

Human Rights Act

CHAPTER 214 OF THE REVISED STATUTES, 1989

as amended by

1991, c. 12; 2007, c. 11; 2007, c. 14, s. 6; 2007, c. 41;
2008, c. 59; 2012, c. 51; 2016, c. 4, s. 21



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amended 1991, c. 12; 2007, c. 11; 2007, c. 14, s. 6; 2007, c. 41;
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**An Act to Amend the
Statute Law Relating to Human Rights**

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

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Preamble repealed 1991, c. 12.

Short title

1 This Act may be cited as the *Human Rights Act*. R.S., c. 214, s. 1.

Purpose of Act

2 The purpose of this Act is to

- (a) recognize the inherent dignity and the equal and inalienable rights of all members of the human family;
- (b) proclaim a common standard for achievement of basic human rights by all Nova Scotians;
- (c) recognize that human rights must be protected by the rule of law;
- (d) affirm the principle that every person is free and equal in dignity and rights;
- (e) recognize that the government, all public agencies and all persons in the Province have the responsibility to ensure that every individual in the Province is afforded an equal opportunity to enjoy a full and productive life and that failure to provide equality of opportunity threatens the status of all persons; and
- (f) extend the statute law relating to human rights and provide for its effective administration. 1991, c. 12, s. 1; 2008, c. 59, s. 1.

Interpretation

3 In this Act,

- (a) “business or trade association” includes an organization of persons that by an enactment, agreement or custom has power to admit, suspend, expel or direct persons in relation to any business or trade;
- (b) “Commission” means the Nova Scotia Human Rights Commission;
- (c) “Director” means the Director of Human Rights appointed pursuant to this Act;
- (d) “employees’ organization” includes an organization of employees formed for purposes that include the regulation of relations between employees and employers;
- (e) “employer” includes a person who contracts with a person for services to be performed by that person or wholly or partly by another person;

(f) “employers’ organization” includes an organization of employers formed for purposes that include the regulation of relations between employers and employees;

(g) “employment agency” includes a person who undertakes, with or without payment, to procure employees for employers and a person who undertakes, with or without payment, to procure employment for persons;

(h) “family status” means the status of being in a parent-child relationship;

(ha) “harass” means to engage in a course of vexatious conduct or comment that is known or ought reasonably to be known to be unwelcome;

(i) “marital status” means the status of being single, engaged to be married, married, separated, divorced, widowed or two people living in the same household as if they were married;

(j) “Minister” means the member of the Executive Council who is charged with the administration of this Act by the Governor in Council;

(k) “person” includes employer, employers’ organization, employees’ organization, professional association, business or trade association, whether acting directly or indirectly, alone or with another, or by the interposition of another;

(l) “physical disability or mental disability” means an actual or perceived

(i) loss or abnormality of psychological, physiological or anatomical structure or function,

(ii) restriction or lack of ability to perform an activity,

(iii) physical disability, infirmity, malformation or disfigurement, including, but not limited to, epilepsy and any degree of paralysis, amputation, lack of physical co-ordination, deafness, hardness of hearing or hearing impediment, blindness or visual impediment, speech impairment or impediment or reliance on a service dog as defined in the *Service Dog Act*, a guide dog, a wheelchair or a remedial appliance or device,

(iv) learning disability or a dysfunction in one or more of the processes involved in understanding or using symbols or spoken language,

(v) condition of being mentally impaired,

(vi) mental disorder, or

(vii) dependency on drugs or alcohol;

(m) “professional association” includes an organization of persons that by an enactment, agreement or custom has power to admit, suspend, expel or direct persons in the practice of an occupation or calling;

(n) “sex” includes pregnancy, possibility of pregnancy and pregnancy-related illness;

(o) “sexual harassment” means

(i) vexatious sexual conduct or a course of comment that is known or ought reasonably to be known as unwelcome,

(ii) a sexual solicitation or advance made to an individual by another individual where the other individual is in a position to confer a benefit on, or deny a benefit to, the individual to whom the solicitation or advance is made, where the individual who makes the solicitation or advance knows or ought reasonably to know that it is unwelcome, or

(iii) a reprisal or threat of reprisal against an individual for rejecting a sexual solicitation or advance. 1991, c. 12, s. 1; 2007, c. 41, s. 1; 2016, c. 4, s. 21.

PART I

DISCRIMINATION PROHIBITED

Meaning of discrimination

4 For the purpose of this Act, a person discriminates where the person makes a distinction, whether intentional or not, based on a characteristic, or perceived characteristic, referred to in clauses (h) to (v) of subsection (1) of Section 5 that has the effect of imposing burdens, obligations or disadvantages on an individual or a class of individuals not imposed upon others or which withholds or limits access to opportunities, benefits and advantages available to other individuals or classes of individuals in society. 1991, c. 12, s. 1.

Prohibition of discrimination

5 (1) No person shall in respect of

(a) the provision of or access to services or facilities;

(b) accommodation;

(c) the purchase or sale of property;

(d) employment;

(e) volunteer public service;

(f) a publication, broadcast or advertisement;

(g) membership in a professional association, business or trade association, employers’ organization or employees’ organization,

discriminate against an individual or class of individuals on account of

- (h) age;
- (i) race;
- (j) colour;
- (k) religion;
- (l) creed;
- (m) sex;
- (n) sexual orientation;
- (na) gender identity;
- (nb) gender expression;
- (o) physical disability or mental disability;
- (p) an irrational fear of contracting an illness or disease;
- (q) ethnic, national or aboriginal origin;
- (r) family status;
- (s) marital status;
- (t) source of income;
- (u) political belief, affiliation or activity;
- (v) that individual's association with another individual or class of individuals having characteristics referred to in clauses (h) to (u).

(2) No person shall sexually harass an individual.

(3) No person shall harass an individual or group with respect to a prohibited ground of discrimination. 1991, c. 12, s. 1; 2007, c. 41, s. 2; 2012, c. 51, s. 2.

Exceptions

6 Subsection (1) of Section 5 does not apply

(a) in respect of the provision of or access to services or facilities, to the conferring of a benefit on or the providing of a protection to youth or senior citizens;

(b) in respect of accommodation, where 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, through any news media or listing with any housing, rental or tenants' agency;

(c) in respect of employment, to

(i) a domestic employee and living in a single family home,

(ii) an exclusively religious or ethnic organization or an agency of such an organization that is not operated for private profit and that is operated primarily to foster the welfare of a religious or ethnic group with respect to persons of the same religion or ethnic origin, as the case may be, with respect to a characteristic referred to in clauses (h) to (v) of subsection (1) of Section 5 if that characteristic is a reasonable occupational qualification, or

(iii) employees engaged by an exclusively religious organization to perform religious duties;

(d) in respect of volunteer public service, to an exclusively religious or ethnic organization that is not operated for private profit and that is operated primarily to foster the welfare of a religious or ethnic group with respect to persons of the same religion or ethnic origin, as the case may be;

(e) where the nature and extent of the physical disability or mental disability reasonably precludes performance of a particular employment or activity;

(f) where a denial, refusal or other form of alleged discrimination is

(i) based upon a *bona fide* qualification,

(ia) based upon a *bona fide* occupational requirement; or

(ii) a reasonable limit prescribed by law as can be demonstrably justified in a free and democratic society;

(g) to prevent, on account of age, the operation of a *bona fide* pension plan or the terms or conditions of a *bona fide* group or employee insurance plan;

(h) *repealed 2007, c. 11, s. 1.*

or

(i) to preclude a law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or classes of individuals including those who are disadvantaged because of a characteristic referred to in clauses (h) to (v) of subsection (1) of Section 5. 1991, c. 12, s. 1; 2007, c. 11, s. 1.

Further exception

6A Nothing in Section 5 prohibits a term of office based upon age if required by an enactment. 2007, c. 11, s. 2.

Publication

7 (1) Subject to Section 6, no person shall publish, display or broadcast, or permit to be published, displayed or broadcast, on lands or premises, in a newspaper, by radio or television or by means of any medium, a notice, sign, symbol, implement or other representation indicating discrimination or an intention

to discriminate against an individual or class of individuals because of a characteristic referred to in clauses (h) to (v) of subsection (1) of Section 5.

(2) Nothing in this Section is deemed to interfere with the free expression of opinion upon any subject in speech or in writing. 1991, c. 12, s. 1.

Employment

8 (1) No employment agency shall accept an inquiry in connection with employment from an employer or a prospective employee that, directly or indirectly, expresses a limitation, specification or preference or invites information as to a characteristic referred to in clauses (h) to (v) of subsection (1) of Section 5, and no employment agency shall discriminate against an individual on account of such a characteristic.

(2) No person shall use or circulate a form of application for employment or publish an advertisement in connection with employment or prospective employment or make an inquiry in connection with employment that, directly or indirectly, expresses a limitation, specification or preference or invites information as to a characteristic referred to in clauses (h) to (v) of subsection (1) of Section 5.

(3) The exceptions referred to in Section 6 apply *mutatis mutandis* to subsections (1) and (2). 1991, c. 12, s. 1.

Exemption by Commission

9 Notwithstanding anything in this Act, the Commission may exempt a program or activity from subsection (1) of Section 5, or a part thereof, where, in the opinion of the Commission, there is a *bona fide* reason to do so. 1991, c. 12, s. 1.

Void regulation

10 (1) Where, in a regulation made pursuant to an enactment, there is a reference to a characteristic referred to in clauses (h) to (v) of subsection (1) of Section 5 that appears to restrict the rights or privileges of an individual or a class of individuals to whom the reference applies, the reference and all parts of the regulation dependent on the reference are void and of no legal effect.

(2) This Section does not apply in respect of an exclusively religious or ethnic organization that is not operated for private profit and that is operated primarily to foster the welfare of a religious or ethnic group with respect to persons of the same religion or ethnic origin, as the case may be. 1991, c. 12, s. 1.

Prohibition of retaliation

11 No person shall evict, discharge, suspend, expel or otherwise retaliate against any person on account of a complaint or an expressed intention to complain or on account of evidence or assistance given in any way in respect of the initiation, inquiry or prosecution of a complaint or other proceeding under this Act. 1991, c. 12, s. 1.

12 to 20 *repealed 1991, c. 12, s. 1.*

Act binds Crown

21 This Act binds Her Majesty in right of the Province and every servant and agent of Her Majesty. R.S., c. 214, s. 21.

PART II

HUMAN RIGHTS COMMISSION

Nova Scotia Human Rights Commission

22 (1) The Nova Scotia Human Rights Commission heretofore constituted is continued.

(2) The Commission shall consist of not fewer than three nor more than twelve members appointed by the Governor in Council, and the Governor in Council shall designate one of the members as Chair of the Commission.

(3) Each commissioner holds office for the term prescribed in the commissioner's appointment and is eligible for re-appointment.

(4) Each commissioner, not a member of the public service, shall be paid remuneration as the Governor in Council determines in addition to the commissioner's actual and reasonable travelling and living expenses when absent from the commissioner's place of residence in connection with the work of the Commission.

(5) Whenever a commissioner ceases to hold office, the Governor in Council may appoint a person to fill the vacancy. R.S., c. 214, s. 22; 1991, c. 12, s. 2; 2007, c. 41, s. 3.

23 *repealed 1991, c. 12, s. 3.*

Duties of Commission

24 (1) The Commission shall

- (a) administer and enforce the provisions of this Act;
- (b) develop a program of public information and education in the field of human rights to forward the principle that every person is free and equal in dignity and rights without regard to race, religion, creed, colour or ethnic or national origin;
- (c) conduct research and encourage research by universities and other bodies in the general field of human rights;
- (d) advise and assist government departments and co-ordinate their activities as far as these activities concern human rights;

- (e) advise the Government on suggestions, recommendations and requests made by private organizations and individuals;
- (f) co-operate with and assist any person, organization or body concerned with human rights, within or outside the Province;
- (g) report as required by the Minister on the business and activities of the Commission; and
- (h) consider, investigate or administer any matter or activity referred to the Commission by the Governor in Council or the Minister.

(2) The Commission shall report in each year to the Minister on the activities of the Commission during the preceding fiscal year ending in that year.

(3) The Minister shall lay the annual report before the Assembly if it is sitting or, if it is not sitting, with fifteen sitting days after it next sits. R.S., c. 214, s. 24; 1991, c. 12, s. 4.

Approval of program

25 The Commission may approve programs of Government, private organizations or persons designed to promote the welfare of any class of individuals, and any approved program is deemed not to be a violation of the prohibitions of this Act. R.S., c. 214, s. 25.

Director of Human Rights

26 (1) The Governor in Council shall appoint a Director of Human Rights who is the chief executive officer and a non-voting member of the Commission and who has the status of a deputy head, subject to the provisions of the *Civil Service Act* relating to a deputy or a deputy head.

(2) The Director shall perform duties and functions prescribed by this Act, by the Commission or by the regulations.

(3) The Chair of the Commission, in consultation with the members of the Commission, shall carry out an annual performance appraisal, in the prescribed form, of the Director and submit the appraisal to the Minister. R.S., c. 214, s. 26; 2007, c. 41, s. 4.

Race Relations, Equity and Inclusion

26A (1) There is hereby established a division within the Commission to be known as Race Relations, Equity and Inclusion under the direction of the Manager of Race Relations, Equity and Inclusion.

(2) Race Relations, Equity and Inclusion

(a) shall develop and recommend programs and policies to promote racial harmony and to eliminate barriers to the full participation of members of racial minorities in society;

(b) shall assist Government, departments and agencies of Government, non-Government organizations and the private sector to develop policies on race relations;

(c) shall monitor implementation of policies on race relations adopted by Government or a department of Government, including the implementation of affirmative action and settlement agreements; and

(d) may, on application by any person, give such advice and assistance with respect to the adoption or carrying out of a program, plan or arrangement as will foster good relations between races and cultures.

(3) The Manager of Race Relations, Equity and Inclusion shall

(a) perform such functions and duties as are assigned to the Manager of Race Relations, Equity and Inclusion by the Commission; and

(b) report to the Commission on the activities of Race Relations, Equity and Inclusion. 1991, c. 12, s. 5; 2007, c. 41, s. 5; 2008, c. 59, s. 2.

Personnel

27 Subject to Section 26, the officers and employees required for the proper conduct of business of the Commission may be appointed under the *Civil Service Act*. R.S., c. 214, s. 27.

Expenditures

28 (1) The Commission shall present a yearly budget to the Minister estimating the expenditures of the Commission on the various programs and activities.

(2) All costs, charges and expenses incurred by the Commission in administering this Act shall be paid out of money appropriated by the Legislature therefor. R.S., c. 214, s. 28.

PART III

ADMINISTRATION

Procedure on complaint

29 (1) The Commission shall inquire into and endeavour to effect a settlement of any complaint of an alleged violation of this Act where

(a) the person aggrieved makes a complaint in writing on a form prescribed by the Director; or

(b) the Commission has reasonable grounds for believing that a complaint exists.

(2) Any complaint must be made within twelve months of the date of the action or conduct complained of, or within twelve months of the last instance of the action or conduct if the action or conduct is ongoing.

(3) Notwithstanding subsection (2), the Director may, in exceptional circumstances, grant a complainant an additional period of not more than twelve months to make a complaint if to do so would be in the public interest and, having regard to any prejudice to the complainant or the respondent, would be equitable.

(4) The Commission or the Director may dismiss a complaint at any time if

(a) the best interests of the individual or class of individuals on whose behalf the complaint was made will not be served by continuing with the complaint;

(b) the complaint is without merit;

(c) the complaint raises no significant issues of discrimination;

(d) the substance of the complaint has been appropriately dealt with pursuant to another Act or proceeding;

(e) the complaint is made in bad faith or for improper motives or is frivolous or vexatious;

(f) there is no reasonable likelihood that an investigation will reveal evidence of a contravention of this Act; or

(g) the complaint arises out of circumstances for which an exemption order has been made pursuant to Section 9. R.S., c. 214, s. 29; 2007, c. 41, s. 6.

Power of investigator of complaint

30 The Director or officer acting under the authority of the Commission in the investigation of a complaint or other process under this Act may

(a) require any person to furnish any information or records that may be necessary to further the investigation or process; and

(b) enter at all reasonable times the premises to which a complaint or other process refers. R.S., c. 214, s. 30.

Court order upon refusal

31 (1) Where any person refuses to furnish information or records or to permit entry to premises at reasonable times as authorized by Section 30, the

Commission may apply on notice to a judge of the Supreme Court of Nova Scotia for an order directing that information or records be furnished or entry permitted.

(2) The judge may make such order as the judge thinks just and the order may be enforced as any other order or judgment of the Supreme Court. R.S., c. 214, s. 31; 2007, c. 41, s. 7.

Referral of settlement to Commission for approval

32 (1) When, at any stage after the filing of a complaint and before the commencement of a hearing before a board of inquiry, a settlement is agreed on by the parties, the terms of the settlement shall be referred to the Commission for approval or rejection.

(2) Where the Commission approves or rejects the terms of a settlement referred to in subsection (1), it shall so certify and notify the parties. 1991, c. 12, s. 6.

Board of inquiry

32A (1) The Commission may, at any stage after the filing of a complaint, appoint a board of inquiry to inquire into the complaint.

(2) A board of inquiry shall not be composed of more than three members.

(3) No member, officer or employee of the Commission, and no individual who has acted as an investigator in respect of the complaint in relation to which the board of inquiry is appointed, is eligible to be appointed to the board of inquiry.

(4) A member of a board of inquiry is entitled to be paid such remuneration and expenses for the performance of duties as a member of the board of inquiry as may be determined by the Governor in Council.

(5) Where a board of inquiry is composed of more than one member, the Commission shall designate one of the members to chair the board of inquiry. 1991, c. 12, s. 6; 2007, c. 41, s. 9.

Parties to proceeding

33 The parties to a proceeding before a board of inquiry with respect to any complaint are

(a) the Commission;

(b) the person named in the complaint as the complainant;

(c) any person named in the complaint and alleged to have been dealt with contrary to the provisions of this Act;

(d) any person named in the complaint and alleged to have contravened this Act; and

(e) any other person specified by the board upon such notice as the board may determine and after the person has been given an opportunity to be heard against joinder as a party. R.S., c. 214, s. 33.

Public hearing

34 (1) A board of inquiry shall conduct a public hearing and has all the powers and privileges of a commissioner under the *Public Inquiries Act*.

(2) A member of a board of inquiry shall not communicate directly or indirectly in relation to the complaint, except regarding arrangements for a hearing, with any person or with any party or the party's representative unless all parties are given notice and an opportunity to participate, but the board may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

(3) A board of inquiry shall give full opportunity to all parties to present evidence and make representations.

(4) Oral evidence taken before a board of inquiry at a hearing shall be recorded and copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

(5) Where the complaint referred to a board of inquiry is settled by agreement among all parties, the board shall report the terms of settlement in its decision with any comment the board deems appropriate.

(6) Where the complaint referred to a board of inquiry is not settled by agreement among all parties the board shall continue its inquiry.

(7) A board of inquiry has jurisdiction and authority to determine any question of fact or law or both required to be decided in reaching a decision as to whether or not any person has contravened this Act or for the making of any order pursuant to such decision.

(8) A board of inquiry may order any party who has contravened this Act to do any act or thing that constitutes full compliance with the Act and to rectify any injury caused to any person or class of persons or to make compensation therefor and, where authorized by and to the extent permitted by the regulations, may make any order against that party, unless that party is the complainant, as to costs as it considers appropriate in the circumstances.

(9) A board of inquiry shall file with the Commission the record of the proceedings, including the decision and any order of the board and the Commission may publish the decision and any order in any manner it considers appropriate. R.S., c. 214, s. 34; 2007, c. 41, s. 8.

Final written decision

34A (1) A board of inquiry shall render a final written decision respecting a complaint within six months of the conclusion of the hearing.

(2) Where the board of inquiry has not rendered a final written decision within six months of the conclusion of the hearing respecting the complaint, the board shall immediately advise the Chief Judge of the Provincial Court of the reasons for the delay and indicate when a final decision will be rendered.

(3) Where the board of inquiry has not rendered a final written decision within the time indicated in subsection (2), the Chief Judge of the Provincial Court may fix a time within which the board of inquiry shall render the final written decision or may revoke the appointment of the board of inquiry and appoint a new board of inquiry. 2007, c. 41, s. 10.

Privileged information

35 No member of the Commission, nor the Director or any officer or employee provided for in Section 27, shall be required by any board of inquiry or any court to give evidence, or to provide access to Commission records, relating to the information obtained in investigation of a complaint under this Act. R.S., c. 214, s. 35.

Appeal

36 (1) Any party to a hearing before a board of inquiry may appeal from the decision or order of the board to the Nova Scotia Court of Appeal on a question of law in accordance with the rules of court.

(2) Where notice of an appeal is served pursuant to this Section, the Commission shall forthwith file with the Nova Scotia Court of Appeal the record of the proceedings in which the decision or order appealed from was made and that record shall constitute the record on the appeal.

(3) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal pursuant to this Section.

(4) The Nova Scotia Court of Appeal shall hear and determine an appeal based upon the record on the appeal. R.S., c. 214, s. 36; 2007, c. 41, s. 11.

Compliance with order required

37 Every person in respect of whom an order is made under this Act shall comply with the order. R.S., c. 214, s. 37.

Offence and penalty

38 Every person who does anything prohibited by this Act or who refuses or neglects to comply with any order made under this Act is guilty of an offence and is liable on summary conviction to

- (a) if an individual, a fine not exceeding five hundred dollars; and
- (b) if a person other than an individual, a fine not exceeding one thousand dollars. R.S., c. 214, s. 38.

Prosecution

39 (1) No prosecution for an offence under this Act shall be instituted without the consent in writing of the Minister.

(2) No proceeding under this Act shall be deemed invalid by reason of any defect in form or any technical irregularity.

(3) In any prosecution under this Act, it is sufficient for conviction if a reasonable preponderance of evidence supports a charge that the accused has done anything prohibited by this Act or has refused or neglected to comply with an order made under this Act. R.S., c. 214, s. 39.

Prosecution of organization or association

40 A prosecution for an offence under this Act may be brought against an employers' organization, employees' organization, professional association or business or trade association in the name of the organization or association, and for the purpose of any prosecution these are deemed to be corporations and any act or thing done or omitted by an officer or agent within the scope of the officer or agent's authority to act on behalf of the organization or association is deemed to be an act or thing done or omitted by the organization or association. R.S., c. 214, s. 40.

Injunction

41 (1) Where a person has been convicted of an offence under this Act, the Minister may apply by way of petition to a judge of the Supreme Court of Nova Scotia for an order enjoining the person from continuing the offence.

(2) The judge, in his discretion, may make such order and the order may be enforced in the same manner as any other order or judgment of the Supreme Court. R.S., c. 214, s. 41; 2007, c. 41, s. 12.

Powers of Governor in Council, including regulations

42 (1) The Governor in Council may undertake or cause to be undertaken such inquiries and other measures as appear advisable or desirable to promote the purposes of this Act.

(2) The Governor in Council may make regulations respecting any matter the Governor in Council deems necessary or advisable for the attainment of the objects and purposes of this Act and, in particular, may make regulations

- (a) providing for affirmative action programs or other special programs;

(aa) authorizing a board of inquiry to award costs and determining the amount or extent of those costs;

(b) defining any word or expression used in this Act and not defined herein.

(3) The exercise by the Governor in Council of the authority contained in subsection (2) shall be regulations within the meaning of the *Regulations Act*. R.S., c. 214, s. 42; 1991, c. 12, s. 7; 2007, c. 41, s. 13.

Undersea coal mines

43 (1) Notwithstanding anything contained in this Act, the Governor in Council may, on the recommendation of the Minister, designate under this Section a coal mine wholly or partly located below the low-water mark in an area of the Province covered by seawater and matters or entities in respect of that coal mine, and for the purposes of matters or entities so designated,

(a) the *Canadian Human Rights Act* as amended from time to time applies; and

(b) except for this Section, this Act does not apply, in respect of those matters or entities.

(2) Notwithstanding any enactment, a body or public officer provided for under the *Canadian Human Rights Act* and a court, public body or officer empowered by an Act of the Parliament of Canada with respect to the oversight or enforcement of federal regulatory enactments, has jurisdiction and authority for the purpose of this Section. 2007, c. 14, s. 6.
