



BILL NO. 32

Government Bill

*2nd Session, 63rd General Assembly
Nova Scotia
67 Elizabeth II, 2018*

An Act Respecting the Control of Body Armour

CHAPTER 22
ACTS OF 2018

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
OCTOBER 11, 2018**

The Honourable Mark Furey
Attorney General and Minister of Justice

*Halifax, Nova Scotia
Printed by Authority of the Speaker of the House of Assembly*

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An Act Respecting the Control of Body Armour

Be it enacted by the Governor and Assembly as follows:

- 1 This Act may be cited as the *Body Armour Control Act*.
- 2 The purpose of this Act is to increase public safety by preventing the use of body armour to further unlawful activity.
- 3 In this Act,
 - (a) “body armour” means
 - (i) a garment or item designed, intended or adapted for the purpose of protecting the human body from projectiles discharged from a firearm, as defined in the *Criminal Code* (Canada),
 - (ii) a garment or item designed, intended or adapted for the purpose of protecting the human body from an item or object used to, or adapted to, stab, pierce, puncture or otherwise wound the body, or
 - (iii) a prescribed garment or item;
 - (b) “conservation officer” means a conservation officer within the meaning of the *Crown Lands Act*, the *Forests Act* or the *Wildlife Act*;
 - (c) “peace officer” means a police officer or a conservation officer;
 - (d) “police agency” means the Provincial Police, the Royal Canadian Mounted Police, a municipal police department or another police department providing policing services in the Province;
 - (e) “police officer” means a member of a police agency;
 - (f) “prescribed” means prescribed by the regulations;
 - (g) “security agency” means a business entity that is licensed to provide an armoured vehicle service, a private investigation service or a private guard service in the Province;
 - (h) “security agent” means a person who is licensed to act as an armed private guard, private investigator or private guard in the Province;
 - (i) “security guard” means a person regularly employed for lawful purposes to protect property, assets or people and actively engaged in the prevention of crime;
 - (j) “sell” includes offer for sale, expose for sale, have in possession for sale, distribute, give, transfer, lend, send or otherwise dispose of, whether or not for consideration.

POSSESSION OF BODY ARMOUR

- 4 (1) Except as provided in subsections (2) and (3), no person shall possess body armour.
- (2) Subsection (1) does not apply to
- (a) the following persons in the course of their lawful employment or duties of a statutory appointment:
- (i) a police officer,
 - (ii) a conservation officer,
 - (iii) a special constable or by-law enforcement officer appointed under the *Police Act* and whose appointment specifies the individual is authorized to possess body armour,
 - (iv) a sheriff or deputy sheriff,
 - (v) a correctional services employee,
 - (vi) a paramedic,
 - (vii) a security agent,
 - (viii) a security guard,
 - (ix) a provincial civil constable appointed under the *Police Services Act* and whose appointment specifies the individual is authorized to possess body armour,
 - (x) an employee of the Province, of a municipality within the meaning of the *Municipal Government Act* or the *Halifax Regional Municipality Charter*, of another province of Canada or of the Government of Canada and whose employer specifies the individual is authorized to possess body armour,
 - (xi) a person appointed under an enactment and whose appointment specifies the person is authorized to possess body armour;
- (b) the following persons:
- (i) a police cadet while training to be a police officer,
 - (ii) an auxiliary police officer in the course of that person's duties as authorized under the *Police Act*;
- (c) the following persons in the course of operating a lawful business:
- (i) a security agency,
 - (ii) the owner and the employees of a business who purchase, sell or transport body armour,
 - (iii) a person who employs security guards;
- (d) a person under the lawful custody, care and control of an individual listed in subclauses (a)(i), (ii) or (iv) to (vii) or an individual prescribed by the regulations, who has been directed to wear body armour by that individual in the course of that individual's employment;

(e) a prescribed person or a member of a prescribed class of persons who are authorized to possess body armour; or

(f) a prescribed person who is authorized by permit to possess body armour on a temporary basis.

(3) Where the exemption in subsection (2) ceases to apply and that person is in possession of body armour, the person shall within 14 days

(a) return or sell all body armour possessed to the person's employer;

(b) give or sell all body armour possessed to a person authorized under this Act to possess body armour; or

(c) turn in all body armour possessed to a police agency to be destroyed in such manner as the Attorney General directs.

(4) Where a person authorized to possess body armour under this Act becomes aware that the body armour in that person's possession is lost or stolen, that person shall, within 14 days of becoming aware, report the loss or theft to a police agency.

(5) For greater certainty, this Act does not apply to the possession of

(a) safety equipment or personal protective equipment designed, intended for use and worn by a person to protect the person from injury as required by the regulations made under the *Occupational Health and Safety Act* or required by another Act or regulations made under other Acts; or

(b) medieval or historical personal armour or a reproduction of medieval or historical personal armour that is

(i) designed, intended for use and worn by a person for the purposes of a historical re-enactment or a sporting event in which such equipment is required,

(ii) on display for viewing purposes,

(iii) for sale to museums and collectors,

(iv) in the possession of a person, organization or business for research or restoration, or

(v) intended and used for collection, display, costuming or decoration.

SALE OF BODY ARMOUR

5 (1) No person shall sell body armour to another person unless the purchaser is authorized to possess body armour as provided by subsection 4(2) of this Act.

(2) The purchaser of body armour must provide evidence satisfactory to the seller that the purchaser is authorized to possess body armour as provided by this Act.

ENFORCEMENT

6 A peace officer may, in accordance with the *Summary Proceedings Act*, obtain a warrant in the exercise of any of the power under this Act.

7 Where a peace officer has reasonable grounds to believe that a person is in possession of body armour in public and on request of the peace officer the person is unable to satisfy the peace officer that the person is authorized to possess body armour, the peace officer may, without a warrant, search that person including any personal property in the person's possession and seize any body armour found.

8 (1) Where a peace officer has seized body armour in accordance with Section 6 or 7 the peace officer may issue a notice of violation to that person.

(2) A notice of violation must be in the form and contain the information prescribed.

(3) When a notice of violation is issued under subsection (1), the peace officer shall inform the person named in the notice that

(a) the person has the option of immediately forfeiting the body armour to Her Majesty in right of the Province by allowing the peace officer to take possession of the body armour and the body armour will be disposed of or otherwise dealt with as the Attorney General directs; and

(b) upon forfeiting the body armour it is deemed seized by the peace officer.

(4) Where a notice of violation is issued and the body armour is forfeited under subsection (3), no prosecution may be commenced respecting the matter referred to in the notice.

9 (1) Where the person named in the issued notice of violation has forfeited body armour under subsection 8(3), that person may, within 30 days of the forfeiture, revoke the forfeiture by providing a written notice with the prescribed contents.

(2) Notwithstanding the making of the revocation in accordance with subsection (1), the peace officer that seized the body armour at the time of the forfeiture retains possession of the seized body armour.

(3) Where, anytime on or before the expiry of 30 days from the date of the forfeiture, no revocation has been made in accordance with subsection (1), and a person is able to satisfy a peace officer that the person is authorized to possess the seized body armour, the peace officer shall without delay return the body armour to that person.

(4) Where a notice of violation is issued and body armour is not forfeited under subsection 8(3), or a person gives a notice of revocation under subsection (1), a peace officer shall retain the seized body armour and may prosecute the person in accordance with this Act in the same manner as if the notice had not been issued.

10 (1) Where, within six months of a seizure under subsection 9(4), no person is charged with an offence under this Act or the regulations, a peace officer shall make an applica-

tion to a justice for an order that the body armour be forfeited to Her Majesty in right of the Province, to be disposed of or otherwise dealt with as the Attorney General directs.

(2) Notice of the application made under subsection (1) must be given to the person from whom the body armour was seized and to the person authorized to possess the body armour, if that person exists and is known, no less than 30 days before the application is heard and in accordance with the regulations.

(3) Where, anytime before the hearing of the application under subsection (2), a person is able to satisfy a peace officer that the person is authorized to possess the seized body armour, the peace officer shall without delay return the body armour to that person.

(4) Where a person has been charged with an offence under this Act or the regulations and no conviction results from that charge, and all appeals have been exhausted or the time limit for appeals has expired without an appeal having been taken, a peace officer shall make an application to a justice for an order that the body armour be forfeited to Her Majesty in right of the Province, to be disposed of or otherwise dealt with as the Attorney General directs.

(5) Notice of the application made under subsection (4) must be given to the person from whom the body armour was seized and to the person authorized to possess the body armour, if that person exists and is known, no less than 30 days before the application is heard and in accordance with the regulations.

(6) Subject to subsection (7), where a person is convicted of an offence under this Act or the regulations, a justice shall order that any body armour seized under this Act, in addition to any other penalty provided for by this Act, is forfeited to Her Majesty in right of the Province, to be disposed of or otherwise dealt with as the Attorney General directs, unless the person who is authorized to possess the body armour exists and is known in which case the judge may order the body armour be returned to that person.

(7) Where a person is convicted by way of summary offence ticket under the *Summary Proceedings Act* by payment of a fine in relation to a contravention of this Act or the regulations, any body armour seized under this Act is forfeited to Her Majesty in right of the Province, to be disposed of or otherwise dealt with as the Attorney General directs.

11 (1) For greater certainty, nothing in this Act requires a peace officer to issue a notice of violation before initiating a prosecution under this Act.

(2) A peace officer who has seized body armour with or without a warrant in accordance with Section 6 or 7 shall within 10 days after the seizure report the circumstances to a justice.

(3) A report in accordance with subsection (2) is not required if a person named in a notice of violation has forfeited the seized body armour to Her Majesty in right of the Province.

12 No action lies or proceedings may be brought against a peace officer or any other person acting under the authority of this Section for any loss or damage suffered by a person because of an act or omission done in good faith in the performance or intended performance of a duty or in the exercise or intended exercise of power under this Section.

13 No person shall provide false information to or obstruct a peace officer who is exercising powers under this Act or a warrant issued for the purpose of enforcing this Act.

GENERAL

14 (1) An individual who contravenes this Act or the regulations is guilty of an offence and liable on summary conviction to a fine of not more than \$10,000 or imprisonment for not more than three months, or to both fine and imprisonment.

(2) A corporation that contravenes this Act or the regulations is guilty of an offence and liable on summary conviction to a fine of not more than \$25,000.

(3) Where a corporation contravenes this Act or the regulations, a director or officer of the corporation who authorized, permitted or acquiesced in the contravention is also guilty of an offence and liable on summary conviction to the penalties set out in subsection (1), whether or not the corporation has been prosecuted or convicted.

15 (1) The Governor in Council may make regulations

(a) prescribing persons or a member of a prescribed group of persons authorized to possess body armour;

(b) respecting a system of permits including fees, authorizing persons to possess body armour on a temporary basis;

(c) prescribing persons who may direct another person to wear body armour;

(d) prescribing a garment or item for the purposes of the definition of body armour;

(e) prescribing types of equipment, garments or items that are not subject to this Act;

(f) respecting the form and contents of notices;

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

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

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

16 Schedule B of Chapter 450 of the Revised Statutes, 1989, the *Summary Proceedings Act*, as enacted by Chapter 30 of the Acts of 2002 and amended by Chapter 4 of the Acts of 2004, Chapter 32 of the Acts of 2007 and Chapter 9 of the Acts of 2010, is further amended by adding “*Body Armour Control Act*” immediately after “*Animal Cruelty Prevention Act*”.

17 Chapter 2 of the Acts of 2011, the *Body Armour Control Act*, is repealed.

18 This Act comes into force on such day as the Governor in Council orders and declares by proclamation.
