



BILL NO. 29

Government Bill

*1st Session, 63rd General Assembly
Nova Scotia
66 Elizabeth II, 2017*

An Act to Amend Chapter 32 of the Acts of 2015, the Marine Renewable-energy Act

CHAPTER 12
ACTS OF 2017

**AS ASSENTED TO BY THE ADMINISTRATOR OF THE PROVINCE
OCTOBER 26, 2017**

The Honourable Geoff MacLellan
Minister of Energy

*Halifax, Nova Scotia
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**An Act to Amend Chapter 32
of the Acts of 2015,
the Marine Renewable-energy Act**

Be it enacted by the Governor and Assembly as follows:

1 Subsection 3(1) of Chapter 32 of the Acts of 2015, the *Marine Renewable-energy Act*, is amended by

(a) adding immediately after clause (d) the following clause:

(da) “demonstration permit” means a permit to undertake the activity referred to in clause 36(1)(c);

(b) adding “, or any collectively operated arrangement of devices or technologies,” immediately after “technology” in the first line of clause (h);

(c) striking out “or 59(1)” in the second line of clause (t) and substituting “, 59(1) or 59A(1)”;

(d) striking out “, if any,” in the first line of clause (v); and

(e) adding immediately after clause (v) the following clause:

(va) “Procurement Administrator” means a person appointed under subsection 4B(1) of the *Electricity Act*;

2 Chapter 32 is further amended by adding immediately after Section 4 the following Section:

4A Where there is a conflict between

(a) the provisions of this Act respecting calls for applications and the regulations respecting calls for applications; and

(b) Section 4B of the *Electricity Act* and the regulations made under that Section,

the provisions of this Act respecting calls for applications and the regulations respecting calls for applications prevail.

3 Section 24 of Chapter 32 is amended by adding “(1)” immediately after the Section number and adding the following subsections:

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

(3) Where a demonstration permit issued in respect of a connected generator expires or is revoked and no new licence or permit is issued in respect of the generator, the person who held the permit immediately before it expired or was revoked shall forthwith disconnect the generator from all of the following to which it is connected:

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

- (b) an onshore electricity consumer in the Province.

4 Chapter 32 is further amended by adding immediately after Section 26 the following Section:

26A (1) Where, under subsection 7(1), the Minister delegates the authority to issue a call for applications to a Procurement Administrator,

(a) the Procurement Administrator may establish one process for both the call for applications and the procurement; and

(b) for the purpose of fixing fees and expenses under subsection 4B(3) of the *Electricity Act*, the functions and duties referred to in that subsection include the functions and duties of the Procurement Administrator in conducting the call for applications.

5 Section 27 of Chapter 32 is amended by adding immediately after subsection (2) the following subsection:

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

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

(b) shall award a contract for the procurement of marine renewable electricity to any bidder who is issued a licence by the Minister.

6 Subsection 29(1) of Chapter 32 is amended by adding “, including any cable or other equipment or structure owned by the licence holder and used or intended to be used with the generators” immediately after “generators” in the last line.

7 (1) Subsection 35(1) of Chapter 32 is repealed and the following subsection substituted:

(1) A person may apply to the Minister for a permit to

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

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

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

(2) Section 35 of Chapter 32 is further amended by adding immediately after subsection (6) the following subsection:

(7) The Minister may not approve an application for a demonstration permit unless

(a) the generator is to be located wholly or partially within an area of marine renewable-energy priority;

(b) the aggregate nameplate capacity of all of the generators operating under the demonstration permit will not exceed five megawatts;

(c) the issuance of the demonstration permit will not result in the aggregate nameplate capacity of all generators operating in accordance with demonstration permits exceeding 10 megawatts; and

(d) the Minister is satisfied that the issuance of the demonstration permit is in the public interest, having taken into account

(i) the nature of the generator,

(ii) the extent to which the generator

(A) differs from other generators in respect of which licences or permits have been issued under this Act, and

(B) is based on an innovative technology or design,

(iii) the extent to which the approval of the permit

(A) supports the achievement of the public-policy goals and objectives of the Government, and

(B) is consistent with any policies, plans or strategies of the Government respecting the development of marine renewable-energy resources,

(iv) any effect on electricity rates in the Province and rate-payers,

(v) any risk to public safety or the environment, and

(vi) any other factors the Minister considers relevant.

8 (1) Subsection 36(1) of Chapter 32 is amended by

(a) striking out “or” at the end of clause (a);

(b) striking out the period at the end of clause (b) and substituting “; or”;
and

(c) adding immediately following clause (b) the following clause:

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

(2) Subsection 36(2) of Chapter 32 is amended by striking out “may be restricted to an” in the second line and substituting “shall be restricted to the”.

9 (1) Clause 38(1)(a) of Chapter 32 is amended by

(a) striking out “and” at the end of subclause (iv); and

(b) adding immediately after subclause (iv) the following subclause:

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

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

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

(2) Subsection 38(2) of Chapter 32 is amended by

(a) striking out “issued under clause 36(1)(a)” in the first line and substituting “to undertake an activity referred to in clause 36(1)(a) or (c)”; and

(b) striking out “unconnected” in the first line of clause (a).

(3) Section 38 of Chapter 32 is further amended by adding immediately after subsection (2) the following subsection:

(3) The term of a demonstration permit may not exceed five years.

10 Chapter 32 is further amended by adding immediately after Section 38 the following Section:

38A When issuing or renewing a demonstration permit, the Minister shall establish performance targets for every generator to be constructed, installed or operated under the demonstration permit.

11 Section 39 of Chapter 32 is amended by adding “within an area of marine renewable-energy priority” immediately after “permit” in the last line.

12 Subsection 40(1) of Chapter 32 is amended by striking out “Where a permit area is established for a permit” in the first line and substituting “When the permit area of a permit is established”.

13 Clause 41(b) of Chapter 32 is amended by striking out “where applicable,”.

14 (1) Subsection 42(1) of Chapter 32 is amended by striking out “The” in the first line and substituting “Subject to this Section, the”.

(2) Section 42 is further amended by adding immediately after subsection (1) the following subsections:

(1A) A demonstration permit may not be extended.

(1B) A demonstration permit may be renewed for one or more terms not exceeding five years each.

(1C) The aggregate of the initial term of a demonstration permit and any renewals of the demonstration permit may not exceed 18 years.

15 Subsection 43(1) of Chapter 32 is amended by

(a) striking out “Where required to do so by the regulations, a” in the first line and substituting “A”; and

(b) adding “, as may be required by the Minister” immediately after “both” in the last line.

16 Chapter 32 is further amended by adding immediately after Section 49 the following heading and Section:

POWER PURCHASE AGREEMENTS FOR GENERATORS
UNDER DEMONSTRATION PERMITS

49A (1) Where a demonstration permit is issued in respect of a generator, the permit holder and the public utility that owns the electrical grid to which the generator is to be interconnected are deemed to have entered a power purchase agreement in the form prescribed under subsection (2).

(2) When issuing a demonstration permit, the Minister shall prescribe the form of the power purchase agreement applicable in respect of the permit holder and the public utility referred to in subsection (1).

(3) The term of the power purchase agreement ends on the earlier of

(a) the date on which the demonstration permit expires or is revoked; and

(b) 15 years after the commercial operation date, as defined in the agreement, of the generator.

(4) The public utility shall procure all electricity under the power purchase agreement at a price to be determined by the Minister and set out in the demonstration permit.

(5) The holder of the demonstration permit and the public utility may, by mutual consent, amend the power purchase agreement and, where they do so, shall provide a copy of the amended agreement to the Minister.

(6) The Nova Scotia Utility and Review Board shall allow a public utility to recover the costs in connection with any power purchase agreement the public utility is deemed to have entered under subsection (1) through the public utility’s rates approved by the Board under the *Public Utilities Act*.

17 The heading immediately before Section 58 of Chapter 32 is amended by adding “AND ADMINISTRATIVE PENALTIES” immediately after “ORDERS”.

18 Subsections 59(2) and (3) of Chapter 32 are repealed.

19 Chapter 32 is further amended by adding immediately after Section 59 the following Section:

59A (1) Where the Minister determines that a person has contravened this Act or the regulations, a term or condition of a licence or permit, or an order issued under subsection 58(1), the Minister may, in accordance with the regulations, issue an order requiring the person to pay an administrative penalty.

(2) The purpose of an administrative penalty is to promote compliance with

- (a) this Act and the regulations;
- (b) the terms and conditions of licences and permits; and
- (c) orders issued under subsection 58(1).

(3) An order issued under subsection (1) is not a regulation within the meaning of the *Regulations Act*.

20 Subsection 60(1) of Chapter 32 is amended by striking out “or 59(1)” in the second line and substituting “, 59(1) or 59A(1)”.

21 (1) Subsection 62(1) of Chapter 32 is amended by adding “, by order,” immediately after “may” in the first line.

(2) Subsection 62(2) of Chapter 32 is amended by striking out “amended or revoked” in the first line and substituting “issued”.

22 Chapter 32 is further amended by adding immediately after Section 62 the following Section:

62A (1) An order issued under subsection 59(1) or 59A(1) may be filed with the Supreme Court of Nova Scotia in accordance with the *Nova Scotia Civil Procedure Rules* and, upon being filed, is enforceable in the same manner as a judgment of that Court.

(2) An amendment to or revocation of an order filed with the Supreme Court of Nova Scotia under subsection (1) may be filed with that Court in accordance with the *Nova Scotia Civil Procedure Rules* and, upon being filed,

- (a) in the case of an amendment, the order as amended is enforceable in the same manner as a judgment of that Court; or
- (b) in the case of a revocation, the order ceases to be enforceable.

23 Section 63 of Chapter 32 is repealed and the following Section substituted:

63 A licence holder or permit holder is liable for and shall pay any fees, rents or royalties prescribed by the regulations in respect of the licence or permit or the use of any Crown lands or marine renewable-energy resources under the licence or permit.

24 (1) Subsection 71(1) of Chapter 32 is amended by

(a) striking out clause (o); and

(b) striking out clause (v) and substituting the following clauses:

(v) respecting the establishment and administration of a system of administrative penalties, including, without limiting the generality of the foregoing,

(i) respecting how administrative penalties may be imposed,

(ii) respecting the content of a notice of administrative penalty or administrative penalty order,

(iii) prescribing the dollar amount of administrative penalties or the manner by which the Minister may determine such an amount,

(iv) providing for increased administrative penalties for repeated contraventions and specifying the period within which a contravention is to be considered a repeat contravention of an earlier contravention,

(v) respecting the payment of administrative penalties,

(vi) respecting the revocation of administrative penalties,

(vii) respecting appeals of administrative penalties,

(viii) prescribing the remedies available on an appeal of an administrative penalty, and

(ix) respecting the use to be made of any funds collected through the imposition of administrative penalties, including where such funds are to be deposited or held;

(va) respecting royalties referred to in Section 63;

(2) Subsection 71(2) of Chapter 32 is amended by

(a) striking out clause (m); and

(b) striking out clause (t) and substituting the following clause:

(t) respecting fees or rents referred to in Section 63;

25 Schedule C of Chapter 32 is repealed and the following Schedule substituted:

SCHEDULE C

FORCE MARINE
RENEWABLE-ELECTRICITY AREA

All those certain parcels of land covered by water near Black Rock, Cumberland County, Nova Scotia, Parcel "A" and Parcel "B" as shown on "Plan of Survey of Parcels 'A' & 'B' Submerged Crown Land, Minas Channel (Black Rock), Cumberland County, Nova Scotia" bearing field plot No. P-125/16, dated 22 December 2016, prepared by W.B. MacDonald NSLS for Order of Survey S-043/16 filed at

the Department of Natural Resources Office, Halifax, Nova Scotia, and particularly described as follows:

BEGINNING at a point located South 46° 08' 37" East a distance of 572.525 metres from Nova Scotia coordinate monument number 15028;

THENCE North 61° 45' 00" East a distance of 37 metres more or less to a point at ordinary high water mark as shown on the plan;

THENCE southeasterly along a portion of the shore of Minas Channel at ordinary high water mark a distance of 100 metres more or less to a point;

THENCE South 10° 30' 46" West a distance of 46 metres more or less to a point located South 55° 34' 00" East a distance of 134.544 metres from the point of beginning;

THENCE South 10° 30' 46" West a distance of 309.867 metres to a point;

THENCE South 53° 38' 38" West a distance of 699.837 metres to a point;

THENCE South 87° 26' 14" West a distance of 724.802 metres to a point;

THENCE South 00° 00' 00" West a distance of 100.721 metres to a point;

THENCE North 90° 00' 00" West a distance of 1599.579 metres to a point;

THENCE North 00° 00' 00" West a distance of 999.491 metres to a point;

THENCE South 90° 00' 00" East a distance of 1599.579 metres to a point;

THENCE South 00° 00' 00" West a distance of 87.741 metres to a point;

THENCE North 83° 52' 39" East a distance of 440.788 metres to a point;

THENCE South 75° 55' 11" East a distance of 598.049 metres to a point;

THENCE North 61° 45' 00" East a distance of 243.960 metres to the PLACE OF BEGINNING.

Excepting thereout all that parcel of land and land covered by water, internal to Parcel "B" and shown on the plan as "Crown Land reserved from lease", particularly described as follows:

BEGINNING on the east boundary of Parcel "A" at a point located North 00° 00' 00" East a distance of 157.341 metres from the southwest corner of Parcel "B" as shown on the plan;

THENCE North 50° 55' 40" East a distance of 400.910 metres to a point;

THENCE North 77° 15' 17" East a distance of 352.098 metres to a point;

THENCE South 76° 59' 26" East a distance of 397.796 metres to a point;

THENCE South 53° 38' 38" West a distance of 348.761 metres to a point;

THENCE South 87° 26' 14" West a distance of 762.145 metres to the PLACE OF BEGINNING.

The lands so described, comprising Parcels "A" and "B", contain a total area of 232.060 Hectares more or less.

Bearings are referred from the modified transverse mercator grid north, central meridian 64°30' West longitude.
