

# **Direct Sellers' Regulation Act**

CHAPTER 129 OF THE REVISED STATUTES, 1989

*as amended by*

1998, c. 8, ss. 26-41; 1999, c. 8; 2014, c. 12;  
2014, c. 39, s. 7; 2018, c. 43, ss. 17, 18



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Published by Authority of the Speaker of the House of Assembly  
Halifax

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CHAPTER 129 OF THE REVISED STATUTES, 1989  
amended 1998, c. 8, ss. 26-41; 1999, c. 8; 2014, c. 12;  
2014, c. 39, s. 7; 2018, c. 43, ss. 17, 18

**An Act Respecting the Regulation  
of Direct Sellers**

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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 *Direct Sellers' Regulation Act*. R.S., c. 129, s. 1; 1998, c. 8, s. 27.

### Interpretation

**2 (1)** In this Act,

(a) “continuing-services contract” means a direct sales contract that provides for the performance of services, including the supply of any goods used in conjunction with such services, on a continuing basis;

(aa) “direct sale” means a sale by a direct seller acting in the course of business as such;

(b) “direct sales contract” means an agreement whether verbal or in writing for the direct sale of goods or services;

(c) “direct seller” means a person who sells or offers for sale or solicits orders for the future delivery of goods or services by direct selling;

(d) “direct selling” means selling or offering for sale or soliciting orders for future delivery of goods or services

(i) if there is no prior request from a prospective purchaser and contact is made by or on behalf of the seller

(A) in person at a dwelling, or

(B) by telephone or other personal communication, and any resulting sale is negotiated or entered into at a place other than in person at the seller's usual place of business in the Province,

(ii) in response to a request made by a prospective purchaser, if the request was itself solicited by or on behalf of the seller and any resulting sale is negotiated or entered into at a place other than in person at the seller's usual place of business in the Province,

(iii) if the seller does not operate a retail outlet in the Province and solicits, advertises or otherwise requests prospective purchasers to present themselves at a dwelling, hotel, motel or temporary or short term establishment where the seller sells or offers for sale or solicits orders for future delivery of goods or services,

(iv) by a multi-level marketing wholesaler or a multi-level marketing distributor, or

(v) if the goods or services are hearing aids or hearing-aid services, regardless of the circumstances of the sale.[:]

(e) “goods” include any articles, commodities, substances or things and any agreement that entitles the holder thereof to purchase or obtain goods;

(f) “hearing aid” means any wearable instrument or device designed for or offered for the purpose of aiding or compensating for impaired human hearing and any parts, attachments or accessories including earmold, but excluding batteries;

(g) *repealed 2014, c. 12, s. 1.*

(h) “Minister” means the Minister of Service Nova Scotia;

(i) “purchaser” means a person who agrees to purchase goods or services under a direct sales contract;

(j) *repealed 2014, c. 12, s. 1.*

(k) “Registrar” means the person appointed as Registrar for the purposes of this Act;

(l) “salesperson” means an individual who sells or offers to sell or solicits orders for the future delivery of goods or services for or on behalf of a direct seller;

(m) “services” include

(i) the application or installation of goods sold under a direct sales contract,

(ii) the performance of work, labour or services of any type;

(n) “trade-in” means consideration given by a purchaser in a form other than money or an obligation to pay money.

(2) For greater certainty, neither a listing of the name of a seller in a telephone, professional or trade directory, including a directory published electronically, nor a website maintained by or on behalf of a seller, is a solicitation for the purpose of subclause (ii) of clause (d) of subsection (1). R.S., c. 129, s. 2; 1999, c. 8, ss. 1, 9; 2014, c. 12, s. 1.

### Registrar

**3** (1) The Minister shall appoint a Registrar 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 Registrar or when the office of the Registrar is vacant, authorize another person to act in the Registrar's stead.

(3) The Minister may appoint one or more deputy registrars as required to assist the Registrar in the performance of the Registrar's duties.

(4) A deputy registrar may perform any of the duties and exercise any of the powers of the Registrar as directed by the Registrar.

(5) 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. 2014, c. 39, s. 7.

4 *repealed 2014, c. 39, s. 7.*

#### Permit required

5 (1) Subject to subsection (2), no person shall carry on the business of direct selling unless the person is

- (a) the holder of a permit under this Act; or
- (b) a salesperson authorized by the holder of a permit as a direct seller to act on the permit holder's behalf.

(2) An individual engaged in the direct selling of hearing aids or hearing-aid services must hold a permit as a salesperson. 2014, c. 12, s. 2.

#### Act does not apply

6 (1) This Act does not apply to any sales contract

- (a) *repealed 2014, c. 12, s. 3.*
- (b) the subject of which is the sale of food or drink for consumption by either humans or animals;
- (c) the subject of which is the sale of a newspaper;
- (d) the subject of which is the sale of goods or services which are sold by corporations which are owned or controlled or are agencies of either Her Majesty in right of Canada or Her Majesty in right of the Province or of any city, town, or municipality;
- (e) made between a manufacturer or distributor and a wholesaler in respect of goods that the wholesaler intends to resell in the course of his business;
- (f) made between a manufacturer, distributor or wholesaler and a retailer in respect of goods that the retailer intends to resell in the course of his business;

(g) under which a person engaged in business for gain is the purchaser of goods or services intended to be used in or in respect of the person's business but not for resale;

(h) *repealed 2014, c. 12, s. 3.*

(i) made by a person selling goods or services on behalf of an organization or corporation having objectives of a benevolent or charitable nature and not formed for gain; or

(j) of a class of direct sales contracts that is prescribed by the regulations.

(2) This Act does not apply to

(a) a member of a category of persons exempted by the regulations; or

(b) a person who participates in a category of sales exempted by the regulations. R.S., c. 129, s. 6; 1999, c. 8, s. 2; 2014, c. 12, s. 3.

7 *repealed 2014, c. 12, s. 4.*

### Permits

8 (1) The Registrar may grant permits under this Act to direct sellers and salespersons.

(2) *repealed 1999, c. 8, s. 3.*

(3) The holder of a permit as a salesperson may only act as a direct seller for or on behalf of his employer direct seller whose name must be specified in his permit.

(4) No direct seller or salesperson shall in the course of carrying on the business of a direct seller sell or offer for sale or solicit orders for the future delivery of goods or services of any class or sort other than those specified in his permit.

(5) Subsection (4) does not apply to a salesperson unless the salesperson is engaged in the direct selling of hearing aids or hearing-aid services. R.S., c. 129, s. 8; 1998, c. 8, ss. 28, 41; 1999, c. 8, ss. 3, 9; 2014, c. 12, s. 5.

### Issuance of permit

9 (1) Subject to subsection (1A), upon receipt of an application for a permit and upon payment of the prescribed fee and upon delivery of such bond as may be required and upon meeting such conditions as may be required by this Act and the regulations, the Registrar shall issue to the applicant a permit authorizing the holder during the term thereof to carry on the business of a direct seller or a salesperson within the Province.

(1A) The Registrar may refuse to issue a permit if the Registrar is satisfied that

- (a) the applicant or any director, manager or officer of the applicant
  - (i) has been convicted of an offence under
    - (A) this Act or any other enactment of the Province, or
    - (B) an enactment of another province of Canada, of Canada or of a foreign jurisdiction,
 for conduct that shows, in the Registrar's opinion, that the applicant is unfit to hold a permit,
  - (ii) has contravened or failed to comply with this Act or the regulations,
  - (iii) has failed to comply with the requirements of any applicable enactment of the Province, of another province of Canada or of Canada,
  - (iv) has engaged in a pattern of conduct that shows, in the Registrar's opinion, that the applicant is unfit to have a permit,
  - (v) has made a material misstatement in the application for a permit, or
  - (vi) is an undischarged bankrupt; or
- (b) the circumstances are such that, in the Registrar's opinion, it would not be in the public interest to issue a permit.

(2) Every permit shall be issued for a period of one year or such other period prescribed by the regulations and may be renewed on due application to the Registrar and payment of the prescribed fee and bonding unless previously cancelled or suspended.

(3) *repealed 1998, c. 8, s. 29.*

(4) *repealed 1999, c. 8, s. 4.*

(5) No person whose permit has been cancelled shall be entitled to apply for a new permit for one year after the cancellation.

(6) When a permit has been suspended or cancelled by or under this Act, the holder of the permit shall forthwith return the permit to the Registrar. R.S., c. 129, s. 9; 1998, c. 8, ss. 29, 41; 1999, c. 8, ss. 4, 9; 2014, c. 12, s. 6.

**Application for permit or renewal and bonding**

**10 (1)** Every application for a permit or a renewal of a permit shall be made in writing upon the prescribed form to be provided by the Registrar and shall be accompanied by such fee as may be prescribed.

**(2)** Every application for an original permit shall be accompanied by a bond in such amount and form as may be prescribed by the regulations.

**(3)** Every application for a renewal of a permit shall be accompanied by a bond in such amount and form as is prescribed by the regulations.

**(4)** Notwithstanding the fact that Her Majesty in right of the Province has not suffered any loss or damages, every bond delivered to the Registrar under this Act shall be construed as being a penal bond and where any such bond is forfeited pursuant to this Act the amount due and owing as a debt to Her Majesty in right of the Province by the person bound thereby shall be determined as if Her Majesty suffered such loss or damages as would entitle Her Majesty to be entitled to the maximum amount of the liability prescribed by the bond. R.S., c. 129, s. 10; 1998, c. 8, s. 41.

**Address for service**

**11** Every applicant for a permit or renewal of a permit shall state in the application a civic address for service in the Province, which address shall be at a place situate in the Province and all notices under this Act or the regulations shall be sufficiently served for all purposes if delivered or sent by prepaid mail to the latest address for service so stated. R.S., c. 129, s. 11; 1998, c. 8, s. 41; 1999, c. 8, s. 5.

**Further information**

**12** The Registrar may require at any time any further information or material to be submitted by any applicant or any person issued a permit pursuant to this Act within a specified time limit and may require, if he so desires, verification by affidavit or otherwise of any information or material then or previously submitted. R.S., c. 129, s. 12; 1998, c. 8, s. 30.

**Further information**

**13** Every direct seller and salesperson issued a permit pursuant to this Act shall notify the Registrar in writing of

- (a) any change in address for service;
- (b) *repealed 2014, c. 12, s. 7.*

and

- (c) in the case of a direct seller any partnership arrangements with other direct sellers or change in partnership arrangements. R.S., c. 129, s. 13; 1998, c. 8, s. 31; 1999, c. 8, s. 9; 2014, c. 12, s. 7.

**Salespersons**

**14 (1)** Every application for a permit as a salesperson shall be accompanied by a notice given by a direct seller issued a permit pursuant to this Act stating that the applicant if granted a permit is authorized to act as a salesperson representing that direct seller.

**(2)** A permit issued to a salesperson shall specify as the principal of the salesperson the direct seller who has given the notice accompanying the application for that permit pursuant to subsection (1). R.S., c. 129, s. 14; 1998,c. 8, ss. 32, 41; 1999, c. 8, s. 9.

**Deemed agent**

**15** A salesperson who is the holder of a subsisting permit shall be deemed to be authorized by the direct seller specified in the permit to act for and on behalf of that direct seller. R.S., c. 129, s. 15; 1998, c. 8, s. 41; 1999, c. 8, s. 9.

**Limit on sales and solicitation**

**15A (1)** A salesperson who is not required to hold a permit is deemed to be an agent of the direct seller on whose behalf the salesperson is acting.

**(2)** No salesperson shall sell or offer for sale or solicit orders for the future delivery of goods or services of any class or sort other than those specified in the permit of the direct seller on whose behalf the salesperson is acting. 2014, c. 12, s. 8.

**Cancellation of salesperson's permit**

**16 (1)** Where a salesperson who is the holder [of] a permit under this Act ceases to represent a direct seller, that direct seller shall forthwith give notice in writing to the Registrar that that salesperson has ceased to represent him and the receipt of such notice by the Registrar shall operate as a cancellation of the permit of the salesperson.

**(2)** A direct seller who fails to give the notice mentioned in subsection (1) within five days after the salesperson has ceased to represent him is guilty of an offence under this Act. R.S., c. 129, s. 16; 1998, c. 8, s. 41; 1999, c. 8, s. 9; 2014, c. 12, s. 9.

**Firms**

**17 (1)** In this Section the word "firm" means

(a) a person who is the sole proprietor of a business and who uses as his business name a name other than his own or uses his own name with the addition of some other word or phrase; or

(b) persons who are associated as partners in a business,

and the name in which the firm carries on its business is called the firm name.

(2) A firm may apply for and obtain a permit as a direct seller in the firm name and no firm shall carry on a business as a direct seller under a name other than the name shown in its permit.

(2A) Notwithstanding subsection (2), a limited partnership is not eligible to apply for or obtain a permit under this Act.

(3) Every firm shall in its application for a permit state the firm name and, if a sole proprietor the name of the proprietor or, if a partnership, the names of the partners.

(4) The permit if granted to the firm shall be deemed to be issued in the name of the sole proprietor or in the names of the partners as the person or persons carrying on the business in the firm name.

(5) Any change in the membership of a firm or in the name thereof shall be deemed to create a new firm and to terminate any existing permit. R.S., c. 129, s. 17; 1998, c. 8, s. 41; 2014, c. 12, s. 10.

#### **Restrictions on, suspension or cancellation of permit**

**18** (1) Every permit granted under this Act shall be subject to such terms, conditions and restrictions as may be prescribed by the regulations.

(2) The Registrar may suspend or cancel a permit if satisfied of the existence of a ground on which the Registrar might have refused to issue the permit under subsection (1A) of Section 9 or if the Registrar is satisfied that the permit holder

(a) has failed to comply with any of the terms, conditions or restrictions to which the permit is subject;

(b) has made a material misstatement in any information or material submitted by the permit holder to the Registrar;

(c) has been found guilty of misrepresentation, fraud or dishonesty;

(d) has demonstrated the permit holder's incompetency or untrustworthiness to carry on the business in respect of which the permit was issued;

(e) is not carrying on business in the Province; or

(f) being a corporation, has been dissolved or struck off the register of companies.

(3) Where the permit of a direct seller is suspended or cancelled, the permits of all salespersons of the direct seller shall likewise be automatically suspended or cancelled as the case may be. R.S., c. 129, s. 18; 1998, c. 8, ss. 33, 41; 1999, c. 8, ss. 6, 9; 2014, c. 12, s. 11.

**Transfer of permit prohibited**

**19 (1)** The transfer of the permit of a salesperson from one direct seller to another is prohibited.

**(2)** Where a salesperson engaged in the direct selling of hearing aids or hearing-aid services whose permit is cancelled is appointed by another direct seller or is re-appointed by the direct seller with whom he previously held a permit, a new application shall be made to the Registrar for a permit. R.S., c. 129, s. 19; 1998, c. 8, ss. 34, 41; 1999, c. 8, s. 9; 2014, c. 12, s. 12.

**Direct sales contract**

**20 (1)** A direct sales contract shall be in writing where required by this Act or the regulations.

**(2)** A copy of the direct sales contract shall be supplied to the purchaser at the time the contract is made.

**(3)** A written direct sales contract shall include

**(a)** a statement of cancellation rights that conforms with the requirements in the regulations; and

**(b)** the information required by the regulations.

**(4)** Where a direct sales contract is not required to be in writing, the direct seller shall notify the purchaser of cancellation rights in a form and manner prescribed by the regulations.

**(5)** Except as provided in the regulations, a direct seller shall not give or offer to give directly or indirectly any gift, premium, prize or other benefit of any kind to a purchaser or prospective purchaser for assistance in furthering the sale to another person of any goods or services if that gift, premium, prize or other benefit is contingent on a sale being made to the other person. 1999, c. 8, s. 7.

**Continuing-services contract**

**20A (1)** Subject to subsection (3), the term of a continuing-services contract, including the cumulative total of all options and rights to extend or renew the contract, must not exceed three years.

**(2)** Where a continuing-services contract is about to expire, the direct seller shall, between thirty and sixty days before the expiry date of the contract, provide written notice to the purchaser stating

**(a)** the date that the contract is set to expire, and that this notice is written notice that the contract will terminate on that date; or

**(b)** the date that the contract is set to expire, but that the contract will be automatically extended, on a monthly basis and on otherwise the same terms as at present, until either the purchaser or

the direct seller gives notice to the other that the contract is not to be further extended.

- (3) On the expiry date of a continuing-services contract, where
- (a) notice has been given to the purchaser under subsection (2); and
  - (b) neither the direct seller nor the purchaser has given notice to the other that the contract is not to be extended,

the contract is automatically extended, on the same terms, for an additional one-month term, and the direct seller shall continue to automatically extend the contract, for additional one-month terms, until either the supplier or the customer gives notice to the other that the contract is not to be further extended.

(4) No direct seller shall charge a purchaser a fee for the extension of a continuing-services contract or any other fee, charge, penalty, interest or other amount or consideration for the extension of a contract under this Section.

(5) For the purpose of subsection (1), all continuing-services contracts, except a contract extended under subsection (3), that

- (a) are in effect between the same direct seller and the same purchaser at the same time; and
- (b) provide for the performance of the same or similar services,

are deemed to be a single contract, regardless of whether services are being supplied concurrently under two or more of the contracts.

(6) Where a continuing-services contract does not comply with subsection (1),

- (a) the contract is not binding on the purchaser in respect of the period in excess of three years;
- (b) the direct seller shall refund to the purchaser, within fifteen days after receiving a request from the purchaser, all money paid under the contract for the period in excess of three years; and
- (c) where the direct seller does not comply with clause (b), the purchaser may recover as a debt due all money paid under the contract for the period in excess of three years. 2014, c. 12, s. 13.

#### **Cancellation of contract**

**21 (1)** A direct sales contract is cancelled if

- (a) the purchaser serves a written notice of cancellation on the direct seller within ten days after the day on which the purchaser receives a copy of the direct sales contract or, where a contract is not required, a notice of cancellation rights; or

(b) the purchaser cancels the contract by providing written notice to the direct seller within one year after the day on which the purchaser entered into the contract and

(i) the direct seller was not in compliance with the requirements for a permit contained in this Act or the regulations at the time the purchaser entered into the contract,

(ii) the goods or services to be supplied under the contract are not supplied to the purchaser within thirty days after the supply date specified in the contract,

(iii) where a written contract is required, the contract does not contain the information required pursuant to this Act or the regulations, or

(iv) where a written contract is not required, the notice of cancellation rights does not conform with the requirements of this Act or the regulations.

(2) A notice given pursuant to subsection (1) may be served on the direct seller in any manner that permits the purchaser to produce evidence that the purchaser cancelled the contract, including registered mail or personal delivery to the direct sellers' last known address.

(3) Where a method of sending or delivering the cancellation notice other than personal delivery is used, a notice of cancellation is deemed to be given when sent.

(4) Where a purchaser accepts delivery of goods or supply of services after the thirty-day period referred to in subclause (ii) of clause (b) of subsection (1) has expired, the purchaser is not entitled to cancel the contract pursuant to that subclause. 1999, c. 8, s. 7.

#### **Cancellation of continuing-services contract**

**21A (1)** In addition to the cancellation rights provided for in Section 21, a continuing-services contract may be cancelled by the purchaser at any time for any reason by giving written notice to the direct seller.

(2) A notice given pursuant to subsection (1) may be served on the direct seller in any manner that permits the purchaser to produce evidence that the purchaser cancelled the contract, including registered mail or personal delivery to the direct seller's last known address.

(3) Where a method of sending or delivering the cancellation notice other than personal delivery is used, a notice of cancellation is deemed to be given when sent.

(4) For greater certainty, where a purchaser cancels a continuing-services contract under subsection (1), Sections 22 and 23 apply. 2014, c. 12, s. 14.

**Cancellation of certain multi-level marketing contracts**

**21B (1)** In addition to the cancellation rights provided for by Section 21, a contract between a multi-level marketing distributor and a multi-level marketing wholesaler in relation to a multi-level marketing plan may be cancelled by the multi-level marketing distributor at any time for any reason by giving written notice to the multi-level marketing wholesaler.

**(2)** A notice given pursuant to subsection (1) may be served on the multi-level marketing wholesaler in any manner that permits the multi-level marketing distributor to produce evidence that the multi-level marketing distributor cancelled the contract, including registered mail or personal delivery to the multi-level marketing wholesaler's last known address.

**(3)** Where a method of sending or delivering the cancellation notice other than personal delivery is used, a notice of cancellation is deemed to be given when sent.

**(4)** Where a multi-level marketing distributor cancels a contract under subsection (1), Sections 22 and 23 apply *mutatis mutandis*. 2014, c. 12, s. 14.

**Extension or arrangement of credit**

**22** Where, in connection with a direct sales contract, credit is extended or arranged by a direct seller,

(a) the credit contract is conditional on the direct sales contract;  
and

(b) where the direct sales contract is cancelled pursuant to Section 21, 21A or 21B, the credit contract is cancelled. 1999, c. 8, s. 7; 2014, c. 12, s. 15.

**Effect of cancellation of contract**

**23 (1)** Where a direct sales contract is cancelled, the direct seller, within fifteen days of the cancellation, shall

(a) refund to the purchaser all money received under the contract; and

(b) return to the purchaser any trade-in or an amount equal to the value of the trade-in received under the contract.

**(2)** The value of the trade-in referred to in subsection (1) is the greater of

(a) the market value of the goods when taken in trade; and

(b) the price or value of the goods as set out in the direct sales contract.

**(3)** In a contract respecting goods, the purchaser, on receiving the refund, shall return the goods to the direct seller.

(4) Where a purchaser cannot return the goods to the direct seller in substantially the same condition as when the purchaser received the goods because of an act or fault for which the purchaser is responsible, the purchaser may not cancel the contract.

(5) Notwithstanding subsection (1), a direct seller is entitled to recover or retain reasonable compensation as prescribed in the regulations for goods that cannot be returned or for services already provided. 1999, c. 8, s. 7; 2014, c. 12, s. 16.

#### **Copy of contract for buyer and no contingent benefits**

24 (1) Immediately upon the execution of a direct sales contract, the direct seller or the salesperson shall deliver to the buyer a true copy of the contract.

(2) No direct seller or salesperson shall give or offer to give directly or indirectly any gift, premium, prize or other benefit of any kind whatsoever to a purchaser or prospective purchaser for services in furthering the sale to another person of any goods or services, if such gift, premium, prize or other benefit is contingent on a sale being made to such other person. R.S., c. 129, s. 24; 1999, c. 8, s. 9.

#### **Application of Sections 20 to 23**

25 Sections 20 to 23 apply to all sales that are solicited, negotiated or entered into in any dwelling, motel, hotel or motor vehicle or at any exhibition, trade show, fair, parking lot or similar temporary or short term establishment by a person who is not carrying on the business of direct selling and is not required to be issued a permit pursuant to this Act. 2014, c. 12, s. 17.

#### **Forfeiture of bond**

26 Any bond delivered under this Act shall be forfeited upon the demand of the Registrar where

(a) the person in respect of whose conduct the bond is conditioned or any representative, agent or salesperson of that person has been convicted of

(i) an offence under this Act or any regulation,

(ii) an offence involving fraud, theft or conspiracy to commit an offence involving fraud, theft or conspiracy under the *Criminal Code* (Canada), or

(iii) an offence in relation to competition or deceptive marketing practices under the *Competition Act* (Canada) or any other Act of the Parliament of Canada;

(b) judgment in respect of a claim arising out of a direct sales contract has been given against the person in respect of whose conduct the bond is conditioned or against any representative, agent or salesperson of that person;

(c) the person in respect of whose conduct the bond is conditioned commits an act of bankruptcy, whether or not proceedings have been taken under the *Bankruptcy Act* (Canada); or

(d) a decision has been rendered by the Registrar in writing stating in effect that after consideration and investigation of a complaint, he is satisfied that the person in respect of whose conduct the bond is conditioned or any representative, agent or salesperson of that person

(i) has contravened any provision of this Act or the regulations or has failed to comply with any of the terms, conditions or restrictions to which his permit is subject or is in breach of contract, and

(ii) has departed from the Province or been out of the Province, remains out of the Province or departs from his normal place of abode or otherwise absents himself or in the case of a corporation, the name thereof has been struck off the register of companies,

and such conviction or judgment, order or decision has become final by reason of lapse of time or having been confirmed by the highest court to which any appeal may be taken. R.S., c. 129, s. 26; 1998, c. 8, s. 41; 1999, c. 8, s. 9; 2014, c. 12, s. 18.

#### **Effect of bond**

**27 (1)** Notwithstanding any other provision of this Act, the total liability of the insurer under a bond shall not at any time exceed the face value of the bond.

**(2)** Where a bond secured by the deposit of collateral security with the Registrar is forfeited under this Act, the Registrar may sell the collateral security at the current market price.

**(3)** The Registrar may assign any bond forfeited under the provisions of this Act or may pay over any money recovered thereunder or recovered from the sale of any collateral security to any person or to the Accountant General of the Supreme Court in trust for such persons as may become entitled thereto in respect of direct sales contracts with the person named in the bond or any representative, agent or salesperson of that person, judgment creditors of the person so bonded or to any trustee, custodian, interim receiver, receiver or liquidator of such judgment creditors as the case may be, such assignment or payment over to be in accordance with and upon conditions set forth in regulations or in any special order of the Governor in Council. R.S., c. 129, s. 27; 1999, c. 8, s. 9.

#### **Investigations by Registrar**

**28** The Registrar or any person authorized by him in writing may investigate and inquire into any matter the investigation of which he deems expedient for the due administration of this Act. R.S., c. 129, s. 28.

**Powers on investigation**

**29** The person making an investigation may at all reasonable times demand the production of and inspect all or any of the books, documents, papers, correspondence and records of the person in respect of whom the investigation is being made and any person who has the custody, possession or control of any such books, documents, papers, correspondence or records shall produce them and permit the inspection thereof by the person making the investigation. R.S., c. 129, s. 29.

**Compliance order**

**29A (1)** After giving a person an opportunity to be heard, the Registrar may issue a compliance order requiring the person to comply with this Act and the regulations if satisfied that the person is contravening, is about to contravene or has contravened this Act or the regulations.

**(2)** A compliance order shall

**(a)** name the person in respect of whom the order is issued;

**(b)** describe the person's act or practice that is contravening, is about to contravene or has contravened this Act or the regulations;

**(c)** identify the provision of this Act or the regulations that is being contravened, is about to be contravened or has been contravened; and

**(d)** be dated and signed by the Registrar.

**(3)** In a compliance order, the Registrar may order a person to stop engaging in or to not engage in a specified act or practice and to comply with this Act and the regulations.

**(4)** The Registrar shall serve a copy of the compliance order on the person named in the order. 2014, c. 12, s. 19.

**Order of Supreme Court**

**29B (1)** Where the Registrar is satisfied that a person in respect of whose conduct a compliance order has been issued is not complying with the order, the Registrar may apply to the Supreme Court of Nova Scotia for an order directing the person to comply with the compliance order.

**(2)** Upon hearing an application of the Registrar made under subsection (1), the Supreme Court may make any order that the Court considers necessary, in addition to the order directing the person to comply with the compliance order. 2014, c. 12, s. 19.

**Publication of information by Registrar**

**29C (1)** The Registrar may publish any of the following information, including personal information as defined in the *Freedom of Information and Protection of Privacy Act*:

- (a) the name and business address of a permit holder;
- (b) any information appearing on a permit;
- (c) any information relating to the status of a permit issued under this Act, including the suspension or cancellation of a permit;
- (d) details of any compliance order issued under Section 29A;
- (e) details of any court order made under this Act;
- (f) details of any conviction for an offence under this Act;
- (g) any other information prescribed by the regulations.

**(2)** The Registrar may publish the information referred to in subsection (1) in whatever form and manner the Registrar considers appropriate. 2014, c. 12, s. 19.

**Contract unenforceable**

**30 (1)** No action shall be brought by a direct seller against a purchaser for the enforcement of a direct sales contract unless the direct seller and salesperson were issued a permit under this Act at the time that the purchaser entered into the contract.

**(2)** Subsection (1) does not apply in a case where the direct seller and the salesperson are ~~are~~ not required to be issued a permit pursuant to this Act. R.S., c. 129, s. 30; 1998, c. 8, s. 37; 1999, c. 8, s. 9.

**Agent to have permit**

**31** No person shall engage, employ, appoint, authorize or permit any other person to do any of the things in respect of which a permit is required under this Act unless such other person holds a permit under this Act. R.S., c. 129, s. 31; 1998, c. 8, s. 41.

**False representations prohibited**

**31A** No person shall falsely hold himself or herself out as being engaged, employed or appointed by or authorized to act on behalf of a direct seller. 2014, c. 12, s. 20.

**Holding out and right to inspect**

**32 (1)** Subject to subsection (2), no person shall in any manner hold himself out as being bonded or issued a permit under this Act.

(2) A person issued a permit under this Act shall produce his permit for inspection when requested to do so by any person whom he has solicited. R.S., c. 129, s. 32; 1998, c. 8, ss. 38, 41.

#### **Pyramid selling prohibited**

**32A (1)** In this Section, "scheme of pyramid selling" has the same meaning as in subsection (1) of section 55.1 of the *Competition Act* (Canada).

(2) No direct seller or salesperson shall establish, operate, advertise or promote a scheme of pyramid selling. 2014, c. 12, s. 21.

#### **Certificate prima facie proof**

**33** A certificate under the hand of the Registrar stating that on a specified day

- (a) a direct seller, salesperson or any other person named in the certificate was or was not issued a permit under this Act;
- (b) a permit was issued to a direct seller or salesperson; or
- (c) the permit of a direct seller or salesperson was suspended, cancelled or reinstated,

is admissible in evidence as *prima facie* proof of the facts stated in the certificate. R.S., c. 129, s. 33; 1998, c. 8, ss. 39, 41; 1999, c. 8, s. 9.

#### **Certain agreements void**

**34** Every agreement or bargain, verbal or written, express or implied, in which any of the provisions of this Act or the regulations shall not apply or that any benefit or remedy provided by those provisions shall not be available, or which in any way limits or abrogates or in effect limits, modifies or abrogates any such benefit or remedy, is null, void and of no effect, and moneys paid under or by reason of any such agreement or bargain are recoverable in any court of competent jurisdiction. R.S., c. 129, s. 34.

#### **Assignee of rights of direct seller**

**34A (1)** Notwithstanding any other enactment or law but subject to this Act, the assignee of any rights of a direct seller in any direct sale has no greater rights than, and is subject to the same obligations, liabilities and duties as, the direct seller, and this Act applies equally to such an assignee.

(2) The liability of the assignee is limited to the total amount owing to the direct seller at the date of assignment under the direct sales contract. 2014, c. 12, s. 22.

#### **No action lies**

**34B** No action or other proceeding may be brought against Her Majesty in right of the Province, the Minister, the Registrar, any person acting under the

authority of the Registrar or any other employee or agent of Her Majesty in right of the Province for anything done or not done, or for any neglect,

(a) in the performance or intended performance of a duty under this Act or the regulations; or

(b) in the exercise or intended exercise of a power under this Act or the regulations,

if the person was acting in good faith. 2014, c. 12, s. 22.

### Regulations

**35** (1) The Governor in Council may make regulations

(a) respecting what constitutes the usual place of business of a seller for the purpose of the definition of "direct selling";

(aa) prescribing classes of direct sales contracts to which this Act does not apply;

(ab) prescribing categories of persons exempted from the application of this Act;

(ac) prescribing categories of sales exempted from the application of this Act;

(ad) prescribing the period during which a permit is valid;

(ae) respecting the qualifications, education and training that a salesperson or an applicant for a permit as a salesperson must possess, and the testing and other requirements that a salesperson or an applicant for a permit as a salesperson must pass or satisfy, including authorizing the Registrar to determine or approve the qualifications, education and training that a salesperson or an applicant for a permit as a salesperson must possess and the testing and other requirements that a salesperson or an applicant for a permit as a salesperson must pass or satisfy;

(af) prescribing requirements respecting applicants for permits;

(b) prescribing the terms, conditions and restrictions of permits;

(c) providing for and requiring direct sellers and salespersons or representatives of direct sellers to be issued a permit and prescribing fees for permits;

(d) relating to the suspension or cancellation of permits;

(e) relating to the bonding of direct sellers and salespersons of direct sellers and prescribing the form of the bonds;

(ea) authorizing the Registrar, at any time, to alter the amount of the bond posted by an applicant for or a holder of a permit as a direct seller;

- (eb) prescribing information that may be published by the Registrar for the purpose of Section 29C;
- (f) prescribing the form of contracts by direct sellers;
- (g) exempting any class of purchaser, seller or direct seller from any or all of the provisions of this Act;
- (h) exempting any class of transaction by a direct seller from all or any of the provisions of this Act;
- (ha) prescribing categories of direct sellers;
- (hb) respecting the types of contracts or the categories of direct sales for which a written contract is required, including setting the minimum value at which a written contract may be required;
- (hc) respecting the form and content of identification cards direct sellers are to provide to salespersons and the circumstances in which an identification card is required;
- (hd) respecting the content of direct sales contracts or any category of direct sales contracts;
- (he) respecting the form and content of a statement of cancellation rights;
- (hea) respecting the manner of giving notice that a continuing-services contract is not to be extended or further extended, which may include oral notice and, where notice is provided by the purchaser, how it must be acknowledged by the direct seller;
- (heb) respecting the content and form of notices required under Section 20A;
- (hf) respecting codes of conduct for a direct seller;
- (hg) exempting a salesperson or a class of salespersons from the requirement to hold a permit;
- (hh) respecting reasonable compensation for the purpose of Section 23, including, without limiting the generality of the foregoing, prescribing the reasonable compensation that a direct seller is entitled to recover in respect of goods that cannot be returned or services already provided under a cancelled direct sales contract, including different amounts of or standards for determining reasonable compensation in respect of different classes of direct sales contracts;
- (hha) respecting the return of goods to a direct seller by the purchaser upon the cancellation of a direct sales contract, including
  - (i) the location at which, and method by which, goods are to be returned to the direct seller, and
  - (ii) the condition of goods being returned to the direct seller;

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

(hj) prescribing any other matter or thing that is required or authorized by this Act to be prescribed by regulation;

(i) respecting any other matter necessary or advisable to carry out the intention and purposes of this Act.

(2) A regulation made under subsection (1) may adopt or incorporate by reference, in whole, in part or with modifications, a written standard, rule, regulation, guideline, designation, code or document relating to any matter in respect of which a regulation may be made under subsection (1).

(3) A standard, rule, regulation, guideline, designation, code or document that is adopted or incorporated by reference under subsection (2) may be adopted or incorporated as it reads on a prescribed day or as it is amended from time to time.

(4) Where a standard, rule, regulation, guideline, designation, code or document is adopted or incorporated by reference under subsection (2), the Minister shall ensure that a copy of the standard, rule, regulation, guideline, designation, code or document is made publicly available. R.S., c. 129, s. 35; 1998, c. 8, s. 40; 1999, c. 8, ss. 8, 9; 2014, c. 12, s. 23.

#### Offences and penalties

**36** (1) A person is guilty of an offence who

(a) contravenes this Act or the regulations;

(b) fails to comply with a compliance order or fails to do anything required by the Registrar under this Act or the regulations;

(c) knowingly furnishes false information in any application, statement, information or material required to be provided or submitted under this Act or the regulations; or

(d) fails to comply with a term, condition or restriction to which the person's permit is subject.

(2) Subject to subsections (3) and (4), every person who is guilty of an offence under this Act is liable on summary conviction to a fine of not less than five hundred dollars and not more than twenty-five thousand dollars or to imprisonment for a period of up to two years, or to both a fine and imprisonment.

(3) Subject to subsection (4), where a corporation is convicted of an offence under this Act, the corporation is liable to a fine of not less than one thousand dollars and not more than three hundred thousand dollars.

(4) Where a person is guilty of an offence for having contravened Section 5 or having failed to comply with a compliance order, the minimum fine that may be imposed upon the person is

- (a) for a first offence
  - (i) in the case of an individual, seven hundred and fifty dollars, and
  - (ii) in the case of a corporation, two thousand dollars;
- (b) for a second offence
  - (i) in the case of an individual, one thousand dollars, and
  - (ii) in the case of a corporation, five thousand dollars; and
- (c) for a third or subsequent offence
  - (i) in the case of an individual, two thousand dollars, and
  - (ii) in the case of a corporation, ten thousand dollars.

(5) Where a person is convicted of an offence under this Act and the court is satisfied that, as a result of the commission of the offence, a monetary benefit has accrued to the offender, the court may order the offender to pay, in addition to a fine imposed under this Section, a fine in an amount equal to the estimation by the court of the amount of the monetary benefit.

(6) Where an offence under this Act 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.

(7) Where a corporation is guilty of an offence under this Act, a director, officer, manager or agent of the corporation who directed, authorized, permitted, acquiesced in or participated in the contravention is also guilty of an offence and is liable on summary conviction to the penalties set out in subsections (2) and (4), whether or not the corporation has been prosecuted or convicted. 2014, c. 12, s. 24.

### **Prima facie proof**

37 Where in a prosecution under this Act it is alleged that the accused carried on the business of direct selling without being the holder of a subsisting permit under this Act, evidence of one transaction is *prima facie* evidence that the accused carried on such business. R.S., c. 129, s. 37; 1998, c. 8, s. 41.

**Limitation period for prosecution**

**38** A prosecution for an offence under this Act or the regulations may not be commenced more than three years after the later of

- (a) the date on which the offence was committed; and
- (b) the date on which evidence of the offence first came to the attention of the Registrar. 2018, c. 43, s. 17.

**Appeals**

**39 (1)** A person who is dissatisfied with a decision of the Registrar under this Act may, within thirty days from the date of the decision, appeal to a judge of the Supreme Court of Nova Scotia who may, upon hearing the appeal, by order do any one or more of the following things:

- (a) dismiss the appeal;
- (b) allow the appeal;
- (c) allow the appeal subject to terms and conditions;
- (d) vary the decision appealed against;
- (e) refer the matter back to the Registrar for further consideration and decision;
- (f) award costs of the appeal;
- (g) make such other order as to him seems just.

**(2)** The appeal shall be by notice of appeal and a copy thereof shall be served upon the Registrar not less than ten days before the day on which the motion is returnable.

**(3)** On the hearing of an appeal any evidence taken before the Registrar and certified by him may, with leave of the judge hearing the appeal, be read and shall have the like force and effect as if the witness were there examined and any party affected by the appeal may call witnesses and adduce evidence whether or not the witnesses were called or the evidence adduced at the hearing before the Registrar either as to the credibility of witnesses or as to any other fact material to the inquiry.

**(4)** An appeal shall lie to the Nova Scotia Court of Appeal from a decision of the Supreme Court of Nova Scotia upon any question of law but such appeal can only be taken by leave of a judge of the Court of Appeal given upon a petition presented to him within thirty days after the rendering of the decision and upon such terms as the said judge may determine; notice of such petition shall be given to the Registrar at least two clear days before the presentation of such petition.

**(5)** Where leave to appeal has been granted the appeal shall be brought by notice served on the Registrar within ten days after the leave to appeal has been granted, and the notice shall contain the names of the parties and the date

of the decision appealed from and such other particulars as the judge granting leave to appeal may require. R.S., c. 129, s. 39; 2014, c. 12, s. 26; 2018, c. 43, s. 18.

**Regulations Act**

**40** The exercise by the Governor in Council of the authority set forth in Section 35 shall be regulations within the meaning of the *Regulations Act*. R.S., c. 129, s. 40.

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