This Section applies in respect of any information that the Agency is prohibited by this Act from disclosing or that may be disclosed only pursuant to an authorization under subsection 9(2) or (3). R.S., c. 441, s. 10.

Agreement with statistical agency of Canada

11 (1) The Minister may make and enter an agreement with a statistical agency of Canada for the exchange with, or transmission to, the statistical agency of Canada of

- (a) replies to any specific statistical inquiries;
- (b) replies to any specific classes of information collected under this Act or an Act of the Parliament of Canada; and
- (c) any tabulations and analyses based on replies referred to in clause (a) or (b).

(2) An agreement made under this Section must be approved by the Governor in Council and may be made in the name of the Crown, the Government of the Province or the Minister.

(3) Except in respect of information described in subsection 9(3), no agreement entered into under this Section applies to any reply made to or information collected by the Agency before the date that the agreement was entered into or is to have effect, whichever is the later date.

(4) Where any information, in respect of which an agreement under this Section applies, is collected by the Agency, the Agency shall when collecting information advise the respondent of any agreement under this Section with the statistical agency of Canada and to which the information secured from the respondent may be communicated under that agreement. R.S., c. 441, s. 11.

Other agreements for exchange of information

12 (1) The Minister may make and enter an agreement with a department, a regional municipality, a town or a municipality of a county or district, a corporation or an organization for the exchange of information collected jointly with any one of them and for subsequent tabulation or publication based on such information.

- (2) An agreement under subsection (1) must provide that
- (a) the respondent must be informed that the information is being collected jointly on behalf of the Agency and the department or corporation, as the case may be, by a notice to that effect; and
 - (b) the agreement does not apply in respect of any respondent who gives notice in writing to the Director that the respondent objects to sharing of information between the Agency and the department or corporation, as the case may be.

(3) An exchange of information pursuant to an agreement under this Section may, subject to subsection (2), include replies to original inquiries and supplementary information provided by a respondent to the Agency and the department or corporation jointly collecting this information. R.S., c. 441, s. 12.

Offence respecting performance of duty

13 Every person who, after taking the oath or affirmation set out in subsection 6(1),

- (a) deserts from the person's duty, or wilfully makes any false declaration, statement or return in the performance of the person's duties;
- (b) in the pretended performance of the person's duties, obtains or seeks to obtain information that the person is not duly authorized to obtain; or
- (c) violates clause 9(1)(b),

is guilty of an offence and is liable on summary conviction to a penalty not exceeding \$1,000. R.S., c. 441, s. 13.

Offence by person responding to questions

14 Every person who, without lawful excuse,

- (a) refuses or neglects to answer, or wilfully answers falsely, any question requisite for obtaining any information sought in respect of the objects of this Act or pertinent thereto, that has been asked of the person by any person employed or engaged under this Act; or
- (b) refuses or neglects to furnish any information or to fill in to the best of the person's knowledge and belief any schedule or form that the person has been required to fill in, and to return the same when and as required of the person pursuant to this Act, or knowingly gives false or misleading information or practises any other deception thereunder,

is guilty of an offence and is liable on summary conviction to a penalty not exceeding \$500. R.S., c. 441, s. 14.

Offence to refuse access or to obstruct

15 Every person who

- (a) having the custody or charge of any document or records that are maintained in any department or in any municipal office, company, business or organization, from which information sought in respect of the objects of this Act can be obtained or that would aid in the completion or correction thereof, refuses or neglects to grant access thereto to any person authorized for the purpose by the Director; or
- (b) otherwise in any way wilfully obstructs or seeks to obstruct any person employed in the execution of any duty under this Act,

is guilty of an offence and is liable on summary conviction to a penalty not exceeding \$200. R.S., c. 441, s. 15.

Offence respecting disclosure

16 Every person who, after taking the oath or affirmation set out in subsection 6(1),

- (a) wilfully discloses or divulges, directly or indirectly to any person not entitled under this Act to receive the same, any information obtained by the person in the course of the person's employment that might exert an influence upon or affect the market value of any stocks, bonds or other security or any product or article; or

(b) uses any such information for the purpose of speculating in any stocks, bonds or other security or any product or article,

is guilty of an offence and is liable on summary conviction to a penalty not exceeding \$5,000. R.S., c. 441, s. 16.

Offence of impersonation

17 Every person who

(a) personates the Director or an employee of the Agency for the purpose of obtaining information from any person; or

(b) purports to be making an inquiry under the authority of this Act when the person is not an officer, employee, agent or assistant of the Agency,

is guilty of an offence and is liable on summary conviction to a penalty not exceeding \$1,000. R.S., c. 441, s. 17.

CHAPTER S-32

An Act to Respect the Status of the Artist

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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 *Status of the Artist Act*. 2012, c. 15, s. 1.

Purpose

2 The purpose of this Act is to

- (a) acknowledge the artist’s role in building the Province’s identity and culture and the enhancement that art brings to the Province’s social and economic well-being;
- (b) identify the terms by which Nova Scotians define who, in the Province, is a professional artist; and
- (c) acknowledge the unique working conditions of the Province’s professional artists and the right of
 - (i) artists to freedom of expression and association,
 - (ii) associations representing artists to be recognized in law and to promote the professional and socio-economic interests of their members, and
 - (iii) artists to have access to advisory forums in which they may express their views on their status and any other questions concerning them. 2012, c. 15, s. 2.

Interpretation

3 In this Act,
“artist” means an individual who creates art through an act of creative expression;

“artists association” means an organization or a branch or local of any organization that

(a) has among its objectives the management or promotion of the professional, social and economic interests of artists who are members of the organization; or

(b) is certified by the Canadian Artists and Producers Professional Relations Tribunal established by the *Status of the Artist Act* (Canada);

“Department” means the Department of Communities, Culture, Tourism and Heritage;

“Minister” means the Minister of Communities, Culture, Tourism and Heritage;

“Government” means the Government of the Province;

“professional artist” means an artist who meets the criteria set out in this Act. 2012, c. 15, s. 3.

Supervision of Act

4 The Minister has the general supervision and management of this Act. 2012, c. 15, s. 4.

Principles affirmed

5 The following principles are affirmed and recognized:

(a) artists in the Province contribute to the cultural, educational, social and economic fabric of the Province;

(b) the Government performs an indispensable role in fostering and nurturing a healthy and vibrant artistic sector;

(c) the Government will encourage recognition of the contribution of artists. 2012, c. 15, s. 5.

Professional artists

6 A professional artist is an artist who has received compensation from the artist’s artistic activity, including proceeds, fees, commissions, salaries, royalties, residuals, grants and awards that may reasonably be considered to be income, and who meets at least four of the following criteria:

(a) the artist has received public or peer recognition

(i) in the form of honours, awards, professional prizes, scholarships, honourable mentions, appointments to an adjudication committee or invitations to participate in a juried exhibition or performance, or

(ii) by publicly circulated critical appraisal;

(b) the artist’s artistic activity has been presented to the public by means of exhibitions, publications, performances, readings, screenings or other means;

- (c) the artist promotes or markets the artist's artistic work by
 - (i) activities appropriate to the nature of the artist's work, including attending auditions, seeking sponsorships, agents, engagements or exhibitions and engaging in similar activities, or
 - (ii) being represented by a dealer, publisher, agent or similar representative appropriate to the nature of the artist's artistic work;
- (d) the artist has received training or acquired knowledge related to the artist's artistic activity
 - (i) in an educational institution or through apprenticeship with a practitioner or teacher recognized within the artist's profession, or
 - (ii) within the established practice of the artist's cultural traditions;
- (e) the artist holds copyright in the artist's artistic work and has received royalty or residual payments based on that copyright;
- (f) the artist has a business licence issued by the municipality in which the artist is carrying on business related to the artist's artistic activity;
- (g) the artist has membership in an artists association. 2012, c. 15, s. 6.

Government undertakings

7 The Government undertakes, so far as it considers reasonable and appropriate, to

- (a) honour scale agreements of artists associations representing the interests of professional artists engaged by the Government;
- (b) honour protocols respecting working conditions that have been established by artists associations representing the interests of professional artists engaged by the Government;
- (c) facilitate cohesion between Government departments that have interactions with the Province's arts and culture sector;
- (d) work with artists and artists associations to guide and inform the Government on matters relating to arts and culture;
- (e) within the parameters of the Province of Nova Scotia Sustainable Procurement Policy, the *Public Procurement Act* and applicable trade agreements, give fair consideration to cultural product produced in the Province when purchasing goods and services;
- (f) support access to artistic training and education and cultural awareness for young Nova Scotians, artists and interested members of the public;
- (g) oversee and conduct ongoing research that benefits the arts and culture sector;
- (h) provide investment for artists, arts organizations and artists associations;

- (i) invest in the market development of artistic goods and services and support the promotion and dissemination of cultural product produced in the Province, at home and abroad;
- (j) encourage public recognition of art, artists' work and cultural development and foster growth and appreciation for arts and culture in Nova Scotian society;
- (k) support the development of infrastructure necessary for a healthy artistic ecology, including resources that are human, physical or knowledge based; and
- (l) recognize that artists associations can inform on appropriate levels of compensation to be paid to professional artists for works created or services rendered by professional artists. 2012, c. 15, s. 7.

Government recognition of importance of improvement

8 The Government shall recognize the importance of continued improvement to the lives and working conditions of professional artists by, so far as it considers reasonable and appropriate,

- (a) encouraging appropriate labour standards for professional artists in their usual places of employment, including
 - (i) health and safety standards, and
 - (ii) the use of binding contracts;
- (b) providing programs and investment to support the arts and culture sector in the Province; and
- (c) giving consideration to the working practices and unique cycles of production of artists when professional artists interact with Government departments. 2012, c. 15, s. 8.

Annual joint report

9 (1) The Creative Nova Scotia Leadership Council – Conseil de leadership pour la création en Nouvelle-Écosse and Arts Nova Scotia – Arts Nouvelle-Écosse shall make a joint report annually to the Minister on matters relating to this Act.

(2) The Chair of the Creative Nova Scotia Leadership Council – Conseil de leadership pour la création en Nouvelle-Écosse and the Chair of Arts Nova Scotia – Arts Nouvelle-Écosse shall submit the joint report to the Minister no later than July 31st in each year. 2012, c. 15, s. 9.

Regulations

- 10 (1)** The Governor in Council may make regulations
- (a) defining any word or expression used but not defined in this Act;
 - (b) 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*, 2012, c. 15, s. 10.

CHAPTER S-33

An Act for Preventing Frauds and Perjuries

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Short title

1 This Act may be cited as the *Statute of Frauds*. R.S., c. 442, s. 1.

Interpretation

2 In this Act,

“land” includes mining areas and other mining rights and privileges, unless the context otherwise requires;

“writing” includes any information, that may affect real property registered or that may be registered pursuant to the *Land Registration Act*, in a form that can be converted into a writing by a machine or a device, including information on microfilm, in electronic, mechanical or magnetic storage, or in electronic data signals. R.S., c. 442, s. 2; 2001, c. 6, s. 126.

Creation of interest in land

3 Every estate, or other interest in land not put in writing and signed by the person creating or making the same, or the person’s agent thereunto lawfully authorized by writing, has the force of a lease or estate at will only, except a lease not exceeding the term of three years from the making thereof, whereupon the rent reserved amounts to two thirds at least of the annual value of the land demised. R.S., c. 442, s. 3.

Assignment, grant or surrender of interest

4 No interest in land may be assigned, granted or surrendered except by deed or note in writing signed by the party assigning, granting or surrendering the same, or by the party’s agent thereunto authorized by writing, or by act and operation of law. R.S., c. 442, s. 4.

Creation of trust in land

5 No declaration or creation of any trust in land shall be valid unless it is in writing, signed by the person entitled to create or declare the trust, or by the person's last will, but this Section does not extend to any trust in land arising or resulting by implication or construction of law or that may be transferred or extinguished by act or operation of law. R.S., c. 442, s. 5.

Grant or assignment of trust

6 No grant or assignment of any trust is valid unless it is in writing, signed by the person granting or assigning the same, or by the person's last will. R.S., c. 442, s. 6.

Action upon agreement

7 No action may be brought

(a) whereby to charge any executor or administrator upon any special promise to answer damages out of the executor's or administrator's own estate;

(b) whereby to charge any person upon any special promise to answer for the debt, default or miscarriage of another person;

(c) whereby to charge any person upon any agreement made upon consideration of marriage;

(d) upon any contract or sale of land or any interest therein; or

(e) upon any agreement that is not to be performed within the space of one year from the making thereof,

unless the promise, agreement or contract upon which the action is brought, or some memorandum or note thereof, is in writing, signed by the person sought to be charged therewith or by some other person thereunto by the person lawfully authorized. R.S., c. 442, s. 7.

Promise to answer for another

8 No special promise made by any person to answer for the debt, default or miscarriage of another person, being in writing and signed by the party to be charged therewith, or by some other person by the person thereunto lawfully authorized, may be deemed invalid to support an action or other proceeding to charge the person by whom such promise was made, by reason only that the consideration for such promise does not appear in writing or by necessary inference from a written document. R.S., c. 442, s. 8.

Promise to pay debt contracted in infancy

9 No action may be maintained whereby to charge any person upon any promise, made after full age, to pay any debt contracted during infancy, or upon any ratification after full age of any promise or simple contract made during infancy, unless such promise or ratification is made by some writing signed by the party to be charged therewith or by the party's agent duly authorized to make such promise or ratification. R.S., c. 442, s. 9.

Representation enabling another to obtain goods

10 No action may be brought whereby to charge any person upon or by reason of any representation or assurance made or given concerning or relating to the character, conduct, credit, ability, trade or dealings of any other person to the intent or purpose that such other person may obtain credit, money or goods thereupon, unless such representation or assurance is made in writing, signed by the party to be charged therewith. R.S., c. 442, s. 10.

CHAPTER S-34

**An Act to Provide for
Statute Consolidation and Revision**

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Short title

1 This Act may be cited as the *Statute Revision Act*. R.S., c. 443, s. 1.

Consolidation and Revision Officer

2 The Chief Legislative Counsel is appointed Consolidation and Revision Officer to revise and consolidate the statutes of the Province in accordance with this Act. R.S., c. 443, s. 2.

Duties

3 (1) The Consolidation and Revision Officer, under the direction of the Chair of the Law Amendments Committee of the Assembly, shall from time to time consolidate and revise the statutes enacted by the Legislature and, without limiting the generality of the foregoing and to the extent necessary or advisable to consolidate and revise the statutes, may

- (a) alter the numbering and arrangement of the statutes and of the sections thereof;
- (b) combine two or more statutes or parts thereof or subdivide any statute into two or more statutes;
- (c) add, change or omit any title of any statute;
- (d) change the language to preserve a uniform mode of expression;
- (e) make minor amendments to bring out more clearly what is considered to be the intention of the Legislature or to reconcile seemingly inconsistent enactments or to correct clerical, typographical or printing errors;

(f) omit any forms or schedules contained in any statute and add authority to the statute for the forms or schedules to be prescribed by regulation.

(2) The Consolidation and Revision Officer may omit from the consolidation and revision any statutes or parts of statutes that are repealed, spent or inoperative or, although printed among the public general statutes, have reference only to a particular person, place or municipality without general application throughout the Province. R.S., c. 443, s. 3.

Report to Committee

4 (1) Where the Consolidation and Revision Officer consolidates and revises statutes, the Consolidation and Revision Officer shall by report submit the statutes consolidated and revised to the Law Amendments Committee for examination.

(2) The Law Amendments Committee in carrying out duties conferred on it by this Act is declared, pursuant to Section 39 of the *House of Assembly Act*, not to be dissolved by prorogation of the Assembly and is authorized to continue its duties after the Assembly is prorogued. R.S., c. 443, s. 4.

Report to Lieutenant Governor and deposit

5 (1) When the Law Amendments Committee completes its examination and approves the report of the Consolidation and Revision Officer, it shall report the statutes consolidated and revised to the Lieutenant Governor.

(2) The statutes consolidated and revised shall be attested by the signature of the Lieutenant Governor, countersigned by the Attorney General, and deposited with the Chief Clerk of the Assembly.

(3) The copy deposited with the Chief Clerk of the Assembly is the original of the statutes. R.S., c. 443, s. 5.

Proclamation

6 (1) After deposit of the statutes consolidated and revised with the Chief Clerk of the Assembly, the Governor in Council may by proclamation declare the day upon which the statutes consolidated and revised, or any part thereof, come into force and effect.

(2) On, from and after the day declared by the Governor in Council, the statutes consolidated and revised, or any part thereof, as the case may be, are in force and effect as if they were enacted by the Legislature to come into force and effect on, from and after that day.

(3) On, from and after the day on which the statutes consolidated and revised come into force and effect, the statutes and parts of statutes shown as repealed in the schedule to the statutes consolidated and revised are repealed on, from and after that day to the extent provided in the schedule. R.S., c. 443, s. 6.

Interpretation

7 Statutes forming part of the statutes consolidated and revised coming into force pursuant to this Act do not operate as new laws but are to be interpreted, construed and given effect as a consolidation of the statutes that they replace. R.S., c. 443, s. 7.

Consolidation

8 (1) The Consolidation and Revision Officer may from time to time prepare and cause to be published a consolidation of the statutes in bound or looseleaf form or in electronic form and, without limiting the generality of the foregoing, may alter the numbering and arrangement of the statutes within such consolidation.

(2) Where the Consolidation and Revision Officer causes a loose-leaf consolidation of the statutes to be printed, the Consolidation and Revision Officer may from time to time prepare and cause to be printed replacement pages to update the consolidation.

(3) A statute published in a consolidation published pursuant to this Section may be given as evidence of that statute in any court pursuant to the *Evidence Act*. R.S., c. 443, s. 8; 1999 (2nd Sess.), c. 8, s. 19.

Administration expenses

9 Unless otherwise provided, expenses incurred pursuant to this Act are to be paid out of the General Revenue Fund on the direction of the Speaker. R.S., c. 443, s. 9.

CHAPTER S-35

**An Act Respecting
Keepers of Storage Warehouses**

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Short title

1 This Act may be cited as the *Storage Warehouse Keepers Act*. R.S., c. 447, s. 1.

Interpretation

2 In this Act,

“goods and chattels” includes, in addition to the things usually understood thereby, any movable property of any kind whatsoever that may be left with a keeper of a storage warehouse for storage;

“keeper of a storage warehouse” includes the proprietor, keeper or manager of a warehouse, building shed, storehouse, yard, wharf or other place for the storage of goods, chattels, wares or merchandise delivered to the person as bailee for hire, whether the person is engaged in other business or not. R.S., c. 447, s. 2.

Right of sale

3 A keeper of a storage warehouse shall have, in addition to the keeper’s ordinary lien, the right absolutely to sell and dispose by public auction of any goods, chattels, wares or merchandise that may have been deposited or stored with the keeper or in or upon the tenements or premises kept by the keeper for the storage of goods and chattels, where the payment of storage charges in respect of such goods, or rent or hire of the premises in which such goods are stored, are or is in arrears. R.S., c. 447, s. 3.

Time period before sale

4 No such sale as aforesaid may be made until after the said goods, chattels, wares or merchandise have been for the space of three months in such charge or custody or in or upon such premises without the storage charges or rent or hire having been paid or satisfied. R.S., c. 447, s. 4.

Advertisement of notice of intended sale

5 At least one month before any such sale is made, the keeper of the storage warehouse shall cause to be inserted at least three times in at least one newspaper circulating in the district where the goods, chattels, wares or merchandise are stored, an advertisement containing notice of the intended sale and giving shortly a description of the goods intended to be sold, together with the name of the owner or person who deposited or left the same, where known. R.S., c. 447, s. 5.

Notice to owner

6 In addition to the advertisement required by Section 5, the keeper of the storage warehouse shall, at least one month before any such sale, cause to be sent by post in a prepaid registered letter, addressed to the last known address of the owner or person depositing or leaving such goods, chattels, wares or merchandise for storage, a notice of such intended sale. R.S., c. 447, s. 6.

Proceeds of sale and surplus

7 Upon the sale being made as aforesaid the keeper of the storage warehouse may out of the proceeds of the sale keep the amount of the storage charges, rent or hire due the keeper in respect of storage of the goods, chattels, wares or merchandise, together with the costs and expenses, including cost of advertising, of the sale, and shall within 10 days after the sale pay to the Minister of Finance and Treasury Board, the surplus, if any, remaining after the sale and payment to the keeper. R.S., c. 447, s. 7.

Affidavit of verification

8 Upon such payment to the Minister of Finance and Treasury Board the amount of the surplus must be verified by the keeper of the storage warehouse by an affidavit setting out the name and last known address of the owner or person who deposited the goods for storage, the date on which the goods were left for storage, the date of the sale, the publication of advertisement, the mailing of notice, the amount received at the sale of the goods, the amount of the charges and the amount of the expenses incurred for the sale and advertising. R.S., c. 447, s. 8.

CHAPTER S-36

An Act Respecting Nova Scotia Student Aid

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Short title

1 This Act may be cited as the *Student Aid Act*. R.S., c. 449, s. 1.

Interpretation

2 In this Act,

“certificate” means a certificate of eligibility for a loan guaranteed by the Province;

“Committee” means Nova Scotia Student Aid Committee appointed in accordance with this Act;

“credit institution” means a chartered bank or such credit unions as are designated by the Minister;

“Minister” means the Minister of Advanced Education;

“student” means a person enrolled in a course of studies at an educational institution, both the course and the institution having been approved by the Committee. R.S., c. 449, s. 2.

Right to apply for certificate

3 A student who is resident in the Province and who wishes to borrow money from a credit institution may apply to the Minister for a certificate. R.S., c. 449, s. 3.

Guarantee

4 Where a credit institution makes a loan to a student in accordance with a certificate purporting to be issued to the student and signed

(a) by the Minister, or a person designated in writing by the Minister to sign certificates; and

(b) by a person designated in writing by the chief administrative officer of the educational institution in which the student is enrolled,

and accepted in good faith by the credit institution, the Province hereby guarantees the repayment of the principal and interest. R.S., c. 449, s. 4.

Payment of interest

5 The Minister of Finance and Treasury Board shall pay to a credit institution, in respect of each loan contracted by a student and guaranteed by the Province under Section 4, interest on that loan on the terms, in the manner and at the rate prescribed in the regulations. R.S., c. 449, s. 5.

Liability of minor

6 A student under 19 years is bound by a loan contracted by the student under Section 3 and this Act applies as if the student were of full age at the time the contractual liability arose. R.S., c. 449, s. 6.

Subrogation

7 Where the Province pays money under a guarantee, the Province is subrogated to the rights of the credit institution. R.S., c. 449, s. 7.

Agreements

8 The Minister may

(a) enter into arrangements with any department, branch or agency of the Province or any other public or private organization or agency to assist in carrying out the purposes and provisions of this Act;

(b) with the approval of the Governor in Council, enter into arrangements with the Government of Canada or any province to facilitate the administration or enforcement of this Act. R.S., c. 449, s. 8.

Source of funds

9 The money required to carry out this Act shall be paid out of money appropriated by the Legislature for that purpose. R.S., c. 449, s. 9; 1993, c. 44, s. 1.

False statements

10 (1) Any person who orally or in writing intentionally makes any false statement or misrepresentation or gives any false or misleading information for the purpose of obtaining a certificate or loan is guilty of an offence and liable on summary conviction to a fine not exceeding \$1,000.

(2) A prosecution for an offence may be instituted at any time within three years of the commission of the offence but not thereafter. R.S., c. 449, s. 10.

Regulations

- 11** The Governor in Council may make regulations
- (a) specifying the form and content of the certificate and the terms and conditions under which it is granted;
 - (b) defining “resident”;
 - (c) fixing the rate of interest payable by the Province on loans;
 - (d) fixing the maximum rate of interest, the repayment of which the Province will guarantee on behalf of a student;
 - (e) prescribing guidelines on which a certificate may be granted, including the amount and duration;
 - (f) prescribing the matters referred to in Section 5;
 - (g) providing for the payment of fees, costs, expenses or disbursements, legal or otherwise, incurred by credit institutions in endeavouring to recover loans guaranteed under this Act and the determination of the basis on which the payments are to be made;
 - (h) prescribing such other measures as the Governor in Council considers appropriate for carrying out this Act. R.S., c. 449, s. 11.

Existing guarantees

12 All guarantees made and delivered to a credit institution by the Minister in respect of loans made to students and guaranteed by the Minister or the Province prior to the effective date of this Act are ratified and confirmed and shall for all purposes be treated as if the said guarantees had been given pursuant to this Act. R.S., c. 449, s. 12.

Agreements

13 (1) The Minister may enter into an agreement with a credit institution whereby, in consideration of the payment of a fee by the Minister to the credit institution, the credit institution assumes all responsibility for the collection of the principal of or interest on a loan made pursuant to this Act.

(2) Where the Minister enters into an agreement with a credit institution pursuant to subsection (1), notwithstanding Section 4, the repayment of the principal and interest of any loan to which the agreement applies is not guaranteed by the Province. 1993, c. 44, s. 2.

Nova Scotia Student Aid Committee

14 (1) The Governor in Council may appoint a Nova Scotia Student Aid Committee composed of such number of persons as the Governor in Council considers advisable and may appoint one of the members to be Chair of the Committee.

(2) The Governor in Council may authorize reimbursement to the members of the Committee for expenses necessarily incurred by them in performing their duties and may pay such honoraria to such members as the Governor in Council sees fit. R.S., c. 449, s. 13.

Duties of Committee

15 The Committee shall

- (a) perform such duties as are assigned to it by the Governor in Council and the Minister;
- (b) assist and advise the Minister in the administration of this Act;
- (c) inquire into and advise the Minister on any matters or aspects pertaining to student aid; and
- (d) generally perform such other duties as the Governor in Council or the Minister directs. R.S., c. 449, s. 14.

Regulations

16 The Governor in Council, upon the recommendation of the Minister, may make regulations concerning the following:

- (a) the establishment of programs to provide financial aid to students enrolled in post-secondary educational institutions;
- (b) the administration in the Province of the *Canada Student Loans Act* and any regulations and plans thereunder or any similar type plan substituted for that now in effect under the *Canada Student Loans Act*;
- (c) such other matters as are necessarily incidental to or related to the intent and purpose of this Act or are required to implement this Act or regulations made hereunder. R.S., c. 449, s. 15.

Regulations respecting interest

17 (1) Notwithstanding the terms and conditions of a certificate, whether issued before, on or after November 25, 1993, or the terms and conditions of any grant or payment made pursuant to the regulations, whether made before, on or after November 25, 1993, the Governor in Council may make regulations to provide that interest is payable to the Province in respect of

- (a) a loan guaranteed by the Province pursuant to this Act and in default;
- (b) the overpayment or mistaken payment of a grant or payment made pursuant to the regulations that has not been repaid; or
- (c) any amount paid pursuant to this Act or the regulations that is outstanding.

(2) Regulations made pursuant to subsection (1) must prescribe the rate of interest payable.

(3) The Minister shall assess and collect any interest owing pursuant to regulations made pursuant to this Section.

(4) For greater certainty, nothing in this Section authorizes the collection of interest in respect of any period before the coming into force of the regulations made pursuant to this Section.

(5) For greater certainty, nothing in this Section affects the payment of interest payable pursuant to some authority other than this Section. 1993, c. 44, s. 3.

CHAPTER S-37

**An Act Respecting the Storage
of Subsurface Energy
in Underground Formations**

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Short title

1 This Act may be cited as the *Subsurface Energy Storage Act*. 2001, c. 37, s. 1; 2022, c. 55, s. 1.

Interpretation

2 In this Act,
“Board” means the Nova Scotia Utility and Review Board;

“chemical carriers of hydrogen” means ammonia, methanol and any other substance prescribed by the regulations as a chemical carrier of hydrogen;

“compressed air energy storage” means air injected underground at pressure for the purpose of later returning to the surface to generate electricity;

“hydrocarbon” means an organic compound containing carbon and hydrogen, and includes oil and natural gas;

“mineral” means mineral as defined in the *Mineral Resources Act*;

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

“Nova Scotia lands” means Nova Scotia lands as defined in the *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act*;

“Province” includes Nova Scotia lands;

“salt formation” means a rock formation composed predominantly of salt;

“storage area” means an area that has the geological potential to contain one or more storage reservoirs;

“storage reservoir” means space or spaces in geological formations, whether occurring naturally or otherwise, that may be used for the storage of subsurface energy, but does not include underground tanks for the storage of fuels;

“subsurface energy” means hydrocarbons, hydrogen gas, compressed air energy, carbon dioxide and anything else prescribed by the regulations as subsurface energy;

“subsurface energy storage” means the act of storing subsurface energy in an underground geological formation to be removed later or sequestered indefinitely;

“subsurface energy storage area lease” means a lease granted under Section 16;

“subsurface energy storage area licence” means a licence issued under Section 9. 2001, c. 37, s. 2; 2022, c. 55, s. 2.

Application of Act

3 This Act applies to the storage of subsurface energy in underground formations in the Province. 2001, c. 37, s. 3; 2022, c. 55, s. 3.

Supervision and management of Act

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

(2) The Minister may establish and administer policies, programs, standards, guidelines, objectives, codes of practice, directives and approval processes under this Act. 2001, c. 37, s. 4.

Registrar and areas

5 (1) The Registrar appointed under Section 4 of the *Petroleum Resources Act* shall serve as Registrar under this Act.

(2) An area for a subsurface energy storage area licence or subsurface energy storage area lease must be described by reference to mining tracts and claims as provided in the *Mineral Resources Act*. 2001, c. 37, s. 5; 2022, c. 55, s. 4.

Advisory committee and experts

6 (1) The Minister may establish an advisory committee or retain experts to advise the Minister or the Board.

(2) The Minister may

(a) specify the functions an advisory committee is to perform, including the seeking of input from the public and the manner and time period in which those functions are to be performed; and

(b) provide for the remuneration and payment of expenses to experts, witnesses and members of an advisory committee.

(3) The Board may retain experts and provide for the remuneration and payment of expenses to experts. 2001, c. 37, s. 6; 2022, c. 55, s. 5.

Prohibition

7 No person shall develop, construct, operate or abandon a storage reservoir unless authorized by this Act or the regulations. 2001, c. 37, s. 7.

Applications

8 (1) An application for

(a) a subsurface energy storage area licence;

(b) the amendment or cancellation of an existing subsurface energy storage area licence; or

(c) the renewal of an existing licence,

must be made to the Minister and meet any requirements set out in the regulations.

(2) Before accepting an application made under subsection (1), the Minister shall determine the suitability of the geological formation for the development of a storage reservoir.

(3) The Minister shall include the result of a determination made under subsection (2) in writing as part of the decision letter to the applicant.

(4) The Registrar shall record and file all applications for licences. 2022, c. 55, s. 6.

Subsurface energy storage area licences

9 (1) Upon receipt of an application pursuant to Section 8, the Minister may

- (a) require an applicant to submit any additional information the Minister considers necessary;
- (b) issue a subsurface energy storage area licence to the applicant, subject to such terms and conditions as the Minister determines;
- (c) amend a subsurface energy storage area licence previously issued to or held by the applicant, subject to such terms and conditions as the Minister determines;
- (d) renew a subsurface energy storage area licence in accordance with subsection 10(2);
- (e) refuse to issue a subsurface energy storage area licence to the applicant; or
- (f) cancel a subsurface energy storage area licence previously issued to or held by the applicant.

(2) The Registrar shall record and file all licences issued under this Section. 2001, c. 37, s. 9; 2022, c. 55, s. 7.

Duration and renewal of licences

10 (1) A subsurface energy storage area licence is for a term of one year.

(2) On application for renewal made in accordance with subsection 8(1) and provided the terms and conditions of the licence are met, a subsurface energy storage area licence may be renewed a total of four times. 2001, c. 37, s. 10; 2022, c. 55, s. 8.

Effect of licence

11 A subsurface energy storage area licence gives the holder an exclusive right to conduct those activities required by the regulations or the licence to evaluate the potential for subsurface storage use of the lands covered by the licence. 2001, c. 37, s. 11; 2022, c. 55, s. 9.

Restrictions and prohibitions

12 (1) No application for a subsurface energy storage area licence shall be accepted for areas

- (a) that are subject to a lease or special lease granted to a third party under the *Mineral Resources Act*;
- (b) that are subject to a production agreement granted to a third party under the *Petroleum Resources Act*;
- (c) for which a prohibition on exploration or development activity is in force; or
- (d) identified in the regulations.

(2) The holder of a subsurface energy storage area licence or a person acting under the authority of the holder or the licence shall not

(a) enter upon or perform work upon lands other than lands owned by the Crown without the consent of the owner or person entitled to grant consent; or

(b) enter upon or perform work upon lands owned by the Crown without the consent of the minister responsible for those lands.

(3) The holder of a subsurface energy storage area licence or a person acting under the authority of the holder or the licence shall not undertake or perform any geophysical or geochemical work, diamond or other drilling, trenching or stripping of overburden on lands in respect of which a licence has been granted under the *Mineral Resources Act* or an agreement has been granted under the *Petroleum Resources Act* without the consent of the right holder of the licence or agreement.

(4) All drilling and geophysical work on the lands covered by the subsurface energy storage area licence must be conducted under the authority of a drilling or geophysical permit or as prescribed under the authority of the *Petroleum Resources Act* and regulations. 2001, c. 37, s. 12; 2022, c. 55, s. 10.

Surface-rights permits

13 (1) In this Section, “Minister” includes a person designated by the Minister.

(2) The holder of a subsurface energy storage area licence or a person acting under the authority of the holder or the licence who is unable to obtain consent under Section 12 to

(a) pass over lands other than Crown lands for the purpose of gaining access to the lands covered by the licence or any part thereof;

(b) pass over, enter upon or work the lands covered by the licence or any part thereof; or

(c) pass over, enter upon or work lands held by the holder of a right referred to in subsection 14(3),

may apply to the Minister, after giving notice to the owner or occupier, for a surface-rights permit to pass over, enter upon and work such lands.

(3) The Minister, after hearing the parties, may grant a surface-rights permit subject to such terms and conditions as the Minister determines, and determine the amount of any compensation to be paid to such owner or occupier and the manner and time of payment of the same.

(4) Where the owner or occupier of the private land cannot be located, the Minister may grant a surface-rights permit on the terms and conditions determined by the Minister.

(5) The Minister may order the applicant for a surface-rights permit to give security for payment of the compensation and may prohibit, pending the determination of the proceeding or until the compensation is paid or secured, further passage over, entry upon or work by the holder of the subsurface energy storage

area licence, the holder's legal representative or any person acting on behalf of the holder.

(6) Where there are several owners or occupiers of the lands sought to be entered upon or passed over and there are, in the opinion of the Minister, special difficulties in effecting service of any notice pursuant to this Section, the Minister may order substituted service in such manner as the Minister may determine.

(7) There is no appeal from the granting by the Minister of a surface-rights permit, from the Minister's determination as to the amount of compensation, from any order for security or from any order or decision or ruling in respect thereto.

(8) Where a person is delayed in the performance of work on the land covered by the subsurface energy storage area licence by refusal of the owner or occupier to permit the person to pass over, enter upon or work the lands and the Minister has granted the person a surface-rights permit under this Section, the time within which the person is required to perform work under the licence shall be extended by a period equal to the delay resulting from the refusal of the owner or occupier to permit the person to pass over, enter upon and work the land.

(9) A surface-rights permit granted under this Section is a decision made by the Minister and may be made a rule or order of the Supreme Court of Nova Scotia in the same manner as provided in the *Mineral Resources Act*. 2001, c. 37, s. 13; 2022, c. 55, s. 11.

Requirements on licence holders

14 (1) The holder of a subsurface energy storage area licence shall perform work in the area covered by the licence to the extent and value as prescribed in the regulations.

(2) The holder of a subsurface energy storage area licence may be requested to provide financial or other security, in a form and amount acceptable to the Minister, for its activities under the licence.

(3) The holder of a subsurface energy storage area licence shall satisfy the Minister that the holder has complied with subsection (1) by submitting a report and statement of expenditures as prescribed in the regulations or directed by the Minister.

(4) Where a dispute arises as to what reports or expenditures are acceptable, the decision of the Minister is final.

(5) Where the holder of the subsurface energy storage area licence fails to comply with subsection (1), (2), (3) or (4), the Minister may revoke the licence. 2001, c. 37, s. 14; 2022, c. 55, s. 12.

Subsurface energy storage area leases

15 (1) The holder of a subsurface energy storage area licence may apply to the Minister for a subsurface energy storage area lease for the rights to a storage area covered by the licence or a part thereof.

(2) Application requirements for a subsurface energy storage area lease are as set out in the regulations.

(3) The process described in Section 9 applies with necessary changes with respect to an application for a subsurface energy storage area lease.

(4) A subsurface energy storage area lease gives the lessee the exclusive right to develop and utilize the storage area for the injection, storage or withdrawal of subsurface energy in a storage reservoir.

(5) The Registrar shall record and file all applications for subsurface energy storage area leases. 2001, c. 37, s. 15; 2022, c. 55, s. 13.

Granting of subsurface energy storage area lease

16 (1) Where the Minister is satisfied by a holder of a subsurface energy storage area licence that a storage area included in an application under Section 15 may be suitable for the storage of subsurface energy, the Minister may grant a subsurface energy storage area lease to the person applying.

(2) A subsurface energy storage area lease must be in such form and contain such conditions as are determined by the Minister, including financial or other security for its activities under the lease.

(3) The Registrar shall record and file copies of all subsurface energy storage area leases that are granted.

(4) A subsurface energy storage area lease does not authorize the sale, barter, gift or exchange of any mineral.

(5) A subsurface energy storage area lease is for a maximum term of 20 years, renewable for further maximum periods of 20 years, for such consideration and subject to such terms and conditions as the Minister may determine.

(6) Where at any time during the subsurface energy storage area lease, the holder of the lease or a person acting on behalf of the holder fails to develop or ceases to operate a storage reservoir, the Minister may give notice to the holder of the lease to commence, within one year of the date of the notice, the work necessary to establish the existence of a storage reservoir or to operate a storage reservoir.

(7) Where the holder of a subsurface energy storage area lease fails to comply with a notice given pursuant to subsection (6), the Minister may cancel the lease.

(8) Upon the cancellation of a subsurface energy storage area lease pursuant to subsection (7), the former holder of the lease has 30 days from the date the lease was cancelled to apply for a subsurface energy storage area licence, during which time no other application for the area may be accepted. 2001, c. 37, s. 16; 2022, c. 55, s. 14.

Vesting orders

17 (1) Whenever a lessee requires land, or a right or interest in land, for a storage area or any purpose connected with or incidental to a storage area and

no agreement can be made for the acquisition thereof, or a right-of-way or easement in respect to the land, the lessee may present an application to the Minister stating that

(a) the lessee is the holder of a valid subsurface energy storage area lease under this Act;

(b) the lessee requires certain land or some right or interest therein, of which a plan and description is attached, for one or more of the above purposes in connection with the area covered by the subsurface energy storage area lease;

(c) the person named is the owner of the land, and the lessee is willing to make an arrangement with the owner for the acquisition of the land, right or interest, stating the nature of the proposed agreement and the price that the lessee is willing to pay, but the owner is unwilling to accept; and

(d) the lessee requests that the Minister make an order that the right or interest in the lands required by the lessee be vested in the lessee.

(2) The Minister may request that the application be accompanied by a deposit of such sum as directed for costs or expenses that may be ordered to be paid by the lessee to the owner.

(3) Upon application, the Minister may, by a vesting order, vest in the lessee the property right claimed by the lessee or such other right as the Minister may determine.

(4) A vesting order issued by the Minister must be filed at 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 pursuant to the *Expropriation Act*.

(5) 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*. 2001, c. 37, s. 17; 2022, c. 55, s. 15

Application of Expropriation Act

18 In connection with the proceedings under Section 17,

(a) the *Expropriation Act* applies with necessary changes to the expropriation;

(b) notwithstanding Section 5 of the *Expropriation Act*, where that Act conflicts 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*. 2001, c. 37, s. 18.

Compensation for property damage

19 (1) Where property is damaged by any activity undertaken pursuant to a subsurface energy storage area lease granted under this Act, the owner of the property has a right to receive compensation from the holder of the lease.

(2) Any question as to whether property is damaged by the storage of subsurface energy pursuant to a lease granted under this Act or as to the amount of compensation must be determined by arbitration and the *Arbitration Act* applies. 2001, c. 37, s. 19; 2022, c. 55, s. 16.

Transfer or assignment of licences or leases

20 (1) No person shall transfer or assign a subsurface energy storage area licence or subsurface energy storage area lease without the written approval of the Minister.

(2) The assignee of a subsurface energy storage area licence or subsurface energy storage area lease is subject to the duties, obligations and liabilities of the original holder and any further duties, obligations and liabilities that may be imposed by the Minister, and the assignor is relieved of the duties, obligations and liabilities under the licence or lease.

(3) The Registrar shall record and file all transfers or assignments of a licence or lease. 2001, c. 37, s. 20; 2022, c. 55, s. 17.

Surrender of licences or leases

21 Subject to this Act, upon application by the holder of a subsurface energy storage area licence or subsurface energy storage area lease, the Minister may accept the surrender of

(a) two or more licences or leases and issue a licence or lease for the whole or any portion of the claims or tracts covered by the surrendered licence or lease; or

(b) the licence or lease. 2001, c. 37, s. 21; 2022, c. 55, s. 18.

Construction or operation of storage reservoirs

22 (1) The holder of a valid subsurface energy storage area lease under this Act may apply to the Board to construct or operate a storage reservoir.

(2) No person shall construct or operate a storage reservoir without first obtaining an approval from the Board.

(3) The Board may prescribe procedures and forms to be used in applications pursuant to this Section.

(4) The Board may prescribe information required on an application for an approval or an application for an amendment, transfer or assignment of an approval. 2001, c. 37, s. 22; 2022, c. 55, s. 19.

Suspension or abandonment of reservoir

23 No person shall suspend or discontinue the operation of or abandon a storage reservoir or a portion thereof without obtaining the prior written approval of the Board. 2001, c. 37, s. 23.

Codes of practice, guidelines and standards

24 (1) The Minister may prepare or adopt a code of practice, or a code of practice may be prescribed by the regulations, respecting public safety and the design, construction, operation and abandonment of subsurface energy storage in underground formations and associated equipment.

(2) The Minister or the Board may incorporate by reference, or as prescribed by the regulations, any codes of practice, guidelines or standards respecting subsurface energy storage in underground formations in any subsurface energy storage area licence, subsurface energy storage area lease or approval given under this Act. 2001, c. 37, s. 24; 2022, c. 55, s. 20.

Reports and returns

25 (1) A person who holds a subsurface energy storage area licence, subsurface energy storage area lease or approval given under this Act shall make such reports and returns as the Minister or the Board requires.

(2) Where the person fails to make a report or return requested under subsection (1), the Minister or the Board, as the case may be, may suspend or cancel the subsurface energy storage area licence, subsurface energy storage area lease or approval given by the Minister or the Board. 2001, c. 37, s. 25; 2022, c. 55, s. 21.

Orders respecting contraventions

26 (1) Where the Minister believes on reasonable and probable grounds that a person has contravened, or will contravene, any part of this Act or the regulations or any term or condition of any subsurface energy storage area licence or subsurface energy storage area lease, the Minister may, whether or not the person has been charged or convicted in respect of the contravention, issue an order requiring the person to cease the specified activity.

(2) The Board has the same powers of the Minister as outlined in subsection (1) with respect to approvals that the Board gives under Section 22.

(3) An order under subsection (1) or (2) remains in effect until it is revoked, in writing, by the Minister or the Board.

(4) A copy of an order made under subsection (1) or (2) must be served as prescribed in the regulations.

(5) Where an order is served on a person to whom it is directed, that person shall comply with the order forthwith or, where a period for compliance is specified in the order, within the time period specified.

(6) Where the person to whom an order is directed does not comply with the order or a part of the order, the Minister or the Board, as the case may be, may take whatever action the Minister or the Board considers necessary to carry out the terms of the order.

(7) An order made under this Section remains in effect notwithstanding that the order is challenged in a court. 2001, c. 37, s. 26; 2022, c. 55, s. 22.

Suspension or cancellation of licence or lease

27 (1) Where the Minister believes on reasonable and probable grounds that a person has contravened or will contravene this Act or the regulations or a term or condition of a subsurface energy storage area licence or subsurface energy storage area lease, the Minister may cancel or suspend the licence or lease.

(2) The Board has the same powers of the Minister as outlined in subsection (1) with respect to approvals given by the Board under Section 22.

(3) The Minister or the Board, as the case may be, shall forthwith on cancellation or suspension of a subsurface energy storage area licence, subsurface energy storage area lease or approval give notice, in writing, together with reasons for the cancellation or suspension to the holder of the licence, lease or approval. 2001, c. 37, s. 27; 2022, c. 55, s. 23.

Inspectors

28 (1) The Minister or the Board may appoint a person to be an inspector for the purpose of this Act.

(2) An inspector, in carrying out duties pursuant to this Act, has and may exercise in any part of the Province all the powers, authorities and immunities of a peace officer as defined in the *Criminal Code* (Canada).

(3) The holder of a subsurface energy storage area licence, subsurface energy storage area lease or approval shall forthwith, on request, permit an inspector to carry out an inspection of any place, other than a dwelling place, to which the licence, lease or approval relates.

(4) The holder of a subsurface energy storage area licence, subsurface energy storage area lease or approval or the owner or occupier of any place in respect of which an inspector is exercising powers or carrying out duties pursuant to this Section shall

(a) give the inspector all reasonable assistance to enable the inspector to exercise those powers and carry out those duties; and

(b) furnish all books, records and information relative to the exercising of those powers and the carrying out of those duties that the inspector may reasonably require. 2001, c. 37, s. 28; 2022, c. 55, s. 24.

Exemption from liability

29 Notwithstanding anything contained in this Act, no action for damages may be commenced or maintained and no cause of action lies against the Minister, a person designated by the Minister, the Board or any member of the Board or an employee or agent acting under the direction of the Minister or the Board, including an inspector, or member of an advisory committee or expert, if the action arises out of any act or omission of that person that occurs while that person is carrying out duties or exercising powers pursuant to this Act in good faith and, without restricting the generality of the foregoing, no person referred to in this Section is lia-

ble for damages caused by a system of inspection or the manner in which inspections are to be performed or the frequency, infrequency or absence of inspections. 2001, c. 37, s. 29.

Offences

30 A person who contravenes

- (a) a term or condition of a subsurface energy storage area licence, subsurface energy storage area lease or approval;
- (b) an order made under this Act; or
- (c) this Act or the regulations,

is guilty of an offence. 2001, c. 37, s. 30; 2022, c. 55, s. 25.

Penalties

31 (1) A person who is guilty of an offence under this Act or the regulations is liable on summary conviction to a fine of not more than \$1,000,000 or to imprisonment for a term of not more than two years, 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.

(3) Where a corporation is guilty of an offence under this Act or the regulations, 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 to the penalties provided for in this Section.

(4) In a prosecution for an offence under this Act or the regulations, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused, whether or not the employee or agent is identified or has been prosecuted for the offence, unless the accused establishes that the offence was committed without the knowledge or consent of the accused.

(5) A prosecution for an offence under this Act or the regulations must be commenced within two years from the date on which the subject-matter of the prosecution arose.

(6) No person may be convicted of an offence under this Act if the person establishes that the person

- (a) exercised all due diligence to prevent the commission of the offence; or
 - (b) reasonably and honestly believed in the existence of facts that, if true, would render the conduct of that person innocent.
- 2001, c. 37, s. 31.

Effect of existing licences, leases or permits

32 (1) A licence or lease issued under the former *Gas Storage Exploration Act* is deemed to be issued under this Act.

(2) A person who held a valid permit under the former *Gas Storage Exploration Act* immediately prior to June 12, 2002, is deemed to hold a subsurface energy storage area licence under this Act. 2001, c. 37, s. 32; 2022, c. 55, s. 26.

Regulations

- 33 (1) The Governor in Council may make regulations
- (a) prescribing a substance as a chemical carrier of hydrogen;
 - (b) prescribing a thing as subsurface energy;
 - (c) extending the application of this Act to any other thing that is stored in a similar manner as subsurface energy;
 - (d) respecting the information required on an application for a subsurface energy storage area licence or subsurface energy storage area lease, or an application for an amendment, transfer or assignment of a licence or lease;
 - (e) respecting areas where a subsurface energy storage area licence or subsurface energy storage area lease may not be issued;
 - (f) respecting financial or other security to be provided by an applicant for a subsurface energy storage area licence or subsurface energy storage area lease;
 - (g) respecting the role of the Registrar in the preparation and filing of documents;
 - (h) respecting a review of applications, application fees to be charged and cost recovery for services;
 - (i) respecting the terms and conditions, including public safety, and time periods for issuing a subsurface energy storage area licence or granting a subsurface energy storage area lease;
 - (j) respecting rent, royalty or other user fees or charges to be imposed under the Act;
 - (k) respecting work performance and benefits;
 - (l) respecting measurements, monitoring and reporting requirements under the Act;
 - (m) respecting orders under Section 13;
 - (n) respecting requests for a vesting order under Section 17, the matters and things necessary to satisfy the Minister that lands required by a holder of a subsurface energy storage area licence or subsurface energy storage area lease should be vested in the holder and the contents of the vesting order;
 - (o) respecting compensation under Section 19;
 - (p) respecting the design, construction, inspection, testing, operation, maintenance and repair of storage reservoirs and equipment, materials and installations used therein and works, fittings, machines or plants associated or connected therewith;

(q) adopting a code of practice or standard respecting any matter referred to in clause (p) or subsection 24(1), including adopting a code of practice or standard as amended from time to time;

(r) prescribing a code of practice or standard respecting any matter referred to in clause (p) or subsection 24(1);

(s) respecting the confidentiality of records, returns and other information provided pursuant to this Act and the communicating and access to those records, returns and information;

(t) respecting orders and the service of orders issued under this Act;

(u) respecting the appointment, duties and powers of inspectors under this Act and cost recovery of services provided;

(v) respecting offences under this Act;

(w) vesting in the Board any authority and powers considered necessary or advisable for the purpose of enabling the Board to conduct and perform its duties pursuant to this Act, including cost recovery for services;

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

(y) considered necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*, 2001, c. 37, s. 33; 2022, c. 55, s. 27.

CHAPTER S-38

An Act Concerning Summary Proceedings

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

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CITATION

Short title

1 This Act may be cited as the *Summary Proceedings Act*. R.S., c. 450, s. 1.

APPLICATION

Application of Act

2 (1) Subject to any special provision otherwise enacted, this Act applies to

(a) every case in which a person commits or is suspected of having committed any offence or act over which the Legislature has legislative authority and for which such person is liable, on summary conviction, to imprisonment, fine, penalty or other punishment; and

(b) every case in which a complaint is made to any justice in relation to any matter over which the Legislature has legislative

authority and with respect to which the justice has authority by law to make any order, whether for the payment of money or otherwise.

(2) Notwithstanding any special provision relating to appeals in any enactment, in every case referred to in clauses (1)(a) and (b), the provisions of this Act relating to appeals apply to each such case instead of the special provisions relating to appeals in the enactment and all appeal proceedings taken under the enactment must be taken up and continued under and in conformity with the provisions of this Act as far as consistently may be. R.S., c. 450, s. 2.

SEARCH AND SEIZURE

Power to search and seize

3 (1) Notwithstanding any enactment, a peace officer or any other person charged with the enforcement of an enactment may, in accordance with this Act, search any building, receptacle or place and seize anything found therein.

(2) For greater certainty, nothing in this Act is to be construed as restricting the lawful authority of a peace officer or any other person to search, in accordance with any other enactment, any building, receptacle or place and seize anything found therein. 1990, c. 46, s. 1.

Issuance of warrant

4 (1) A justice who is satisfied by information upon oath in the form prescribed in the regulations that there are reasonable grounds to believe that there is in a building, receptacle or place

(a) anything on or in respect of which any offence against an enactment has been or is suspected to have been committed; or

(b) anything that there are reasonable grounds to believe will afford evidence with respect to the commission of an offence against an enactment,

may at any time issue a warrant under the justice's hand authorizing a peace officer

(c) to search the building, receptacle or place for any such thing and to seize it; and

(d) to, as soon as practicable, bring the thing seized before, or make a report in respect thereof to, the justice or some other justice in accordance with Section 19.

(2) A justice may issue an investigative warrant authorizing a peace officer to, subject to this subsection, use any investigative technique or procedure or do any thing described in the warrant, that would, where not authorized, constitute an unreasonable search or seizure in respect of a person or a person's property, if

(a) the justice is satisfied by information under oath that there are reasonable grounds to believe that an offence against an enactment listed in the Schedule has been, is being or will be committed and that information or other evidence concerning the offence will be obtained through the use of the technique or procedure or the doing of the thing;

(b) the justice is satisfied that it is in the best interest of the administration of justice to issue the warrant; and

(c) there is no other provision in this or any other Act of the Legislature that would provide for a warrant or order authorizing the technique or procedure to be used or thing to be done.

(3) Nothing in subsection (2) is to be construed so as to permit interference with the bodily integrity of any person, the use of any device to intercept private communications as provided for in Part VI of the *Criminal Code* (Canada) or the taking of samples of bodily substances for the purpose of forensic DNA analysis. 1990, c. 46, s. 1; 2002, c. 30, s. 20.

Power of warrant

5 (1) An investigative warrant authorizes a peace officer to enter and search the place for which the warrant was issued and, without limiting the powers of the justice under subsection 4(2), the warrant may, in respect of the alleged offence, authorize the peace officer to enter the place for which the warrant was issued and

(a) search for and examine and copy any drawings, specifications, licence, document, record or report;

(b) search for and examine any equipment, machine, device, article, thing, material or biological, chemical or physical agent;

(c) require a person to produce any item described in clause (a) or (b);

(d) conduct or take tests of any equipment, machine, device, article, thing, material or biological, chemical or physical agent, and take and carry away samples from the testing; and

(e) take measurements of and record by any means the physical circumstances of the place.

(2) A peace officer who executes a warrant issued under subsection 4(2) may seize or examine and copy any drawings, specifications, licence, document, record or report or seize or examine any equipment, machine, device, article, thing, material or biological, chemical or physical agent, in addition to those mentioned in the warrant, that the officer believes on reasonable grounds will afford evidence in respect of an offence against an enactment.

(3) A person authorized under this Section to search a computer system in a building or place for data may

(a) use or cause to be used any computer system at the building or place to search any data contained in or available to the computer system;

(b) reproduce or cause to be reproduced any data in the form of a printout or other intelligible output;

(c) seize the printout or other output for examination or copying; and

(d) use or cause to be used any copying equipment at the place to make copies of the data.

(4) Every person who is in possession or control of any building or place in respect of which a search is carried out under this Section shall, on presentation of the warrant, permit the person carrying out the search to

(a) use or cause to be used any computer system at the building or place in order to search any data contained in or available to the computer system for data that the person is authorized by this Section to search for;

(b) obtain a hard copy of the data and to seize it; and

(c) use or cause to be used any copying equipment at the place to make copies of the data.

(5) A hard copy printout of data from a computer made pursuant to subsection (3) or (4) is, where it purports to be certified as a true copy by the person who caused the printout or hard copy to be produced or the person in whose presence the copy was made admissible in evidence and, in the absence of evidence to the contrary, has the same probative force as the original data would have if it had been proved in the ordinary way. 2002, c. 30, s. 20.

Validity period

6 An investigative warrant is valid for 30 days or for such shorter period as may be specified in it by a justice and may, without limiting the generality of the foregoing, include provisions for re-entry to the place for the purpose of subsection 4(2). 2002, c. 30, s. 20.

Terms and conditions

7 (1) An investigative warrant must contain terms and conditions in addition to those provided for in subsections 4(2) and (3) and Sections 5 and 6 as the justice considers advisable to ensure that any search or seizure authorized by the warrant is reasonable in the circumstances.

(2) A warrant issued under subsection 4(2) that authorizes a peace officer to observe, by means of a television camera or other similar electronic device, any person who is engaged in activity in circumstances in which the person has a reasonable expectation of privacy must contain such terms and conditions as the justice considers advisable to ensure that the privacy of the person or of any other person is respected as much as possible. 2002, c. 30, s. 20.

Issuance of further warrants

8 A justice may issue further warrants under subsection 4(2). 2002, c. 30, s. 20.

Inspection power not restricted

9 Nothing in Sections 4 to 14 restricts any power or duty of a peace officer under any enactment, including, without limiting the generality of the foregoing, the power to conduct an inspection. 2002, c. 30, s. 20.

Sealed warrant

10 (1) A justice may, on application made at the time of issuing a warrant under this or any other enactment or at any time thereafter, make an order prohibiting access to and the disclosure of any information relating to the warrant or information on the ground that

- (a) the information might be used for an improper purpose; or
- (b) the ends of justice would be subverted by the disclosure because the disclosure of the information would
 - (i) compromise the identity of a confidential informant,
 - (ii) compromise the nature or extent of an ongoing investigation,
 - (iii) endanger a person engaged in particular intelligence-gathering techniques and thereby prejudice future investigations in which similar techniques would be used,
 - (iv) prejudice the interests of an innocent person, or
 - (v) in the opinion of the justice, subvert the ends of justice in some other way,

and the ground referred to in clause (a) or (b) outweighs in importance the access to and disclosure of the information.

(2) Where an order is made under subsection (1), all documents relating to the application must, subject to any terms and conditions that the justice considers desirable in the circumstances, including, without limiting the generality of the foregoing, any term or condition concerning the duration of the prohibition, partial disclosure of a document, deletion of any information or the occurrence of a condition, be placed in a packet and sealed by the justice immediately on determination of the application, and that packet must be kept in the custody of the court in a place to which the public has no access or in any other place that the justice may authorize and must not be dealt with except in accordance with the terms and conditions specified in the order or as varied under subsection (3).

(3) An application to terminate the order or vary any of the terms and conditions of an order made under subsection (1) may be made to the justice who made the order or a judge of the court before which any proceedings arising out of the investigation in relation to which the warrant was obtained may be held. 2002, c. 30, s. 20; 2012, c. 8, s. 18.

Form and effect of warrant

11 (1) A search warrant issued pursuant to Sections 4 to 14 must be in the form prescribed in the regulations, varied to suit the case.

(2) An endorsement that is made on a warrant as provided for in subsection (1) is sufficient authority to the peace officers or such persons to whom it was originally directed and to all peace officers to execute the warrant and to deal with the things seized in accordance with Sections 16 to 18 or as otherwise provided by law. 1990, c. 46, s. 1.

Authorization of persons to accompany and assist in execution

12 A warrant may authorize persons who have special, expert or professional knowledge to accompany and assist a peace officer in the execution of the warrant. 2002, c. 30, s. 20.

Submission of information by telecommunication

13 (1) Subject to subsection (2), where a peace officer believes that an offence against an enactment has been committed or is suspected to have been committed and has grounds to apply for a warrant under subsection 4(1) or (2), the peace officer may submit an information on oath by telephone or another means of telecommunication to a justice designated for that purpose by the Chief Judge of the Provincial Court.

(2) An information by telephone or another means of telecommunication that does not produce a writing may be submitted only in circumstances in which it would be impracticable to appear personally before a justice to apply for a warrant.

(3) An information submitted by telephone or another means of telecommunication must be on oath and must be recorded word for word by the justice, who must, as soon as reasonably possible, cause the record or a transcription of it, certified by the justice as to time, date and contents, to be filed with the clerk of the court.

(4) An information on oath submitted by telephone or another means of telecommunication that does not produce a writing must include a statement of the circumstances that make it impracticable for the peace officer to appear personally before a justice.

(5) An information submitted by telephone or another means of telecommunication to obtain a warrant to search for anything permitted by subsection 4(1) must include

(a) a statement of the offence alleged, the place or premises to be searched and the items alleged to be liable to seizure;

(b) a statement of the peace officer's grounds for believing that the items liable to seizure in respect of the offence alleged will be found in the place or premises to be searched; and

(c) a statement as to any prior application for a warrant under this Section or any other search warrant, in respect of the same matter, of which the peace officer has knowledge.

(6) An information submitted by telephone or another means of telecommunication to obtain a warrant to search for anything permitted by subsection 4(2) must include

(a) a statement of the offence alleged, the place or premises to be searched;

(b) a statement of the investigative technique or procedure or any other thing sought to be authorized by the warrant and the peace officer's grounds for believing that information and other evi-

dence concerning the offence will be obtained through the use of the technique or procedure or the doing of the thing; and

(c) a statement as to any previous application for a warrant under this Section or any other search warrant, in respect of the same matter, of which the peace officer has knowledge.

(7) A justice who is satisfied that an information submitted pursuant to subsection (1)

(a) concerns an offence punishable on conviction under an enactment;

(b) conforms to the requirements of subsection (4), (5) or (6); and

(c) discloses reasonable grounds, in accordance with subsection 4(1) or (2), for the issuance of a warrant in respect of an offence,

may issue a warrant to a peace officer that

(d) confers the same authority respecting search and seizure as may be conferred by a warrant issued under subsection 4(1) or (2); and

(e) requires the warrant to be executed within a period of time that the justice may order. 1990, c. 46, s. 1; 2000, c. 28, s. 95; 2002, c. 30, s. 20; 2015, c. 6, s. 47.

Issuance of warrant by telecommunication

14 (1) Where a justice issues a warrant by telephone or another means of telecommunication that does not produce a writing,

(a) the justice shall complete and sign the warrant in the form prescribed in the regulations, varied to suit the case, and noting on its face the time, date and place where it is issued;

(b) the peace officer, on the direction of the justice, shall complete, in duplicate, a facsimile of the warrant referred to in clause (a), noting on its face the name of the justice who issued it and the time, date and place where it was issued; and

(c) the justice shall, as soon as practicable after the warrant has been issued, cause the warrant to be filed with the clerk of the court.

(2) Where a justice issues a warrant by a means of telecommunication that produces a writing,

(a) the justice shall complete and sign the warrant in the form prescribed in the regulations, varied to suit the case, and note on its face the time, date and place where it is issued;

(b) the justice shall transmit the warrant by the means of telecommunication to the peace officer who submitted the information and the copy of the warrant received by the peace officer is deemed to be a facsimile;

(c) the peace officer shall procure a second copy of the warrant which is deemed to be a facsimile; and

(d) the justice shall, as soon as practicable after the warrant has been issued, cause the warrant to be filed with the clerk of the court.

(3) A peace officer who executes a warrant issued by telephone or another means of telecommunication shall, before entering the place or premises to be searched or as soon as practicable after entering, give a facsimile of the warrant to any person present who appears to be in control of the place or premises.

(4) A peace officer who, in any unoccupied place or premises, executes a warrant issued by telephone or another means of telecommunication shall, on entering the place or premises or as soon as practicable after entering, cause a facsimile of the warrant to be suitably affixed in a prominent place within the place or premises.

(5) A peace officer to whom a warrant is issued by telephone or another means of telecommunication shall file a written report with the clerk of the court as soon as reasonably possible but within a period not longer than seven days after the warrant has been executed, and the report must include

(a) a statement of the time and date the warrant was executed or, where the warrant was not executed, a statement of the reasons why it was not executed;

(b) a statement of the things, if any, that were seized under the warrant and the location where they are being held; and

(c) a statement of the things, if any, that were seized in addition to the things mentioned in the warrant and the location where they are being held, together with a statement of the peace officer's grounds for believing that those additional things had been obtained by, or used in, the commission of an offence.

(6) As soon as reasonably possible, the clerk of the court with whom a written report is filed under subsection (5) shall cause the report, together with the information on oath and the warrant to which it pertains, to be brought before a justice to be dealt with under Sections 20 to 28.

(7) In any proceeding in which it is material for a court to be satisfied that a search or seizure was authorized by a warrant issued by telephone or another means of telecommunication, the absence of the information on oath, transcribed and certified by the justice as to time, date and contents, or of the original warrant, signed by the justice and carrying on its face a notation of the time, date and place of issuance, is, in the absence of evidence to the contrary, proof that the search or seizure was not authorized by a warrant issued by telephone or another means of telecommunication. 2000, c. 28, s. 95; 2002, c. 30, s. 20; 2015, c. 6, s. 47.

Time of execution

15 A warrant issued pursuant to Sections 4 to 14 must be exercised between the hours of 8:00 a.m. and 9:00 p.m., unless the justice

(a) is satisfied that there are reasonable grounds in the information for the warrant to be executed between the hours of 9:00 p.m. and 8:00 a.m.; and

(b) provides in the warrant that it may be executed during those hours. 2002, c. 30, s. 21; 2015, c. 6, s. 48.

Additional power to seize

16 A peace officer who executes a warrant issued pursuant to Sections 4 to 14 may seize, in addition to the things mentioned in the warrant, anything that on reasonable grounds the peace officer believes has been obtained by or has been used in the commission of an offence. 1990, c. 46, s. 1.

Removal or detention of thing seized

17 A peace officer may remove any thing seized under a warrant from the place from which it was seized or may detain it in that place. 2002, c. 30, s. 22.

Exigent circumstances

18 (1) Although a warrant issued under subsection 4(1) would otherwise be required, a peace officer may exercise any of the powers described in that subsection without a warrant if the conditions for obtaining the warrant exist but by reason of exigent circumstances it would be impracticable to obtain the warrant.

(2) For the purpose of subsection (1), exigent circumstances include circumstances in which the delay necessary to obtain a warrant would result in danger to human life or the loss or destruction of evidence. 2002, c. 30, s. 22.

Procedure following seizure

19 (1) Where a person has seized anything under a warrant issued pursuant to Sections 4 to 14 or seized anything pursuant to Section 16 or 18, or otherwise in the execution of that person's duties under any enactment and subject to that enactment, that person shall, as soon as practicable,

(a) where that person is satisfied that

(i) there is no dispute as to who is lawfully entitled to possession of the thing seized, and

(ii) the continued detention of the thing seized is not required for the purpose of any investigation, inquiry, trial or other proceeding,

return the thing seized, on being issued a receipt therefor, to the person lawfully entitled to its possession and report to the justice who issued the warrant or some other justice that the thing has been returned; or

(b) where that person is not satisfied as described in sub-clauses (a)(i) and (ii),

(i) bring the thing seized before the justice referred to in clause (a), or

(ii) report to the justice that that person has seized the thing and is detaining it or causing it to be detained,

to be dealt with by the justice in accordance with Section 20.

(2) A report to a justice pursuant to this Section must be in the form prescribed in the regulations, varied to suit the case. 1990, c. 46, s. 1.

Powers of justice respecting thing seized

20 Where, pursuant to Section 19, anything that has been seized is brought before a justice or a report in respect of anything seized is made to a justice, the justice shall

(a) where the lawful owner or person who is lawfully entitled to possession of the thing seized is known, order it to be returned to the lawful owner or that person, as the case may be, unless the justice is satisfied that the detention of the thing seized is required for the purpose of any investigation, inquiry, trial or other proceeding; or

(b) where the justice is satisfied that the thing seized should be detained for a reason set out in clause (a), detain the thing seized or order that it be detained, taking reasonable care to ensure that it is preserved until the conclusion of any investigation or until it is required to be produced for the purpose of an inquiry, trial or other proceeding. 1990, c. 46, s. 1.

Period of detention

21 (1) Nothing may be detained pursuant to clause 20(b) for a period of more than three months after the day of the seizure or for any longer period that ends when an application made under clause (a) is decided, unless

(a) a justice, on the making of a summary application to the justice after three clear days notice thereof to the person from whom the thing detained was seized, is satisfied that, having regard to the nature of the investigation, its further detention for a specified period not to exceed six months from the date of the order is warranted and the justice so orders; or

(b) an inquiry, trial or other proceeding is instituted in which the thing detained may be required.

(2) Applications to detain things seized beyond the period prescribed in clause (1)(a) must be made to a judge of the Provincial Court, on the making of a summary application after three clear days notice to the person from whom the thing detained was seized, and the judge may order a further period of detention if satisfied, having regard to the complex nature of the investigation, or because the thing might reasonably be required for the purpose of a potential inquiry, trial or other proceeding, that the further detention of the thing seized is warranted for a specified period and subject to such other conditions as the judge considers just and so orders.

(3) An application under subsection (2) is not required if proceedings are instituted in which the thing detained may be required before the expiry of an order made under subsection (1).

(4) More than one application may be made under subsection (2).

(5) A thing may be detained under clause 20(b) for any period, whether or not an application for an order is made under clause (1)(a) or subsection (2), if the lawful owner or person who is lawfully entitled to possession of the thing seized consents in writing to its detention for that period. 2002, c. 30, s. 23.

Procedure when proceeding instituted

22 When a proceeding is instituted, the justice shall forward anything detained pursuant to Section 20 or subsection 21(1) or (2) to the clerk of the court to which the defendant has been ordered to stand trial or to the authority conducting the proceeding to be detained and disposed of as the court or authority directs. 1990, c. 46, s. 1.

Return of thing seized

23 (1) Where at any time before the expiration of the periods of detention provided for or ordered pursuant to subsection 21(1) or (2) in respect of anything seized, the peace officer or other person who seized the thing determines that the continued detention of the thing seized is no longer required for any purpose mentioned in Section 20 or 22, the peace officer or other person, as the case may be, shall apply to a justice who shall, after affording the person from whom the thing was seized or the person who claims to be the lawful owner thereof or person entitled to its possession, if known, an opportunity to establish that that person is lawfully entitled to the possession thereof, make an order in respect of the property pursuant to subsection (5).

(2) Where the periods of detention provided for or ordered pursuant to Section 20 or subsection 21(1) or (2) in respect of anything seized have expired and proceedings have not been instituted in which the thing detained may be required, the peace officer or other person who seized the thing shall apply to a judge of the Provincial Court referred to in subsection (3) in the circumstances set out therein, for an order in respect of the property pursuant to subsection 24(1).

(3) A person from whom anything has been seized may, after the expiration of the periods of detention provided for or ordered pursuant to Section 20 or subsection 21(1) or (2) and on three clear days notice to the Attorney General and Minister of Justice, apply summarily to a judge of the Provincial Court for an order pursuant to clause (5)(a), that the thing seized be returned to the applicant.

(4) A judge of the Provincial Court may allow an application to be made pursuant to subsection (3) prior to the expiration of the periods referred to therein if the judge is satisfied that hardship will result unless such application is so allowed.

(5) Where a judge of the Provincial Court is satisfied that the periods of detention provided for or ordered pursuant to Section 20 or subsection 21(1) or (2) in respect of anything seized have expired and proceedings have not been instituted in which the thing detained may be required or, where such periods

have not expired, that the continued detention of the thing seized is not required for any purpose mentioned in Section 20 or 22, the judge

(a) shall, where possession of it by the person from whom it was seized is lawful, order it to be returned to that person; or

(b) shall, where possession of it by the person from whom it was seized is unlawful and the lawful owner or person who is lawfully entitled to its possession is known, order it to be returned to the lawful owner or to the person who is lawfully entitled to its possession, as the case may be, and may, where possession of it by the person from whom it was seized is unlawful and the lawful owner or person who is lawfully entitled to its possession is not known, order it to be forfeited to the Crown in right of the Province, to be disposed of as the Attorney General and Minister of Justice directs, or otherwise dealt with in accordance with the law.

(6) Notwithstanding subsection (5), a judge of the Provincial Court may, where satisfied that the periods of detention provided for or ordered under Section 20 or subsection 21(1) or (2) in respect of a thing seized have expired but proceedings have not been instituted in which the thing may be required, order that the thing continue to be detained for such a period as the judge considers necessary if the judge is satisfied that

(a) the continued detention of the thing might reasonably be required for the purpose of a potential inquiry, trial or other proceeding; and

(b) it is in the interests of justice to do so. 1990, c. 46, s. 1; 2002, c. 30, s. 23.

Application by owner or lawful possessor of thing seized

24 (1) A person, other than a person who may make an application pursuant to subsection 23(3), who claims to be the lawful owner or person lawfully entitled to possession of anything seized and brought before or reported to a justice pursuant to Section 19 may, at any time, on three clear days notice to the Attorney General and Minister of Justice and the person from whom the thing was seized, apply summarily to a judge of the Provincial Court for an order that the thing detained be returned to the applicant.

(2) On an application pursuant to subsection (1), where a judge of the Provincial Court is satisfied that

(a) the applicant is the lawful owner or lawfully entitled to possession of the thing seized; and

(b) the periods of detention provided for or ordered pursuant to Section 20 or subsection 21(1) or (2) in respect of the thing seized have expired and proceedings in which the thing detained may be required have not been instituted or, where such periods have not expired, the continued detention of the thing seized will not be required for any purpose mentioned in Section 20 or 22,

the judge shall order that

(c) the thing seized be returned to the applicant; or

(d) except as otherwise provided by law, where, pursuant to subsection 23(5), the thing seized was forfeited, sold or otherwise dealt with in such a manner that it cannot be returned to the applicant, the applicant be paid the proceeds of sale or the value of the thing seized. 1990, c. 46, s. 1; 2002, c. 30, s. 23.

No return if application or appeal pending

25 Notwithstanding Sections 20 to 27, nothing may be returned, forfeited or disposed of pursuant to Sections 20 to 27 pending any application made or appeal taken thereunder in respect of the thing or proceeding in which the right of seizure thereof is questioned or within 30 days after an order in respect of the thing is made pursuant to Sections 20 to 27. 1990, c. 46, s. 1.

Return of document

26 (1) The Attorney General and Minister of Justice, a Crown attorney or a peace officer or other person having custody of a document seized may, before bringing it before a justice or complying with an order that the document be returned, forfeited or otherwise dealt with under Section 20 or subsection 23(5) or 24(2), make or cause to be made, and may retain, a copy of the document.

(2) A copy made pursuant to subsection (1) is, where it purports to be certified as a true copy by the Attorney General and Minister of Justice, a Crown attorney, a peace officer or the person who made the copy or the person in whose presence the copy was made, admissible in evidence and, in the absence of evidence to the contrary, has the same probative force as the original document would have if it had been proved in the ordinary way. 1990, c. 46, s. 1; 2002, c. 30, s. 23; 2015, c. 6, s. 49.

Examination of thing detained

27 (1) Where anything is detained pursuant to Section 20, subsection 21(1) or (2) or Section 22, a judge of the Provincial Court on summary application on behalf of a person who has an interest in what is detained, after three clear days notice to the Attorney General and Minister of Justice, may order that the person by or on whose behalf the application is made be permitted to examine anything so detained.

(2) An order made pursuant to subsection (1) must be made on such terms as appear to the judge of the Provincial Court to be necessary or desirable to ensure that anything in respect of which the order is made is safeguarded and preserved for any purpose for which it may subsequently be required. 1990, c. 46, s. 1; 2002, c. 30, s. 23.

Appeal

28 Where a person considers that person is aggrieved by an order made pursuant to subsection 23(5), 24(2) or 27(1), that person may appeal from the order to a judge of the Supreme Court of Nova Scotia. 1990, c. 46, s. 1.

Seizure of perishable thing

29 (1) Where anything seized pursuant to this Act or any other enactment is perishable or likely to deteriorate rapidly, the person who seized the thing or other person having custody of the thing may

- (a) return it to its lawful owner or the person who is lawfully entitled to the possession of it; or
- (b) where, on *ex parte* application to a judge of the Provincial Court, the judge so authorizes,
 - (i) dispose of it and give the proceeds of disposition to the lawful owner of the thing seized, if the lawful owner was not a party to an offence in relation to the thing, or
 - (ii) destroy it.

(2) Where the identity of the lawful owner cannot be reasonably ascertained under subclause (1)(b)(i), the proceeds of disposition are forfeited to the Crown in right of the Province. 2002, c. 30, s. 24.

Request from designated province for search or seizure in Province

30 (1) In this Section and Section 32,

“designated enactment” means an enactment of a designated province, which enactment is designated by the regulations;

“designated province” means a province of Canada designated by the regulations.

(2) Where the Attorney General and Minister of Justice receives a request from a designated province to have a search or a seizure carried out in the Province in respect of an offence against an enactment of the designated province, the Attorney General and Minister of Justice may apply *ex parte* to a justice for a warrant.

(3) A justice to whom an application is made under subsection (2) and who is satisfied by information upon oath in the form prescribed in the regulations that there are reasonable grounds to believe that there is in a building, receptacle or place

(a) anything on or in respect of which any offence against an enactment of a designated province has been or is suspected to have been committed; or

(b) anything that there are reasonable grounds to believe will afford evidence with respect to the commission of an offence against an enactment of a designated province,

may at any time issue a search warrant under the justice’s hand authorizing a peace officer

(c) to search the building, receptacle or place for any such thing and to seize it; and

(d) to, as soon as practicable, bring the thing seized before, or make a report in respect thereof to, the justice or some other justice in accordance with subsection 31(1).

(4) A justice may issue an investigative warrant authorizing a peace officer to, subject to this Section, use any investigative technique or procedure or do any thing described in the warrant that would, where not authorized, con-

stitute an unreasonable search or seizure in respect of a person or a person's property if

(a) the justice is satisfied by information under oath that there are reasonable grounds to believe that an offence against a designated enactment has been, is being or will be committed and that information or other evidence concerning the offence will be obtained through the use of the technique or procedure or the doing of the thing;

(b) the justice is satisfied that it is in the best interest of the administration of justice to issue the warrant; and

(c) there is no other provision in this or any other Act of the Legislature that would provide for a warrant or order authorizing the technique or procedure to be used or thing to be done.

(5) A justice who issues a warrant under subsection (3) or (4) may order any person to accompany and assist a peace officer in the execution of the warrant, if the Attorney General and Minister of Justice so requests.

(6) For the purpose of subsection 4(3), Sections 5 to 13, subsections 14(1) to (5) and (7) and Sections 15 to 18 and 29,

(a) a search warrant issued under subsection (3) is deemed to be a warrant issued under subsection 4(1); and

(b) an investigative warrant issued under subsection (4) is deemed to be an investigative warrant issued under subsection 4(2).

(7) Where a written report is filed under subsection 14(5), the clerk of the court with whom the written report is filed shall, as soon as reasonably possible, cause the report, together with the information on oath and the warrant to which it pertains, to be brought before a justice to be dealt with under Section 32. 2012, c. 46, s. 2.

Procedure following seizure

31 (1) Where a person has seized anything under a warrant issued under Section 30 or seized anything under Sections 16 to 18 while executing a warrant issued under Section 30, that person shall, as soon as practicable,

(a) where that person is satisfied that

(i) there is no dispute as to who is lawfully entitled to possession of the thing seized, and

(ii) the continued detention of the thing seized is not required for the purpose of any investigation, inquiry, trial or other proceeding,

return the thing seized, on being issued a receipt therefor, to the person lawfully entitled to its possession and report to the justice who issued the warrant or some other justice that the thing has been returned; or

(b) where that person is not satisfied as described in subclauses (a)(i) and (ii),

(i) bring the thing seized before the justice referred to in clause (a), or

(ii) report to the justice that that person has seized the thing and is detaining it or causing it to be detained,

to be dealt with by the justice in accordance with Section 32.

(2) A report to a justice pursuant to subsection (1) must be in the form prescribed in the regulations, varied to suit the case. 2012, c. 46, s. 2.

Powers of justice respecting thing seized

32 (1) Where, pursuant to clause 31(1)(b), anything that has been seized is brought before a justice or a report in respect of anything seized is made to a justice, the justice

(a) shall hear any representations of the Attorney General and Minister of Justice, the person from whom the thing was seized in the execution of the warrant and any person who claims to have an interest in the thing that was seized; and

(b) may require that the thing seized in execution of the warrant be brought before the justice.

(2) At the hearing required under subsection (1), the justice shall

(a) where the justice is not satisfied that the warrant was executed according to its terms and conditions or where the justice is satisfied that an order should not be made under clause (b), order that a thing seized in the execution of the warrant be returned to

(i) the person from whom it was seized, if possession of it by that person is lawful, or

(ii) the lawful owner or the person who is lawfully entitled to its possession, if the owner or that person is known and possession of the record or thing by the person from whom it was seized is unlawful; or

(b) in any other case, order that the thing seized in the execution of the warrant be sent to the designated province referred to in subsection 30(2) and include in the order any terms and conditions that the justice considers necessary or advisable, including terms and conditions

(i) necessary to give effect to the request referred to in subsection 30(2),

(ii) with respect to the preservation and return to the Province of any thing seized, and

(iii) with respect to the protection of the interests of third parties. 2012, c. 46, s. 2.

PENAL PROCEEDINGS

Recovery or enforcement of statutory penalty

33 Except where it is otherwise provided, any penalty or imprisonment prescribed by an enactment may be recovered or enforced on summary conviction before a justice. R.S., c. 450, s. 3.

Contravention of enactment is offence

34 Every one who, without lawful excuse, contravenes an enactment by wilfully doing anything that it forbids or by wilfully omitting to do anything that it requires to be done is, unless some penalty or punishment is expressly provided by law, guilty of an offence punishable on summary conviction and liable to a fine of not more than \$2,000 or to imprisonment for six months or to both. R.S., c. 450, s. 4; 1990, c. 46, s. 2.

Payment of charge upon conviction

35 Upon conviction following a hearing, the defendant shall pay a charge of \$122.50, except where the conviction is for a parking infraction, as defined in subsection 49(1), in which case the defendant shall pay a charge of \$36.60. 2000, c. 4, s. 74; 2001, c. 5, s. 35; 2004, c. 3, s. 46; 2006, c. 2, s. 59; 2009, c. 5, s. 32; 2011, c. 8, s. 28; 2013, c. 3, s. 22; 2015, c. 6, s. 50.

Category A to category K offences

36 Notwithstanding Section 34,

(a) where an enactment makes an offence punishable as a category A offence, a judge shall impose a fine of not less than \$25 for the first offence, not less than \$50 for the second offence and not less than \$100 for the third or a subsequent offence;

(b) where an enactment makes an offence punishable as a category B offence, a judge shall impose a fine of not less than \$50 for the first offence, not less than \$100 for the second offence and not less than \$200 for the third or a subsequent offence;

(c) where an enactment makes an offence punishable as a category C offence, a judge shall impose a fine of not less than \$100 for the first offence, not less than \$200 for the second offence and not less than \$400 for the third or a subsequent offence;

(d) where an enactment makes an offence punishable as a category D offence, a judge shall impose a fine of not less than \$150 for the first offence, not less than \$300 for the second offence and not less than \$600 for the third or a subsequent offence;

(e) where an enactment makes an offence punishable as a category E offence, a judge shall impose a fine of not less than \$200 for the first offence, not less than \$400 for the second offence and not less than \$600 for the third or a subsequent offence;

(f) where an enactment makes an offence punishable as a category F offence, a judge shall impose a fine of not less than \$250 for the first offence, not less than \$500 for the second offence and not less than \$1,000 for the third or a subsequent offence;

(g) where an enactment makes an offence punishable as a category G offence, a judge shall impose a fine of not less than \$500 for the first offence, not less than \$1,000 for the second offence and not less than \$2,000 for the third or a subsequent offence;

(h) where an enactment makes an offence punishable as a category H offence, a judge shall impose a fine of not less than \$1,000 for the first offence, not less than \$2,000 for the second offence and not less than \$5,000 for the third or a subsequent offence;

(i) where an enactment makes an offence punishable as a category I offence, a judge shall impose a fine of not less than \$1,000 for the first offence, not less than \$2,000 for the second offence and not less than \$4,000 for the third or a subsequent offence;

(j) where an enactment makes an offence punishable as a category J offence, a judge shall impose a fine of not less than \$1,500 for the first offence, not less than \$2,500 for the second offence and not less than \$5,000 for the third or a subsequent offence;

(k) where an enactment makes an offence punishable as a category K offence, a judge shall impose a fine of not less than \$2,000 for the first offence, not less than \$5,000 for the second offence and not less than \$10,000 for the third or a subsequent offence. 2002, c. 10, s. 44; 2003, c. 4, s. 30; 2003 (2nd Sess.), c. 1, s. 35; 2007, c. 45, s. 28.

Interest

37 (1) Interest is payable on all fines, victim-fine surcharges and court costs payable to the Province under any enactment that are imposed on or after December 1, 2006, and that are unpaid for more than 90 days.

(2) Interest is payable on all fines, victim-fine surcharges and court costs payable to the Province under any enactment that were outstanding as of December 1, 2006, and remained unpaid 180 days after that date.

(3) The Governor in Council may determine the rate of interest for the purpose of subsections (1) and (2). 2001, c. 5, s. 36.

No conviction of police obtaining certain evidence

38 A member of the Royal Canadian Mounted Police or a member of a municipal police force in the Province may not be convicted of a violation of the *Motor Vehicle Act* if it is made to appear to the judge before whom the proceeding is heard that the person charged with the offence committed the offence for the purpose of obtaining evidence during an investigation relating to the *Controlled Drugs and Substances Act* (Canada) or the *Food and Drugs Act* (Canada). R.S., c. 450, s. 5.

IMPRISONMENT

Place of imprisonment

39 (1) Where an enactment prescribes imprisonment in respect of any offence or matter, and no other place for such imprisonment is mentioned or provided, such imprisonment is in the common jail of the locality in which the order or adjudication directing any such imprisonment is made or, where there is no common jail there, then in the common jail nearest to such locality.

(2) The keeper of any such common jail shall receive such person, and safely keep and detain the person in such common jail under the keeper's custody until discharged in due course of law, or bailed, in cases in which bail may by law be taken. R.S., c. 450, s. 6.

JURISDICTION AND PROCEDURE

Summary conviction provisions of Criminal Code

40 (1) Except where and to the extent that it is otherwise specially enacted, the provisions of the *Criminal Code* (Canada), except section 734.2, as amended or re-enacted from time to time, applicable to offences punishable on summary conviction, whether those provisions are procedural or substantive and including provisions that impose additional penalties and liabilities, apply, with necessary changes, to every proceeding under this Act.

(2) In applying the provisions of the *Criminal Code* (Canada) to proceedings under this Act, the following expressions therein have the following meanings:

“Act of the Parliament of Canada” means an Act of the Legislature;

“Attorney General and Minister of Justice” means the Attorney General and Minister of Justice of the Province, and includes the Attorney General and Minister of Justice's lawful deputy;

“prison” means any place other than a penitentiary in which persons charged with or convicted of offences are usually kept or detained in custody;

“prosecutor” means the person who lays an information or makes a complaint in a proceeding or, where the Attorney General and Minister of Justice intervenes, as the Attorney General and Minister of Justice may do at any stage of a proceeding, means the Attorney General and Minister of Justice or the Attorney General and Minister of Justice's agent, and includes counsel acting on behalf of the informant or complainant or of the Attorney General and Minister of Justice or the counsel's agent. R.S., c. 450, s. 7; 1996, c. 23, s. 45.

Service of summons by mail

41 In applying the provisions of the *Criminal Code* (Canada) to proceedings under this Act, service of a summons may be made by registered mail and, for all purposes of this Act, the sending of the summons by registered mail is deemed to be personal service or delivery of the summons without proof of delivery or acceptance. 1993, c. 45, s. 1; 2010, c. 26, s. 1.

Summary offence ticket

42 (1) In addition to the procedure set out in the *Criminal Code* (Canada) for laying an information and for issuing a summons, an information may be laid and a summons issued by means of a ticket in accordance with this Section for an offence under any provision of an Act or regulation or municipal bylaw designated by the regulations.

(2) A ticket under this Section must include provision for the information, summons, report and police record.

(3) The Attorney General and Minister of Justice may make regulations

- (a) prescribing the form of the ticket;
- (b) prescribing the form of a plea of guilty on a summons;
- (c) prescribing the form of the notice of intention to appear for the purpose of pleading guilty to an offence and making a submission as to penalty;
- (d) prescribing the form of the notice of intention to appear for the purpose of entering a plea of not guilty and having a trial of a matter;
- (e) prescribing the form of the certificate of a justice striking out a conviction;
- (f) prescribing the fee for an application to strike out the conviction pursuant to subsection 48(2);
- (g) designating offences under provisions of Acts or regulations or municipal bylaws for the purpose of this Section;
- (h) authorizing the use on a ticket of any word or expression to designate an offence under any provision of an Act or regulation or municipal bylaw designated by the regulations;
- (i) respecting any matter that the Attorney General and Minister of Justice considers necessary to provide for the use of the ticket.

(4) The exercise by the Attorney General and Minister of Justice of the authority contained in subsection (3) is a regulation within the meaning of the *Regulations Act*. R.S., c. 450, s. 8; 2010, c. 26, s. 2; 2011, c. 28, s. 1.

Form and delivery of ticket

43 (1) Where the offence charged in the ticket is one for which the penalty may be paid out of court, the officer issuing the summons may enter the amount of the penalty in the place provided therefor on the ticket, and such entry constitutes the indorsement required by subsection 51(1).

(2) The penalty to be entered on the summons pursuant to subsection (1) must be the minimum penalty for the offence and a charge of \$122.50 or \$36.60 for a parking infraction as defined in subsection 49(1) unless the Attorney General and Minister of Justice by order otherwise directs.

(3) The use on a ticket of any word or expression authorized by the regulations to designate an offence under any provision of an Act or regulation or municipal bylaw designated by the regulations is sufficient for all purposes to describe the offence designated by such word or expression.

(4) Upon completing a ticket, the issuing officer shall print the officer's name so that it appears on the summons portion and shall deliver the sum-

mons portion to the person charged with an offence therein, and delivery of the ticket summons in accordance herewith is deemed to be personal service.

(5) Delivery of a ticket summons may be made on a holiday.

(6) The issuing officer shall sign the information portion of the ticket and certify that the officer personally delivered the summons portion of the ticket to the person accused therein and the certification must be in the following words:

I certify that I did personally deliver the summons portion of this ticket to the accused on the day of , 20. . .

(7) A certificate of delivery purporting to be signed by the issuing officer must be received in evidence as sufficient proof of personal service in the absence of evidence to the contrary. R.S., c. 450, s. 8; 2000, c. 4, s. 75; 2001, c. 5, s. 37; 2006, c. 2, s. 60; 2009, c. 5, s. 33; 2011, c. 8, s. 29; 2013, c. 3, s. 23; 2015, c. 6, s. 51.

Ticket information

44 (1) Every ticket information must be

- (a) signed by the informant; and
- (b) deposited, together with the ticket report of conviction, with the proper justice.

(2) The ticket information need not be sworn to before a justice or any other person and the informant need not be the same person as issued the ticket summons. R.S., c. 450, s. 8; 1993, c. 45, s. 2.

Procedure for ticket

45 (1) A person who is served with a ticket summons shall

- (a) where the person does not wish to dispute the charge,
 - (i) sign the plea of guilty on the summons and, within the time specified in the summons, deliver the summons and amount of the penalty specified in the summons to any Provincial Court office in the Province, or
 - (ii) where the person wishes to make a submission as to penalty, including the extension of time for payment, file in prescribed form, within the time specified in the summons, with the clerk of the court a notice of intention to appear for the purpose of pleading guilty to the offence and making a submission as to penalty; or
- (b) where the person wishes to dispute the charge,
 - (i) file in prescribed form, within the time specified in the summons, with the clerk of the court a notice of intention to appear in court for the purpose of entering a plea of not guilty and having a trial of the matter, and
 - (ii) include in the form the person's mailing address, telephone number, facsimile number and electronic mail address.

(2) Where a person has delivered a notice of intention to appear in accordance with subsection (1),

(a) the clerk of the court shall, as soon as practical, give notice to the person and the prosecutor of the time and place of the trial or the appearance for the purpose of pleading guilty to the offence and making a submission as to penalty; and

(b) the person shall attend at the time and place specified in the notice.

(3) The clerk of the court may send a notice to a person by mail, facsimile or electronic mail and, where the notice is sent to the person by mail, facsimile or electronic mail, the notice is deemed to have been received by the person.

(4) Acceptance by the court office of payment under subclause (1)(a)(i) constitutes a plea of guilty whether or not the plea is signed and the endorsement of payment on the certificate of offence constitutes the conviction and imposition of a fine in the amount specified in the summons for the offence.

(5) A justice may require a submission as to penalty to be made orally under oath or by affidavit.

(6) A signature on a ticket summons or notice of intention to appear purporting to be that of the defendant is proof, in the absence of evidence to the contrary, that it is the signature of the defendant. 2010, c. 26, s. 2.

Requirements for traffic ticket

46 Where a justice makes a conviction on a ticket information in respect of an offence under a provision of an Act or regulation regulating traffic, the justice shall complete the ticket report of conviction and forward it to the Registrar of Motor Vehicles and it is deemed to be compliance with Section 316 of the *Motor Vehicle Act*. R.S., c. 450, s. 8.

Failure to act or appear

47 (1) Where a person is served with a ticket summons and the person has not acted within the time specified in the summons as required by subsection 45(1) or where a person who has given notice of an intention to appear fails to appear at the time and place appointed for the hearing, the person is deemed to not wish to dispute the charge and a justice shall

(a) where the information portion of the ticket is complete and regular on its face, enter a conviction in the person's absence, without a hearing, and impose

(i) the minimum penalty authorized by law for the offence or, where another penalty for that offence has been directed by the Attorney General and Minister of Justice for out-of-court settlement pursuant to subsection 43(2), that other penalty, and

(ii) a charge of \$122.50 or, for a parking infraction as defined in subsection 49(1), \$36.60; or

(b) where the information portion of the ticket is not complete and regular on its face, quash the proceeding and advise the issuing officer that the proceeding has been quashed.

(2) For greater certainty, where the ticket

(a) indicates that the ticket is for a second or for a third or subsequent offence; and

(b) correctly references the out-of-court settlement amount prescribed for a second or for a third or subsequent offence,

the ticket is sufficient notice to the defendant that an increased penalty may be imposed and, where the information portion of the ticket is complete and regular on its face, a justice, including a justice entering a conviction in a person's absence in accordance with subsection (1), shall impose the increased penalty.

(3) Where the justice enters a conviction pursuant to subsection (2), the justice shall, by ordinary mail, notify the defendant of the entry of the conviction and the defendant's right to apply for a hearing pursuant to subsection 48(1) or (2).

(4) No proceeding may be taken to collect a penalty and the charge imposed pursuant to subsection (1) sooner than 30 days after the date on the notice to the defendant. R.S., c. 450, s. 8; 1994-95, c. 18, s. 1; 2000, c. 4, s. 75; 2001, c. 5, s. 37; 2006, c. 2, s. 60; 2009, c. 5, s. 33; 2010, c. 26, s. 2; 2011, c. 8, s. 29; 2013, c. 3, s. 23; 2015, c. 6, s. 51.

Where failure to act or appear

48 (1) Where a person who has been convicted as a result of a failure to act as required by subsection 45(1) attends at the court office during regular office hours within 60 days of the conviction and requests that the conviction be struck out, the clerk of the court shall

(a) strike out the conviction;

(b) give the person a certificate of that fact in the prescribed form; and

(c) give the person and the prosecutor notice of the time and place of the trial or the appearance for the purpose of pleading guilty to the offence and making a submission as to penalty.

(2) Where a person who has been convicted as a result of a failure to

(a) act as required by subsection 45(1) and more than 60 days have elapsed; or

(b) appear at the time and place of the trial or the appearance for the purpose of pleading guilty to the offence and making a submission as to penalty, after having given a notice of intention to appear,

the person may appear before the court and the justice or judge, as the case may be, upon payment of the prescribed application fee and being satisfied that

(c) the person demonstrates a prima facie defence to the offence charged in the ticket;

(d) the person has a reasonable excuse for failing to appear; and

(e) the person acted without unreasonable delay,

shall strike out the conviction, give the person a certificate of that fact in the prescribed form and give the person appearing and the prosecutor a notice of trial or the appearance for the purpose of pleading guilty to the offence and making a submission as to penalty.

(3) Upon the motion of a duly authorized prosecutor, a justice shall strike out a conviction entered pursuant to subsection 47(1).

(4) Where a conviction is struck out pursuant to subsection (3) and the defendant has an opportunity to be heard, the judge may order the defendant to pay costs in an amount not exceeding \$10 or such other amount as the Governor in Council may determine.

(5) Where a conviction is struck out pursuant to subsection (2) or (3), the justice or judge, as the case may be, shall, upon the request of the defendant, give the defendant a certificate of that fact in the prescribed form. R.S., c. 450, s. 8; 1999 (2nd Sess.), c. 8, s. 20; 2010, c. 26, s. 2.

Parking-infraction ticket

49 (1) In this Section, “parking infraction” means any unlawful parking, standing or stopping of a vehicle that constitutes an offence.

(2) The officer issuing a parking-infraction ticket may serve the ticket on the registered owner of the vehicle identified in the ticket by

(a) affixing the ticket to the vehicle in a conspicuous place at the time of the infraction; or

(b) delivering the ticket personally to the operator at the time of the infraction.

(3) The issuing officer may serve the parking-infraction ticket on the operator of the vehicle by delivering the ticket to the operator personally at the time of the infraction.

(4) The issuing officer shall certify on the parking-infraction ticket the means by which the officer served the ticket and the date of service.

(5) Where the issuing officer serves the ticket in the manner referred to in subsection (2) or (3) and the specified penalty is not paid within the time specified on the ticket, the officer shall cause to be sent, by ordinary mail, a notice of parking infraction to the owner of the vehicle at the last known address of the owner as indicated on the records of the Registrar of Motor Vehicles.

(6) Where it appears that the issuing officer has certified service of the parking-infraction ticket and signed the ticket and where it is further certified that the notice of parking infraction has been mailed as provided in subsection (5), the ticket must be received in evidence as prima facie proof of service.

(7) Sections 42 to 48 apply with necessary changes to a parking-infraction ticket issued pursuant to this Section.

(8) The Attorney General and Minister of Justice may make regulations

(a) prescribing the form of the parking-infraction ticket, including prescribing a different form of ticket for different municipalities;

(b) prescribing the form of the notice of parking infraction;

(c) designating offences under provisions of Acts or regulations or municipal bylaws for the purpose of this Section;

(d) authorizing the use on a parking-infraction ticket of any word or expression to designate an offence under any provision of an Act or regulation or municipal bylaw designated by the regulations;

(e) respecting any matter that the Attorney General and Minister of Justice considers necessary to provide for the use of the parking-infraction ticket. 1994-95, c. 18, s. 2; 2000, c. 4, s. 76; 2001, c. 5, s. 38; 2006, c. 2, s. 61; 2011, c. 28, s. 2.

Certification and signing by electronic means

50 (1) Notwithstanding anything contained in this Act, a ticket or certification referred to in Sections 42 to 49 may be completed and signed by electronic means in an electronic format and may be filed by direct electronic transmission if the completion, signature and filing are in accordance with the regulations.

(2) A printed copy of a ticket or certification filed pursuant to subsection (1) is deemed to have been filed as the original document if it is printed in accordance with the regulations and for the purpose of disposing of a charge under this Act.

(3) The Attorney General and Minister of Justice may make regulations respecting

(a) the completion and signing of tickets or certifications by electronic means;

(b) the filing of tickets or certifications by direct electronic transmission;

(c) the printing of tickets or certifications filed by direct electronic transmission. 1994-95, c. 18, s. 2; 2011, c. 28, s. 3.

Payment out of court

51 (1) There may be indorsed upon a summons a notice that the person to whom the summons is directed may pay a specified penalty out of court.

(2) Where a summons is so indorsed, it must provide for a plea of guilty in the form prescribed in the regulations.

(3) The officer or other person delivering the summons indorsed under this Section shall not receive payment of the penalty payable out of court, or any part thereof.

(4) Upon receipt of the summons with the payment or partial payment of the penalty payable out of court as the summons provides, which must include a charge of \$122.50 or, for a parking infraction as defined in subsection 49(1), \$36.60, a justice may convict the person to whom the summons is directed of the offence described in the summons.

(5) For greater certainty, a conviction entered upon receipt of a summons with the partial payment of the penalty payable out of court pursuant to subsection (4) does not relieve the person convicted of the obligation to pay the balance remaining of the payment payable out of court. R.S., c. 450, s. 9; 2000, c. 4, s. 77; 2000, c. 28, s. 96; 2001, c. 5, s. 39; 2006, c. 2, s. 62; 2009, c. 5, s. 34; 2010, c. 26, s. 3; 2011, c. 8, s. 30; 2013, c. 3, s. 24; 2015, c. 6, s. 52.

Suspension of driver's licence

52 (1) In this Section, "speeding" means an offence under Section 116, 124, 125 or 126, clause 130(b) or (c) or Section 201 of the *Motor Vehicle Act*.

(2) Where a summons provides that payment of a penalty for speeding may be made out of court and such a payment is made, a driver's licence issued under the *Motor Vehicle Act* to the person to whom the summons is directed is deemed to be suspended for a period of seven days commencing at 12:00 noon on the day 90 days after the date the ticket was issued. R.S., c. 450, s. 10; 2010, c. 26, s. 4; 2012, c. 8, s. 19.

RELIEF FROM PENAL RECORD

Lapse of conviction

53 (1) Notwithstanding any enactment, including the other provisions of this Act, every conviction for an offence under any enactment lapses and ceases to have effect for any purpose when five years have elapsed from the day when the conviction was first entered by a court, whether having original or appellate jurisdiction over the offence.

(2) Nothing in this Section affects the liability of the person convicted to any punishment, imprisonment or other penalty imposed by or in respect of a conviction for an offence at the date of conviction.

(3) Where a conviction for an offence has lapsed by virtue of this Section, the person who was convicted of the offence is not required to

(a) disclose the fact that the person was convicted of the offence;

(b) answer affirmatively or negatively any question tending to disclose the fact that the person was convicted of the offence.

(4) Where this Section conflicts with any enactment with respect to the effect of a conviction for an offence, this Section prevails. R.S., c. 450, s. 11.

RELIEF FROM MANDATORY IMPRISONMENT

Imprisonment not mandatory

54 (1) Notwithstanding any enactment, including the other provisions of this Act, no court is bound by law to impose imprisonment upon a person convicted of an offence as a penalty or punishment for the offence.

(2) Where the only penalty or punishment prescribed by an enactment for an offence is imprisonment, the court may impose a monetary penalty or fine not exceeding \$1,000 in lieu of imprisonment.

(3) Nothing in this Section affects the power or authority, discretionary or otherwise, of a court to impose imprisonment upon a person convicted of an offence if imprisonment is authorized or permitted by law.

(4) Where this Section conflicts with any enactment or regulations made under any enactment, this Section prevails. R.S., c. 450, s. 12.

WARRANTS OF DISTRESS AND COMMITMENT

Distress or commitment for non-payment

55 (1) Where a conviction or an order requires the payment of a sum of money by a defendant, the summary conviction court may order that, in default of payment, the sum of money be levied by distress and sale of the goods and chattels of the defendant and, where sufficient distress cannot be found, that the defendant be imprisoned in the manner and for the time directed by the enactment authorizing the conviction or order, unless the sum of money and the costs and charges of the distress and commitment are sooner paid.

(2) The summary conviction court making the conviction or order mentioned in subsection (1) may issue a warrant of distress in the form prescribed in the regulations.

(3) Where a warrant of distress is issued, and the peace officer charged with the execution thereof returns the form prescribed in the regulations that the peace officer can find no goods or chattels to levy upon, the summary conviction court may issue a warrant of committal in the manner and form prescribed in the *Criminal Code* (Canada). R.S., c. 450, s. 13; 2002, c. 30, s. 25.

Execution elsewhere if insufficient distress realized

56 (1) Where, after delivery of a warrant of distress to a peace officer to be executed, sufficient distress cannot be found within the limits of the jurisdiction of the summary conviction court granting the warrant, a summary conviction court of another territorial jurisdiction, upon proof on oath or by affidavit of the signature of the person who issued the warrant, shall indorse the warrant authorizing its execution within the limits of its jurisdiction and that part of the sum of money not before levied or paid may be levied by distress and sale of the goods and chattels of the defendant by any peace officer.

(2) The indorsement referred to in subsection (1) may be in the form prescribed in the regulations. R.S., c. 450, s. 14; 2002, c. 30, s. 26.

Application for order to cease execution

57 (1) A defendant, or member of the family of a defendant, against whom a warrant of distress has been issued, may make an application to a summary conviction court for an order directing the peace officer to whom the warrant has been given for execution to cease the execution and to return any goods and chattels levied thereunder and remaining unsold.

(2) Upon receiving an application, the summary conviction court may order the temporary discontinuance of action under the warrant of distress and shall fix a day for the hearing of the application and direct that notice of the hearing be given to such persons and in such manner as may be specified.

(3) Upon the hearing of the application and where it appears that the execution of a warrant of distress would impose undue hardship on the defendant or the defendant's family, the summary conviction court may order the peace officer to whom the warrant has been given for execution to cease the execution and to return any goods and chattels levied thereunder and remaining unsold. R.S., c. 450, s. 15.

Execution ceases upon payment of sum due

58 Where a warrant of distress has been issued against any person, and the person pays or tenders to the peace officer having the execution of the same, the sum or sums in the warrant mentioned, together with the amount of the expenses of the distress up to the time of payment or tender, the peace officer shall cease to execute the warrant. R.S., c. 450, s. 16.

Entry of fine as judgment

59 (1) Where an offender is in default of payment of a fine, in addition to any other method provided by law for recovering the fine, the person or body to whom the proceeds of the fine belong may, by filing the order, enter as a judgment the amount of the fine, and costs, if any, in any civil court in the Province that has jurisdiction to enter a judgment for that amount.

(2) An order that is entered as a judgment pursuant to subsection (1) is enforceable in the same manner as if it were a judgment obtained by the person or body, as the case may be, in a civil proceeding. 1999 (2nd Sess.), c. 8, s. 21.

GENERAL

Regulations respecting forms

60 The forms contained in Schedule A of Chapter 450 of the Revised Statutes, 1989, are deemed to be prescribed pursuant to clause 62(1)(g) and to have been published in accordance with the *Regulations Act* and may be amended or repealed pursuant to this Act.

Regulations respecting Schedule

61 (1) The Governor in Council may make regulations adding enactments to or deleting enactments from the Schedule.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*, 2006, c. 10, s. 6.

Regulations

- 62 (1) The Governor in Council may make regulations
- (a) designating enactments of a designated province of Canada for the purpose of the definition of “designated enactment” in subsection 30(1);
 - (b) designating provinces of Canada for the purpose of the definition of “designated province” in subsection 30(1);
 - (c) respecting requests by a designated province to have a search or a seizure carried out in the Province in respect of an offence against an enactment of the designated province;
 - (d) respecting the application for and execution of warrants under Section 30;
 - (e) respecting the detention and return of things seized in the execution of a warrant under Section 30;
 - (f) respecting the sending of things seized in the execution of a warrant under Section 30 to a designated province;
 - (g) prescribing forms for the purpose of this Act;
 - (h) defining any word or expression used but not defined in this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*, 2010, c. 26, s. 5; 2012, c. 46, s. 3.

SCHEDULE

Amusement Devices Safety Act
 Animal Protection Act
 Apprenticeship and Trades Qualifications Act
 Blind Persons Rights Act
 Body Armour Control Act
 Building Code Act
 Cannabis Control Act
 Cemetery and Funeral Services Act
 Crown Lands Act
 Dairy Industry Act
 Dangerous Goods Transportation Act
 Elections Act
 Electrical Installation and Inspection Act
 Elevators and Lifts Act
 Endangered Species Act
 Environment Act
 Fire Safety Act
 Fisheries and Coastal Resources Act
 Forests Act
 Gas Distribution Act
 Health Protection Act

Labour Standards Code
Liquor Control Act
Mineral Resources Act
Motor Carrier Act
Motor Vehicle Act
Municipal Government Act
Occupational Health and Safety Act
Off-highway Vehicles Act
Petroleum Resources Act
Petroleum Resources Removal Permit Act
Pharmacy Act
Pipeline Act
Private Investigators and Private Guards Act
Provincial Parks Act
Railways Act
Remembrance Day Act
Retail Business Designated Day Closing Act
Revenue Act
Safe Body Art Act
Sales Tax Act
Service Dog Act
Smoke-free Places Act
Subsurface Energy Storage Act
Technical Safety Act
Water Resources Protection Act
Wilderness Areas Protection Act
Wildlife Act

2002, c. 30, s. 29, Sch. B; 2004, c. 4, s. 118; 2007, c. 32, s. 11; N.S. Reg. 77/2010; 2011, c. 44, s. 34;
2015, c. 17, s. 101; 2016, c. 3, s. 171; 2016, c. 4, s. 22; 2018, c. 3, s. 71; 2018, c. 22, s. 16.

CHAPTER S-39

An Act Respecting Sureties for Officials

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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 *Sureties Act*. R.S., c. 451, s. 1.

Interpretation

2 In this Act, “guarantee company” means an incorporated company empowered to grant guarantee bonds or policies for the integrity and faithful accounting of public officers or other officials, servants or persons occupying positions of trust, or for other like purposes, and approved of for such purposes by the Governor in Council. R.S., c. 451, s. 2.

Security by public officer

3 When any public officer is required to give security for the performance of the public officer’s duty, or of any obligation undertaken towards the Crown, the bond or policy of any guarantee company may be accepted as such security upon such terms as are determined by the Governor in Council, and the provisions of law with reference to the legal effect of such securities when given by individuals, to the filing thereof, and to the mode of proceeding thereon, apply to the security to be given by any such company. R.S., c. 451, s. 3.

Security by officer or servant of certain bodies

4 Notwithstanding the provisions of any enactment of the Legislature with respect to any benevolent society, building society, incorporated insurance company or municipal or other corporation, the bonds or policies of guarantee of any guarantee company may be accepted instead of or in addition to the bond or security required by the Act of incorporation, charter, bylaw or rule of such society, company or corporation, to be given by any official or servant thereof, where the persons directed or authorized to take such bond or security see fit to take the bond or policy of such guarantee company and approve the terms and conditions thereof. R.S., c. 451, s. 4.

Provisions of charter or bylaws of certain bodies

5 All the provisions in any such Act, charter, bylaw or rule relating to such security to be given by any such official or servant or such official's or servant's sureties apply to the bonds or policies of guarantee of such guarantee company. R.S., c. 451, s. 5.

Security for performance of any duty

6 Notwithstanding any enactment of the Legislature, the bonds or policies of guarantee of any guarantee company may be accepted by a judge or other person authorized or required to take security for the due performance of any duty, instead of or in addition to the bond or security of a surety or sureties, if such judge or other person sees fit to accept such bond or policy as aforesaid and approves of the conditions and terms thereof. R.S., c. 451, s. 6.

Statutory provisions respecting security

7 All the provisions in any such Act relating to the security to be given by any person to whom any duty is committed, or the person's surety or sureties, apply to the bonds or policies of guarantee of a guarantee company. R.S., c. 451, s. 7.

Substitution of existing security

8 The bonds or policies of guarantee of any guarantee company may be taken instead of or in substitution for any existing securities, if the person directed or authorized to take such securities sees fit, whereupon the existing securities must be delivered up to be cancelled. R.S., c. 451, s. 8.

Interim receipt of guarantee company

9 The interim receipt of a guarantee company may be accepted instead of the formal security, but such formal security must be completed within one month from the date of the interim receipt. R.S., c. 451, s. 9.

CHAPTER S-40

**An Act Respecting the Disposal
of Surplus Crown Property**

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Short title

1 This Act may be cited as the *Surplus Crown Property Disposal Act*.
R.S., c. 452, s. 1.

INTERPRETATION

Interpretation

2 In this Act,

“Committee” means the Surplus Crown Property Committee established under this Act;

“department” means a department established by or under the *Public Service Act*, and includes a branch or division of the public service and a board, commission or other agency of the Crown in right of the Province;

“Minister” means the member of the Executive Council to whom is assigned the administration of this Act;

“surplus Crown property” means property enumerated in a report furnished to the Minister pursuant to this Act. R.S., c. 452, s. 2.

ADMINISTRATION

Administration of Act

3 The Governor in Council may assign to a member of the Executive Council the administration of this Act. R.S., c. 452, s. 3.

Surplus Crown Property Committee

4 (1) The Governor in Council may appoint a Surplus Crown Property Committee of such number of persons as the Governor in Council determines, one of whom is a member of the Purchasing Committee, and shall appoint one member of the Committee to be the Chair thereof.

(2) The members of the Committee shall be paid such salaries or other remuneration as the Governor in Council determines. R.S., c. 452, s. 4.

Functions and duties

5 The Committee shall advise the Minister and the several departments on matters to which this Act relates and shall have such other functions and duties as are prescribed by the regulations or as the Governor in Council determines. R.S., c. 452, s. 5.

Regulations

6 The Governor in Council may make regulations

(a) prescribing the form of reports to be made to the Minister under this Act and the time or times at which they must be made;

(b) respecting the manner of conducting sales or other disposals of surplus Crown property;

(c) prescribing the functions and duties of the Committee;

(d) generally for the better carrying out of the intent and purpose of this Act. R.S., c. 452, s. 6.

Report on surplus personal property

7 Each department shall at the time and in the manner prescribed by the regulations, and may at any other time, make a report to the Minister setting out particulars of equipment, machinery, furniture, materials, tools, instruments, vehicles, and other property of every nature and sort, except real property, in its custody and control for which it has no present or foreseeable future need and in respect of which there is no statutory provision for disposal. R.S., c. 452, s. 7.

Referral of report to Committee

8 The Minister may refer any such report to the Committee for examination and recommendation respecting the disposal of the articles listed in it. R.S., c. 452, s. 8.

Powers of Minister respecting surplus property

9 The Minister, with the general or particular authorization of the Governor in Council, may

- (a) sell, lease or rent, exchange, transfer from one department to another department, give or otherwise dispose of surplus Crown property to such persons and on such terms and conditions as the Minister considers advisable;
- (b) repair, renovate, restore, remodel or otherwise treat surplus Crown property;
- (c) enter into and carry out such agreements and undertakings and execute and deliver such assignments, bills of sale, chattel mortgages and other instruments and documents as are necessary in connection with the disposal of or dealing with surplus Crown property. R.S., c. 452, s. 9.

Proceeds of disposal

10 The proceeds of the sale, rental or other disposal of surplus Crown property must be credited to such account or fund of the Province as the Governor in Council directs, either generally or with respect to any particular property or class of property. R.S., c. 452, s. 10.

Order for disposal of surplus real estate

11 (1) The Governor in Council, for such consideration and on such terms and conditions as the Governor in Council considers advisable, may order the sale, renting, exchange, giving or other disposal of real estate vested in the Crown in right of the Province or any interest therein that was acquired in any manner or for any purpose and is not required for Provincial purposes and in respect of which there is no statutory provision for disposal.

(2) Where the Governor in Council orders under subsection (1) that any real estate or interest therein be sold, rented, exchanged, given or otherwise disposed of, the Minister may, on behalf of the Crown, execute and deliver all deeds, leases, mortgages and other instruments that are necessary to give effect to the order of the Governor in Council.

(3) The proceeds of any sale, renting, exchange or other disposal of real estate or interest therein pursuant to this Section must be credited to such account or fund of the Province as the Governor in Council directs, either with respect to a particular transaction or with respect to different classes of transactions or property. R.S., c. 452, s. 11.

Tabling of report

12 The Minister shall not later than 20 days after the commencement of each session of the General Assembly table a report showing particulars of all surplus Crown property, real estate and interests therein disposed of or dealt with pursuant to this Act, and the manner of such disposal or dealing, including the amounts received for the same and the persons to whom it was sold, rented, transferred or given during the fiscal year preceding the commencement of the session. R.S., c. 452, s. 12.

CHAPTER S-41

**An Act Relating to the Survival of Actions
by and against Executors and Administrators**

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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 *Survival of Actions Act*. R.S., c. 453, s. 1.

Subsisting cause of action survives death

2 (1) Except as provided in subsection (2), where a person dies, all causes of action subsisting against or vested in the person survive against or, as the case may be, for the benefit of the person's estate.

(2) A cause of action does not survive death when the action is for

- (a) adultery;
- (b) inducing a spouse to leave or remain apart from the spouse's spouse. R.S., c. 453, s. 2.

Cause of action deemed subsisting before death

3 Where damage has been suffered by reason of an act or omission as a result of which a cause of action would have subsisted against a person if that person had not died before or at the same time as the damage was suffered, there is deemed to have been subsisting against the person before the person's death whatever cause of action as a result of that act or omission would have subsisted if the person had not died before the damage was suffered. R.S., c. 453, s. 3.

Recoverable damages

4 Where a cause of action survives for the benefit of the estate of a deceased person, only damages that have resulted in actual pecuniary loss to the estate are recoverable, and in no case are damages recoverable for

- (a) punitive and exemplary matters;
- (b) loss of expectation of life;
- (c) pain and suffering. R.S., c. 453, s. 4.

Limitation of Actions Act

5 Where a cause of action survives by reason of this Act, the cause of action is subject to the *Limitation of Actions Act*. R.S., c. 453, s. 5.

Fatal Injuries Act

6 The rights conferred by this Act are in addition to and not in derogation of any rights conferred by the *Fatal Injuries Act*. R.S., c. 453, s. 6.

Estate representative appointed for purposes of action

7 Where there is no executor or administrator, or none within the Province, of an estate against which or for the benefit of which a cause of action survives under this Act, a judge of the Supreme Court of Nova Scotia, on an application made after the expiration of 20 days from the date of death, may, on such terms as to costs or security therefor as the judge thinks fit, appoint a person to represent the estate for all purposes of any action, cause or proceeding on behalf of or against the estate. R.S., c. 453, s. 7.

CHAPTER S-42

**An Act Respecting Survivorship
in Common Disasters**

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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 *Survivorship Act*. R.S., c. 454, s. 1.

Uniform Act

2 This Act is to be so interpreted and construed as to effect its general purpose of making uniform the law of those provinces that enact it. R.S., c. 454, s. 2.

Presumed order of death

3 (1) Where two or more persons die at the same time or in circumstances rendering it uncertain which of them survived the other or others, such deaths are, subject to subsections (2) and (3), for all purposes affecting the title of property, presumed to have occurred in the order of seniority, and accordingly the younger is deemed to have survived the older.

(2) This Act is to be read and construed subject to Sections 120 and 295 of the *Insurance Act*, and Section 32 of the *Wills Act*.

(3) Where

(a) a testator and a person who, if that person had survived the testator, would have been a beneficiary of property under the will, die at the same time or in circumstances rendering it uncertain which of them survived the other; and

(b) the will contains provisions for the disposition of the property in case that person had not survived the testator or died at the same time as the testator or in circumstances rendering it uncertain which survived the other,

then for the purpose of that disposition the will takes effect as if that person had not survived the testator or died at the same time as the testator or in circumstances rendering it uncertain which survived the testator or died at the same time as the testator or in circumstances rendering it uncertain which survived the other, as the case may be. R.S., c. 454, s. 3.

CHAPTER S-43

**An Act Respecting the Sydney Steel Corporation
and Sydney Works**

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Short title

1 This Act may be cited as the *Sydney Steel Corporation Act*. R.S., c. 456, s. 1.

Interpretation

2 In this Act,
 “Agreement” means the Agreement set forth in the Schedule to this Act;
 “Board” means the Board of Directors of the Corporation;
 “Chair” means the Chair of the Board;
 “Corporation” means the Sydney Steel Corporation;
 “Dosco” means the Dominion Steel and Coal Corporation Limited;
 “Minister” means the member of the Executive Council responsible for the administration of this Act;
 “Nova Scotia” means the Crown in right of the Province represented in this behalf by the Minister;
 “President” means the President of the Corporation;
 “Sydney Works” means the steel plant of Dosco located at Sydney and referred to in the Agreement. R.S., c. 456, s. 2.

PART I

AGREEMENT BETWEEN NOVA SCOTIA AND DOSCO

Ratification of Agreement

3 The Agreement in the form in the Schedule to this Act is ratified and confirmed. R.S., c. 456, s. 3.

Confirmation of authority for execution of Agreement

4 The Premier and Minister of Finance and Economics is declared to have had on the date of the execution of the Agreement full power and authority to enter into and execute it on behalf of Nova Scotia. R.S., c. 456, s. 4.

Powers of Governor in Council

5 The Governor in Council is empowered to

- (a) do every act and exercise every power and expend every sum of money necessary or proper for the purpose of implementing in every respect every obligation assumed by Nova Scotia under the Agreement;
- (b) do and perform the acts, matters and things in the Agreement provided to be done or performed by Nova Scotia in the manner and with the effect and under the conditions stipulated and provided in the Agreement;
- (c) authorize the Minister to make any request, to give any notice or direction, to grant or withhold any approval or consent or to do any other act or thing required or permitted to be done by Nova Scotia by or under the Agreement;

(d) convey any or all of the property or benefits acquired by Nova Scotia under the Agreement or otherwise acquired and forming part of or incidental to Sydney Works to the Corporation or any other person;

(e) assign any or all of the property or benefits acquired by Nova Scotia under the Agreement or otherwise acquired and forming part of or incidental to Sydney Works to the Corporation or any other person;

(f) do every act and exercise every power and expend every sum of money that the Governor in Council considers necessary or incidental to continue the operations of Sydney Works for a sufficient time to assess the long-term future of Sydney Works;

(g) enter into contracts with any person or persons within or outside Canada or with the Crown in right of Canada or any other province or any agent of the Crown in right of Canada or any other province relating to the operation of Sydney Works or the marketing or shipping of products acquired by or produced by Nova Scotia or the Corporation. R.S., c. 456, s. 5.

Source of funds

6 The Governor in Council may raise by way of loan on the credit of the Province, chargeable to Capital Account, such sum or sums as are considered necessary for the purpose of carrying out the obligations assumed by Nova Scotia under the Agreement or of continuing the operations of Sydney Works for a sufficient time to assess the long-term future of Sydney Works and to give effect to that assessment or, if it is considered expedient to do so, the Governor in Council may pay the said sum or sums out of the Special Reserve Account of the Province or out of the Revenue of the Province for any year or years. R.S., c. 456, s. 6.

PART II

SYDNEY STEEL CORPORATION

Sydney Steel Corporation

7 (1) A Corporation is established to be called the Sydney Steel Corporation, consisting of a Board of Directors composed of a Chair and not fewer than four nor more than nine other directors to be appointed in the manner provided in Section 8.

(2) Any member of the House of Assembly, including a member of the Executive Council, may be appointed to and sit on the Board, and no person is rendered ineligible or disqualified from sitting or voting in the House of Assembly by reason of the person being a member of the Board and receiving remuneration therefor or by reason of any dealing by the Corporation with the Province. R.S., c. 456, s. 7.

Directors and President

8 (1) The Chair and the other directors and a President shall be appointed by the Governor in Council, each to hold office for such term as specified in the appointment.

(2) A vacancy on the Board does not impair the right of the remaining directors to act but, where any such vacancy occurs, it shall be filled as

soon as practicable by appointment in the manner provided in this Section. R.S., c. 456, s. 8.

Presiding at meetings

9 (1) The Chair shall preside at meetings of the Board but in the event of the absence or incapacity of the Chair or if the office of Chair is vacant, the President, if a director, shall preside at such meetings.

(2) Where the President is not a director, in the event of the absence or incapacity of the Chair at any meeting, the directors present shall name one of their number to preside at such meeting.

(3) Where the President is a director, in the event of the absence or incapacity of both the Chair and the President at any meeting, the directors present shall name one of their number to preside at such meeting. R.S., c. 456, s. 9.

Vice-president

10 The Board may appoint, not necessarily from among its own members, a Vice-president or Vice-presidents for such term or terms as specified in the appointment or appointments. R.S., c. 456, s. 10.

Chief Executive Officer

11 (1) The Governor in Council shall appoint either the Chair or President as the Chief Executive Officer of the Corporation.

(2) The Chief Executive Officer may, subject to the control and direction of the Board, have charge of the conduct of the business of the Corporation.

(3) In the event of the absence or incapacity of the Chief Executive Officer or if the office of the Chief Executive Officer is vacant, the Board shall authorize the Chair, the President or a director of the Corporation to act as the Chief Executive Officer for the time being, but no person so authorized by the Board has authority to act as Chief Executive Officer for a period exceeding 60 days without the approval of the Governor in Council. R.S., c. 456, s. 11.

Remuneration and expenses

12 (1) The Chief Executive Officer shall be paid by the Corporation a salary to be fixed by the Governor in Council and the Chair and the other directors shall be paid by the Corporation such fees for attendances at meetings of the Board or any committee thereof as are fixed by bylaw of the Corporation.

(2) Each director is entitled to be paid by the Corporation such travelling and living expenses incurred by the director in the performance of the director's duties as are fixed by bylaw of the Corporation. R.S., c. 456, s. 12.

Personnel

13 (1) The Corporation may employ such officers and employees and technical and professional advisers and consultants as it considers necessary for the proper conduct of its activities.

(2) The persons employed pursuant to subsection (1) shall be paid by the Corporation such remuneration as is fixed, agreed to or provided for by the Board and shall be employed on such terms and conditions as are fixed, agreed to or provided for by the Board. R.S., c. 456, s. 13.

Acquisition and alienation of property

14 For the purpose of enabling Nova Scotia or the Corporation to carry out the object of this Act, Nova Scotia or the Corporation is empowered to acquire, hold and dispose of property, including all or part of the assets and business of Dosco's Sydney Works as referred to in the Agreement. R.S., c. 456, s. 14.

Vesting of property in Province or Corporation

15 (1) Nova Scotia or the Corporation may, for the purpose of transferring property in accordance with the terms of the Agreement, deposit in the office of the Registrar of Deeds for the registration district of the County of Cape Breton a plan of the land or any part thereof and an inventory of the other property or any part thereof that Nova Scotia or the Corporation is empowered to acquire pursuant to Section 14 and, upon publication in the Royal Gazette of a notice that a plan and inventory have been so deposited,

(a) all interests, other than of the Crown in right of Canada, in the land depicted on the plan as being taken by Nova Scotia or the Corporation; and

(b) all rights, other than of the Crown in right of Canada, in the property described in the inventory,

shall vest in Nova Scotia or the Corporation, as the case may be, free from any and all encumbrances, by virtue of this Act and without further assurance.

(2) A plan and inventory deposited in accordance with subsection (1) must be signed by the Minister or the President, as the case may be, and a copy of the plan and the inventory must be sent by registered mail addressed to Dosco at its address as then known to the Minister or the Corporation. R.S., c. 456, s. 15.

Interpretation of Section 15

16 For the purpose of Section 15, "land" is deemed to include personal property as though personal property were an interest in land. R.S., c. 456, s. 16.

Abandonment or compensation

17 Where, pursuant to Section 15, property other than that in which Dosco or an associated company has an interest becomes vested in Nova Scotia or the Corporation, Nova Scotia or the Corporation may abandon such property by filing a declaration of abandonment in the office of the Registrar of Deeds for the registration district of the County of Cape Breton or shall pay compensation therefor. R.S., c. 456, s. 17.

Condition for compensation

18 No consideration or compensation is payable for any tangible personal property acquired pursuant to Section 14, whether in the manner provided in Section 15 or otherwise, unless the person claiming to be entitled thereto establishes

that actual physical possession of the property has been delivered to Nova Scotia or the Corporation as the case may be. R.S., c. 456, s. 18.

Conveyance by Dosco to Province or Corporation

19 A document or documents executed by Dosco purporting to convey the property and assets or any part thereof referred to in the Agreement to Nova Scotia or the Corporation when registered in the office of the Registrar of Deeds for the County of Cape Breton shall vest in Nova Scotia or the Corporation, as the case may be, the said property or assets free from any and all encumbrances by virtue of this Section and without further assurances. R.S., c. 456, s. 19.

Right of access to Sydney Works

20 The Minister or President or any person or persons designated in writing by the Minister or the President shall have free and unimpeded access at all times to each and every part of Sydney Works and, without limiting the generality of the foregoing, may survey and take levels of Sydney Works, and inspect all books, minutes, reports, documents, records, inventories, chattels, papers, things and properties of Dosco relating to Sydney Works, and all reasonable aid and assistance shall, on request, be rendered to any such person or persons by the board of directors, officers and employees of Dosco, including aid and assistance in the making and giving of extracts, copies and statements. R.S., c. 456, s. 20.

Object of Corporation

21 The object of the Corporation is to continue the operations of Sydney Works for a sufficient time to assess the long-term future of Sydney Works and to give effect to that assessment. R.S., c. 456, s. 21.

Powers of Corporation

22 In carrying out its object the Corporation may

(a) accept an assignment by Nova Scotia of its benefits under the Agreement and assume and perform all obligations of Nova Scotia under the Agreement;

(b) accept conveyance from Nova Scotia or any person of any property or assets necessary or incidental to the operation of Sydney Works;

(c) either by itself, or in co-operation with any person or persons within or outside Canada or with the Crown in right of Canada or Nova Scotia or any other province or any agent of the Crown in right of Canada or Nova Scotia or any other province, rehabilitate, improve, operate, maintain and expand Sydney Works or part thereof or related fixtures, machinery, equipment or property of any other nature acquired by the Corporation;

(d) enter into contracts with any person or persons within or outside Canada or with the Crown in right of Canada or Nova Scotia or any other province or any agent of the Crown in right of Canada or Nova Scotia or any other province relating to the operation of Sydney Works or the marketing or shipping of products acquired by or produced by the Corporation;

(e) do all such other things as the Corporation considers incidental or conducive to the attainment of its object. R.S., c. 456, s. 22.

Powers of natural person

23 Except as otherwise provided in this Act, the Corporation has the capacity, rights, powers and privileges of a natural person. R.S., c. 456, s. 23; 2000, c. 33, s. 9.

Proceedings against the Crown Act

24 (1) Subject to this Section, the provisions of the *Proceedings against the Crown Act* apply with necessary changes to the Corporation.

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

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

(b) to the Minister of Finance and Treasury Board is to be construed as a reference to the Treasurer of the Corporation;

(c) to the General Revenue Fund of the Province is to be construed as a reference to the funds of the Corporation.

(3) In proceedings pursuant to this Section an action shall be brought against the Corporation in the name of the Corporation.

(4) Where a document or notice must be served upon or given to the Corporation pursuant to this Section or the *Proceedings against the Crown Act*, it shall be served upon or given to the Attorney General and such service is service upon the Corporation. R.S., c. 456, s. 24.

Pension benefits

25 In respect of service to the Corporation or Dosco Sydney Works, the Corporation may, with the approval of the Governor in Council, provide for the establishment, management and administration of pension arrangements for the benefit of persons, and dependents of persons, employed by the Corporation or who were at any time prior to December 31, 1967, employed by Dosco Sydney Works, for the establishment, management and administration of pension arrangements for the Chair, President and other officers of the Corporation and dependents of such persons, for the contributions thereto to be made by the Corporation out of money administered by the Corporation, and for the investment of pension fund money. R.S., c. 456, s. 25.

Powers of Minister of Finance and Treasury Board

26 (1) The Minister of Finance and Treasury Board may, with the approval of the Governor in Council,

(a) pay or advance to the Corporation as required by it amounts necessary for the attainment of its object; and

(b) do every act and exercise every power and expend every sum of money that the Minister of Finance and Treasury Board considers necessary or incidental to the Corporation attaining its object.

(2) The Minister of Finance and Treasury Board may, with the approval of the Governor in Council, raise by way of loan on the credit of the Prov-

ince, chargeable to Capital Account, such sum or sums as the Minister considers necessary or incidental to the Corporation attaining its object, or if it is considered expedient to do so, the Minister of Finance and Treasury Board, with the approval of the Governor in Council, may pay the said sum or sums out of the Special Reserve Account of the Province or out of the Revenue of the Province for any year or years. R.S., c. 456, s. 26.

Accounts, books of account, records and reporting

27 (1) The Corporation shall maintain in its name one or more accounts in one or more chartered banks designated by the Minister of Finance and Treasury Board.

(2) All money received by the Corporation through the conduct of the operations of Sydney Works or otherwise on behalf of or to the credit of the Corporation must be deposited to the credit of the accounts established pursuant to subsection (1) and must be administered and expended by the Corporation exclusively in the exercise and performance of the powers, duties and functions of the Corporation.

(3) The Corporation may invest any money administered by it pursuant to this Section in obligations of or guaranteed by the Government of Canada or Nova Scotia.

(4) The Corporation shall keep proper books of account and records.

(5) Subject to such directions as to form as the Minister of Finance and Treasury Board and the Minister may jointly give, the Corporation shall prepare in relation to its operations, in respect of each financial year of the Corporation, statements of accounts which shall include

(a) a balance sheet, a statement of income and expense and a statement of surplus, containing such information as, in the case of a company incorporated pursuant to the *Companies Act*, is required to be laid before the company by the directors at an annual meeting; and

(b) such other information in respect of the financial affairs of the Corporation as the Minister or the Minister of Finance and Treasury Board may require.

(6) Upon the request of the Minister, the Corporation shall provide to the Minister financial statements and reports in the form and containing the information prescribed by the Minister. R.S., c. 456, s. 27.

Head office

28 The head office of the Corporation must be at Sydney, Nova Scotia, but meetings of the Board may be held in such other places as the directors may decide. R.S., c. 456, s. 28.

Bylaws

29 (1) The Board may make bylaws

(a) respecting the calling of meetings of the Board;

(b) respecting the conduct of business at meetings of the Board and the establishment of committees thereof, the delegation of duties to such committees and the fixing of quorums for meetings of the Board and committees thereof;

(c) fixing the fees to be paid to the Chair and the other directors for attendances at meetings of the Board or any committee thereof, and the travelling and living expenses to be paid to directors;

(d) respecting the duties and conduct of the directors, officers and employees of the Corporation and the terms and conditions of employment of officers and employees of the Corporation;

(e) generally for the conduct and management of the affairs of the Corporation.

(2) No bylaw made pursuant to clause (1)(c) has any effect unless it has been approved by the Governor in Council. R.S., c. 456, s. 29.

Trade Union Act

30 The *Trade Union Act* applies to the Corporation and its employees. R.S., c. 456, s. 30.

Rights of Dosco employees against Dosco preserved

31 The rights of employees of Dosco acquired by such employees against Dosco, or any trustee of Dosco, by virtue of such employment are not abrogated or abridged by this Act or the Agreement. R.S., c. 456, s. 31.

Tax exemption

32 (1) The property of the Corporation is exempt from taxation under or pursuant to any Act of the Legislature.

(2) Nothing in this Section affects or alter the provisions of the Agreement respecting the determination of values.

(3) The Corporation may pay to any municipality a grant in respect of any property exempt from tax pursuant to this Section and may enter into such agreements as may be necessary to give effect to this subsection.

(4) If the Corporation and a municipality are unable to agree, the Corporation shall pay such grant as may be determined by the Governor in Council. R.S., c. 456, s. 32.

Annual report and tabling

33 (1) The Corporation shall, within two months after the termination of its financial year, present to the Minister a report, in such form as the Governor in Council may direct, on the operations of the Corporation for that financial year, and the Minister shall cause the report to be laid before the House of Assembly within 15 days after the receipt thereof or, if the House of Assembly is not then sitting, on any of the first 15 days next thereafter that the House of Assembly is sitting.

(2) Each annual report presented by the Corporation in accordance with subsection (1) shall include the statements of accounts specified in subsection 27(5). R.S., c. 456, s. 33.

Winding up of Corporation

34 Notwithstanding the *Companies Winding Up Act*, the Corporation may wind up and dispose of its assets and liabilities within such time and in such manner and subject to such conditions as the Governor in Council may prescribe. R.S., c. 456, s. 34.

Certain fees not payable

35 The fees payable pursuant to the rules of the House of Assembly and the fees payable to the registrar pursuant to the *Corporations Registration Act* are not payable in respect to the Corporation. R.S., c. 456, s. 35.

SCHEDULE

THIS AGREEMENT made this 22nd day of November, 1967.

BETWEEN:

HER MAJESTY THE QUEEN, in the Right of the Province of Nova Scotia,
(hereinafter called "Nova Scotia")

OF THE FIRST PART

- and -

DOMINION STEEL AND COAL CORPORATION, LIMITED, a body corporate
(hereinafter called "Dosco")

OF THE SECOND PART

WITNESSETH:

WHEREAS on October 13, 1967 Dosco announced its decision to disengage from operations at its Sydney Works by April 30, 1968;

AND WHEREAS Nova Scotia has determined it to be in the best interests of the public to continue operations at Sydney Works for a sufficient time to assess the long-term future of Sydney Works;

AND WHEREAS the parties agree that Dosco should be placed in a financial position neither more nor less favourable than that which would have obtained had Dosco proceeded with its decision to disengage from operations at Sydney Works;

NOW THEREFORE the parties hereto have entered into this agreement in the spirit and intent that Dosco will be placed in a financial position neither more nor less favourable than that which would have obtained had Dosco proceeded with its decision to disengage from operations at Sydney Works by April 30, 1968 and covenant and agree as follows:

(1) Nova Scotia agrees to acquire and Dosco agrees to sell the assets and business of Dosco's Sydney Works at the close of business on December 31, 1967 including without limitation:

- (a) the land, buildings, machinery and equipment of Sydney Works;
- (b) all contracts and licences;
- (c) the title or interest of Dosco in all assignable patents, industrial designs, data and rights and drawings relative to operations at Sydney Works; provided that after December 31, 1967 Dosco will have the right to the royalty-free use of all such assets presently owned by Dosco and the right to the use, on the basis of reimbursing Nova Scotia for any royalties payable by it attributable to Dosco's use, of all such assets for the use of which a royalty or fee is presently payable by Dosco;
- (d) all prepaid expenses and other current assets; and
- (e) the free and nonexclusive right to the use in common with Dosco of all trade marks, trade names and copyrights used at Sydney Works or in association with the products of Sydney Works;

but excluding:

- (f) cash on hand and on deposit;
- (g) accounts receivable not carried on the books at Sydney Works and the account carried on the books at Sydney Works under the heading "non-trade accounts receivable";
- (h) prepaid expenses not reasonably necessary in the opinion of Nova Scotia to the operation of Sydney Works;
- (i) accounts due from associated companies;
- (j) moneys or securities deposited on account of customs duties and any similar deposits;
- (k) the guest house at Delriada Bay; and
- (l) contracts under which all materials and services have been delivered or rendered and contracts having a term expiring later than April 30, 1968 and providing for the supply of materials and services to Sydney Works.

(2) The considerations for the assets to be acquired by Nova Scotia shall be or be determined as at December 31, 1967, as follows:

- (a) for inventories other than rolls and moulds — the cost as shown on the books at Sydney Works, subject to adjustment for shortages or overages based on audit or physical check and having regard to obsolescence and other factors generally considered in the valuation of inventories;
- (b) for accounts receivable — the book value as shown on the books at Sydney Works with appropriate allowances for bad or uncollectible debts determined in accordance with generally accepted accounting practice;
- (c) for prepaid expenses — the book value at December 31, 1967 as shown on the books at Sydney Works determined in accordance with generally accepted accounting practice;
- (d) for rolls and moulds and for land, buildings, machinery and equipment — prices to be negotiated by January 31, 1968 and failing agreement by that date, prices to be determined in accordance with paragraph (3) hereof, the said prices to be separately stated for each such class of assets; and

(c) for all other assets — the book value as shown on the books at Sydney Works determined in accordance with generally accepted accounting practice.

Interest on the prices to be paid for land, buildings, machinery and equipment will accrue on the unpaid portion thereof from April 30, 1968 at a rate equal to the bankers rate available to Nova Scotia from and after April 30, 1968.

(3) If the parties have not agreed on the considerations for rolls and moulds and for the land, buildings, machinery and equipment by January 31, 1968, each party shall within fifteen days thereafter select a valuer (who shall have not less than ten years experience in the steel business) for the purpose of determining such considerations, and the valuers so selected by the parties shall be instructed to agree, within ten days after their appointment, on the selection of a third valuer (who shall have not less than ten years experience in the steel business) to assist in such determination. If either of the parties fails within the said fifteen days to select a valuer or if the valuers selected by the parties fail to agree on the selection of a third valuer within the said ten days the valuer or valuers not so selected shall be an individual (who shall have not less than ten years experience in the steel business) independent of any known connection with Nova Scotia or with Dosco appointed by the Chief Justice of Nova Scotia upon the written request of either of the parties hereto. The said third valuer shall act as chairman of the board of valuers. The board of valuers so selected shall be instructed to determine the said considerations on the basis of the fair market value of the assets to be valued assuming that Dosco had proceeded with its plan to disengage from operations at its Sydney Works on April 30, 1968 and without taking into account any increase in value by virtue of this agreement, and the said board shall also be instructed to use their best efforts to complete their determination not later than March 31, 1968. Any determination concurred in by a majority of the members of the board of valuers shall be deemed the determination of the board but, in the event of any failure of a majority to concur, then the determination of the chairman shall be deemed the determination of the board. In making their determination the valuers shall be considered as experts and not as arbitrators and the determination of the board shall be final and binding on the parties hereto.

(4) The foregoing considerations will be paid or satisfied by Nova Scotia as follows:

(a) as to all assets other than those specified in subparagraphs (b) and (c) of this paragraph (4) by payment in five equal monthly instalments, commencing January 31, 1968; provided that the accounts payable by Dosco in respect of Sydney Works as at December 31, 1967 will be paid by Nova Scotia on behalf of Dosco and any amounts so paid will be deducted from subsequent instalments payable and to the extent not so deducted by May 31, 1968 will be deducted from any payment thereafter due for land, buildings, machinery and equipment or will constitute a debt due by Dosco to Nova Scotia;

(b) as to land, buildings, machinery and equipment, by payment of the amounts due as agreed or as determined by the valuers in seven equal monthly instalments, commencing June 1, 1968 together with interest thereon as provided in paragraph (2) payable, to the extent of any interest then accrued and unpaid, with each instalment of principal; and

(c) as to rolls and moulds by payment of the amount due as agreed or as determined by the valuers within five days after the earlier of such agreement or completion of the determination by such valuers.

(5) (a) From the effective date of this agreement until April 30, 1968, Dosco will not, without the written consent of a representative to be appointed immediately by Nova Scotia;

- (i) make commitments for capital expenditures at Sydney Works any of which shall be for the account of Nova Scotia;
 - (ii) subject to the provisions of paragraph (6), make commitments for the delivery of raw materials or supplies or utility services where any such delivery would extend beyond a date specified by Nova Scotia; or
 - (iii) enter into employment agreements with employees either individually or collectively, provided that Dosco shall not in any event be obliged to engage in bargaining with representatives of employees at Sydney Works.
- (b) Nova Scotia will indemnify and save Dosco harmless from any loss, damage or claim suffered by Dosco resulting from Dosco's efforts, in anticipation or in pursuance of this agreement, to maintain the operating capability and potential of Sydney Works.
- (c) In order to permit Nova Scotia to operate Sydney Works as a going concern from January 1, 1968, Dosco will manage the operations of Sydney Works for the account of Nova Scotia from January 1, 1968 to April 30, 1968, subject to the direction and control of the representative to be appointed by Nova Scotia. These management services will be provided on the basis of cost to Dosco. Dosco will co-operate with Nova Scotia to the end of achieving by April 30, 1968 the transition of managerial functions to employees of Nova Scotia. Nova Scotia will indemnify and save Dosco harmless from and against any loss, damage or claim arising as a result of any act or omission of Dosco in the management of operations at Sydney Works after December 31, 1967, provided such loss, damage or claim does not result from Dosco's own wilful neglect or default.

(6) Dosco will assign as at December 31, 1967 all contracts, purchase orders and agreements (other than those excluded by paragraph (1)) made by it relevant to the operation of the Sydney Works and Nova Scotia will be entitled to the benefits and assume the liabilities relating thereto, provided such liabilities were incurred in the ordinary course of business or with the written consent of the representative to be appointed by Nova Scotia. In order to permit Nova Scotia to operate Sydney Works until April 30, 1968, Dosco will continue to supply to Sydney Works of its normal requirements of materials and services to April 30, 1968 under the contracts excepted by subparagraph (1) of paragraph (1) hereof but Dosco will be free to proceed immediately with the cancellation of such contracts in respect of the supply of such materials and services after April 30, 1968. Nova Scotia will make its own arrangements for the supply of such materials and services to Sydney Works after that date.

(7) (a) The parties will instruct their respective auditors, namely Messrs. Touche, Ross, Bailey and Smart on behalf of Nova Scotia, and Messrs. Price Waterhouse on behalf of Dosco, to prepare as soon as practicable after December 31, 1967, and in any event not later than January 25, 1968, a statement of the considerations payable by Nova Scotia for the assets specified in subparagraphs (a), (b), (c) and (e) of paragraph (2) hereof. If the said auditors do not agree on the contents of such a statement they shall be instructed to each prepare a statement and the payments to be made under subparagraph (a) of paragraph (4) hereof shall be commenced on the basis of the average of the considerations specified by the auditors in their separate statements. The parties' auditors shall then be instructed on or before January 31, 1968 to refer their separate statements of the considerations to be paid for the said assets to a third firm of nationally recognized auditors to be agreed between the parties hereto or, failing such agreement by February 10, 1968, to be appointed by the Chief Justice of Nova Scotia upon the written request of either of the parties hereto. The said third firm of auditors will be instructed to determine the said considerations in accordance with the provisions of this agreement on or before February 25, 1968. In making their determination of the said considerations the third firm of auditors shall be considered as experts and not as arbitrators and their determination shall be final and binding on the parties hereto. Any payments made in

respect of such considerations prior to the determination by the third firm of auditors shall be appropriately adjusted in accordance with their determination forthwith after such determination is made. For the purpose of preparing such statements and determinations the said auditors shall have all requisite access to books and records relating to Sydney Works.

(b) After December 31, 1967 all accounting books and records at Sydney Works will remain in the custody of Nova Scotia, but representatives of Dosco and Dosco's auditors will have the right of access during ordinary business hours to such books and records for the purpose of matters arising under this agreement, the preparation of Dosco statements and the settlement of outstanding matters with taxation authorities and others.

(8) Nova Scotia agrees to supply and Dosco agrees to purchase from Sydney Works to Dosco's Contrecoeur, Trenton and Montreal Works, Dosco's requirements for the purchase of billets, slab ingots and blooms and other forms of semi-finished steel from January 1, 1968 until April 30, 1969 on the terms and conditions set out in Schedule "A" hereto. After April 30, 1969 Dosco will consider Nova Scotia a preferred supplier of such steel at competitive cost to Dosco, competitive quality and competitive delivery schedules. If Dosco disposes of its Contrecoeur Works by way of sale, merger or otherwise or if Dosco becomes divested of control over the purchase of steel supplies for Contrecoeur Works, then Dosco will give Nova Scotia six weeks written notice of such disposition or divestiture and, upon expiry of the said period of six weeks, neither party will have any further liability or responsibility under this paragraph to the other.

(9) Nova Scotia consents that and Dosco will, not later than November 30, 1967, give notice of termination of employment to all employees at Sydney Works effective as at December 31, 1967. Nova Scotia will contemporaneously offer equivalent employment and rates of pay at Sydney Works to all such employees effective as at January 1, 1968. As of December 31, 1967 Dosco will discontinue its contributions to group life insurance and medical coverage and other like coverage in respect of Sydney Works. After December 31, 1967, Dosco will honor its legal obligations to employees and former employees of Sydney Works under its pension plans, including the continuance of pension payments to retired former employees. Nova Scotia will thereafter assume all obligations for group life insurance and medical and other coverage payable to persons by virtue of their employment at Sydney Works after December 31, 1967.

(10) Except as may be expressly altered hereby, rights and liabilities of Dosco and Nova Scotia not arising hereunder will not be altered or affected hereby and will be enforceable to the same extent and in the same manner as if this agreement did not exist; provided that any sums found to be due by Dosco to Nova Scotia other than pursuant to this agreement will not be set off against amounts due by Nova Scotia to Dosco hereunder. Dosco agrees to respond to any judgment of the Courts of Nova Scotia made against it after the effective date of this agreement provided that any such judgment is not appealed or in good faith intended to be appealed by Dosco.

(11) It is contemplated that Nova Scotia will desire to assign its benefits under this agreement to an agency of government or body corporate to be specified by Nova Scotia and to procure performance of its obligations under this agreement by such agency or body corporate. Dosco consents to such assignment and performance provided Nova Scotia is not relieved by such consent of its primary liability for such performance.

(12) This agreement will become binding on the parties hereto when approved on behalf of Nova Scotia by the Legislature of Nova Scotia and on behalf of Dosco at a meeting of its shareholders. When so approved, this agreement will be deemed to have become effective on the date of its original execution on behalf of the parties hereto. Each of the parties will forthwith take all appropriate steps to obtain the said approvals as quickly as possible.

IN WITNESS WHEREOF the parties hereto have executed this Agreement the day and year first above written.

SIGNED AND DELIVERED)	HER MAJESTY THE QUEEN
in the presence of)	in the Right of the Province
)	of Nova Scotia.
)
SIGNED, SEALED AND)	Premier and Minister of
DELIVERED)	Finance and Economics
in the presence of)	
)	DOMINION STEEL AND COAL
)	CORPORATION, LIMITED
)
)	President
)
)	Secretary

SCHEDULE A

SEMI FINISHED STEEL

PRICES TO DOSCO STEEL FROM SYDNEY

DELIVERY

Delivered in plant Contrecoeur at base price.
 Delivered in plant Montreal — base plus \$.20

GENERAL DESCRIPTION

All prices in Canadian dollars per net ton of 2,000 lbs.

ROD BILLETS

SPECIFICATION	Dosco B-2(A)	
BASE PRICE	\$74.15	
EXTRAS		
CHEMISTRY		
CARBON	up to .18¢	
	.18 to .29	.98
	.30 to .39	1.96
	.40 to .49	2.94
	.50 to .59	3.92
	.60 to .69	7.84
	.70 and up	9.80
MANGANESE	up to .90	
	.91 to 1.10	.98
	1.11 to 1.20	1.96
	1.21 and over	to be negotiated
PHOSPHORUS	.04 to .07	.98

PRACTICE	Extra for Killed steel	\$3.92
QUALITY	Cold Heading quality	7.84

(including 100% scarfing of bloom-Ultra sonic testing 100%, Magnaglow inspection or shot blast cleaning and visual inspection 100%)

REBAR BILLETS

SPECIFICATIONS		Dosco R-1
BASE PRICE	Grades 1-3	\$72.15
EXTRAS	Grade 4	.50
	Grade 5	to be negotiated

QUALITY REQUIREMENTS:

Should Sydney be unable to meet specifications, which is considered unlikely, a price adjustment will be negotiated based on additional cost by user of billets.

MIX DETAILS OF BILLETS**REQUIREMENT MIX**

Forecast Rod Billets from Sydney	
year 1968	124,750 tons
Forecast Rebar Billets from Sydney	
year 1968	<u>37,250 tons</u>
	162,000 tons

QUALITY MIX

ROD BILLETS	
Cold Heading	7.5%
Phosphorus Extra	2.5%
Base	<u>90.0%</u>
	100.0%

REBAR BILLETS	
Base	100.0%

SLAB INGOTS

Specification	Dosco I-1(A)
Base	\$58.90
Extras	None Applicable

SMALL SLABS & BLOOMS

Specification	F-1(A)
	Price to be negotiated.

TERMS OF PAYMENT

30 days from date of invoice.

BASIS OF QUANTITY

Tonnages to be indicated and releases made against these tonnages as order book develops. A guarantee is undertaken to take, during the period, not less than 25% of the tonnage indicated.

R.S., c. 456, Sch.

CHAPTER S-44

**An Act Respecting the Sale of the Assets
of Sydney Steel Corporation**

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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 *Sydney Steel Corporation Sale Act*. 2000, c. 33, s. 1.

Interpretation

2 In this Act,

“Agreement” means the Agreement dated June 21, 2000, between the Company, the Crown in right of the Province, the Purchaser and Duferco Participations Holding Limited in respect of the sale of certain assets of the Company;

“Company” means the Sydney Steel Corporation;

“Designated Date” means such date as is designated by the Governor in Council;

“Effective Date” means such date as is designated by the Governor in Council;

“Fund” means the Sydney Steel Corporation Superannuation Fund;

“Minister” means the Minister of Finance and Treasury Board;

“Plans” means the Pension Plan for Salaried Employees of Sydney Steel Corporation, the Sydney Steel Corporation Non-Contributory Union Pension Plan 1968 (For Members of Locals 1064, 6537 and 6516 of the United Steelworkers of America and Local 2 of the Bricklayers and Allied Craftworkers), and the Sydney Steel Corporation Non-Contributory Union Pension Plan 1974 for Members of Local 1675 of the Canadian Union of Public Employees, as they were in force on the date of Closing, as that term is defined in the Agreement;

“Purchaser” means Duferco Steel (Nova Scotia) Corporation. 2000, c. 33, s. 2; 2014, c. 34, s. 65.

Conflicts

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

(2) Notwithstanding any provision of the *Environment Act*, where there is a conflict between the Agreement and the *Environment Act*, the Agreement prevails. 2000, c. 33, s. 3.

Power to continue Company

4 The Governor in Council may continue the Company under the *Companies Act* as the Sydney Steel Corporation or such other name as the Governor in Council determines. 2000, c. 33, s. 4.

Restriction on application of Assessment Act

5 The *Assessment Act* does not apply to any machinery or equipment owned by the Company immediately before the date of Closing, as that term is defined in the Agreement. 2000, c. 33, s. 5.

Actions against Company

6 (1) Any action against the Company, pursuant to a statute or otherwise, with respect to any act or omission occurring prior to the Designated Date, and any action, pursuant to any statute or otherwise, against the Purchaser by any person other than the Company or the Crown in right of the Province with respect to any act or omission occurring prior to the Designated Date and relating to the operations of the Company or to the assets the Purchaser has acquired from the Company, must be commenced within and not after one year following the Designated Date.

(2) Subsection (1) does not apply to an action by an individual against the Crown in right of the Province arising from an adverse effect as defined by the *Environment Act*.

(3) This Section comes into force on such day as the Governor in Council orders and declares by proclamation. 2000, c. 33, s. 6; 2014, c. 35, s. 30.

Sydney Steel Corporation Superannuation Fund

7 (1) A fund is established under the supervision of the Minister, to be known as the Sydney Steel Corporation Superannuation Fund.

(2) The expenses related to the administration of this Section are payable from the Fund.

(3) This Section is administered by the Minister.

(4) The Minister is authorized to enter into an agreement or agreements providing for the transfer to the Fund from the Plans of all liabilities of the Plans accrued to and including the Effective Date and of all of the assets of or maintained with respect to the Plans on the Effective Date, any consents necessary

to such transfers of assets and liabilities are and are deemed to be given and, upon such transfer having been effected, the assets and liabilities transferred are assets and liabilities of the Fund and are no longer assets and liabilities of the Plans.

(5) Any notices or consents required for the transfers referred to in subsection (4), including, for greater certainty, the consent of the Superintendent of Pensions pursuant to the *Pension Benefits Act*, and any default or breach of covenant that occurs by reason of such transfer, are waived.

(6) The Fund must provide to the persons entitled under the Plans, with respect to the period to and including the Effective Date, the same benefits to which such persons would have been eligible under the Plans.

(7) The Minister may invest the money in the Fund in the manner authorized for investment of pension funds under the *Finance Act*, but may retain investments transferred pursuant to subsection (4) if such investments were, when acquired by the Plan in respect of which they were held, permitted investments under the *Pension Benefits Act*.

(8) The Minister may sell any stocks, bonds, debentures or other securities of the Fund and the proceeds of any sale shall be dealt with in the same manner as if such moneys had not been invested.

(9) Where at any time the Fund is insufficient to make all payments by this Section required to be made, the Minister shall pay into the Fund an amount out of the General Revenue Fund of the Province sufficient to enable such payment to be made.

(10) The *Pension Benefits Act* does not apply to the Fund.

(11) The fiscal year of the Fund is the same as the fiscal year of the Province.

(12) The Minister shall, on or before April 30th in each year, make to the Governor in Council an annual report of all proceedings with respect to the Fund during the preceding fiscal year of the Fund and a statement showing the condition of the Fund. 2000, c. 33, s. 7; 2010, c. 2, s. 155.

Regulations

- 8 (1) The Governor in Council may make regulations
- (a) designating the dates referred to in the definitions of “Designated Date” and “Effective Date” in Section 2;
 - (b) prescribing rules for any matter to be determined or carried out by the Minister;
 - (c) providing for the operation of, and the resolution of any questions which may arise with respect to, the Fund;
 - (d) defining any word or expression used but not defined in this Act;
 - (e) considered necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*, 2000, c. 33, s. 8.

Sydney Steel Corporation Act repealed

9 (1) Chapter S-43 of the Revised Statutes, 2023, the *Sydney Steel Corporation Act*, is repealed.

(2) Subsection (1) comes into force on such day as the Governor in Council orders and declares by proclamation.

(3) No proclamation may be issued under subsection (2) before the company is continued under Section 4.
