

Regulations Act

CHAPTER 393 OF THE REVISED STATUTES, 1989

as amended by

1996, c. 23, ss. 29, 30; 1999 (2nd Sess.), c. 8, s. 13;
2002, c. 30, s. 15; 2004, c. 46; 2018, c. 1, Sch. A, s. 148



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

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CHAPTER 393 OF THE REVISED STATUTES, 1989
amended 1996, c. 23, ss. 29, 30; 1999 (2nd Sess.), c. 8, s. 13;
2002, c. 30, s. 15; 2004, c. 46; 2018, c. 1, Sch. A, s. 148

**An Act to Provide for the
Central Filing, Publication
and Consolidation of Regulations**

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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 *Regulations Act*. R.S., c. 393, s. 1.

Interpretation

2 In this Act,

(a) “Deputy Attorney General” means the Deputy Attorney General and includes a barrister employed in the Department of the Attorney General;

(b) “file” means file with the Registrar in the manner prescribed in Section 3;

APRIL 1, 2018

(c) “local authority” means a city, town, municipality, service commission or village as defined by the *Municipal Affairs Act*, and includes a corporation thereof, and the Conseil scolaire acadien provincial, and every local board of health and every other board, commission, committee, body or authority established or exercising power or authority under a general or special Act with respect to the affairs or purposes of a city, town, municipality, service commission or village;

(d) “Minister” means the member of the Executive Council to whom the administration of this Act is assigned by the Governor in Council;

(e) “publish” means publish in the manner prescribed in Section 4;

(f) “Registrar” means the Registrar of Regulations appointed under this Act;

(g) “regulation” means a rule, order, proclamation, regulation, by-law, form, resolution or tariff of costs or fees made in the exercise of a legislative power conferred by or under an Act of the Legislature

(i) by the Governor in Council,

(ii) by the minister presiding over any department of the public service of the Province or by any official of such department, whether or not such regulation is subject to the approval of the Governor in Council,

(iii) by any board, commission, agency or body listed in the Schedule to this Act or added thereto by the Governor in Council in accordance with this Act, whether or not such regulation is subject to the approval of the Governor in Council, or

(iv) the exercise of which power is declared by the Act conferring it to be a regulation within the meaning of this Act,

but does not include a rule, order, proclamation, regulation, by-law, form, resolution or tariff of costs or fees made by

(v) a local authority, or

(vi) a corporation incorporated by private or public Act of the Legislature or by the board of directors or the board of management of such corporation unless it is a board, commission, agency or body listed in the Schedule or added thereto by the Governor in Council in accordance with this Act;

(h) “regulation-making authority” means any authority authorized to make regulations and, with reference to any particular regulation or proposed regulation, means the authority that made or proposes to make the regulation. R.S., c. 393, s. 2; 2018, c. 1, Sch. A, s. 148.

Filing of regulation

3 (1) Every regulation or a certified copy thereof shall be filed in duplicate with the Registrar, together with two copies of a certificate signed by the person filing the regulation setting forth

- (a) by whom the regulation was made;
- (b) the Act and the Section under which the regulation was made;
- (c) the date on which the regulation was made; and
- (d) where approval by another authority is required, the date of approval and two copies of the certificate referred to in subsection (2).

(2) Where approval of a regulation by another authority is required, the approving authority or a responsible officer thereof shall give a certificate of approval to the authority making the regulation when the approval has been given.

(3) Where a regulation is made or approved by the Governor in Council, the Clerk of the Executive Council shall file with the Registrar two copies of the regulation certified by the Clerk of the Executive Council to be true copies and the filing of those copies is deemed compliance with subsections (1) and (2).

(4) Where, before the filing thereof, a regulation has been amended by any subsequent regulation, the filing of the first-mentioned regulation as amended is deemed to be compliance with this Section.

- (5)** Where
- (a) a diagram, map or plan forms part of a regulation;
 - (b) a regulation approves the form or substance of an agreement or other document; or
 - (c) a regulation adopts any other regulation or a code or a document as forming part of the regulation as if enacted therein,

a copy of the map, plan, agreement, regulation, code or document shall be filed with the Registrar, and the Registrar may thereupon, at his discretion, dispense with the publication of the diagram, map, plan, agreement, regulation, code or document.

(6) A regulation comes into force on the day on which it is filed with the Registrar unless

- (a) the regulation expressly states that it comes into force on a day earlier than the day on which it is filed
 - (i) within seven days after it is made, in which case it comes into force on the day on which it is made or such later day as is stated in the regulation, or

(ii) where the regulation is subject to approval, within seven days after it is approved, in which case it comes into force on the day on which it is approved or such later day as is stated in the regulation; or

(b) the regulation expressly states that it comes into force on a day that is later than the day on which it is filed, in which case it comes into force on that day; or

(c) the Act under which it is made expressly authorizes the making of the regulation with retroactive effect and the regulation is filed within seven days after it is made or, where it is subject to approval, approved, in which case it comes into force as provided by that Act.

(7) Notwithstanding any other statute or law, a regulation that has not been filed is of no effect.

(8) Subsections (6) and (7) come into force on and not before such day as the Governor in Council orders and declares by proclamation. R.S., c. 393, s. 3; 2004, c. 46, s. 1.

Proclaimed - February 4, 2005
In force - March 4, 2005

Publication of regulation

4 (1) The Registrar shall, within thirty days of the day upon which a regulation is filed, publish the regulation in the Royal Gazette.

(1A) The Governor in Council may determine the form and manner in which the Royal Gazette is published, including publication by electronic means.

(2) The Governor in Council may at any time, by order, extend the time for publication of a regulation.

(3) Where a regulation, in the opinion of the Governor in Council, is of such length as to render publication thereof in the Royal Gazette unnecessary or undesirable, the Governor in Council, by order, may dispense with the publication thereof, and the regulation upon filing is as valid against all persons as if it had been published.

(4) Where by order of the Governor in Council the time for publication of a regulation is extended or publication thereof is dispensed with, the Registrar shall publish the order or a notice of the order in the Royal Gazette within thirty days after the making thereof.

(5) Where, under subsection (4), a notice dispensing with the publication of an order is published in the Royal Gazette, the notice shall state that copies of the regulation are filed with the Registrar and may be inspected at the

Registrar's office and that copies may be obtained from the Registrar's office, from the Queen's Printer or from the office or the department concerned, as the case may be. R.S., c. 393, s. 4; 2004, c. 46, s. 2.

Effect of filing or publication where defective

5 The filing or publication of a regulation under this Act does not have the effect of validating or correcting any such regulation that is otherwise invalid or defective in any respect or for any reason. R.S., c. 393, s. 5.

Failure to publish regulation

6 No regulation is invalid by reason only that it has not been published, but no person shall be affected adversely or be convicted of a contravention of a regulation that, on the date of the alleged contravention or the date the person is affected adversely, had not been published unless

- (a) either
 - (i) publication of the regulation has been dispensed with under subsection (3) of Section 4, or
 - (ii) the Act under which the regulation was made provides that a regulation made under the Act may be brought into force before it is published in the Royal Gazette; and
- (b) it is proved that, before the date of the alleged contravention or the date a person is affected adversely, reasonable steps had been taken for the purpose of bringing the purport of the regulation to the notice of the public or of the persons likely to be affected by it or of the person charged. R.S., c. 393, s. 6.

Prima facie evidence of filing

7 Where a regulation has not been published, production of the regulation proved in the manner provided by the *Evidence Act* is *prima facie* evidence of the filing of the regulation in accordance with this Act. R.S., c. 393, s. 7.

Prima facie evidence of filing on specified date

8 (1) Production of a certificate of the Registrar that a regulation was filed on a specified date is *prima facie* evidence that it was filed on that date.

(2) No proof is required of the signature or official position of the Registrar in respect of a certificate produced as evidence under subsection (1). R.S., c. 393, s. 8.

Effect of publication

- 9 (1)** Publication of a regulation is
- (a) *prima facie* proof of its text and of its making, its approval where required, and its filing; and

(b) deemed to be notice of its contents to every person subject to it or affected by it.

(2) Judicial notice shall be taken of a regulation that is published.
R.S., c. 393, s. 9.

Right to inspect or obtain copy

10 (1) Every person is, during the regular office hours of the Registrar, entitled to

- (a) inspect a regulation filed with the Registrar; and
- (b) obtain a copy or a certified copy of a regulation filed with the Registrar.

(2) No person shall be required, as a condition of his right of inspection under subsection (1), to disclose the name of the person for or in respect of whom such access or inspection is sought. R.S., c. 393, s. 10.

Proposed regulation to Deputy Attorney General

11 (1) Where a regulation-making authority proposes to make a regulation that is to be made by or must be approved by the Governor in Council, it shall forward a copy of the proposed regulation to the Deputy Attorney General.

(2) Upon receipt of a proposed regulation pursuant to subsection (1), the Deputy Attorney General shall examine the proposed regulation to ensure that

- (a) it is authorized by the statute pursuant to which it is to be made;
- (b) it does not constitute an unusual or unexpected use of the authority pursuant to which it is to be made; and
- (c) the form and draftsmanship of the proposed regulation are in accordance with established standards.

(3) When a proposed regulation has been examined as required by subsection (2), the Deputy Attorney General shall advise the regulation-making authority that the proposed regulation has been so examined and shall indicate any matter referred to in clause (a), (b) or (c) of that subsection to which in his opinion, based on such examination, the attention of the regulation-making authority should be drawn.

(4) Subsection (1) does not apply to any proposed rule, order or regulation governing the practice or procedure in proceedings before the courts.

(5) This Section comes into force on and not before such day as the Governor in Council orders and declares by proclamation. R.S., c. 393, s. 11; 1996, c. 23, s. 29.

Proclaimed - February 4, 2005
In force - March 4, 2005

Determination of whether or not regulation

12 Where any regulation-making authority or other authority responsible for the issue, making or establishment of a regulation, or any person acting on behalf of such an authority, is uncertain as to whether or not a proposed rule, order, regulation, ordinance, direction, form, tariff of costs or fees, commission, warrant, proclamation, by-law or resolution would be a regulation if it were issued, made or established by such authority, the authority or person shall cause a copy of the same to be forwarded to the Deputy Attorney General who shall determine whether or not it would be a regulation if it were so issued, made or established. R.S., c. 393, s. 12.

Refusal by Registrar to file

13 (1) Where a document is transmitted or forwarded to the Registrar for filing under this Act, the Registrar may refuse to file the document if

(a) the Registrar is advised that pursuant to Section 12 the document was determined by the Deputy Attorney General to be one that would not be a regulation if it were issued, made or established; or

(b) in the Registrar's opinion, the instrument was, before it was issued, made or established, a proposed regulation to which subsection (1) of Section 11 applied and was not examined in accordance with subsection (2) of that Section.

(2) Where the Registrar refuses to file any document for the reasons referred to in subsection (1), the Registrar shall forward a copy of the document to the Deputy Attorney General who shall determine whether or not it is a regulation or a proposed regulation to which subsection (1) of Section 11 applies and issue directions to the Registrar who shall act in accordance therewith.

(3) Where the Deputy Attorney General decides pursuant to subsection (2) that a document is not a regulation within the meaning of this Act, the Registrar shall submit a report to the Governor in Council advising of the decision within thirty days of being issued directions by the Deputy Attorney General.

(4) Unless otherwise required by the Governor in Council, submission by the Registrar of a brief summary or description of the terms of a document is deemed a sufficient compliance with subsection (3).

(5) The Governor in Council may approve the report or may order that any document or part thereof to which reference is made therein is deemed to

be a regulation within the meaning of this Act, and in that case it is deemed to have been subject to the provisions of this Act from the time when it was made or passed.

(6) This Section comes into force on and not before such day as the Governor in Council orders and declares by proclamation R.S., c. 393, s. 13.

Proclaimed - February 4, 2005
In force - March 4, 2005

Registrar of Regulations

14 (1) The Governor in Council shall appoint a person to be Registrar of Regulations, who shall be paid such salary as the Governor in Council determines and shall perform such duties as are set forth in this Act and such duties as the Governor in Council and the Minister may from time to time prescribe.

- (2) The Registrar is
- (a) under the control and direction of the Minister; and
 - (b) responsible for the recording, numbering and indexing of all regulations filed with him and for the publication thereof in accordance with this Act. R.S., c. 393, s. 14.

Deputy Registrar of Regulations

15 (1) The Governor in Council may appoint a person to be Deputy Registrar of Regulations, who shall be paid such salary as the Governor in Council determines and shall perform such duties as are set forth in this Act and such duties as the Governor in Council and the Minister may from time to time prescribe.

- (2) The Deputy Registrar of Regulations
- (a) is under the control and direction of the Minister; and
 - (b) in the absence of the Registrar or at the request of or with the approval of the Registrar or of the Minister, may exercise the powers and shall perform the duties of the Registrar. R.S., c. 393, s. 15.

Administration

16 (1) Any other officers and personnel required for the purposes or the administration of this Act shall be appointed in accordance with, and are subject to, the *Civil Service Act* and the regulations made under it.

(2) For the purposes of the *Public Service Superannuation Act*, the Registrar, the Deputy Registrar of Regulations and every full-time employee required for the purposes of this Act is and is deemed to be a person employed in the public service of the Province and employment pursuant to this Act is and is deemed to be public service.

(3) The costs and expenses incurred in the administration of this Act may be paid out of the Consolidated Fund. R.S., c. 393, s. 16.

Office hours

17 The office hours of the Registrar are such as are fixed by the Governor in Council. R.S., c. 393, s. 17.

Numbering of regulations

18 Regulations shall be numbered in the order in which they are filed and a new series shall be commenced in each calendar year. R.S., c. 393, s. 18.

Citation of regulations

19 A regulation when filed may be cited as “Nova Scotia Regulations” or “N.S. Reg.”, followed by the number thereof, an oblique stroke and the four figures of the calendar year in which the regulation was filed. R.S., c. 393, s. 19; 1999 (2nd Sess.), c. 8, s. 13.

Deemed reference to regulations and amendments

20 (1) A reference in any Act or regulation to a line, word or other portion of or in any Section, subsection, clause, subclause or paragraph of or in a regulation is deemed to be a reference thereto as it appears in the regulation

(a) as published pursuant to this Act; or

(b) in the case of a regulation, publication of which has been dispensed with under subsection (3) of Section 4, as published in the printed, mimeographed or typewritten form in which it has been made available as mentioned in that subsection.

(2) A citation of, or a reference to, a regulation in a regulation or in a recommendation or report made to a regulation-making authority in connection therewith is deemed to be a citation of, or a reference to, the regulation as amended. R.S., c. 393, s. 20.

Regulations

21 (1) The Governor in Council may make regulations

(a) prescribing the powers and duties of the Registrar;

(b) prescribing the form and arrangement of regulations;

(c) prescribing a system of filing and of indexing regulations;

(d) providing for the publication of consolidations of regulations filed pursuant to this Act, at such intervals or times as the Governor in Council deems advisable, and for the publication of supplements to the consolidations;

(e) providing for the inspection of regulations;

(f) prescribing the fees or charges to be made for inspecting a regulation filed with the Registrar or obtaining a copy or certified copy of a regulation; and

(g) generally for the carrying out of the provisions of this Act.

(2) The Governor in Council, from time to time, may amend the Schedule to this Act by adding thereto or removing therefrom the names of such boards, commissions, agencies or bodies as the Governor in Council determines. R.S., c. 393, s. 21; 2004, c. 4, s. 3.

Revision and consolidation

22 (1) The Registrar of Regulations is hereby appointed Regulations Reviser to consolidate and revise under the direction of the Attorney General the regulations of the Province.

(2) In preparing a consolidation and revision of the regulations of the Province, the Regulations Reviser may

(a) omit therefrom all regulations and parts thereof that have expired, been repealed or suspended;

(b) alter the numbering and arrangement of the regulations in force on the completion of the work, and of the different Sections and other provisions thereof;

(c) alter the language of the regulations as may be required in order to preserve a uniform mode of expression;

(d) make such minor amendments to the regulations as are necessary in order to state more clearly what the person deems to have been intended thereby;

(da) combine two or more regulations or parts thereof or subdivide any regulation into two or more regulations;

(db) add, change or omit any title of any regulation;

(e) make such amendments as are required to reconcile seemingly inconsistent regulations or to correct clerical, typographical or printing errors.

(3) A consolidation and revision of the regulations shall include, as a schedule thereto, a list of regulations or parts of regulations superseded by the consolidated and revised regulations.

(4) When the Regulations Reviser has completed the work or any portion thereof that the Governor in Council determines, the Regulations Reviser shall incorporate it in a report and submit it to the Attorney General for examination.

(5) When the Attorney General has completed the examination, the Attorney General shall report to the Governor in Council whether he approves of the work and, if the Attorney General approves and the Governor in Council also approves, the Attorney General may cause the regulation incorporated in the report

and schedules thereto to be printed under the general title of Revised and Consolidated Regulations of Nova Scotia.

(6) The Revised and Consolidated Regulations of Nova Scotia come into force on a date fixed by the Governor in Council.

(7) Before any regulations or schedules of the Revised and Consolidated Regulations of Nova Scotia are printed, the Governor in Council may, after consultation with the Regulations Reviser, change their language to preserve a uniform mode of expression or make minor amendments to bring out more clearly what is considered to be the intention of the Legislature or to reconcile seemingly inconsistent regulations or to correct clerical or typographical errors, but shall make no change in substance.

(8) Where the consolidated and revised regulations are available for inspection at the office of the Registrar and available for sale to the public through the Registrar's office or the Office of the Queen's Printer, the publication thereof in the Royal Gazette is not required and they are deemed to have been published as required by Section 4.

(9) On the coming into force of the consolidated and revised regulations, the superseded regulations set out in the schedule to which reference is made in subsection (3) are conclusively deemed to have been repealed, and any superseded regulation set out in the schedule is deemed to have been filed in accordance with this Act.

(10) Where authority is granted in any Act of the Legislature to make regulations, that authority is not diminished or affected by the publication or coming into effect of consolidated or revised regulations, and the person or authority that is authorized to make regulations under an Act of the Legislature has the same authority to amend or repeal any consolidated or revised regulation that was initially made under that Act or any Act which was substituted for that Act.

(11) The Regulations Reviser shall be paid out of the Consolidated Fund whatever amount the Governor in Council determines.

(12) Publication of a regulation in the *Revised and Consolidated Regulations of Nova Scotia* or any supplement thereto is deemed to be publication within the meaning of this Act. R.S., c. 393, s. 22; 1996, c. 23, s. 30; 2004, c. 46, s. 4.

New regulations

22A (1) After the publication of the *Revised and Consolidated Regulations of Nova Scotia*, the Regulations Reviser shall incorporate into them, and cause to be published as part of them, any new regulation filed under this Act.

(2) In preparing a consolidation and revision of a regulation pursuant to this Section, the Regulations Reviser may

- (a) alter the numbering and arrangement of the different Sections and other provisions of the regulation;
- (b) alter the language of the regulation as may be required in order to preserve a uniform mode of expression;
- (c) make such minor amendments to the regulation as are necessary in order to state more clearly what the Regulations Reviser deems to have been intended by the regulation;
- (d) combine the regulation with any other regulation or part thereof or subdivide the regulation into two or more regulations;
- (e) add, change or omit any title of the regulation;
- (f) make such amendments as are required to reconcile seemingly inconsistent regulations or to correct clerical, typographical or printing errors. 2004, c. 46, s. 5.

Publication of Revised and Consolidated Regulations

22B (1) The *Revised and Consolidated Regulations of Nova Scotia* may be published in print or in electronic form.

(2) The *Revised and Consolidated Regulations of Nova Scotia* published in an electronic form may differ from the publication in another form to accommodate the needs of the electronic form if the differences do not alter the substance of the regulations. 2004, c. 46, s. 5.

Evidence of regulation

22C (1) A copy of a consolidated regulation published under this Act in either print or electronic form may be given as evidence of that regulation in any court pursuant to the *Evidence Act*, and every copy purporting to be published in accordance with this Act is deemed to be so published, unless the contrary is shown.

(2) Subsection (1) does not apply to a copy if it contains a disclaimer to the effect that it is prepared for the purposes of convenience only and is not intended as an authoritative text. 2004, c. 46, s. 5.

Regulations Act

23 The exercise by the Governor in Council of the power set forth in Section 21 shall be regulations within the meaning of this Act. R.S., c. 393, s. 23.

Filing and publication of existing regulations

24 (1) Every regulation in effect on the first of April, 1977, shall be filed with the Registrar within one year of that day.

(2) A regulation filed pursuant to subsection (1) is not required to be published in the Royal Gazette.

(3) A regulation in effect on the first day of April, 1977, that is not filed with the Registrar within one year of that day ceases to have effect on the day next following that day. R.S., c. 393, s. 24.

SCHEDULE

Apple Maggot Control Board
Board of Commissioners of Public Utilities
Civil Service Commission
Labour Relations Board (Nova Scotia)
Liquor License Board
Minimum Wage Board
Natural Products Marketing Council
Nova Scotia Commission on Drug Dependency
Nova Scotia Dairy Commission
Nova Scotia Farm Loan Board
Nova Scotia Fisheries Loan Board
Nova Scotia Horse Racing Commission
The Nova Scotia Liquor Commission
Nova Scotia Primary Forest Products Marketing Board
Nova Scotia Student Aid Committee
Provincial Community Pasture Board
Teachers' Pension Commission
Workers' Compensation Board of Nova Scotia

R.S., c. 393, Sch.; revision corrected 1997.
