

Safer Communities and Neighbourhoods Act

CHAPTER 6 OF THE ACTS OF 2006

as amended by

2013, c. 2, ss. 28-41; 2014, c. 45, ss. 2, 3



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CHAPTER 6 OF THE ACTS OF 2006
amended 2013, c. 2, ss. 28-41; 2014, c. 45, ss. 2, 3

**An Act to Make Communities
and Neighbourhoods Safer**

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Short title

1 This Act may be cited as the *Safer Communities and Neighbourhoods Act*. 2006, c. 6, s. 1.

Interpretation

2 (1) In this Act,

(a) “building” means

(i) a structure of any kind or a part of a structure, including an apartment, suite, life lease rental unit, co-operative housing unit or condominium unit, and

(ii) a mobile home;

(b) “complainant” means a person who has made a complaint to the Director under subsection 3(1) or 26A(1);

(ba) “cyberbullying” means any electronic communication through the use of technology including, without limiting the generality of the foregoing, computers, other electronic devices, social networks, text messaging, instant messaging, websites and electronic mail, typically repeated or with continuing effect, that is intended or ought reasonably [to] be expected to cause fear, intimidation, humiliation, distress or other damage or harm to another person’s health, emotional well-being, self-esteem or reputation, and includes assisting or encouraging such communication in any way;

(c) “Court” means the Supreme Court of Nova Scotia;

(d) “Director” means a person designated under the regulations as a Director of Public Safety for an area of the Province or a Part of this Act ~~or~~, for the purpose of this Act;

(da) “electronic” includes created, recorded, transmitted or stored in digital form or in other intangible form by electronic, magnetic or optical means or by any other means that has capabilities for creation, recording, transmission or storage similar to those means;

(e) “Minister” means the Minister of Justice or such other member of the Executive Council to whom, for the time being, the administration of this Act is assigned;

(ea) “minor” means a person who is less than nineteen years of age;

(f) “owner”, in relation to property, has the meaning set out in the regulations;

(fa) “parent” includes, in respect of a minor, any person who is under a legal duty to provide for the minor or any person who has, in law or in fact, the custody or control of the minor;

(g) “person” includes an individual, corporation, co-operative, partnership, limited partnership or unincorporated organization of persons;

(h) “property” means

(i) a building and the land on which it is located, and

(ii) land on which no building is located;

(i) “specified use”, in relation to property, means use of the property

(i) for the sale of liquor, as defined in the *Liquor Control Act*, without a licence issued under that Act,

(ii) for the possession, use, consumption, sale, transfer or exchange of a controlled substance, as defined in the *Controlled Drugs and Substances Act* (Canada), in contravention of that Act,

(iii) for prostitution and activities related to prostitution,

(iv) for illegal gaming activities, or

(v) for other activities prescribed by regulation;

(ia) “subject” means a person who, in a complaint under Section 26A or an application under Section 26D or 26O, it is claimed was subjected to cyberbullying;

(j) “tenancy agreement” means a written, oral or implied agreement between a landlord and a tenant for occupancy of a rental unit, and includes a life lease.

(2) For the purpose of this Act, a community or neighbourhood is adversely affected by activities if the activities

(a) negatively affect the health, safety or security of one or more persons in the community or neighbourhood; or

(b) interfere with the peaceful enjoyment of one or more properties in the community or neighbourhood, whether the property is privately or publicly owned.

(3) For greater certainty, a reference in this Act to “the Director” is a reference to the Director of Public Safety who is assigned responsibility for the

area of the Province in which property to which this Act applies is located or for that Part of this Act.

(4) For the purpose of this Act, where a person who is a minor engages in an activity that is cyberbullying and a parent of the person

- (a) knows of the activity;
- (b) knows or ought reasonably to expect the activity to cause fear, intimidation, humiliation, distress or other damage or harm to another person's health, emotional well-being, self-esteem or reputation; and
- (c) fails to take steps to prevent the activity from continuing,

the parent engages in cyberbullying. 2006, c. 6, s. 2; 2013, c. 2, s. 28.

PART I

SAFER COMMUNITIES AND NEIGHBOURHOODS

COMMUNITY SAFETY ORDER

Complaint to Director

3 (1) Except where Section 26A applies, a person who wishes an order to be made under this Act shall first make a complaint to the Director stating that the person believes that

- (a) the person's community or neighbourhood is being adversely affected by activities on or near a property in the community or neighbourhood; and
- (b) the activities indicate that the property is being habitually used for a specified use.

(2) A complaint must be made in a form and manner acceptable to the Director and include the information that the Director requires. 2006, c. 6, s. 3; 2013, c. 2, s. 30.

Director's actions after receiving complaint

- 4 (1)** At any time after receiving a complaint, the Director may
- (a) investigate the complaint;
 - (b) require the complainant to provide further information;
 - (c) send a warning letter to the owner of the property or its occupant, or to anyone else the Director considers appropriate;
 - (d) attempt to resolve the complaint by agreement or informal action;
 - (e) apply for an order under Section 5;

- (f) decide not to act on the complaint;
- (g) take any other action that the Director considers appropriate.

(2) The decision to do any of the things referred to in subsection (1) or to stop doing any of them at any time is within the Director's discretion.

(3) The Director shall notify the complainant in writing if the Director decides not to act on a complaint or not to continue acting.

(4) The Director is not required to give reasons for the decision.
2006, c. 6, s. 4.

Application for community safety order

5 The Director may apply to the Court for a community safety order if the Director has received a complaint. 2006, c. 6, s. 5.

Civil Procedure Rules apply

6 (1) Except as otherwise provided in this Act or the regulations, the *Civil Procedure Rules* apply to applications made to the Court under this Part.

(2) The application for a community safety order must name the owner of the property as the respondent.

(3) The Court shall hear the application for a community safety order on an urgent basis.

(4) The factual allegations in the application may be different from those in the complaint. 2006, c. 6, s. 6; 2013, c. 2, s. 31.

When Court may make community safety order

7 (1) The Court may make a community safety order if it is satisfied that

(a) activities have been occurring on or near the property that give rise to a reasonable inference that it is being habitually used for a specified use; and

(b) the community or neighbourhood is adversely affected by the activities.

(2) Subject to subsection (3), the Court may include in a community safety order

(a) a provision requiring any or all persons to vacate the property on or before a date specified by the Court, and enjoining any or all of them from re-entering or re-occupying it;

(b) a provision terminating the tenancy agreement or lease of any tenant of the property on the date specified under clause (a);

(c) a provision requiring the Director to close the property from use and occupation on a specified date and keep it closed for up to ninety days; and

(d) any other provision that it considers necessary to make the order effective including, but not limited to, an order of possession in favour of the respondent.

(3) A community safety order must contain

(a) a provision describing the property and the activities in respect of which the order is made;

(b) a provision enjoining all persons from causing, contributing to, permitting or acquiescing in the activities, beginning on the day after the person is served with the order and continuing until the order ceases to be in effect;

(c) a provision requiring the respondent to do everything reasonably possible to prevent the activities from continuing or reoccurring, including anything specifically ordered by the court under clause (2)(d); and

(d) a provision fixing the date on which the order ceases to be in effect.

(4) Before the date specified for closure under clause (2)(c), the respondent may, on motion, ask the Court to set aside the order requiring the property to be closed.

(5) The Court may set aside the order if it is satisfied that the activities have ceased and are not likely to resume.

(6) The Court may set aside or vary its order enjoining one or more persons from re-entering or re-occupying the property if it is satisfied that to do so is necessary to allow the property to be used again. 2006, c. 6, s. 7.

Serious and immediate threats to safety and security

8 (1) Where the Court is satisfied that the activities about which an application for a community safety order is made are a serious and immediate threat to the safety and security of one or more occupants of the property or persons in the community or neighbourhood, the Court may make a community safety order

(a) requiring the Director to close the property immediately and keep it closed for up to ninety days; and

(b) containing any other provision that the Court considers necessary to counter the threat or fairly give effect to its order under clause (a), including, but not limited to,

(i) a provision requiring any or all persons to vacate the property on or before a date specified by the Court and enjoining any or all of them from re-entering or re-occupying it,

(ii) a provision terminating the tenancy agreement or lease of any tenant of the property on the date specified under subclause (i).

(2) A community safety order made under subsection (1) must contain all of the provisions required by subsection 7(3). 2006, c. 6, s. 8; 2013, c. 2, s. 32.

Order to close a property

9 (1) Where a community safety order is still in effect but the property is not subject to closure because

- (a) the order did not contain a provision requiring it to be closed;
- (b) the provision requiring it to be closed was set aside or varied; or
- (c) the closure period has expired,

the Director may, on motion, again ask the Court to make an order closing the property.

(2) The Court may order the Director to close the property from use and occupation on a specified date and keep it closed for up to ninety days if the Court is satisfied that

- (a) activities have been occurring on or near the property that give rise to a reasonable inference that it is being habitually used for a specified use; and
- (b) the community or neighbourhood is adversely affected by the activities.

(3) The Court may include in an order under this Section

- (a) a provision requiring any or all persons to vacate the property on or before a date specified by the Court and enjoining any or all of them from re-entering or re-occupying it;
- (b) a provision terminating the tenancy agreement or lease of any tenant of the property on the date specified under clause (a); and
- (c) any other provision that it considers necessary to make the order effective.

(4) The Director may ask the Court for an order under this Section more than once. 2006, c. 6, s. 9.

Factors to be considered

10 When deciding the length of a period of closure, the Court shall consider

- (a) the extent to which the respondent's failure, if any, to exercise due diligence in supervising and controlling the use and occupation of the property contributed to the activities; and
- (b) the impact of the activities on the community or neighbourhood. 2006, c. 6, s. 10.

Court may limit order

11 The Court may limit a community safety order or an order under Section 9 to part of the property about which the application was made, or to particular persons. 2006, c. 6, s. 11.

Service and notice of orders

12 (1) After a community safety order or an order under Section 9 is made, the Director shall, without delay,

- (a) serve a copy of the order on the respondent; and
- (b) post a copy of the order in a conspicuous place on the property.

(2) When accompanied by a peace officer, the Director or someone on the Director's behalf may enter the property to post a copy of the order.

(3) After the respondent is served with a community safety order or an order under Section 9, the respondent shall, without delay, serve a copy of the order on every other person who is lawfully occupying the property or has a right to occupy it.

(4) Where the respondent fails to serve without delay any person who is required to be served, the Director may serve that person. 2006, c. 6, s. 12.

Application for variation by resident

13 (1) In this Section, "resident" means an individual who has a right to occupy residential property as the individual's residence, or had a right to occupy it as the individual's residence when the individual was required by an order to vacate it, but who does not own the property.

(2) A resident may, on motion, apply to the Court for an order varying a provision in a community safety order made under Section 7, or an order under Section 9, that

- (a) requires the resident and, where applicable, members of the resident's household to vacate residential property that is their residence and enjoins them from re-entering or re-occupying it;

- (b) terminates the resident's tenancy agreement for the residential property; or
- (c) requires the Director to close the residential property.

(3) The resident shall make the application within fourteen days after the resident is served with the order.

(4) The Court may extend the time for making the application if it is satisfied that the extension is in the interests of justice.

(5) An application under this Section does not stay the operation of the order in respect of which it is made.

(6) The Court may make an order varying a community safety order or an order under Section 9 if it is satisfied that

- (a) the applicant is a resident;
- (b) neither the resident nor any member of the resident's household for whom the resident is seeking a variation caused or contributed to any of the activities in respect of which the order was made;
- (c) no person who caused or contributed to any of the activities is still present at or occupying the property;
- (d) the resident or a member of the resident's household for whom the resident is seeking a variation will suffer undue hardship if the order is not varied; and
- (e) where the order was made under Section 9, neither the resident nor any member of the resident's household for whom the resident is seeking a variation was an occupant of the property when the community safety order was made.

(7) A variation order may contain any provision that the Court considers appropriate including, but not limited to,

- (a) a provision fixing a later date for
 - (i) the resident's tenancy agreement to be terminated,
 - (ii) the resident and members of the resident's household to vacate the property, or
 - (iii) the Director to close the property;
- (b) a provision setting aside the termination of the resident's tenancy agreement, or re-instating the tenancy agreement if the date of termination has already passed;
- (c) a provision setting aside the requirement to vacate or close the property;

(d) where the resident and members of the resident's household have already vacated the property, a provision authorizing them to re-enter and re-occupy it and, where applicable, requiring the respondent to allow them to re-enter and re-occupy it;

(e) where the property has already been closed, a provision requiring the respondent to open it for the purpose of clause (d) and make it ready for occupation.

(8) The Court may, in addition to any other factor that it considers relevant, consider the following factors:

(a) whether the respondent will suffer undue hardship if the requested order is made;

(b) whether there is a tenancy agreement between the resident and the respondent, or whether there was when the resident was required to vacate the property;

(c) whether the respondent is opposed to the requested order, if the order would authorize a resident, who does not or did not have a tenancy agreement, to re-enter and re-occupy the property.

(9) The Court may make a variation order or a provision in a variation order subject to conditions. 2006, c. 6, s. 13.

Application by complainant for order

14 (1) The complainant may apply to the Court for a community safety order if the complainant has made a complaint to the Director about the property and the Director

(a) has decided not to act or continue to act on the complaint; or

(b) has abandoned any application already made to the Court.

(2) The complainant shall file with the Court the Director's written confirmation of the facts set out in clause (1)(a) or (b).

(3) The complainant's application must be made within two months after the date of the Director's written confirmation.

(4) Sections 6 and 7 and Sections 9 to 13 apply, with necessary modifications, to an application by a complainant, except that a community safety order or an order under Section 9 granted to a complainant shall order the Director, rather than the complainant, to close the property.

(5) In an application by a complainant, the Court shall not draw an adverse inference from the fact that the Director

- (a) did, or did not do, any of the things set out in subsection 4(1); or
- (b) abandoned an application. 2006, c. 6, s. 14.

Service on the Director

15 (1) A complainant shall

- (a) without delay after filing a notice of application for a community safety order, serve a copy on the Director;
- (b) without delay after applying for an order under Section 9, notify the Director;
- (c) without delay after a community safety order or order under Section 9 is signed, serve a copy on the Director; and
- (d) without delay after an application or motion is dismissed, notify the Director.

(2) A document required to be served or notice required to be given under subsection (1) shall be served or given in accordance with the regulations. 2006, c. 6, s. 15.

Discontinuance of application by complainant

16 (1) A complainant shall notify the Director in writing of any intention to abandon an application at least thirty days before taking any step to abandon it.

(2) A complainant shall not abandon an application unless the complainant files with the Court the Director's written confirmation that the Director does not intend to continue the application under Section 17. 2006, c. 6, s. 16.

Court may order application to be continued

17 The Court may order a complainant's application to be continued in the Director's name if the Director requests the continuation and the Court is satisfied that the complainant consents to the continuation or is not actively pursuing the application. 2006, c. 6, s. 17.

Frivolous or vexatious applications

18 Where the Director believes that a complainant's application for a community safety order or an order under Section 9 is frivolous or vexatious, or is not in the public interest, the Director may intervene in the application to request that it be dismissed. 2006, c. 6, s. 18.

Costs for frivolous or vexatious applications

19 (1) Where the Court finds that a complainant's application or motion is frivolous or vexatious, it may, in addition to any other order for costs, order the complainant to pay costs to Her Majesty in right of the Province.

(2) Costs ordered to be paid under subsection (1) must be paid without delay to the Minister of Finance. 2006, c. 6, s. 19.

Court must consider merits

20 Notwithstanding the fact that the respondent consents to an order or does not oppose an application or motion, the Court shall not grant a community safety order or an order under Section 9 to the Director or a complainant unless it is satisfied on the merits that the order should be made. 2006, c. 6, s. 20.

Application for leave to appeal

21 (1) An appeal of an order made by the Court may be taken only on a question of law and by leave of a judge of the Nova Scotia Court of Appeal.

(2) An application for leave to appeal must be made within fourteen days after the day the order is made or within such further time as a judge may allow.

(3) The decision of a judge on an application for leave to appeal is final and not subject to appeal.

(4) An order under Section 13 is final and not subject to appeal. 2006, c. 6, s. 21.

Limitation on other actions and proceedings

22 No action or proceeding, other than an application under subsection 7(4) or Section 13 or an appeal permitted by Section 21, may be commenced or maintained to

(a) prevent the making of a community safety order or an order under Section 9;

(b) prevent a community safety order or an order under Section 9 from being carried out;

(c) set aside or vary a community safety order or an order under Section 9;

(d) have a community safety order or an order under Section 9 judicially reviewed; or

(e) obtain relief from forfeiture in respect of a tenancy agreement or lease that is ordered to be terminated. 2006, c. 6, s. 22.

Director may enter property

23 (1) The Director has the authority to enter property without the consent of the owner or occupant to close it under an order and keep it closed.

(2) The Director may employ any tradespersons and workers that the Director considers necessary to safely and effectively close property and keep it closed.

(3) The Director may take any measures that the Director considers necessary to safely and effectively close property and keep it closed including, but not limited to,

- (a) requesting any occupants still occupying the property and any other persons at the property to leave it immediately;
- (b) attaching locks, hoarding and other security devices;
- (c) erecting fences;
- (d) changing or cutting off utility services; or
- (e) making interior or exterior alterations to the property so that it is not a hazard while it is closed.

(4) The Director may, for any purpose that the Director considers appropriate, allow others access to property that is closed under an order.

(5) The Director is not responsible, whether at the end of the period of closure or otherwise, for the removal or cost of removal of anything attached or erected at the property, or the reversal or cost of reversal of anything done to or at the property, to close it or keep it closed. 2006, c. 6, s. 23.

Occupants required to leave property

24 (1) When the Director is required to close a property, all occupants of the property and any other persons at the property shall leave it immediately upon request by the Director, even if they have not been previously served with the order that requires the Director to close the property.

(2) After leaving, no occupant or other person shall, while the property is closed, enter or occupy it without the Director's consent. 2006, c. 6, s. 24.

Alternative accommodations

25 (1) The Director shall make a reasonable effort to determine whether occupants of residential property who are required to leave have alternative accommodations and, for those who do not, the Director shall provide whatever assistance in finding alternative accommodations that the Director considers reasonable including, but not limited to,

- (a) giving them information about and referring them to community resources and housing authorities; or
- (b) arranging short-term accommodations for them if the Director considers it necessary or advisable.

(2) Subsection (1) does not apply to an occupant who the Director reasonably believes caused or contributed to any of the activities in respect of which the order that requires the occupants to leave was made. 2006, c. 6, s. 25.

Respondent to pay costs of closing property

26 (1) The respondent shall, on demand from the Director, pay to the Minister of Finance the costs of closing the property and keeping it closed and of arranging short-term accommodations for the occupants, in the amount certified by the Director.

(2) An amount payable by the respondent under subsection (1) is a debt due to Her Majesty in right of the Province and may be recovered from the respondent in accordance with this Section.

(3) The Director may issue a certificate showing

- (a) the name and address of a respondent who is liable to pay and has not paid a debt due to Her Majesty in right of the Province under subsection (2);
- (b) the amount of the debt; and
- (c) the Director's address for service,

and the certificate is evidence of the amount of the debt due to Her Majesty in right of the Province by the respondent at the time the certificate is issued.

(4) A certificate issued under this Section may be filed in the Court and, when it is filed,

- (a) the obligation to pay the amount certified is enforceable as if it were a judgment of the Court in favour of Her Majesty in right of the Province; and
- (b) the certificate is deemed for the purpose of the *Interest on Judgments Act* to be a judgment debt
 - (i) incurred on the day the certificate is filed, and
 - (ii) on which post-judgment interest is payable under that Act. 2006, c. 6, s. 26.

CYBERBULLYING PREVENTION ORDER

Complaint

26A (1) A person who wishes an order to be made under this Act to deal with cyberbullying shall first make a complaint to the Director stating that the person believes that the person or another person is being subjected to cyberbullying.

(2) A complaint must be made in a form and manner acceptable to the Director and include the information that the Director requires.

(3) Where the complaint is made on behalf of or with respect to another person, the Director shall obtain the consent of the other person or a parent of the other person if the other person is a minor, before taking action. 2013, c. 2, s. 33.

Director's powers

26B (1) At any time after receiving a complaint, the Director may

- (a) investigate the complaint;
- (b) require the complainant to provide further information;
- (c) send a warning letter to the person who is identified as engaging in cyberbullying, or a parent of the person if the person is a minor, to a person associated with an electronic device, Internet Protocol address, website, username or account, electronic-mail address or other unique identifier, identified in the complaint as being used for cyberbullying, or to a parent of the person if the person is a minor or to anyone else the Director considers appropriate;
- (d) request an Internet service provider to discontinue service to an Internet Protocol address, website, username or account, electronic-mail address or other unique identifier, identified in the complaint as being used for cyberbullying;
- (e) attempt to resolve the complaint by agreement or informal action;
- (f) apply for an order under Section 26C, 26D, 26E or 33C;
- (g) decide not to act on the complaint;
- (h) take any other action that the Director considers appropriate.

(2) The decision to do any of the things referred to in subsection (1) or to stop doing any of them at any time is within the Director's sole discretion.

(3) The Director shall notify the complainant in writing if the Director decides not to act on a complaint or not to continue acting.

(4) The Director is not required to give reasons for the decision. 2013, c. 2, s. 33.

Ex parte application for information

26C (1) Where the Director receives a complaint under Section 26A, the Director may apply *ex parte* to the Court for an order requiring a person who has possession or control of any of the information described in clause (2)(a) to provide the information to the Director, as required by the order.

(2) Upon an application pursuant to subsection (1), the Court, where satisfied that the information requested may assist the Director in investigat-

ing the complaint and is in the possession or under the control of the person, may make

(a) an order requiring the person to provide to the Director

(i) any information that may help identify a person who may have used an Internet Protocol address, website, username or account, electronic-mail address or other unique identifier, that may have been used for cyberbullying,

(ii) any information that may help identify a device capable of connecting to an Internet Protocol address that may have been used for cyberbullying,

(iii) cellular telephone records,

(iv) inbound and outbound text messaging records,

(v) Internet browsing-history records, and

(vi) other records that would assist in investigating the complaint; and

(b) any other order that is necessary to assist in investigating the complaint.

(3) Any person who fails to comply with an order made under this Section is guilty of an offence.

(4) A person who is guilty of an offence under subsection (3) is liable on summary conviction to a fine of not more than five thousand dollars or to imprisonment for a term of not more than six months, or both. 2013, c. 2, s. 33.

Cyberbullying prevention order application

26D (1) Subject to subsection (4), where the Director receives a complaint under subsection 26A(1), the Director may, on notice to the respondent ten days before the day of an appointed hearing, if the Director can identify the respondent sufficiently for service of notice, apply to the Court for a cyberbullying prevention order.

(2) Notwithstanding the *Civil Procedure Rules* and subject to subsection (3), the Director shall name as a respondent

(a) any person associated with an electronic device, Internet Protocol address, website, username or account, electronic-mail address or other unique identifier, identified as being used for cyberbullying, or where the person is a minor, a parent of the person; and

(b) any other person against whom the cyberbullying prevention order is sought or a parent of the other person if the other person is a minor.

(3) Where the name of the respondent is unknown and cannot easily be ascertained, an application for a cyberbullying prevention order may identify the respondent by an Internet Protocol address, website, username or account, electronic-mail address or other unique identifier, identified as being used for cyberbullying.

(4) Where the Director determines it is advisable to do so, an application for a cyberbullying prevention order may be made to the Court on an urgent basis, without notice. 2013, c. 2, s. 33.

Court order to provide information

26E (1) The Court, where satisfied that a person has possession or control of information that may assist the Court in deciding an application for a cyberbullying prevention order, may make

- (a) an order requiring a person to provide to the Court
 - (i) any information that may help identify a person who may have used an Internet Protocol address, website, username or account, electronic-mail address or other unique identifier, that may have been used for cyberbullying,
 - (ii) any information that may help identify a device capable of connecting to an Internet Protocol address that may have been used for cyberbullying,
 - (iii) cellular telephone records,
 - (iv) inbound and outbound text messaging records,
 - (v) Internet browsing-history records, and
 - (vi) other records that would assist in making a determination respecting a cyberbullying prevention order; and
- (b) any other order that is necessary to assist in deciding the application.

(2) Any person who fails to comply with an order made under this Section is guilty of an offence.

(3) A person who is guilty of an offence under subsection (2) is liable on summary conviction to a fine of not more than five thousand dollars or to imprisonment for a term of not more than six months, or both. 2013, c. 2, s. 33.

Cyberbullying prevention order

26F Upon application, the Court may make a cyberbullying prevention order if the Court determines, on a balance of probabilities, that the respondent engaged in cyberbullying of the subject. 2013, c. 2, s. 33.

Terms of order

26G (1) A cyberbullying prevention order may include any of the following provisions that the Court considers necessary or advisable for the protection of the subject:

- (a) a provision prohibiting the respondent from engaging in cyberbullying;
- (b) a provision restricting or prohibiting the respondent from, directly or indirectly, communicating with or contacting the subject;
- (c) a provision restricting or prohibiting the respondent from, directly or indirectly, communicating about the subject;
- (d) a provision restricting or prohibiting the respondent from using a specified or any means of electronic communication;
- (e) an order confiscating, for a specified period or permanently, any electronic device capable of connecting to an Internet Protocol address associated with the respondent or used by the respondent for cyberbullying;
- (f) an order requiring the respondent to discontinue receiving service from an Internet service provider;
- (g) any other provision that the Court considers necessary or advisable for the protection of the subject.

(2) A cyberbullying prevention order expires one year after the date it is made. 2013, c. 2, s. 33.

Service of order

26H (1) Where a respondent did not have notice of or did not participate in the hearing of an application for a cyberbullying prevention order, the order must be served on the respondent in the manner prescribed by the regulations.

(2) A respondent to whom subsection (1) applies is not bound by a cyberbullying prevention order until served with the order.

(3) Where, upon application to the Court, it appears to the Court that

- (a) attempts at service or substituted service of the cyberbullying prevention order on the respondent have failed; and
- (b) the respondent is evading service,

the Court may by order dispense with service of the cyberbullying prevention order and the respondent is thereby deemed to be served with and have notice of the cyberbullying prevention order. 2013, c. 2, s. 33.

Notice of objection

26I (1) A respondent against whom a cyberbullying prevention order is made without notice may, within twenty days after being served with the cyberbullying prevention order or such further time as the Court may allow, serve a notice of objection on the Director in the form and manner prescribed by the regulations.

(2) Within ten days of serving the Director with a notice of objection under subsection (1), the respondent shall file with the Court a copy of the notice and proof of service on the Director, in the form prescribed by the regulations.

(3) Within thirty days of being served a notice of objection under subsection (1) or such further time as the Court may allow, the Director may commence an application under Section 26D for a new cyberbullying prevention order.

(4) Where the Director does not commence an application described in subsection (3), the Director shall request the Court to revoke the cyberbullying prevention order, without notice.

(5) A cyberbullying prevention order is not stayed by a notice of objection served or filed under this Section. 2013, c. 2, s. 33.

Application to vary or revoke

26J (1) Where satisfied that it is fit and just to do so, the Court, upon application at any time after a cyberbullying prevention order is made by the Court, may by order

- (a) remove or vary any term or condition in the order;
- (b) add terms and conditions to the order; or
- (c) revoke the order.

(2) Notice of an application for an order under subsection (1) must be served on the Director, if the Director is not making the application, and on the respondent, if the respondent is not making the application.

(3) Section 26H applies with necessary modifications to an order made under this Section. 2013, c. 2, s. 33.

Application for new order

26K (1) An application for a new cyberbullying prevention order may be made in accordance with this Part if

- (a) a cyberbullying prevention order has expired or will expire within the next thirty days; and
- (b) a person believes that there is a continuing need for a cyberbullying prevention order.

(2) The respondent's compliance with a cyberbullying prevention order does not by itself mean that there is not a continuing need for a cyberbullying prevention order. 2013, c. 2, s. 33.

Where minor is involved

26L (1) Where any person involved in a proceeding relating to an application for a cyberbullying prevention order is a minor, no person shall publish or broadcast the name of that person, or any information likely to identify that person.

(2) For greater certainty, subsection (1) continues to apply once the subject, respondent or witness is no longer a minor. 2013, c. 2, s. 33.

Publication ban

26M On the request of the Director or any person involved in a proceeding relating to an application for a cyberbullying prevention order, the Court may make an order prohibiting the publication or broadcast of the name of a person involved in a proceeding relating to the application, or any information likely to identify that person, if the Court is satisfied that the publication or broadcast could endanger the safety or well-being of that person. 2013, c. 2, s. 33.

Offence and penalty

26N A person who contravenes Section 26L or an order made under Section 26M is guilty of an offence and liable on summary conviction

(a) in the case of an individual, to a fine of not more than five thousand dollars or imprisonment for a term of not more than two years, or both; and

(b) in the case of a corporation, to a fine of not more than fifty thousand dollars. 2013, c. 2, s. 33.

Complainant may apply to Court

26O (1) The complainant may apply to the Court for a cyberbullying prevention order if the complainant has made a complaint to the Director about cyberbullying and the Director

(a) has decided not to act or not to continue to act on the complaint; or

(b) has abandoned any application already made to the Court.

(2) The complainant shall file with the Court the Director's written confirmation of the facts set out in clause (1)(a) or (b).

(3) The complainant's application must be made within two months after the date of the Director's written confirmation.

(4) Subsections 26D(1) and (2) and Sections 26E, 26F, 26G, 26H, 26J and 26K apply, with necessary modifications, to an application by a complainant, except that a cyberbullying prevention order granted to a complainant must order the Director to take possession of any property that is ordered to be confiscated.

(5) In an application by a complainant, the Court shall not draw an adverse inference from the fact that the Director did, or did not do, any of the things set out in subsection (1). 2013, c. 2, s. 33.

Notice to Director

26P (1) A complainant shall, without delay,

(a) after filing a notice of application for a cyberbullying prevention order, serve a copy on the Director;

(b) after a cyberbullying prevention order is signed, serve a copy on the Director; and

(c) after an application or motion relating to a cyberbullying prevention order application is dismissed, notify the Director.

(2) A document required to be served or notice required to be given under subsection (1) must be served or given in accordance with the regulations. 2013, c. 2, s. 33.

Abandoning application

26Q (1) A complainant shall notify the Director in writing of any intention to abandon an application at least thirty days before taking any step to abandon it.

(2) A complainant shall not abandon an application unless the complainant files with the Court the Director's written confirmation that the Director does not intend to continue the application under Section 26R. 2013, c. 2, s. 33.

Director may continue application

26R The Court may order a complainant's application to be continued in the Director's name if the Director requests the continuation and the Court is satisfied that the complainant consents to the continuation or is not actively pursuing the application. 2013, c. 2, s. 33.

Frivolous or vexatious application

26S Where the Director believes that a complainant's application for a cyberbullying prevention order is frivolous or vexatious, or is not in the public interest, the Director may intervene in the application to request that it be dismissed. 2013, c. 2, s. 33.

Costs

26T (1) Where the Court finds that a complainant's application or motion is frivolous or vexatious, it may, in addition to any other order for costs, order the complainant to pay costs to Her Majesty in right of the Province.

(2) Costs ordered to be paid under subsection (1) must be paid without delay to the Minister of Finance. 2013, c. 2, s. 33.

Court to be satisfied on merits

26U Notwithstanding the fact that the respondent consents to an order or does not oppose an application or motion, the Court shall not grant a cyberbullying prevention order to the Director or a complainant unless it is satisfied on the merits that the order should be made. 2013, c. 2, s. 33.

Appeal on question of law

26V (1) An appeal of an order made by the Court may be taken, on a question of law, in accordance with the *Civil Procedure Rules* to the Nova Scotia Court of Appeal.

(2) An appeal does not operate as a stay of proceedings, and the protection order under appeal may be enforced as though no appeal were pending unless a judge of the Supreme Court of Nova Scotia or the Nova Scotia Court of Appeal otherwise orders. 2013, c. 2, s. 33.

No action lies

26W No action or proceeding, other than an application or appeal under this Part, may be commenced or maintained to

- (a) prevent the making of a cyberbullying prevention order;
- (b) prevent a cyberbullying prevention order from being carried out;
- (c) set aside or vary a cyberbullying prevention order; or
- (d) have a cyberbullying prevention order judicially reviewed.

2013, c. 2, s. 33.

Confiscated property

26X (1) The respondent shall, on demand from the Director, turn over any property ordered to be confiscated under a cyberbullying prevention order.

(2) The Director may take any measures that the Director considers necessary to enforce a cyberbullying prevention order including asking a peace officer to assist in confiscating property that is ordered to be confiscated.

(3) The Director shall store and dispose of confiscated property in the manner prescribed by the regulations. 2013, c. 2, s. 33.

MATTERS RELATED TO ORDERS UNDER THIS PART

Authority of Director

27 (1) For the purpose of carrying out a responsibility or exercising a power under this Act, the Director is authorized

(a) to obtain information from a person or a public body, as defined in the *Freedom of Information and Protection of Privacy Act*, about a person who owns or occupies property in respect of which an application under this Act may be made, including

- (i) the person's name and address,
- (ii) the whereabouts of the person, and
- (iii) the name and address of the person's employer;

(b) to obtain information from any other source about the ownership of property in respect of which an application under this Act may be made;

(c) to obtain information from any source about the occurrence of activities in respect of which an application under this Act may be made;

(d) to make and maintain written, recorded or videotaped records of any information received under clause (a), (b) or (c) or of the occurrence of activities in respect of which an application under this Act may be made;

(e) in the Director's discretion, to disclose information obtained under clause (a), (b) or (c), and records made under clause (d), to a person, court, tribunal, government department, government agency, local government body or law enforcement agency.

(2) When the Director requests information under clause (1)(a), (b) or (c)

(a) from a person carrying on a business and the information is contained in the person's business records; or

(b) from a public body,

the person or public body shall provide the information and give the Director a copy of the document or record in which the information is contained, if applicable.

(3) The Director may disclose information obtained under clause (1)(a), (b) or (c), or records made under clause (1)(d), to a person or peace officer

(a) to assist

(i) the person to serve or post a community safety order or an order under Section 9, or

(ii) the peace officer to accompany the person; or

(b) to enable a peace officer to carry out an order under this Part. 2006, c. 6, s. 27; 2013, c. 2, s. 34.

Privilege applies

28 Anything said, any information supplied and any document or thing produced by a person during an investigation by the Director under this Act is privileged in the same manner as if it were said, supplied or produced in a proceeding in a court. 2006, c. 6, s. 28.

Director's power to delegate, contract or authorize

29 (1) The Director may delegate to any person on the Director's staff any responsibility or power under this Act.

(2) The Director may contract with or authorize any person to investigate a complaint. 2006, c. 6, s. 29.

Director may consult

30 (1) The Director may consult with and work in co-operation with social service and other agencies, school boards and neighbourhood organizations or groups to promote and encourage the development of safe electronic communications and safe and peaceful communities.

(2) The Director may consult with and work in co-operation with school boards, police agencies, health authorities and social service and other agencies or groups to develop protocols and agreements for sharing information and managing cyberbullying complaints.

(3) The Director may consult with Internet service providers and other persons or organizations to develop protocols and agreements for sharing information and managing Internet customer services, to address and prevent cyberbullying. 2006, c. 6, s. 30; 2013, c. 2, s. 35.

Director's duty respecting children

31 Where the Director has reason to believe that there are children residing in a building in respect of which an application under this Part has been made, the Director shall notify, without delay, the appropriate agency under the *Children and Family Services Act*. 2006, c. 6, s. 31.

Confidentiality

32 (1) No person, including the Director, shall, without the prior written consent of the complainant,

(a) disclose the identity of the complainant, or any information by which the complainant may be identified, to another person or to a court, body, agency or government department; or

(b) disclose, provide access to or produce the complaint, or another document or thing by which the complainant may be identified, to another person or to a court, body, agency or government department without severing any information by which the complainant may be identified.

(2) Subsection (1) applies notwithstanding the *Freedom of Information and Protection of Privacy Act*. 2006, c. 6, s. 32.

Director and others not compellable

33 (1) The Director, and any person acting for or under the direction of the Director, shall not be required in a court or in any other proceeding

(a) to identify the complainant or give evidence about information or produce a document or thing by which the complainant may be identified;

(b) to give evidence about other information obtained by or on behalf of the Director for the purpose of this Act; or

(c) to produce any other document or thing obtained by or on behalf of the Director for the purpose of this Act.

(2) Clauses (1)(b) and (c) do not apply to

(a) an application by the Director;

(b) an application continued in the Director's name; or

(c) an application in which the Director intervenes. 2006, c. 6, s. 33.

Investigation

33A (1) In this Section and Sections 33B, 33C and 36B, "record" means a book, paper, document or thing, whether in electronic form or otherwise, that may contain information relevant to the administration of this Part.

(2) For the purpose of an investigation pursuant to Section 26B, the Director may, at any reasonable time,

(a) subject to subsection (3), enter and conduct an inspection in any building that the Director believes on reasonable grounds contains any record or other thing related to a complaint of cyberbullying;

(b) take photographs and make any type of audio or visual recordings that the Director considers necessary to determine if cyberbullying has occurred;

(c) require any person to produce for inspection any device or equipment that the Director believes on reasonable grounds contains any information relevant to a complaint of cyberbullying;

(d) require any person to produce for inspection and copying any record that the Director believes on reasonable grounds contains any information relevant to a complaint of cyberbullying; and

(e) reproduce or cause to be reproduced any data in the form of a print-out or other intelligible output and seize the print-out or other output.

(3) The Director may only enter a building

(a) with the occupant's consent; or

(b) pursuant to the authority of an order issued pursuant to Section 33C.

(4) No person shall obstruct or hinder or make a false or misleading statement to the Director while the Director is acting pursuant to this Part.

(5) A person who is guilty of an offence under subsection (4) is liable on summary conviction to a fine of not more than five thousand dollars or to imprisonment for a term of not more than one year. 2013, c. 2, s. 36.

Copies

33B (1) The Director may make copies of a record that has been inspected pursuant to Section 33A or taken pursuant to an order made under Section 33C.

(2) A copy of a record certified by the Director to be a copy made pursuant to this Section

(a) is admissible in evidence without proof of the office or signature of the person purporting to have signed the certificate; and

(b) has the same probative force as the original record.

(3) The Director shall ensure that, after copies of any records inspected pursuant to Section 33A or an order under 33C are made, the originals are promptly returned to

(a) the place from which they were removed; or

(b) any other place that may be agreed to by the Director and the person who had possession or control of the record. 2013, c. 2, s. 36.

Ex parte order for inspection purposes

33C (1) For the purpose of Section 33A or another purpose related to a complaint of cyberbullying or an order relating to cyberbullying, the Director may apply *ex parte* to the Court for an order authorizing the Director to

(a) enter and conduct an inspection in any building named in the order; and

(b) take possession of any record or other thing that the Director believes contains any information relevant to a complaint of cyberbullying or is the subject of an order relating to cyberbullying.

(2) The Court may issue an order authorizing the Director and any other person named in the order to enter and conduct an inspection in a building and to take possession of any record or other thing if the Court is satisfied that entry to the building is necessary for the purpose of Section 33A or another purpose related to a complaint of cyberbullying or an order relating to cyberbullying. 2013, c. 2, s. 36.

Offence and penalty respecting posted orders

34 A person who, without the Director's consent, removes, defaces or interferes with a duly posted copy of

(a) a community safety order, or a notice the regulations require to be posted with the order, before the order ceases to be in effect; or

(b) an order under Section 9, or a notice the regulations require to be posted with the order, before the end of the period of closure,

is guilty of an offence and is liable on summary conviction to a fine of not more than two thousand five hundred dollars or to imprisonment for a term of not more than three months, or both. 2006, c. 6, s. 34.

Offence and penalty respecting entry

35 A person who, without the Director's consent, enters a property that is closed under an order is guilty of an offence and is liable on summary conviction to a fine of not more than five thousand dollars or to imprisonment for a term of not more than six months, or both. 2006, c. 6, s. 35.

Offence and penalties respecting non-compliance

36 (1) A respondent who fails to comply with a community safety order is guilty of an offence.

(2) A person who, knowing that a community safety order has been made, causes, contributes to, permits or acquiesces in activities described in the order, on or near the property described in the order, is guilty of an offence.

(3) Where a failure referred to in subsection (1) or a contravention referred to in subsection (2) continues for more than one day, the offender is guilty of a separate offence for each day that the failure or contravention continues.

(4) A person who is guilty of an offence under subsection (1) or (2) is liable on summary conviction to a fine of not more than five hundred dollars for each day that the offence continues. 2006, c. 6, s. 36.

Offence and penalty for failing to comply with order

36A (1) Any person who fails to comply with a cyberbullying prevention order is guilty of an offence.

(2) Any person who, knowing that a cyberbullying prevention order has been made, causes, contributes to or permits activities that are contrary to the order, is guilty of an offence.

(3) A person who is guilty of an offence under subsection (1) or (2) is liable on summary conviction to a fine of not more than five thousand dollars or to imprisonment for a term of not more than six months, or both. 2013, c. 2, s. 37.

Offence and penalty for destroying records

36B (1) Any person who destroys information or records that are required to be produced or provided pursuant to this Part is guilty of an offence.

(2) A person who is guilty of an offence under subsection (1) is liable on summary conviction

(a) in the case of an individual, to a fine of not more than five thousand dollars or imprisonment for a term of not more than two years, or both; and

(b) in the case of a corporation, to a fine of not more than fifty thousand dollars. 2013, c. 2, s. 37.

Director or officer of corporation also guilty

37 Where a corporation is guilty of an offence under this Act, a director or officer of the corporation who authorized, permitted or acquiesced in the offence is also guilty of that offence and is liable on summary conviction to the penalty for that offence. 2006, c. 6, s. 37.

Effect of transfer of property

38 (1) A person who transfers a legal or beneficial interest in property to a third party, or gives a right of occupancy of property to a third party, after being served with a notice of application or becoming aware of an application in respect of the property, shall fully inform the third party about the application before completing the transfer or giving the right of occupancy.

(2) A person who transfers a legal or beneficial interest in property to a third party, or gives a right of occupancy of property to a third party, while a community safety order in respect of the property is in effect or the property is closed under an order, shall fully inform the third party about the order before completing the transfer or giving the right of occupancy.

(3) A third party who receives an interest in property that is the subject of an application is deemed to be a respondent to the application when the

transfer of the interest is complete, and any order made by the Court is binding on the third party. 2006, c. 6, s. 38.

Offence and penalty respecting transfer of property

39 A person who contravenes subsection 38(1) or (2) is guilty of an offence and is liable on summary conviction to a fine of not more than twenty thousand dollars or to imprisonment for a term of not more than one year, or both. 2006, c. 6, s. 39.

Cause of action in addition to common law or statute

40 The cause of action created by this Act is in addition to any other cause of action that exists at common law or by statute. 2006, c. 6, s. 40.

PART II

FORTIFIED BUILDINGS

Interpretation of Part

41 (1) In this Part,

(a) “closure order” means a closure order made pursuant to Section 49;

(b) “fortified building” means a building protected by one or more of the following:

(i) bullet-proof material or material designed to be resistant to explosives on a door or window,

(ii) protective metal plating on the interior or exterior of the building that is not required for the structural integrity of the building,

(iii) armoured or specially reinforced doors,

(iv) metal bars on exterior doors or windows,

(v) any other method or material prescribed in the regulations;

(c) “inspector” means a person appointed as an inspector pursuant to this Act;

(d) “registrar” means the registrar under the *Land Registry Act* for the land registration district in which a fortified building is located;

(e) “removal order” means a removal order made pursuant to Section 48.

(2) This Part applies to every building in the Province whether the building was fortified before, on or after the coming into force of this Part. 2006, c. 6, s. 41.

Appointment of inspectors

42 The Minister may appoint any person or class of persons as an inspector or inspectors for the purposes of this Part, subject to any terms and conditions set out by the Minister. 2006, c. 6, s. 42.

Identification card

43 (1) The Minister shall provide to each inspector an identification card for the purposes of this Part.

(2) An inspector who is acting pursuant to this Part shall produce the inspector's identification card if requested to do so. 2006, c. 6, s. 43.

Powers of inspection

44 (1) In this Section and Sections 45 and 46, "record" means a book, paper, document or thing, whether in electronic form or otherwise, that may contain information relevant to the administration or enforcement of this Part.

(2) An inspector may conduct an investigation with respect to any matter that the inspector considers necessary respecting the administration or enforcement of this Part or the regulations made for the purpose of this Part.

(3) For the purpose of an investigation pursuant to this Section, an inspector may, at any reasonable time,

(a) subject to subsection (4), enter and inspect any building that the inspector believes on reasonable grounds is a fortified building;

(b) take measurements and photographs of, and conduct any tests or make any type of audio or visual recordings in or on, a building or on the property on which the building is located that the inspector considers necessary to determine if a building is a fortified building; and

(c) require any person to produce for inspection and copying any record that the inspector believes on reasonable grounds contains any information relevant to the administration or enforcement of this Part.

(4) An inspector may only enter a dwelling place

(a) with the occupant's consent;

(b) pursuant to the authority of a warrant issued pursuant to Section 46; or

(c) pursuant to the right of inspection set out in subsection 48(4).

(5) No person shall obstruct or hinder, or make a false or misleading statement to, an inspector who is acting pursuant to this Part. 2006, c. 6, s. 44.

Inspector may copy records

45 (1) The inspector may make copies of a record that has been inspected pursuant to Section 44.

(2) A copy of a record certified by the inspector to be a copy made pursuant to this Section

(a) is admissible in evidence without proof of the office or signature of the person purporting to have signed the certificate; and

(b) has the same probative force as the original record.

(3) An inspector shall ensure that, after copies of any records inspected pursuant to Section 44 are made, the originals are promptly returned to

(a) the place from which they were removed; or

(b) any other place that may be agreed to by the inspector and the person who had custody, possession or control of the record.

2006, c. 6, s. 45.

Entry and search warrant

46 (1) Where an inspector, pursuant to Section 44, requires entry to a building and the owner or occupant of the building refuses or neglects to permit investigation, the inspector may apply *ex parte* to a justice of the peace or a judge of the provincial court for a warrant authorizing a person named in the warrant to

(a) enter and search any building named in the warrant for the purpose of administering and enforcing this Part; and

(b) seize and take possession of any record or other thing that the inspector believes on reasonable grounds contains any information relevant to the administration and enforcement of this Part.

(2) A justice of the peace or judge of the provincial court may issue a warrant authorizing an inspector and any other person named in the warrant to enter and inspect a building and the property on which the building is located and to seize and take possession of any record if the justice of the peace or judge of the provincial court is satisfied on oath of the inspector that there are reasonable grounds to believe that

(a) a building is a fortified building;

(b) entry to the building or the property on which the building is located is necessary for a purpose relating to the administration or enforcement of this Part; and

(c) entry to the building or the property on which the building is located has not been provided or there are reasonable grounds to believe that entry will not be provided. 2006, c. 6, s. 46.

Designation of fortified building

47 (1) Subject to subsection (4), the Director may designate a fortified building as a threat to public safety.

(2) In determining whether a fortified building is a threat to public safety, the Director may take into account

- (a) the number and type of fortifications in or on the building or on the property on which the building is located;
- (b) whether the fortifications could significantly impair the ability of emergency response personnel and law enforcement officials to gain access to the building;
- (c) whether the fortifications could significantly impair the ability of people inside the building to escape in an emergency;
- (d) the nature of the neighbourhood or area in which the building is located;
- (e) the proximity of the building to schools, playgrounds and other places where children are likely to be present;
- (f) the proximity of the building to other buildings;
- (g) the purpose for which the building is being used;
- (h) whether the fortifications are reasonably necessary given the purpose for which the building is being used;
- (i) the persons who own, occupy or visit the building;
- (j) whether any criminal activity or other disruptive behaviour has previously taken place in or around the building; and
- (k) any other factor that the Director considers reasonable.

(3) The Director may make a designation pursuant to subsection (1) without giving prior notice to the owner or occupant of the building and without holding a hearing.

(4) The Director shall not designate a fortified building as a threat to public safety pursuant to subsection (1) if it has been fortified in a manner that does not exceed reasonable security measures commonly taken for

- (a) the type of business being operated in the fortified building; or
- (b) a residential dwelling. 2006, c. 6, s. 47.

Removal order

48 (1) Where the Director designates a fortified building as a threat to public safety pursuant to Section 47, the Director shall issue a removal order

(a) specifying the fortifications that must be removed from the building or the property on which the building is located; and

(b) requiring the owner or occupant of the building, or both, to remove the specified fortifications by a date that must be at least twenty-one days after the removal order is made.

(2) A removal order issued pursuant to subsection (1) must contain

(a) a provision stating that a closure order for the building will be issued if the specified fortifications are not removed by the date set out in the removal order;

(b) a statement of the right to appeal the removal order pursuant to Sections 52 to 55; and

(c) any other information the Director considers appropriate.

(3) The Director shall serve the removal order on the owner and any occupant of the building to whom the removal order is made.

(4) Where a removal order has been issued for a building, an inspector has the right to enter and inspect the building to determine if the specified fortifications have been removed. 2006, c. 6, s. 48.

Order closing building

49 (1) Where the fortifications specified in a removal order are not removed by the date set out in that order, the Director may issue an order closing the building for a period of not more than ninety days to allow for the removal of the specified fortifications in accordance with Sections 57 to 61.

(2) A closure order issued pursuant to subsection (1) must contain

(a) a provision requiring all persons to vacate the building and not to re-enter it until the closure order ceases to be in effect; and

(b) any other information the Director considers appropriate.

(3) The Director shall serve the closure order on the owner and any occupant of a building with respect to which the closure order is made.

(4) The Director shall post a copy of the closure order in a conspicuous place on the building that is the subject of the closure order.

(5) The Director shall terminate a closure order as soon as all fortifications specified in a removal order have been removed.

(6) Where a closure order is terminated, the Director shall advise the owner of the building that the closure order is no longer in effect. 2006, c. 6, s. 49.

Service

- 50** (1) Any removal order or closure order must be served
- (a) by personal service made
 - (i) in the case of an individual, on that individual,
 - (ii) in the case of a partnership, on any partner, or
 - (iii) in the case of a corporation, on any officer or director of the corporation;
 - (b) by registered mail addressed to the person to be served;
- or
- (c) where service cannot be effected by one of the methods described in clauses (a) and (b), by
 - (i) publishing a copy of the order in two issues of a newspaper having general circulation in the area where the fortified building is located, and
 - (ii) posting a copy of the order in a conspicuous place on the building with respect to which the order is made.

(2) A removal order or closure order sent by registered mail is deemed to have been served on the seventh day following the date of its mailing unless the person to whom it was mailed establishes that, through no fault of the person, the person did not receive the removal order or closure order or received it at a later date.

(3) A removal order or closure order served in accordance with clause (1)(c) is deemed to have been served on the date it is published in the newspaper for the second time or on the third day following the date it is posted on the building, whichever is the later.

(4) An order is effective on the date it is served. 2006, c. 6, s. 50.

Registration of interest

51 (1) The Director may apply to the registrar to register an interest based on a removal order or closure order in respect of the parcel upon which the fortified building is located.

(2) An application pursuant to subsection (1) must be accompanied by a copy of the removal order or closure order, as the case may be.

(3) After an interest based on a removal order or closure order is registered, the Director

(a) may, at any time, apply to the registrar to discharge the registration of the interest; and

(b) shall apply to the registrar to discharge the registration of the interest if the removal order or closure order is no longer in effect.

(4) The registration of an interest may be discharged pursuant to subsection (3) with respect to

(a) all of the parcels described in the removal order or closure order by applying for discharge in accordance with subsection (3); or

(b) any portion of the parcels described in the removal order or closure order by applying to amend the registration of the interest.

(5) No action lies or shall be commenced against the Director for any loss or damage suffered by any person by reason of

(a) the registration of an interest pursuant to this Section;

(b) the amendment of an interest pursuant to this Section;

or

(c) the failure of the Director to

(i) register an interest pursuant to this Section, or

(ii) discharge an interest pursuant to this Section.

2006, c. 6, s. 51.

Appeal

52 (1) An owner or occupant of a fortified building that is the subject of a removal order may appeal the order to the Court.

(2) A notice of appeal must be served on the Director within fourteen days after a removal order has been served.

(3) The Director is a party to any appeal and is entitled to be heard, by counsel or otherwise, on the appeal.

(4) The Court shall hear and determine an appeal by way of a hearing and the Court may hear evidence and submissions respecting the removal order subject to appeal. 2006, c. 6, s. 52.

Powers of Court

53 (1) On hearing an appeal, the Court shall take into account the considerations set out in subsection 47(2) and may

(a) dismiss the appeal;

- (b) allow the appeal;
- (c) allow the appeal subject to terms;
- (d) vary the order of the Director;
- (e) refer the matter back to the Director for further consideration and order; or
- (f) make any other order that the Court considers appropriate.

(2) The Court may make any order as to costs that it considers appropriate. 2006, c. 6, s. 53.

No further appeal lies

54 There is no further appeal pursuant to this Part. 2006, c. 6, s. 54.

Stay of order on appeal

55 Where a notice of appeal has been filed in accordance with this Part, the operation of a removal order is stayed and no further action may be taken with respect to the order except in accordance with an order of the Court hearing the appeal. 2006, c. 6, s. 55.

No appeal of closure order

56 There is no appeal of a closure order. 2006, c. 6, s. 56.

Powers of Director under closure order

57 (1) Where a closure order is in effect, the Director or a person authorized by the Director may enter the building without the consent of the owner or occupant to

- (a) remove the fortifications specified in the removal order; and
- (b) secure the closure of the building.

(2) The Director may employ any tradespersons and workers that the Director considers necessary to

- (a) remove the fortifications specified in the removal order; and
- (b) secure the closure of the building.

(3) The Director may take any measures that the Director considers necessary to safely and effectively secure the closure of the building, including

- (a) attaching locks, boarding or other security devices;
- (b) erecting fences;

- (c) changing or terminating utility services; and
- (d) making interior or exterior alterations to the building so that it is not a hazard while it is closed.

(4) The Director is not responsible, whether at the end of the period of closure or otherwise, for the removal or cost of removal of anything attached to or erected on a building, or the reversal or cost of reversal of anything done to a building pursuant to this Section. 2006, c. 6, s. 57.

Further powers of Director

58 (1) Where a closure order is in effect, the Director shall secure the closure of a building, and all occupants of the building and any other persons at the building shall leave it immediately on the order of the Director, even if they have not been previously served with the closure order.

(2) Where an occupant of a building and any other persons at the building do not comply with a request to leave, the Director may obtain the assistance of a peace officer to remove them from the building. 2006, c. 6, s. 58.

Owner of building to pay costs

59 (1) The owner of a building that is the subject of a closure order shall, on demand from the Director, pay to the Minister of Finance the cost of removing all fortifications and closing the building, in the amount certified by the Director pursuant to Section 60.

(2) An amount payable pursuant to subsection (1) is a debt due and owing to Her Majesty in right of the Province. 2006, c. 6, s. 59.

Certificate of Director respecting costs and expenses

60 (1) Where the Director undertakes any work for the purpose of Section 57 or 58 and incurs any costs and expenses as a result, the Director may file with the Court at the judicial centre nearest to the place where the work or the greatest portion of the work was done a certificate that is signed by the Director and that sets out

- (a) the amount of the costs and expenses incurred pursuant to Section 57 or 58;
- (b) the owner from whom the costs and expenses are recoverable; and
- (c) the Director's address for service.

(2) Where the Director files a certificate pursuant to subsection (1), the Director shall cause a copy of the certificate to be served on the owner.

(3) A certificate filed pursuant to subsection (1) is conclusive evidence of the amount of the debt due to Her Majesty in right of the Province by the owner.

(4) A certificate filed pursuant to this Section has the same effect as if it were a judgment obtained in the Court for the recovery of a debt in the amount specified in the certificate, together with any reasonable costs and charges with respect to its filing.

(5) An owner who has been served with a copy of a certificate pursuant to subsection (2) may, within thirty days after receiving the copy, make written representations to the Director requesting the Director to reconsider the amount of the costs and expenses.

(6) On receipt of a written representation pursuant to subsection (5), the Director may

- (a) withdraw the certificate;
- (b) vary the amount of the costs and expenses and, for that purpose, withdraw the certificate and file a new certificate with the new costs and expenses; or
- (c) confirm the certificate.

(7) The Director shall notify an owner of the Director's decision as soon as is reasonably practicable after making the decision. 2006, c. 6, s. 60.

Appeal

61 (1) An owner with respect to whom a certificate has been filed pursuant to Section 60 may appeal against the amount of the costs and expenses set out in the certificate to the Court

- (a) within thirty days after the date of the filing of the certificate; or
- (b) where the owner has made representations to the Director pursuant to Section 60, within thirty days after the Director has notified the respondent of the decision.

(2) On hearing an appeal pursuant to this Section, the Court may issue an order

- (a) confirming the amount of costs and expenses set out in the certificate;
- (b) amending or varying the amount of costs and expenses set out in the certificate;
- (c) quashing the certificate; or
- (d) doing any other thing that the Court considers appropriate.

(3) In an order issued pursuant to subsection (2), the Court may specify the period within which the order must be complied with. 2006, c. 6, s. 61.

Offences and penalties

62 (1) No person shall

(a) without the Director's consent, remove, deface or interfere with a copy of a closure order posted in accordance with subsection 49(4) or subclause 50(1)(c)(ii);

(b) without the Director's consent,

(i) fail to vacate a building that is closed under a closure order, or

(ii) enter or re-enter a building that is closed under a closure order; or

(c) fail to comply with a removal order or a closure order.

(2) Every person who contravenes subsection (1), subsection 44(5) or an order of the Director is guilty of an offence.

(3) Every person who is guilty of an offence under subsection (2) is liable on summary conviction

(a) for a first offence

(i) in the case of an individual, to a fine of not more than ten thousand dollars or to imprisonment for a term of not more than one year, or to both, and

(ii) in the case of a corporation, to a fine of not more than twenty-five thousand dollars; and

(b) for a second or subsequent offence

(i) in the case of an individual, to a fine of not more than twenty-five thousand dollars or to imprisonment for a term of not more than one year, or to both, and

(ii) in the case of a corporation, to a fine of not more than one hundred thousand dollars.

(4) Where a corporation commits an offence pursuant to this Part, any officer or director of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is guilty of the offence and liable on summary conviction to the penalties mentioned in this Section whether or not the corporation has been prosecuted or convicted. 2006, c. 6, s. 62.

PART III

GENERAL

Educational materials re responsible cellular telephone use

62A (1) In this Section,

(a) “cellular telephone services” means, subject to the regulations, wireless communication services or functions that are accessed from a cellular telephone, including, without limiting the generality of the foregoing, receiving or transmitting telephone calls, electronic data, electronic mail or text messages;

(b) “educational materials” means the materials about responsible cellular telephone use and cyberbullying prepared by the Minister of Justice.

(2) A supplier of cellular telephone services shall obtain copies of the educational materials from the Director.

(3) A supplier shall give a copy of the educational materials to each customer who enters into a contract with the supplier for cellular telephone services, at no additional cost to the customer, immediately after the contract is made.

(4) For greater certainty, the educational materials given to a customer under subsection (3) must be those prepared by the Minister of Justice. 2014, c. 45, s. 2.

No action lies

63 No person may commence or maintain an action or other proceeding against Her Majesty in right of the Province, the Director, an inspector, any other person acting for or under the direction of the Director or any other person engaged in the administration of this Act for

(a) any act done in good faith, or any neglect or default, in the performance or intended performance of a responsibility or in the exercise or intended exercise of a power under this Act or the regulations;

(aa) compensation for any damage or injury caused by confiscation of property under a cyberbullying prevention order, including the loss of or damage to the property;

(b) compensation for any damage or injury caused by or during, or arising from, the closing of property or its being kept closed; or

(c) compensation for any damage or injury caused by during, or arising from, the removal of any fortification or the closing of a building. 2006, c. 6, s. 63; 2013, c. 2, s. 38.

Act prevails

64 Where there is a conflict between this Act and the *Residential Tenancies Act*, this Act prevails. 2006, c. 6, s. 64.

Act binds Crown

65 This Act binds Her Majesty in right of the Province. 2006, c. 6, s. 65.

Duties and powers of peace officers

66 (1) Where requested to do so, a peace officer shall provide any assistance required by an inspector or the Director in the performance of the inspector's duties or the Director's duties under this Act.

(2) All peace officers within the Province shall

(a) do anything that may be necessary to carry out a community safety order, an order under Section 9 or a cyberbullying prevention order; and

(b) when an order of possession has been made in favour of the respondent, do anything that may be necessary to assist the respondent to obtain vacant possession of the property.

(3) For the purpose of subsections (1) and (2), a peace officer has full power and authority to

(a) enter the property in respect of which the order was made or onto any land on which any person required to be served with the order may be found; and

(b) when the peace officer is assisting a respondent to obtain vacant possession of property, take possession of it without an order for possession and deliver possession to the respondent. 2006, c. 6, s. 66; 2013, c. 2, s. 39.

Regulations

67 (1) The Governor in Council may make regulations

(a) designating a person in the public service or employed by a municipality as a Director of Public Safety for an area of the Province specified in the designation for the purpose of subsection 2(1);

(aa) designating a person in the public service as a Director of Public Safety for the Part of this Act specified in the designation for the purpose of subsection 2(1);

(b) defining "owner", in relation to property, for the purpose of subsection 2(1);

(c) respecting applications and the enforcement of orders;

(d) requiring notices to be served and posted in conjunction with community safety orders and orders under Section 9 and respecting the form and content of the notices;

(e) respecting service and posting of orders and notices under Section 12;

(ea) respecting the service of cyberbullying prevention orders;

(eb) respecting the form, service and filing of a notice of objection under Section 26I;

(ec) respecting the storing and disposal of property seized under this Act;

(f) respecting notices to the Director and service of documents on the Director under Section 15;

(g) respecting the manner of serving any other document or notice that is required to be served;

(h) respecting closing of property and keeping it closed, including authorizing the Director to take specific actions in addition to those set out in subsection 23(3);

(i) respecting the costs of closing property and keeping it closed that a respondent may be required to pay under Section 26;

(ia) extending, modifying or limiting the meaning of “cellular telephone services” for the purpose of Section 62A or the regulations;

(ib) respecting the requirement under Section 62A for suppliers to provide educational materials about responsible cellular telephone use, including, without limiting the generality of the foregoing,

(i) specifying information that must be included in the education materials,

(ii) respecting the form and content of the educational materials that must be provided, which may include, without limiting the generality of the foregoing, requiring specific educational materials to be provided, and

(iii) respecting the manner of providing the educational materials;

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

(ja) further defining any word or expression used in this Act;

(k) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act*. 2006, c. 6, s. 67; 2013, c. 2, s. 40; 2014, c. 45, s. 3.

Review of Director's activities regarding cyberbullying prevention orders

67A (1) The Minister shall review the activities of the Director under Sections 26A to 26X and related provisions in this Act within three years of the coming into force of this Section and every two years thereafter.

(2) The Minister shall table in the House of Assembly if the House is then sitting or, where the House is not then sitting, file with the Clerk of the House a written report of the review completed under subsection (1). 2013, c. 2, s. 41.

Proclamation

68 This Act comes into force on such day as the Governor in Council orders and declares by proclamation. 2006, c. 6, s. 68.

Proclaimed - December 21, 2006
In force - January 7, 2007
