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NOVA SCOTIA
2023**

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VOLUME A

Revised Statutes of Nova Scotia

2023

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CHAPTER A-1

An Act Respecting Accessibility in Nova Scotia

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WHEREAS, under the United Nations Convention on the Rights of Persons with Disabilities, Canada agrees to take appropriate measures to achieve accessibility and to develop and monitor minimum accessibility standards;

AND WHEREAS the *Canadian Charter of Rights and Freedoms* grants equality rights to all persons without discrimination on the basis of a disability;

AND WHEREAS the *Human Rights Act* recognizes that the Government, public agencies and all persons have a responsibility to ensure equal opportunity for every individual to enjoy a full and productive life;

AND WHEREAS persons with disabilities disproportionately live in conditions of poverty;

AND WHEREAS there is diversity among persons with disabilities;

AND WHEREAS persons with disabilities continue to face attitudinal and environmental barriers that prevent them from achieving their full and equal participation in society;

AND WHEREAS persons with disabilities who are subject to multiple forms of discrimination face additional barriers;

AND WHEREAS achieving accessibility will improve the independence and well-being of persons with disabilities;

AND WHEREAS the Government acknowledges it must take a leadership role in the process of achieving an accessible Nova Scotia:

Short title

1 This Act may be cited as the *Accessibility Act*. 2017, c. 2, s. 1.

Purpose of Act

2 The purpose of this Act is to

(a) achieve accessibility by preventing and removing barriers that disable people with respect to

- (i) the delivery and receipt of goods and services,
- (ii) information and communication,
- (iii) public transportation and transportation infrastructure,
- (iv) employment,
- (v) the built environment,
- (vi) education, and
- (vii) a prescribed activity or undertaking;

(b) provide for the involvement of persons with disabilities, the public sector and other stakeholders in the development of accessibility standards;

(c) facilitate the timely implementation of accessibility standards with a goal of achieving an accessible Nova Scotia by 2030;

(d) monitor, review and enforce compliance with accessibility standards; and

(e) establish an Accessibility Directorate that is responsible for supporting accessibility initiatives and advancing broader disability-related issues. 2017, c. 2, s. 2.

Interpretation

3 (1) In this Act,

“accessibility plan” means a plan to address the identification, removal and prevention of barriers in the policies, programs, practices and services of a public sector body;

“accessibility standard” means an accessibility standard established under this Act;

“barrier” means anything that hinders or challenges the full and effective participation in society of persons with disabilities, including a physical barrier, an architectural barrier, an information or communications barrier, an attitudinal barrier, a technological barrier, a policy or a practice;

“Board” means the Accessibility Advisory Board established under this Act;

“built environment” means the human-made space in which people live, work, learn and play, and includes buildings, rights-of-way and outdoor spaces;

“committee” means a committee established under this Act;

“Court” means the Supreme Court of Nova Scotia;

“Director” means the Director of Compliance and Enforcement appointed pursuant to Section 45;

“disability” includes a physical, mental, intellectual, learning or sensory impairment, including an episodic disability, that, in interaction with a barrier, hinders an individual’s full and effective participation in society;

“Government” means the Crown in right of the Province;

“inspector” means an inspector appointed under this Act;

“Minister” means the Minister of Justice;

“organization” includes the Government, a sole proprietorship, corporation, society, association, partnership and limited liability partnership, any association of individuals and any similar body;

“order” means an order made under this Act;

“prescribed” means prescribed by the regulations;

“public sector body” means

- (a) the Government;
- (b) a prescribed municipality;
- (c) a prescribed university; and
- (d) a prescribed organization.

(2) A document or information is publicly available if it is posted on a website or made available in a prescribed manner. 2017, c. 2, s. 3.

Act with stronger protection of rights prevails

4 (1) Nothing in this Act or the regulations diminishes the rights and protections offered to persons with disabilities under the *Human Rights Act*.

(2) Where a provision of this Act or the regulations conflicts with a provision of another enactment, the provision of this Act or the regulations prevails unless the other enactment provides a higher level of accessibility for persons with disabilities. 2017, c. 2, s. 4.

Act binds Crown

5 This Act binds the Crown in right of the Province. 2017, c. 2, s. 5.

Supervision of Act

6 The Minister is responsible for the general supervision and management of this Act and the regulations. 2017, c. 2, s. 6.

Mandate of Minister

7 (1) The mandate of the Minister is to achieve accessibility for persons disabled by barriers by

- (a) raising awareness of how persons with disabilities are disabled by barriers;
- (b) promoting and encouraging the prevention and removal of barriers;
- (c) overseeing the development and implementation of accessibility standards necessary to attain the purpose of this Act;
- (d) assisting in the integration of applicable accessibility standards into the activities of all persons in the Province; and
- (e) ensuring persons in the Province are consulted in the development of accessibility standards and informed about their duties and responsibilities under the standards once created.

(2) The Minister shall make publicly available the implementation strategy setting out how the Minister plans to achieve the goal of an accessible Nova Scotia by 2030. 2017, c. 2, s. 7.

Annual report of Minister

8 (1) The Minister shall annually prepare a report of the actions the Minister has undertaken pursuant to Section 7 during the preceding fiscal year and make that report publicly available.

(2) The Minister shall table the report in the House of Assembly within 15 days after it is completed or, where the Assembly is not then sitting, file it with the Clerk of the Assembly. 2017, c. 2, s. 8.

Delegation by Minister

9 (1) The Minister may, in writing, delegate any power or duty conferred or imposed on the Minister under this Act to

- (a) an employee of the Government;
- (b) an employee of a municipality; or
- (c) another person,

who, in the Minister's opinion, has the requisite qualifications and experience.

(2) Where the Minister delegates a power or duty under subsection (1), the Minister may

- (a) specify how the power or duty is to be exercised or performed and impose any requirement in relation to or restrictions on the exercise or performance of the power or duty that the Minister considers appropriate; and
- (b) provide that the delegate be paid for, or reimbursed for the cost of, exercising or performing the delegated power or duty.

(3) Before making a delegation to a person under clause (1)(a) or (b), the Minister shall consult with and obtain the consent of the employer of the person.

(4) Before making a delegation to a person under clause (1)(c), the Minister shall obtain the consent of the person.

(5) The Minister may revoke a delegation made under subsection (1). 2017, c. 2, s. 9.

ACCESSIBILITY DIRECTORATE

Establishment of and role

10 (1) The Accessibility Directorate is established.

(2) The role of the Accessibility Directorate is to

(a) support the implementation and administration of this Act and the regulations;

(b) address broader disability-related initiatives by acting as a central government mechanism to ensure that the concerns of persons with disabilities respecting policy, program development and delivery are advanced and considered by the Government. 2017, c. 2, s. 10.

Executive Director and staff

11 (1) The Minister shall appoint an Executive Director and the staff of the Accessibility Directorate.

(2) The Executive Director shall lead the Accessibility Directorate and liaise with the Board.

(3) The staff of the Accessibility Directorate must be appointed pursuant to the *Civil Service Act*. 2017, c. 2, s. 11.

Duties

12 The Accessibility Directorate shall

(a) provide policy, programming, communication and administrative support on all aspects of this Act and the regulations;

(b) conduct research and develop and implement programs of public education and awareness on the purpose of this Act;

(c) examine and review measures, policies, practices and other requirements to improve opportunities for persons with disabilities; and

(d) identify and study issues of concern to persons with disabilities and recommend action if appropriate. 2017, c. 2, s. 12.

ACCESSIBILITY ADVISORY BOARD

Board composition

13 (1) There is an Accessibility Advisory Board consisting of 12 members appointed by the Governor in Council on the recommendation of the Minister.

(2) In making recommendations to the Governor in Council for the purpose of subsection (1), the Minister shall take into consideration

(a) the skills and assets the Minister considers necessary to ensure an effective and optimally functioning Board; and

(b) representation by stakeholder groups that will be subject to the accessibility standards.

(3) The majority of the members of the Board must be persons with disabilities. 2017, c. 2, s. 13.

Term

14 (1) A person appointed to the Board holds office for a term of three years.

(2) No person may be appointed to the Board for more than two consecutive terms. 2017, c. 2, s. 14.

Chair and Vice-chair

15 (1) The Governor in Council, on the recommendation of the Minister, may designate members of the Board as the Chair and the Vice-chair of the Board.

(2) The Vice-chair shall act as Chair if the Chair is absent or unable to act or when authorized to act by the Chair. 2017, c. 2, s. 15.

Board meetings and reports

16 (1) The Board shall hold at least four regular meetings in each year and meet with the Minister at least once every 12 months.

(2) The Board shall prepare a summary report after each regular meeting and make the report publicly available.

(3) The Board shall annually prepare a report of its activities and operations during the preceding fiscal year, file it with the Minister and make the report publicly available. 2017, c. 2, s. 16.

Duties

17 The Board shall advise and make recommendations to the Minister about accessibility and, in particular, shall

(a) suggest measures, policies, practices and requirements that may be implemented by the Government to achieve accessibility;

- (b) assess whether existing measures, policies, practices and requirements are consistent with the purpose of this Act;
 - (c) set priorities for the establishment and content of accessibility standards and the timelines for their implementation;
 - (d) set long-term accessibility objectives for furthering the purpose of this Act; and
 - (e) respond to requests for accessibility advice from the Minister.
- 2017, c. 2, s. 17.

Standard development committees

18 (1) The Board shall, with the approval of the Minister, establish standard development committees to assist the Board with making recommendations to the Minister on the content and implementation of accessibility standards.

(2) The Board shall prepare terms of reference for each standard development committee that include deadlines for each stage of the standard development process.

(3) The Board may, with the approval of the Minister, establish a subcommittee of technical experts and other individuals familiar with issues specific to the standard being developed. 2017, c. 2, s. 18.

Standard development committee composition

19 (1) A standard development committee established under Section 18 must have

- (a) one half of its membership consist of persons with disabilities or representatives from organizations representing persons with disabilities;
- (b) representatives of organizations and classes of organizations likely to be affected by the standard being developed; and
- (c) representatives from departments of the Government that have responsibilities related to the standard being developed.

(2) A person does not need to be a member of the Board to be a member of a committee or subcommittee. 2017, c. 2, s. 19.

Remuneration and expenses

20 (1) The Board, committee and subcommittee members not employed in the public service of the Province shall be paid such remuneration as is determined by the Minister.

(2) The Board, committee and subcommittee members shall be reimbursed for their reasonable expenses incurred in the performance of their duties. 2017, c. 2, s. 20.

ACCESSIBILITY STANDARDS

Considerations for a recommendation

21 When making a recommendation to the Minister on a proposed accessibility standard, the Board shall consider

- (a) the accessibility objectives for the activity or undertaking, the class, the aspect of the built environment or the individuals or organizations to which the standard relates; and
- (b) the measures, policies, practices and other requirements that the Board believes should be implemented, including
 - (i) how and by whom they should be implemented, and
 - (ii) the period for implementing them. 2017, c. 2, s. 21.

Considerations for recommending a time period

22 When recommending time periods for implementing an accessibility standard, the Board shall consider

- (a) the nature of the barriers that the measures, policies, practices and other requirements are intended to identify, remove or prevent;
- (b) any technical and economic considerations that may be associated with implementing the standard; and
- (c) any other matter requested by the Minister. 2017, c. 2, s. 22.

Consultation

23 When preparing recommendations under Sections 21 and 22, the Board shall ensure that the following persons have been consulted:

- (a) persons with disabilities;
- (b) representatives from organizations representing persons with disabilities;
- (c) representatives of those engaged in the activity or undertaking, or the individuals or organizations, or representatives of the class that may be made subject to the proposed accessibility standard;
- (d) representatives of government entities that have responsibilities relating to the activity, undertaking or class that may be made subject to the proposed accessibility standard; and
- (e) other individuals or organizations that the Minister considers advisable. 2017, c. 2, s. 23.

Separate recommendations

24 The Board shall attempt to achieve a consensus among its members on its recommendations but one or more members may submit recommendations if a consensus is not achieved. 2017, c. 2, s. 24.

Form and availability of recommendations

25 (1) The recommendations must be submitted to the Minister in the form and within the period specified by the Minister.

(2) The Minister shall make the recommendations publicly available. 2017, c. 2, s. 25.

Proposed accessibility standard

26 Upon receipt of the recommendations, the Minister may prepare a proposed accessibility standard adopting the recommendations in whole, in part or with any modifications the Minister considers appropriate. 2017, c. 2, s. 26.

Contents of accessibility standard

27 An accessibility standard may

- (a) specify the individuals or organizations that are subject to the standard;
- (b) set out measures, policies, practices and other requirements for
 - (i) identifying and removing barriers, and
 - (ii) preventing barriers from being established; and
- (c) require the individuals or organizations that are subject to the standard to implement those measures, policies, practices and other requirements within the period specified in the standard. 2017, c. 2, s. 27.

Application may be general or specific

28 An accessibility standard may be general or specific in its application and may be limited as to time and place. 2017, c. 2, s. 28.

Application to individuals or organizations

29 Accessibility standards may apply to individuals or organizations that

- (a) employ others;
- (b) offer accommodation;
- (c) own, operate, maintain or control an aspect of the built environment other than a private residence with three or fewer dwelling units;
- (d) provide goods, services or information to the public; or
- (e) engage in a prescribed activity or undertaking or meet other prescribed requirements. 2017, c. 2, s. 29.

Classes of persons, activities or aspects of built environment

30 An accessibility standard may apply to different classes of individuals or organizations or aspects of the built environment and, without limiting the generality of the foregoing, may apply to classes with respect to any attribute, quality or characteristic, or any combination of those things, including

- (a) the number of persons employed by an individual or organization or its annual revenue;
- (b) the type of activity or undertaking in which an individual or organization is engaged or the sector of the economy of which an individual or organization is a part; or

(c) a particular characteristic of an aspect of the built environment, such as the type of infrastructure or the size of a building, a structure or premises, that is owned, operated, maintained or controlled by an individual or organization. 2017, c. 2, s. 30.

May define a class

31 An accessibility standard may define a class to include or exclude an individual or organization, or an aspect of the built environment, having the same or different attributes, qualities or characteristics. 2017, c. 2, s. 31.

More than one accessibility standard may apply

32 An individual or organization may be subject to more than one accessibility standard. 2017, c. 2, s. 32.

Proposed standard to be publicly available

33 The Minister shall make a proposed accessibility standard publicly available. 2017, c. 2, s. 33.

Comments about proposed accessibility standard

34 Within 60 days after a proposed accessibility standard is made publicly available, or within any other longer period specified by the Minister, an individual or organization may submit comments about the proposed standard to the Minister. 2017, c. 2, s. 34.

Recommendation to Governor in Council

35 After consulting with the Board with respect to any comments and, where the Minister considers it appropriate, revising the proposed accessibility standard, the Minister shall recommend the standard to the Governor in Council for approval as a regulation. 2017, c. 2, s. 35.

Records

36 An individual or organization that is subject to an accessibility standard shall

- (a) prepare and keep records in accordance with the regulations;
- and
- (b) make the records available for inspection and examination under this Act and the regulations. 2017, c. 2, s. 36.

Compliance period

37 An individual or organization that is subject to an accessibility standard shall comply with it within the period specified in the standard. 2017, c. 2, s. 37.

Incentive-based measures

38 Where the Minister believes it is in the public interest to do so, the Minister may recommend that the Governor in Council prescribe incentive-based measures to encourage and assist an individual or organization, or a class of individuals or organizations, to meet or exceed an accessibility standard. 2017, c. 2, s. 38.

Accessibility plans

39 (1) Every public sector body shall prepare and make publicly available an accessibility plan by September 18, 2018.

(2) A municipality, university or organization shall prepare and make publicly available an accessibility plan within one year of being prescribed as a public sector body. 2017, c. 2, s. 39.

Accessibility plan must include

40 An accessibility plan must include

(a) a report on measures the public sector body has taken and intends to take to identify, remove and prevent barriers;

(b) information on procedures the public sector body has in place to assess the following for their effect on accessibility for persons with disabilities:

(i) any of its proposed policies, programs, practices and services, and

(ii) any proposed enactments or bylaws it will be administering; and

(c) any other prescribed information. 2017, c. 2, s. 40.

Input for accessibility plan

41 A public sector body shall seek input from persons with disabilities and representatives of organizations representing persons with disabilities when preparing an accessibility plan. 2017, c. 2, s. 41.

Updated and publicly available

42 A public sector body shall update its accessibility plan every three years and make it publicly available. 2017, c. 2, s. 42.

Joint accessibility plan

43 Two or more public sector bodies may agree to have a joint accessibility plan. 2017, c. 2, s. 43.

Accessibility advisory committee

44 (1) Every public sector body shall establish an accessibility advisory committee or continue any such committee that was established before September 18, 2017.

(2) At least one half of the members of an accessibility advisory committee must be persons with disabilities or representatives from organizations representing persons with disabilities. 2017, c. 2, s. 44.

COMPLIANCE AND ENFORCEMENT

Director of Compliance and Enforcement

45 (1) The Minister shall appoint a Director of Compliance and Enforcement.

(2) The Director shall

(a) carry out the powers and duties assigned to the Director under this Act;

(b) advise the Minister with respect to compliance and enforcement matters; and

(c) perform such duties as are assigned by the Minister.

(3) The Director may delegate the exercise of any of the Director's duties, powers or functions, other than the power to review an order or decision. 2017, c. 2, s. 45.

Inspectors and other persons to assist

46 (1) Inspectors and other persons required to administer compliance with and enforcement of this Act and the regulations must be appointed by the Minister in accordance with the *Civil Service Act*.

(2) Notwithstanding subsection (1), the Minister may engage, upon such terms and conditions as the Minister considers necessary, the services of such persons as the Minister requires for administering compliance with and enforcement of this Act and the regulations. 2017, c. 2, s. 46.

Identification card

47 (1) An inspector carrying out an inspection under this Act shall produce, on request, an identification card provided by the Minister for that purpose.

(2) A copy of an identification card purporting to be signed by the Minister is proof in any court of law that an individual is an inspector. 2017, c. 2, s. 47.

Inspections

48 (1) An inspector may carry out an inspection in response to a complaint or in relation to an activity as directed by the Director.

(2) An inspector may carry out any inspection, examination or test reasonably required to

(a) determine compliance with this Act and the regulations;

(b) verify the accuracy or completeness of a record or of other information required to be prepared under this Act and the regulations; or

(c) perform any other duty or function that the inspector considers necessary or advisable in the administration or enforcement of this Act and the regulations.

(3) While carrying out an inspection under this Section, an inspector may

- (a) require the production of any document or record for inspection and copying; and
- (b) inspect the physical premises and equipment. 2017, c. 2, s. 48.

Public Inquiries Act

49 An inspector has all the powers, privileges and immunities of a commissioner appointed under the *Public Inquiries Act*, with the exception of the powers of contempt, arrest and imprisonment. 2017, c. 2, s. 49.

Powers of inspector

50 (1) Subject to subsection (2), an inspector may, at any reasonable time, enter

- (a) any land or any building, structure, premises or place that is subject to this Act or the regulations; or
- (b) any other premises or place where the inspector has reasonable grounds to believe that records or things relevant to the administration or enforcement of this Act or the regulations are kept,

for the purpose of administering and enforcing this Act or the regulations.

(2) An inspector may not enter a private dwelling place or any part of a place that is designed to be used and is being used as a permanent or temporary private dwelling place except

- (a) with the consent of the occupant of the place; or
- (b) under an order granted under Section 51. 2017, c. 2, s. 50.

Court order

51 (1) Where a justice is satisfied on evidence under oath by an inspector that

(a) there are reasonable grounds to believe that it is appropriate for the administration of this Act for the inspector to do anything set out in Section 48; and

(b) the inspector may not be able to carry out duties under this Act effectively without an order under this Section because

- (i) no person is present to grant access to premises that are locked or otherwise inaccessible,
- (ii) a person has denied the inspector access to premises or there are reasonable grounds for believing that a person may deny the inspector access to premises,
- (iii) a person has prevented the inspector from doing one or more things set out in Section 48 or denied the inspector access to something, as a result of which the inspector is unable to do one or more things set out in that Section,

(iv) there are reasonable grounds to believe that a person may prevent an inspector from doing one or more things set out in Section 48, or may deny the inspector access to something as a result of which the inspector may be unable to do one or more things set out in Section 48,

(v) it is impractical, because of the remoteness of the premises to be inspected or because of any other reason, for the inspector to obtain an order under this Section without delay if access is denied, or

(vi) there are reasonable grounds to believe that an attempt by the inspector to do anything set out in Section 48 without the order might defeat the purpose of that Section or cause an adverse effect,

the justice may issue an order authorizing the inspector to do anything set out in Section 48 that is specified in the order for the period set out in the order.

(2) The period referred to in subsection (1) may not extend beyond 30 days after the date on which the order is made, but the order may be renewed for any reason set out in subsection (1) for one or more periods, each of which may not be more than 30 days.

(3) An application for an extension under subsection (2) may be made before or after the expiry of the period.

(4) An order under this Section may be issued or renewed on application without notice. 2017, c. 2, s. 51.

Order or finding of inspector

52 (1) An inspector who finds that this Act or the regulations are being or have been contravened may issue an order, in the form prescribed, requiring the individual or organization responsible for the contravention to remedy it.

(2) Where an inspector carries out an inspection and finds that this Act or the regulations are not being or have not been contravened, the inspector shall document the finding and any relevant information leading to the finding. 2017, c. 2, s. 52.

Director may review decision of inspector

53 The Director may, on the Director's own motion, review any decision of an inspector that does not result in the issuance of an order and may confirm the inspector's decision or direct the inspector to issue an order under subsection 52(1). 2017, c. 2, s. 53.

Review of inspector's order

54 (1) An individual or organization named in an order made under subsection 52(1) may request the Director to review the order.

(2) A request must be made in writing and must include the individual's or organization's name and address, the reasons for requesting the review and any additional information that the individual or organization wants to be considered by the Director.

(3) The Director is not required to hold a hearing when a request for review is made.

(4) A request for review operates as a stay of the inspector's order pending the outcome of the review by the Director.

(5) The Director may confirm, revoke or vary the order.

(6) The Director shall, within 60 days of the request for review being made, provide the individual or organization who requested the review with

(a) a copy of the Director's decision, with written reasons; and

(b) notification of the right to appeal the decision to the Court under Section 60.

(7) Where a request for review of an inspector's order is not received by the Director within 30 days after the order is served, the inspector's order is final. 2017, c. 2, s. 54.

Administrative penalty

55 (1) Subject to Section 56, where the Director is of the opinion that an individual or organization has failed to comply with an inspector's order within the period specified in the order, the Director may issue a written notice requiring the individual or organization to pay an administrative penalty in the amount prescribed.

(2) Notice of an administrative penalty may be issued only after the period for appealing an order has expired or, where an appeal has been filed, after a decision has been made on the appeal.

(3) The notice of administrative penalty must be served on the individual or organization required to pay the penalty. 2017, c. 2, s. 55.

Limitation period

56 No penalty may be issued by the Director more than three years after the act or omission that renders the individual or organization liable to a penalty first came to the knowledge of the Director. 2017, c. 2, s. 56.

Certificate filed with Court

57 (1) The Director may file a certificate with the Court signed by the Director and setting out

(a) the amount of the administrative penalty issued; and

(b) the individual or organization against whom the penalty is issued.

(2) A certificate filed under this Section has the same force and effect as if it were a judgment obtained in the Court for the recovery of a debt in the amount set out in the certificate and may be enforced in the same manner as a judgment of the Court. 2017, c. 2, s. 57.

Effect of payment of administrative penalty

58 An individual or organization who pays an administrative penalty for an incident of non-compliance may not be charged with an offence with respect to that non-compliance unless the non-compliance continues after the penalty is paid. 2017, c. 2, s. 58.

Use of administrative penalty fees

59 Administrative penalties paid under this Act must be used for the purpose of accessibility initiatives, including public education and awareness. 2017, c. 2, s. 59.

Appeal

60 (1) Any individual or organization who is directly affected by a decision of the Director made under

- (a) Section 54 with respect to an order; or
- (b) Section 55 with respect to an administrative penalty,

may appeal the decision by filing a notice of appeal with the Court and serving a copy on the Director and any other person who the Court orders to be served.

(2) An appeal may be made on the following grounds:

- (a) in the case of a decision under Section 54, that the finding of a contravention of this Act or the regulations was incorrect; or
- (b) in the case of an administrative penalty, that
 - (i) the amount of the penalty was not determined in accordance with the regulations, or
 - (ii) the amount of the penalty is not justified in the public interest.

(3) An appeal may not be commenced more than 30 days after the individual or organization receives a decision of the Director. 2017, c. 2, s. 60.

Duties of Director on appeal

61 On receipt of the notice of appeal under subsection 60(1), the Director shall file with the Court true copies of

- (a) all documents and materials that were before the Director when the Director made the decision;
- (b) the Director's decision; and
- (c) the Director's written reasons for the decision. 2017, c. 2, s. 61.

Powers of court

62 (1) On hearing an appeal under Section 60, the Court may confirm, vary or dismiss the decision or refer the matter back to the Director.

(2) The Court may make any order as to costs on an appeal that the Court considers appropriate. 2017, c. 2, s. 62.

Appeal operates as stay

63 The commencement of an appeal under Section 60 operates as a stay of the decision pending the outcome of the appeal. 2017, c. 2, s. 63.

Director's report

64 (1) The Director shall maintain a database of all complaints of non-compliance, inspector visits, orders issued, Director reviews, notices of administrative penalties and appeals and shall provide the Minister with a summary report annually or at any more frequent interval as requested by the Minister.

(2) The Minister shall share the report prepared pursuant to subsection (1) with the Accessibility Directorate and the Accessibility Advisory Board.

(3) The Minister may issue public reports disclosing details of orders and decisions made and administrative penalties issued under this Act which may include personal information as defined in the *Freedom of Information and Protection of Privacy Act*. 2017, c. 2, s. 64.

Documents to be provided in accessible format

65 The following documents must be provided in an accessible format and at no charge to a person within a reasonable period after the person requests it from the Minister or a public sector body:

- (a) in the case of the Minister,
 - (i) the recommendations of the Board,
 - (ii) a proposed accessibility standard,
 - (iii) a review conducted under Section 66,
 - (iv) any educational and awareness tools made publicly available,
 - (v) a summary report prepared by the Board,
 - (vi) an accessibility plan; and
- (b) in the case of a public sector body, its accessibility plan. 2017, c. 2, s. 65.

Review of Act and accessibility standards

66 (1) No later than September 18, 2021, and at least every five years thereafter, the Governor in Council shall appoint a person to undertake a comprehensive review of the effectiveness of the Act and the accessibility standards and report on the person's findings to the Minister.

(2) The person undertaking the review under this Section shall consult with

- (a) persons with disabilities;
- (b) representatives from organizations representing persons with disabilities; and
- (c) representatives from organizations affected by the implementation of the accessibility standards.

- (3) Within 30 days of receiving the report, the Minister shall
- (a) make the report publicly available; and
 - (b) table the report in the House of Assembly if the Assembly is then sitting or, where the Assembly is not then sitting, file it with the Clerk of the Assembly. 2017, c. 2, s. 66.

No action lies

67 No action lies against the Minister, the Accessibility Directorate, the Board, the Director, an inspector or any other person acting under the authority of this Act for anything done, or omitted to be done, in good faith, in the exercise or intended exercise of a power or duty under this Act or the regulations. 2017, c. 2, s. 67.

Offence and penalty

- 68** An individual or organization who
- (a) repeatedly fails to
 - (i) prepare and keep records in accordance with the regulations,
 - (ii) make the records available for inspection and examination, or
 - (iii) comply with an accessibility standard as required under Section 37;
 - (b) knowingly makes a false or misleading statement to the Minister or an inspector acting under the authority of this Act;
 - (c) knowingly makes a false or misleading statement in a record or report given or required under this Act;
 - (d) hinders, obstructs or interferes with, or attempts to hinder, obstruct or interfere with, the Minister or an inspector acting under the authority of this Act; or
 - (e) continues to fail to comply with an inspector's order after having been issued an administrative penalty, regardless of whether the penalty is paid,

is guilty of an offence and liable on summary conviction to a fine of not more than \$250,000. 2017, c. 2, s. 68.

Offence by employee

69 In a prosecution of an offence under this Act, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused whether or not the employee or agent is identified or has been prosecuted for the offence, unless the accused establishes that the offence was committed without the knowledge or consent of the accused. 2017, c. 2, s. 69.

Liability of directors, officers and agents

70 Where an organization commits an offence, a director, officer or agent of the organization who authorized, permitted or acquiesced in the offence is also guilty of the offence and liable on summary conviction to the penalty set out in

Section 68, whether or not the organization has been prosecuted or convicted. 2017, c. 2, s. 70.

Regulations

- 71 (1)** The Governor in Council may make regulations
- (a) prescribing municipalities, universities and organizations as public sector bodies;
 - (b) prescribing the manner in which a document must be made publicly available;
 - (c) prescribing an activity, undertaking or other requirements for the purpose of clause 29(e);
 - (d) establishing accessibility standards;
 - (e) exempting an individual or organization or a class of individuals or organizations, or an aspect of the built environment, from the application of any provision of this Act or the regulations and prescribing terms and conditions for the exemption;
 - (f) respecting record-keeping and reporting requirements for individuals and organizations that are subject to an accessibility standard;
 - (g) respecting incentive-based measures to encourage and assist an individual or organization, or a class of individuals or organizations, to meet or exceed an accessibility standard;
 - (h) respecting accessibility plans, including the content, timing and preparation of such plans;
 - (i) respecting the offices, positions, territorial jurisdiction and duties of inspectors generally or specifically;
 - (j) establishing rules governing the qualifications, office, position, duties, conduct and discipline of inspectors;
 - (k) respecting the form of the order an inspector may make, including the content of the order and the method of its service;
 - (l) prescribing the form an inspector must use when making an order under Section 52;
 - (m) prescribing the form an inspector must use to document a finding that the Act or the regulations has not been contravened;
 - (n) for the purpose of Section 55, respecting administrative penalties for contraventions of this Act, including regulations
 - (i) prescribing the form and content of the notice of administrative penalty,
 - (ii) respecting the determination of amounts of administrative penalties, which may vary according to the nature or frequency of the contravention and whether it is an individual or organization in non-compliance, and

(iii) respecting any other matter necessary for the administration of the system of administrative penalties provided for under this Act;

(o) respecting the specific use to be made of any funds collected through the imposition of administrative penalties;

(p) respecting the manner in which any order, notice or other document under this Act may be served, given or provided to any individual or organization;

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

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

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2017, c. 2, s. 71.

CHAPTER A-2

An Act to Ensure Accountability in Providing Economic Development Assistance in Nova Scotia

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Short title

1 This Act may be cited as the *Accountability in Economic Development Assistance Act*. 2013, c. 33, s. 1.

Interpretation

2 In this Act,

“agreement” means a written agreement that provides for economic development assistance to a recipient;

“Community Economic Development Fund” means the Community Economic Development Fund established by the *Community Economic Development Fund Act*;

“economic development assistance” means investment or financial assistance

(a) provided from the funds; or

(b) of a type or class prescribed by the regulations;

“funds” means the Nova Scotia Fund, the Nova Scotia Jobs Fund, the Community Economic Development Fund or strategic investment funds;

“Minister” means the Minister of Economic Development;

“Nova Scotia Fund” has the same meaning as in the *Invest Nova Scotia Act*;

“Nova Scotia Jobs Fund” has the same meaning as in the *Nova Scotia Jobs Fund Act*;

“recipient” means a recipient of economic development assistance;

“strategic investment funds” has the same meaning as in the *Invest Nova Scotia Act*. 2013, c. 33, s. 2; 2014, c. 9, s. 31; 2022, c. 37, s. 42; 2022, c. 49, s. 11.

Application of Act

3 This Act applies in respect of agreements made on or after October 22, 2013. 2013, c. 33, s. 3.

Publication of agreement summaries

4 (1) The Minister shall publish, in a form prescribed by the regulations, a summary of each agreement summarizing the type of economic development assistance provided and identifying anybody who approved the agreement and the business activities to which the agreement relates.

(2) Where an agreement requires the approval or consent of the Governor in Council, the Minister shall publish the summary referred to in subsection (1) within 30 days of the approval or consent being given.

(3) Where an agreement does not require the approval or consent of the Governor in Council, the Minister shall publish the summary referred to in subsection (1) within 30 days of execution of the agreement by all of the parties thereto.

(4) Within six months of an amendment to an agreement, the Minister shall update the summary referred to in subsection (1) to reflect the amendment. 2013, c. 33, s. 4; 2014, c. 9, s. 32.

Progress reports

5 (1) Twice annually, on dates and in a form prescribed by the regulations, a recipient shall provide to the Minister a report of the recipient’s progress in meeting targets or timelines set out in the agreement.

(2) Twice annually, on dates and in a form prescribed by the regulations, the Minister shall publish a report of the recipient’s progress in meeting targets and timelines set out in the agreement. 2013, c. 33, s. 5.

Manner of publication

6 The Minister may satisfy the obligation under this Act to publish information in any reasonable manner, which may include publication by electronic means. 2013, c. 33, s. 6.

Regulations

- 7 (1)** The Governor in Council may make regulations
- (a)** prescribing a type or class of investment or financial assistance for the purpose of the definition of “economic development assistance”;
 - (b)** excluding a type or class of investment or financial assistance paid out of the funds from the requirements of this Act;
 - (c)** prescribing the form of summaries for the purpose of subsection 4(1);

(d) prescribing dates and forms for the purpose of Section 5;

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

(f) further defining any word or expression defined in this Act;

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

(2) The exercise by the Governor in Council of the authority contained in this Section is a regulation within the meaning of the *Regulations Act*.
2013, c. 33, s. 7.

CHAPTER A-3

An Act Respecting Administrative Reform

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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 *Administrative Reform Act*. 1996, c. 23, s. 1.

Power to assign authority

2 Notwithstanding any enactment,

(a) where an enactment requires the approval of the Governor in Council for the acquisition or disposal of real property or an interest in real property, the Governor in Council may, by regulation, assign to a member of the Executive Council the authority to acquire or dispose of the real property or an interest in the real property under the enactment;

(b) the Governor in Council may, by regulation, assign to a member of the Executive Council the authority to issue a certificate under Section 37 of the *Crown Lands Act* or Section 24 of the *Land Titles Clarification Act*;

(c) where the *Fatality Investigations Act*, except for Section 3, the *Notaries and Commissioners Act*, the *Marriage Act* or the *Vital Statistics Act* requires Governor in Council approval of an appointment, the Governor in Council may, by regulation, assign to a member of the Executive Council the authority to approve the appointment. 1996, c. 23, s. 2; 2001, c. 31, s. 43; 2005, c. 8, s. 7; 2011, c. 14, s. 1.

Restriction on authority assigned

3 Notwithstanding clause 2(a), a member of the Executive Council may exercise the authority referred to in that clause only if the Governor in Council has, by regulation, established policies and procedures governing the acquisition or governing the disposal of real property or an interest in real property and those policies and procedures contain, as a minimum and where applicable, the following:

(a) a requirement that the real property acquired or disposed of be less than a certain acreage or value;

- (b) a requirement that the transaction be based on market value;
- (c) acceptable methods of sale;
- (d) a prohibition against selling real property at less than market value without the approval of the Governor in Council;
- (e) a prohibition against purchasing real property at more than market value, or a certain percentage above market value, without the approval of the Governor in Council;
- (f) procedures to prohibit a transaction with a party related to the minister or to senior officials in the department;
- (g) a prohibition against the acquisition of a leasehold interest in real property;
- (h) a procedure to determine if the real property has been identified by the Minister of Natural Resources and Renewables as a significant wildlife habitat and, where it has been so identified, a prohibition against the sale of the real property without the approval of the Governor in Council; and
- (i) a requirement that public notice be given of each acquisition or disposal of real property. 1996, c. 23, s. 3; 2006, c. 16, s. 6.

Prerequisite regulation for issuance of certificate

4 Notwithstanding clause 2(b), a member of the Executive Council may exercise the authority referred to in that clause only if the Governor in Council has, by regulation, established policies and procedures for the issuance of the certificate referred to in that clause. 2005, c. 8, s. 8.

Deemed exercise by Governor in Council

5 The exercise of authority by a member of the Executive Council pursuant to Section 2 is deemed to be an exercise of authority by the Governor in Council for the purpose of the relevant enactment. 1996, c. 23, s. 4.

Enforcement of order

6 Where an enactment authorizes a board, tribunal or commission to make an order disposing of a matter under the enactment and there is no provision in the enactment for the order to be filed and enforced in the same manner as a judgment of the Supreme Court of Nova Scotia, the Governor in Council may, by regulation, provide that an order of that board, tribunal or commission, whether made before, on or after April 1, 1999, may be filed and enforced in the same manner as a judgment of the Supreme Court. 1996, c. 23, s. 5.

Regulations

- 7 (1)** The Governor in Council may make regulations
 - (a) assigning, prescribing or requiring anything that is required to be assigned, prescribed or required pursuant to Sections 2 to 6;
 - (b) respecting any matter considered necessary or advisable to carry out effectively the intent and purpose of Sections 2 to 6.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*, 1996, c. 23, s. 6.

CHAPTER A-4

An Act to Open Adoption Records in Nova Scotia

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Short title

- 1** This Act may be cited as the *Adoption Records Act*. 2021, c. 1, s. 1.

Purpose

- 2** The purpose of this Act is to
- (a) establish criteria for determining
 - (i) when adopted persons and birth parents have access to information about themselves and the other party to an adoption,
 - (ii) when relatives and other persons may, in special circumstances, have access to information concerning adopted persons and birth families of adopted persons, and
 - (iii) how an adopted person or a birth parent's interest in obtaining identifying information respecting the other is balanced, to the extent possible, with the other person's interest in protecting the person's privacy;
 - (b) provide search, support and reunion services; and
 - (c) maintain an appeal process for decisions made pursuant to this Act. 2021, c. 1, s. 2.

Interpretation

- 3** In this Act,

“aboriginal child” means a child who is registered under the *Indian Act* (Canada), and includes a Mi’kmaw child;

“adopted person” means a person who, unless otherwise specifically provided, has attained the age of majority and was adopted pursuant to, or whose adoption was recognized as a customary adoption under, the *Children and Family Services Act* or any predecessor Act;

“adoption order” means a court order granting the adoption of an adopted person;

“adoption records” means copies of

- (a) the original birth registration;
- (b) post-adoption birth registrations, if any;
- (c) adoption orders, if any;
- (d) orders recognizing a customary adoption under the *Children and Family Services Act*, if any;
- (e) an adopted person’s adoption file, subject to third party redactions, for the purpose of providing a social, cultural and medical history of the adopted person; and
- (f) where an adopted person was in the permanent care of the Minister pursuant to the *Children and Family Services Act* immediately prior to the adoption placement, the children-in-care file, subject to third party redactions, for the purpose of providing a social, cultural and medical history of the adopted person;

“adoptive name” means the name of an adopted person established or confirmed by the granting of an adoption order;

“adoptive parent” means a person who adopted a child pursuant to, or whose adoption was recognized as a customary adoption under, the *Children and Family Services Act* or any predecessor Act;

“Appeal Committee” means the Appeal Committee established under the former Act and continued under this Act;

“band” means a band as defined in the *Indian Act* (Canada);

“birth parent” means, in respect of an adopted person, a person who

- (a) is the biological parent of the adopted person;
- (b) is identified as a parent on the birth registration of the adopted person;
- (c) has been confirmed to be a biological parent of an adopted person by a court of competent jurisdiction;
- (d) has acknowledged being the biological parent of the adopted person in the record of any court proceeding; or
- (e) otherwise proves, to the satisfaction of the Minister, that the person is the biological parent of the adopted person;

“birth sibling” means a person who is the age of majority and is a biological sibling of an adopted person;

“Chair” means the Chair of the Appeal Committee;

“contact” means direct or indirect contact with a person, either face-to-face or by written communication, telephone or any other means;

“contact notice” is a document filed under this Act that sets out a person’s preferences regarding contact with another person;

“contact undertaking” means an undertaking to comply with a contact notice in accordance with subsection 22(5);

“disclosure veto” means a document filed under this Act that prohibits the disclosure of identifying information about the person who files it;

“executor of the estate” includes a person charged by law with the administration of the estate;

“former Act” means Chapter 3 of the Acts of 1996, the *Adoption Information Act*;

“identifying information” means any information the disclosure of which, alone or in combination with other information, in the opinion of the Minister, would likely reveal the identity of the person to whom it relates and, without restricting the generality of the foregoing, includes information with respect to that person’s name or residence;

“Mi’kmaw governing body” means a prescribed entity that is authorized to act on behalf of the Mi’kmaq of the Province as a First Nation group, community or people that holds rights recognized and affirmed by section 35 of the *Constitution Act, 1982*;

“Minister” means the Minister of Community Services;

“non-identifying information” means any information the disclosure of which, alone or in combination with other information, in the opinion of the Minister, would not likely reveal the identity of the person to whom it relates, and includes, where the adopted person is or is entitled to be registered as an Indian under the *Indian Act* (Canada), the identification of the person’s community of origin;

“potential birth parent” means a person who does not come within the definition of birth parent but

(a) has been identified in an adoption record as a potential biological parent to the adopted person; or

(b) there is credible information that the person is a birth parent to an adopted person;

“prescribed” means, unless otherwise provided in the Act, prescribed by the regulations;

“relative” means, in respect of a person, another person who is of the age of majority and who is the spouse, child, sibling, parent, grandchild, grandparent, aunt, uncle or first cousin by birth, marriage, common law or adoption, or whose close association is, in the opinion of the Minister, the equivalent of a family relationship. 2021, c. 1, s. 3.

APPLICATION AND ADMINISTRATION

Application

4 Unless otherwise authorized by this Act, disclosure of information and access to records may be made under this Act only if an adoption order has been granted or a customary adoption has been recognized under the *Children and Family Services Act* or any predecessor to that Act. 2021, c. 1, s. 4.

Information and records governed by Act

5 Notwithstanding the *Freedom of Information and Protection of Privacy Act*, the use of, disclosure of and access to information and records regarding adoptions, regardless of where the information or records are located, is governed by this Act. 2021, c. 1, s. 5.

Supervision of Act

6 The Minister has the general supervision and management of this Act. 2021, c. 1, s. 6.

Delegation by Minister

7 (1) Subject to the regulations, the Minister may delegate to any person any power or function conferred or duty imposed on the Minister by this Act.

(2) A delegation under subsection (1) must be in writing and may include any terms and conditions the Minister considers advisable. 2021, c. 1, s. 7.

DISCLOSURE OF NON-IDENTIFYING INFORMATION

Disclosure of non-identifying information

8 (1) The Minister may provide non-identifying information respecting an adoption, including the cultural heritage, background, family history and reasons for placement of an adopted child, upon request to

- (a) an adopted person;
- (b) an adopted person under the age of majority, with the written consent of an adoptive parent of that person;
- (c) a birth parent;
- (d) a birth sibling;
- (e) an adoptive parent, with the written consent of the adopted person;
- (f) a relative of an adopted person, with the written consent of the adopted person;
- (g) a relative of a birth parent, with the written consent of the birth parent; and
- (h) a prescribed entity who, in the opinion of the Minister, has been affected directly or indirectly by an adoption.

(2) The Minister may dispense with consent required under subsection (1) if

- (a) a person whose consent is required under subsection (1) is deceased;
- (b) a person is required to apply with the consent of another pursuant to subsection (1) and that person provides evidence to the Minister that the person has conducted a reasonable search to locate the person whose consent is required and has failed to locate the person; or
- (c) the regulations prescribe that the consent required under subsection (1) may be dispensed with. 2021, c. 1, s. 8.

DISCLOSURE OF IDENTIFYING INFORMATION

Disclosure of identifying information

9 (1) An adopted person may apply to the Minister, in the form required by the Minister, for disclosure of information and the adoption records relating to the adopted person.

(2) Upon application, the Minister shall provide the adopted person with copies of the adoption records.

(3) Where the Minister considers it advisable, the Minister may disclose additional information respecting the background or circumstances of the adopted person, including cultural heritage, medical history, family history and reasons for placement. 2021, c. 1, s. 9.

Prohibition on disclosure

10 (1) Notwithstanding Section 9, the Minister may not provide the adopted person with any adoption records containing identifying information about a birth parent or potential birth parent if

- (a) a disclosure veto has been filed; or
- (b) a contact notice has been filed and the adopted person has not filed a contact undertaking.

(2) Where a birth parent or potential birth parent has filed a disclosure veto, the Minister shall conceal any identifying information that appears in the adoption record about the person who filed the veto before providing the adoption records to the adopted person. 2021, c. 1, s. 10.

Where adopted person 20 years of age

11 (1) Where an adopted person is 20 years of age or older, a birth parent may apply to the Minister, in the form required by the Minister, for a copy of

- (a) the birth registration;
- (b) any adoption order;
- (c) where available, a copy of the court order recognizing a customary adoption under the *Children and Family Services Act*; or
- (d) any post-adoption birth registration.

(2) Before providing the adoption order, order recognizing a customary adoption under the *Children and Family Services Act* and post-adoption birth registration to a birth parent, the Minister shall conceal the names of the adoptive parents.

(3) Notwithstanding subsections (1) and (2), the Minister may not provide the birth parent with identifying information about an adopted child if the adopted child has filed

- (a) a disclosure veto; or
- (b) a contact notice and the birth parent has not filed a contact undertaking. 2021, c. 1, s. 11.

Potential birth parent

12 (1) Where a request for information has been made by an adopted person and a search of the adoption record identifies the name of a potential birth parent, the Minister shall attempt to locate the potential birth parent and give the potential birth parent a reasonable opportunity to

- (a) consent to the release of identifying information;
- (b) file a disclosure veto; or
- (c) file a contact notice.

(2) Where no disclosure veto is filed, the Minister shall release identifying information about the potential birth parent to the adopted person.

(3) Where the Minister has taken reasonable steps to locate a potential birth parent but has been unsuccessful in locating that potential birth parent, the Minister shall release any identifying information in the adoption record relating to that potential birth parent. 2021, c. 1, s. 12.

Birth sibling

13 (1) A birth sibling may apply to the Minister for disclosure of the adoptive name of that person's birth sibling if

- (a) the birth parents of the adopted person provide their written consent;
- (b) the birth parents of the adopted person are deceased;
- (c) the birth sibling was in the permanent care of the Minister pursuant to the *Children and Family Services Act*; or
- (d) the birth sibling provides evidence to the Minister that the birth sibling has conducted a reasonable search to locate the birth parents and has failed to locate them.

(2) No identifying information may be provided to a birth sibling if

- (a) a disclosure veto has been filed; or
- (b) a contact notice has been filed and the birth sibling has not filed a contact undertaking. 2021, c. 1, s. 13.

Disclosure after death

14 (1) Where an adopted person has died, a relative of the adopted person may apply to the Minister for disclosure of

- (a) the adopted person's birth name;
- (b) the name of a birth parent of the adopted person;
- (c) where there are adopted birth siblings of an adopted person, the birth names of those persons; or
- (d) where there are adopted birth siblings of an adopted person, the adoptive names of those persons.

(2) Where a birth parent of an adopted person has died, a relative of the birth parent may apply to the Minister for disclosure of the adoptive name of the adopted person whose birth parent is deceased.

(3) No identifying information may be provided to a relative if

- (a) a disclosure veto has been filed; or
- (b) a contact notice has been filed and the person seeking the information has not filed a contact undertaking.

(4) A relative who applies pursuant to subsection (1) or (2) shall submit proof of death of the adopted person or birth parent, as the case may be. 2021, c. 1, s. 14.

Duplicates of records

15 Upon request of an adoptive parent, the Minister shall provide a duplicate copy of a record that the adoptive parent would have been provided at the time the adoption order or order recognizing a customary adoption under the *Children and Family Services Act* was granted. 2021, c. 1, s. 15.

DISCLOSURE OF INFORMATION IN OTHER CIRCUMSTANCES**Disclosure to executor of estate**

16 (1) Where

- (a) a birth parent, or any other relative of an adopted person, regardless of the age of the adopted person, has named the adopted person as a beneficiary under the person's will; or
- (b) an adopted person has named a birth parent of the adopted person or any other relative of the adopted person as a beneficiary under the person's will,

the executor of the estate may apply, in writing, to the Minister for assistance in locating the adopted person, birth parent or relative, as the case may be.

(2) Subject to the regulations, upon receiving an application pursuant to subsection (1), the Minister shall conduct a search to locate the adopted person, birth parent or relative, as the case may be.

(3) Where the Minister conducts a search under subsection (2) and is successful in locating the adopted person, the birth parent or the relative, as

the case may be, the Minister may not release any identifying information concerning the adopted person, the birth parent or the relative to the executor of the estate unless

- (a) in the case of an adopted person, such person has given written consent to the release of the information;
- (b) in the case of an adopted person under the age of majority, the adoptive parents of the person have given written consent to the release of the information; or
- (c) in the case of a birth parent or relative, the birth parent or the relative, as the case may be, has given written consent to the release of the information.

(4) A written consent under subsection (3) must include an acknowledgment that the person providing consent understands that the person's information may be used for all estate-related matters relevant to the person being named as a beneficiary under a will.

(5) Where identifying information is released to the executor of the estate pursuant to subsection (3), the executor of the estate

- (a) may use such information only for the purpose for which it is intended; and
- (b) shall not disclose identifying information, beyond what is necessary to establish entitlement under a will, to any other person without the written consent of the adopted person, the adoptive parents of an adopted person under the age of majority or the birth parent or relative, as the case may be. 2021, c. 1, s. 16.

Disclosure to federal minister, Mi'kmaw governing body or band

17 (1) Where a written request is made to the Minister by or on behalf of the Minister of Indigenous Services for Canada, a Mi'kmaw governing body or a band, the Minister shall forward to that person or body a certified copy of the adoption order or court order recognizing a customary adoption regarding an adopted person, together with such other identifying information or non-identifying information contained in the records of the Minister as may be necessary to establish entitlement of the adopted person to be recognized as an Indian within the meaning of the *Indian Act* (Canada).

(2) The Minister may disclose information pursuant to subsection (1) only if the Minister is satisfied that the information

- (a) will be used by the Minister of Indigenous Services for Canada, Mi'kmaw governing body or band only for the purpose stated in subsection (1); and
- (b) will not be disclosed by that Minister, Mi'kmaw governing body or band to the adopted person, the adoptive parents of the adopted person or to any other person. 2021, c. 1, s. 17.

Disclosure to agency

18 (1) Where disclosure of information in the records of the Minister, including information obtained by the Minister pursuant to Section 29, to

(a) an agency, within the meaning of the *Children and Family Services Act*; or

(b) a comparable agency that is recognized in another jurisdiction,

is, in the opinion of the Minister, necessary to protect a child from abuse or neglect, the Minister may disclose the information to the agency.

(2) The Minister may disclose information in the records of the Minister, including information obtained by the Minister pursuant to Section 29, to a public body or law-enforcement agency in Canada to assist in an investigation

(a) undertaken with a view to a law-enforcement proceeding; or

(b) from which a law-enforcement proceeding is likely to result.

(3) An agency referred to in subsection (1) or a public body or law-enforcement agency referred to in subsection (2) may not use or disclose information provided pursuant to subsection (1) or (2) except for the purpose for which it is provided. 2021, c. 1, s. 18.

Disclosure to other government or authority

19 The Minister may disclose information related to an adoption made in another province of Canada to a government or authority authorized to disclose the information pursuant to the laws of that province. 2021, c. 1, s. 19.

Compelling circumstances

20 (1) Notwithstanding any other provision of this Act, in compelling circumstances affecting the health, safety or well-being of an adopted person, an adopted person under the age of majority, a birth parent or a birth sibling, the Minister may contact

(a) a birth parent;

(b) where the birth parent is not available, a relative of the birth parent;

(c) an adopted person; or

(d) an adoptive parent,

to give to or obtain from that person any information affecting the health, safety or well-being of the adopted person, the adopted person under the age of majority, the birth parent or the birth sibling, as the case may be.

(2) Notwithstanding any other provision of this Act, in compelling circumstances affecting the health of a relative, where the Minister

(a) conducts a search to locate an adopted person, a birth parent, a birth sibling or other relative; and

(b) is unsuccessful in locating the person,

the Minister may release to the relative any information concerning the person who cannot be located.

(3) Notwithstanding any other provision of this Act, in compelling circumstances affecting the health of an adopted person under the age of majority, where the Minister

(a) is requested by the adoptive parent to search for a relative of the adopted person under the age of majority; and

(b) conducts a search to locate the relative and is unsuccessful,

the Minister may release to the adoptive parent any information concerning the relative who cannot be located. 2021, c. 1, s. 20.

PRIVACY

Disclosure veto

21 (1) An adopted person, a birth parent or a potential birth parent may file a disclosure veto with the Minister.

(2) A disclosure veto may be filed regardless of when the adoption order or order recognizing a customary adoption under the *Children and Family Services Act* was issued and, for greater certainty, a disclosure veto may be filed in respect of an adoption order or order recognizing a customary adoption under the *Children and Family Services Act* made prior to October 26, 2021.

(3) A person may file a written statement with a disclosure veto filed by the person providing

(a) the reasons the person does not want identifying information disclosed; and

(b) non-identifying information, including information about the cultural heritage or medical or social history of the person and the person's family.

(4) Where an adopted person or birth parent applies to the Minister for adoption records to which a disclosure veto relates, the Minister shall notify the person that a disclosure veto has been filed and provide the person with a copy of any written statement filed with the disclosure veto.

(5) A person who files a disclosure veto under subsection (1) may cancel the disclosure veto.

(6) A person who files a written statement under subsection (3) may change the written statement.

(7) A disclosure veto ceases to have effect upon the death of the person who filed the disclosure veto. 2021, c. 1, s. 21.

Contact notice

22 (1) An adopted person, a birth parent or a potential birth parent may file a contact notice with the Minister.

(2) A contact notice may be filed regardless of when the adoption order or order recognizing a customary adoption under the *Children and Family*

Services Act was issued and, for greater certainty, a contact notice may be filed in respect of an adoption order or order recognizing a customary adoption under the *Children and Family Services Act* made prior to October 26, 2021.

- (3) A contact notice may contain
 - (a) the reasons the person does not want to be contacted or wants to be contacted only in a specified manner;
 - (b) the manner in which the person wants to be contacted; and
 - (c) information about the cultural heritage and medical and social history of the person and non-identifying information about the person's family.

(4) Where a person applies to the Minister for information or a copy of adoption records to which a contact notice relates, the Minister shall notify the person that a contact notice has been filed.

(5) Where a contact notice has been filed, before the Minister releases any information contained in the contact notice or any identifying information, the Minister shall require the party seeking disclosure to file an undertaking confirming that the person will not

- (a) knowingly fail to comply with the contact notice, either directly or through another person;
- (b) intimidate or harass the person who filed the contact notice, either directly or through another person; or
- (c) publish any identifying information about the person who provided the contact notice.

(6) A person who files a contact notice under subsection (1) may change or cancel the contact notice. 2021, c. 1, s. 22.

Where significant risk

23 (1) In subsection (2), “significant risk” means, in relation to a person, reasonable evidence of physical or emotional harm to the person if identifying information in respect of that person is released.

(2) Where the Minister determines that there may be a significant risk to a person whose identifying information would be released under this Act, the Minister shall make a reasonable effort to contact the person and allow the person an opportunity to file a disclosure veto.

(3) Where the Minister does not receive a disclosure veto, the Minister shall release the identifying information. 2021, c. 1, s. 23.

Community of origin

24 Notwithstanding the filing of a disclosure veto, an adopted person's community of origin must be provided to the adopted person upon request if

- (a) the adopted person was, at the time of adoption, an aboriginal child or entitled to be an aboriginal child; and

- (b) the adopted person's community of origin is contained in the adoption record. 2021, c. 1, s. 24.

SEARCH, SUPPORT AND REUNION SERVICES

Search by Minister

- 25 (1)** The Minister may, upon request, undertake a search for
- (a) an adopted person for the purpose of locating a birth parent or potential birth parent of the adopted person or a birth sibling of the adopted person if the birth sibling was in the permanent care of the Minister pursuant to the *Children and Family Services Act*;
 - (b) a birth parent, for the purpose of locating an adopted person;
 - (c) a birth sibling, for the purpose of locating an adopted person,
 - (i) with the written consent of a birth parent,
 - (ii) if the birth parent is deceased,
 - (iii) if the birth sibling was in the permanent care of the Minister under the *Children and Family Services Act*, or
 - (iv) if the birth sibling provides evidence to the Minister that the birth sibling has conducted a reasonable search to locate the birth parents and has failed to locate them;
 - (d) a relative, for the purpose of locating an adopted person,
 - (i) with the consent of the birth parent, or
 - (ii) if the birth parent is deceased; or
 - (e) any other person or entity as prescribed by the regulations.
- (2)** Where a search is conducted under subsection (1), the Minister shall
- (a) search records kept by or accessible to the Minister;
 - (b) where possible, make contact with the person who is the subject of the search to determine if there is a desire to arrange contact; and
 - (c) if there is a desire to arrange contact, assist in facilitating contact. 2021, c. 1, s. 25.

Where disclosure veto or contact notice filed

- 26** Where a search request has been made under Section 25 and a person with whom a connection is sought has filed a disclosure veto or a contact notice, the Minister may not attempt to contact that person. 2021, c. 1, s. 26.

Withdrawal

27 A person who makes a search request under Section 25 may withdraw the request at any time. 2021, c. 1, s. 27.

Support services

28 The Minister may provide support services to persons making requests for information under this Act. 2021, c. 1, s. 28.

PROVISION OF INFORMATION

Provision of information to Minister

29 (1) Notwithstanding any other Act, the Minister must be provided, upon written request, any information that

(a) is in the custody or control of a public body as defined in the *Freedom of Information and Protection of Privacy Act*; and

(b) is necessary to enable the Minister to locate a person for the purpose of this Act or the regulations.

(2) Without limiting the generality of subsection (1), the Registrar under the *Vital Statistics Act* shall, upon written request from the Minister, give to the Minister any information in the custody or control of the Registrar concerning the birth, adoption, marriage or death of a person. 2021, c. 1, s. 29.

Agreements

30 The Minister may, for the purpose of obtaining information necessary to carry out the intent and purpose of this Act and the regulations, enter into agreements with

(a) the Government of Canada, the government of a province of Canada, the government of a foreign jurisdiction or an official or agency of any of those governments; or

(b) a person or group of persons, whether incorporated or not. 2021, c. 1, s. 30.

APPEALS

Appeal

31 Any person entitled to make a request for information or records pursuant to this Act may appeal to the Appeal Committee the Minister's decision, action or failure to act, that relates to the person's request. 2021, c. 1, s. 31.

Appeal Committee

32 (1) There is an Appeal Committee to hear appeals made pursuant to Section 31.

(2) The Appeal Committee is composed of

(a) the Chief Judge of the Supreme Court (Family Division) or a judge of the Supreme Court (Family Division) designated by the Chief Judge; and

(b) two other persons appointed by the Governor in Council.

(3) Notwithstanding subsection (2), the members of the Appeal Committee who are in office on May 1, 2022, continue as members for the duration of their appointments and may be reappointed.

(4) The member of the Appeal Committee referred to in clause (2)(a) is the Chair.

(5) The persons appointed pursuant to clause (2)(b) shall be appointed for a term of not more than three years and may be reappointed.

(6) The Chair and one other member of the Appeal Committee constitute a quorum.

(7) Each member of the Appeal Committee must be paid such remuneration and reimbursed for such expenses as the Governor in Council determines. 2021, c. 1, s. 32.

Conduct of appeal

33 (1) A request for an appeal under Section 31 must

- (a) be in writing;
- (b) be filed with the Chair; and
- (c) identify and state the decision, action or failure to act being appealed.

(2) Upon receipt of a request for an appeal, the Chair shall request that the Minister submit to the Appeal Committee, and the Minister shall submit, a statement setting out the reasons for the Minister's decision in the matter or the reasons for the Minister's action or failure to act.

(3) Upon receipt of a request from the Chair for correspondence and records relating to a matter to be heard by the Appeal Committee, the Minister shall make available to the Appeal Committee all correspondence and records relating to the matter.

(4) The proceedings of the Appeal Committee must be informal in nature and must be held in private.

(5) The Appeal Committee may adopt rules of procedure for its proceedings.

(6) The following persons may make representations to the Appeal Committee:

- (a) the appellant;
- (b) a representative of the Minister; and
- (c) such other persons as the Appeal Committee may authorize.

(7) The Appeal Committee shall consider an appeal within 90 days of receiving the request for the appeal and shall, within 30 days of hearing the appeal, render a decision as to whether or not the Minister's decision, action or failure to act was made or done, as the case may be, in accordance with this Act and the regulations.

(8) Where the Appeal Committee finds that the Minister's decision, action or failure to act was not made or done in accordance with this Act and the regulations, the Appeal Committee shall order the Minister to comply with this Act and the regulations and provide the Minister with instructions, in accordance with this Act and the regulations, regarding the manner in which the Minister must comply.

(9) The decision of the Appeal Committee is final and binding on all the parties.

(10) The appellant and the Minister must be notified in writing of the Appeal Committee's decision and the reasons for its decision. 2021, c. 1, s. 33.

INTERCOUNTRY ADOPTION

Disclosure to central authority

34 Where an adoption was finalized pursuant to the *Intercountry Adoption Act*, the Minister may disclose information in the adoption file to the central authority in another country that requests the information and that is authorized to disclose the information according to the laws in that jurisdiction. 2021, c. 1, s. 34.

Entitlement of adopted person

35 Where a child was adopted pursuant to the *Intercountry Adoption Act*, the adopted person is entitled to any non-identifying information in the adoption file and any identifying information about the person's birth parent unless the law of the person's state of origin provides otherwise. 2021, c. 1, s. 35.

Search, support and reunion services

36 The Minister may provide search, support and reunion services to an adopted person adopted pursuant to the *Intercountry Adoption Act*. 2021, c. 1, s. 36.

Medical emergency

37 In situations involving a medical emergency of a person adopted pursuant to the *Intercountry Adoption Act*, the Minister shall, upon request by the adopted person or a person with the authority to make decisions for the adopted person, contact the adopted person's country of origin to seek assistance in locating a person or disclosure of information retained by the central authority of that jurisdiction that may assist the adopted person with the medical emergency. 2021, c. 1, s. 37.

GENERAL

Post-adoption registry

38 The Minister may establish a post-adoption registry to assist in tracking information related to adoptions, adoption records, vetoes, contact notices, con-

tact undertakings or any other prescribed information that would assist the Minister in carrying out the purpose of this Act and the regulations. 2021, c. 1, s. 38.

Proof of identity

39 A person who applies to the Minister for information under this Act shall supply proof of identity satisfactory to the Minister. 2021, c. 1, s. 39.

No action lies

40 No action lies against the Minister, employees or agents of the Minister, or any other person acting under the authority of this Act for anything done, or omitted to be done, in good faith in the exercise of a power or performance of a duty under this Act or the regulations. 2021, c. 1, s. 40.

Form of documents

41 A request for information under this Act, as well as the filing of a disclosure veto, contact notice or contact undertaking, must be submitted in a form and manner determined by the Minister. 2021, c. 1, s. 41.

Fees

42 (1) The Minister may require fees, in the amounts set out in the regulations, for the supply of documents or information, the entering of names on the post-adoption registry, the provision of services to any person pursuant to this Act or the regulations or for any other thing done pursuant to this Act or the regulations.

(2) The Minister may waive or reduce fees in accordance with the criteria prescribed by the regulations. 2021, c. 1, s. 42.

OFFENCES**Offence**

43 (1) Any person who contravenes a provision of this Act or the regulations is guilty of an offence and liable upon summary conviction to a fine not exceeding \$10,000.

(2) Any person who contravenes a contact undertaking made pursuant to this Act or the regulations is guilty of an offence and liable upon summary conviction to a fine not exceeding \$10,000. 2021, c. 1, s. 43.

Limitation period

44 A prosecution for an offence under Section 43 may not be commenced more than two years after the date the offence was committed. 2021, c. 1, s. 44.

Court proceedings and privacy

45 (1) The Supreme Court (Family Division), including a judge thereof, has exclusive original jurisdiction over the prosecution of an offence under this Act or the regulations.

(2) Unless the Supreme Court (Family Division), including a judge thereof, so orders otherwise, a proceeding for an offence under this Act or the regulations must be held in private.

(3) The court record relating to a proceeding for an offence under this Act or the regulations is confidential and the public may not have access to the court record without the consent of the Minister.

(4) No person shall make known to the public or a section of the public, by any means, the identity of a party to a proceeding for an offence under this Act or the regulations, or information from which the identity of such a party may readily be ascertained. 2021, c. 1, s. 45.

REGULATIONS

Regulations

- 46 (1) The Governor in Council may make regulations
- (a) respecting conditions that must be satisfied by an adopted person under the age of majority and an adoptive parent to establish eligibility to have access to non-identifying and identifying information;
 - (b) prescribing the circumstances under which consent may be dispensed with by the Minister when requesting non-identifying information under Section 8;
 - (c) respecting the manner in which a search must be conducted and the processes to be followed in undertaking a search pursuant to this Act;
 - (d) respecting any other person or entity that can request a search be conducted under this Act and any special conditions around the conduct of the search;
 - (e) respecting the qualifications of a person or class of persons to whom the Minister may delegate any of the Minister's powers, duties or functions pursuant to this Act or the regulations;
 - (f) respecting how notices are to be given under this Act;
 - (g) respecting the process for filing, updating or cancelling a contact notice or disclosure veto;
 - (h) specifying how, by whom and the circumstances under which a contact notice or disclosure veto may be filed on behalf of persons who are incapable of filing them for themselves;
 - (i) respecting the provision of services and supports to persons, or a class of persons, requesting disclosure of information under this Act;
 - (j) respecting priorities in processing of any request for information under this Act;
 - (k) respecting what constitutes reasonable steps to be taken by the Minister in attempting to locate a person under this Act;
 - (l) respecting support services, including

- (i) what services may be provided,
- (ii) defining classes of persons in need of support services, and
- (iii) providing different support services to different classes of persons;
- (m) setting fees for the supply of documents or information, the entering of names on the post-adoption registry, the provision of services to any person pursuant to this Act or the regulations or for any other thing done pursuant to this Act or the regulations;
- (n) prescribing criteria for the waiving or reduction of fees;
- (o) respecting any information contained in the post-adoption registry;
- (p) defining any word or expression used but not defined in this Act;
- (q) further defining any word or expression defined in this Act;
- (r) considered 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 a regulation within the meaning of the *Regulations Act*, 2021, c. 1, s. 46.

CHAPTER A-5

An Act Respecting Representative Decision-making

Table of Contents

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

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WHEREAS an adult is entitled to respect for the adult's dignity and autonomy;

AND WHEREAS an adult is presumed to have capacity, unless the contrary is clearly demonstrated;

AND WHEREAS any action taken or decision made under the authority granted to any person should be undertaken in the least restrictive and least intrusive manner, having regard to the adult's rights, freedoms, dignity and autonomy:

Short title

1 This Act may be cited as the *Adult Capacity and Decision-making Act*. 2017, c. 4, s. 1.

Purpose of Act

2 The purpose of this Act is to

- (a) recognize that adults may experience an impairment of their capacity;
- (b) provide a fair and respectful legal framework for protecting the safety and security of adults whose capacity is impaired and who may be made vulnerable thereby;
- (c) promote the dignity, autonomy, independence, social inclusion and freedom of decision-making of adults who are the subject of this legislation; and
- (d) ensure that the least restrictive and least intrusive supports and interventions are considered before an application is made or a representation order is granted under this Act. 2017, c. 4, s. 2.

Interpretation

3 In this Act,

“adult” means an individual who has reached the age of majority and, for the purpose of the making of an application under Section 5, includes an individual who will reach the age of majority within one year of the application being made;

“assessor” means

- (a) a medical practitioner as defined in the *Medical Act*;
- (b) a registered nurse as defined in the *Nursing Act*, including, for greater certainty, a nurse practitioner as defined in that Act;
- (c) an occupational therapist as defined in the *Occupational Therapists Act*;
- (d) a registered psychologist as defined in the *Psychologists Act*;
- (e) a social worker as defined in the *Social Workers Act*; and
- (f) a licensed, practising member of any other health profession prescribed by the regulations,

who is designated by or under the regulations as an assessor;

“aversive stimulus” means an unpleasant event that is intended to decrease the probability of a behaviour when it is presented to an adult as a consequence of the behaviour;

“capacity” means the ability, with or without support, to

- (a) understand information relevant to making a decision;

(b) appreciate the reasonably foreseeable consequences of making or not making a decision, including, for greater certainty, the reasonably foreseeable consequences of the decision to be made;

“capacity assessment” means an assessment, conducted by an assessor, of the capacity of an individual;

“capacity assessment report” means a report prepared by an assessor respecting the conduct and results of a capacity assessment;

“care facility” means

- (a) a hospital as defined in the *Hospitals Act*;
- (b) a psychiatric facility as defined in the *Involuntary Psychiatric Treatment Act*; and
- (c) a nursing home or residential care facility as defined in the *Homes for Special Care Act*;

“Court” means the Supreme Court of Nova Scotia;

“financial matter” means any matter relating to the property or finances of an adult and, without limiting the generality of the foregoing, includes

- (a) the purchase, sale, disposition, encumbrance or transfer of personal property;
- (b) the purchase, sale, disposition, mortgage, encumbrance or transfer of real property;
- (c) the transfer of property held in trust by the adult, either solely or jointly with another, to the person beneficially entitled to it;
- (d) the exchange or partition of property or the giving or receipt of money for equality of exchange or partition;
- (e) the granting or acceptance of a lease of real or personal property;
- (f) the giving of consent to a transfer or assignment of a lease;
- (g) the surrender of a lease, with or without the acceptance of a new lease;
- (h) the acceptance of the surrender of a lease;
- (i) the receipt, deposit and investment of money;
- (j) the drawing, acceptance and endorsement of bills of exchange and promissory notes;
- (k) the endorsement of bonds, debentures, coupons and other negotiable instruments and securities;
- (l) the assignment of choses in action;
- (m) the giving or receipt of a notice on behalf of the adult that relates to the adult’s property;
- (n) the carrying on of the adult’s trade or business;

- (o) the exercise of a power or the giving of the consent required for the exercise of a power vested in the adult;
- (p) the exercise of a right or obligation to elect belonging to or imposed on the adult;
- (q) the compromise or settlement of a debt owing by or to the adult;
- (r) any other matter specified by the Court; and
- (s) any other matter prescribed by the regulations;

“foreign order” means an order made by a court or other body outside the Province that appoints a person having duties comparable to those of a representative;

“gift” includes a charitable contribution;

“healthcare” means any examination, procedure, service or treatment done for a therapeutic, preventative, palliative, diagnostic or other health-related purpose, and includes a course of healthcare or a care plan;

“Minister” means the Minister of Justice;

“personal care” includes nutrition, hydration, shelter, residence, clothing, hygiene, safety, comfort, recreation, social activities and support services;

“representation order” means an order of the Court made or continued under this Act appointing a representative for an adult;

“representation plan” means a plan that sets out the manner in which the representative for an adult is to manage the adult’s well-being and interests in financial matters and that includes the information prescribed by the regulations;

“representative” means a person appointed as a decision-making representative under this Act;

“spouse” means either of two individuals who

- (a) are married to each other and not living separate and apart, within the meaning of the *Divorce Act* (Canada), from each other;
- (b) are married to each other by a marriage that is voidable and has not been annulled by a declaration of nullity;
- (c) have entered into a form of marriage with each other that is void, if either or both of them believed that the marriage was valid when entering into it;
- (d) are domestic partners within the meaning of Section 57 of the *Vital Statistics Act*; or
- (e) not being married to each other, have cohabited in a conjugal relationship with each other continuously for at least two years;

“support” means, in relation to an adult’s capacity, such forms of support as may be reasonably and practically available to assist the adult in making a decision, including peer support, communication and interpretive

assistance, individual planning, coordination and referral for services and administrative assistance;

“well-being” includes the maximization of physical and mental health, personal autonomy, and social inclusion and participation. 2017, c. 4, s. 3; 2019, c. 8, s. 179.

Principles

4 This Act is to be interpreted and administered in accordance with the following principles:

- (a) an adult is entitled to make the adult’s own decisions, unless the adult’s incapacity to do so is clearly demonstrated;
- (b) an adult is not incapable of making a decision merely because the adult makes or would make a decision that another adult would consider risky or unwise;
- (c) an adult is entitled to communicate by any means that enables the adult to be understood, and the means by which the adult communicates is not relevant to a determination of whether the adult has capacity; and
- (d) where an adult does not have the capacity to make a decision, the adult’s autonomy must be preserved by ensuring that the least restrictive and least intrusive form of representative decision making is provided that is likely to be effective to promote and protect the adult’s well-being and interests in financial matters. 2017, c. 4, s. 4.

APPLICATION FOR REPRESENTATION ORDER

Application

- 5**
- (1) A person may apply to the Court for a representation order.
 - (2) An application must include
 - (a) subject to subsection (3), a capacity assessment report respecting the adult who is the subject of the application;
 - (b) a representation plan;
 - (c) a vulnerable sector check respecting each proposed representative and proposed alternative representative who is an individual;
 - (d) a supporting affidavit that includes the information prescribed by the regulations;
 - (e) evidence of the consent of each proposed representative or alternative representative to act as the representative or alternative representative for the adult, as the case may be; and
 - (f) any other documents or evidence prescribed by the Court.
 - (3) An application is not required to include a capacity assessment report if the adult who is the subject of the application refuses to undergo a capacity assessment as directed under Section 10 or is prevented from undergoing a capacity assessment.

(4) The notice of application must name all of the following persons as respondents to the application and the applicant shall serve or cause to be served the application on each of them in accordance with the *Civil Procedure Rules*:

- (a) the adult who is the subject of the application;
- (b) any proposed representative or proposed alternative representative other than the applicant;
- (c) any existing representative or existing alternative representative other than the applicant;
- (d) any other person likely to be directly affected by the representation order, if granted;
- (e) any other person prescribed by the Court.

(5) Subject to subsection (6), the applicant shall send a copy of the notice of application to all of the following persons who reside in Canada unless the Court orders otherwise:

- (a) the adult's
 - (i) spouse, if any,
 - (ii) parents, if alive,
 - (iii) children who have reached the age of majority, if any, and
 - (iv) siblings who have reached the age of majority, if any;
- (b) any guardians for the adult appointed under the former *Incompetent Persons Act*;
- (c) any delegates appointed by a personal directive made by the adult;
- (d) any attorneys appointed by an enduring power of attorney made by the adult;
- (e) where the adult resides in a care facility, the director of the facility;
- (f) any other person to whom the Court directs the applicant to send a copy of the notice of application.

(6) The applicant is not required to send a copy of the notice of application to any person whose address cannot be found through reasonable diligence.

(7) A copy of the notice of application to be sent under subsection (5) must be sent by ordinary mail no fewer than 25 days before the date of the hearing of the application. 2017, c. 4, s. 5.

Notice of contest

6 (1) A person who is entitled to notice of the application under subsection 5(5), or any other interested person with leave of the court, may file a notice of contest.

(2) The deadline for filing a notice of contest under subsection (1) is the same as for a notice of contest filed by a respondent.

(3) A person who files a notice of contest under this Section is deemed to be a respondent to the application and is entitled to

- (a) a copy of any document filed with the Court in the proceeding; and
- (b) notice of all further steps in the proceeding. 2017, c. 4, s. 6.

Representation order

7 (1) Upon hearing the application, the Court may make an order appointing a representative for the adult who is the subject of the application if the Court is satisfied that the applicant has proven, on a balance of probabilities, that

- (a) the adult does not have capacity respecting the matters that are to be referred to in the order;
- (b) the adult needs or will need to make decisions about the matters that are to be referred to in the order;
- (c) any less intrusive and less restrictive measures available have been considered and would not likely be, or have been implemented and have not been, effective to protect and promote the adult's well-being and interests in financial matters; and
- (d) the adult is in need of a representative.

(2) When determining whether to make a representation order and the terms of any such order, the Court shall consider

- (a) the wishes of the adult, having regard to the adult's capacity respecting matters relating to the adult's well-being and financial matters;
- (b) the capacity assessment report respecting the adult;
- (c) any other evidence respecting the adult's capacity;
- (d) the representation plan;
- (e) any enduring power of attorney made by the adult;
- (f) any personal directive made by the adult;
- (g) the matters in respect of which the adult is likely to need to make decisions;
- (h) where the application requests that the representative be granted authority in respect of any of the adult's financial matters, the extent, nature and complexity of the adult's estate; and
- (i) any other matter or evidence the Court considers relevant.

(3) Where the application does not include a capacity assessment report, the Court may consider any evidence that the Court considers relevant to the adult's capacity and may, where the Court considers that the available evidence is sufficient for it to do so, determine whether to make a representation order.

(4) The Court may appoint a representative for an adult who is not ordinarily resident in the Province only if

- (a) the representation order applies only to the real property of the adult that is located in the Province; or
- (b) the Court is satisfied that exceptional circumstances make it appropriate to appoint a representative for the adult.

(5) Where a representation order is made in respect of an individual who has not yet reached the age of majority, the order does not take effect until the day on which the individual reaches that age. 2017, c. 4, s. 7.

Representation order in urgent case

8 (1) Where a person has reason to believe that

- (a) an adult is or will be in immediate danger of death or serious physical or mental harm if a representation order is not made; and
- (b) there exist exigent circumstances that make it not practical to make an application under Section 5,

the person may apply to the Court under this Section for a representation order.

(2) On an application under this Section, the Court may, where satisfied that the urgency of the matter makes it appropriate to do so, dispense with or modify any requirement of this Act or the regulations that would otherwise apply, including any requirement respecting

- (a) the documents or evidence to be filed with the application;
- (b) the service of the application or sending of the notice of application; and
- (c) the evidence that may be considered upon hearing the application.

(3) On an application under this Section, the Court may make an order appointing a representative for the adult who is the subject of the application if the Court is satisfied that the applicant has proven, on a balance of probabilities, the facts referred to in subsection 7(1).

(4) In a representation order made under this Section, the Court shall specify a date, no later than 90 days after the date of the order, by which the order must be reviewed by the Court and after which the order expires unless it is extended under clause (5)(b).

(5) On a review of a representation order made under this Section, the Court may

- (a) rescind the order;
- (b) continue the order for up to six months, after which time the order expires; or

(c) proceed with the matter as an application under Section 5 if the requirements for an application under that Section have been met. 2017, c. 4, s. 8.

CAPACITY ASSESSMENT

When may be conducted

9 Subject to Sections 10 and 15, an assessor may conduct a capacity assessment only if the adult has not refused to undergo or continue with the capacity assessment and, in the assessor's opinion,

(a) where the adult appears to be capable of consenting to the capacity assessment, the adult

(i) understands the purpose of the capacity assessment and that the adult has the right to refuse to undergo or continue with the capacity assessment, and

(ii) has consented to the capacity assessment; or

(b) where the adult does not appear to be capable of consenting to the capacity assessment, there are reasonable grounds to believe the adult is incapable of making decisions about any matter to be assessed. 2017, c. 4, s. 9.

Court-ordered capacity assessment

10 (1) The Court may order a capacity assessment of an adult if

(a) the adult's capacity to make decisions is at issue in a proceeding under the Act; and

(b) there are reasonable grounds to believe that the adult is incapable of making decisions about any matter.

(2) An order under subsection (1) may direct an adult whose capacity is at issue to undergo the capacity assessment and to

(a) permit an assessor and any person assisting the assessor to enter the adult's place of residence to conduct the capacity assessment; or

(b) attend at another place at any time specified in the order to undergo the capacity assessment. 2017, c. 4, s. 10.

Medical examination

11 Before conducting a capacity assessment of an adult, an assessor shall determine whether the adult requires a medical examination before the capacity assessment to identify any medical condition, including any temporary or reversible condition, that may affect the adult's capacity in respect of any matter to be assessed. 2017, c. 4, s. 11.

Limitation

12 (1) Before conducting a capacity assessment, an assessor shall ensure that the assessor has been advised of the reasons for which the capacity assessment was requested and be provided with a description of any circumstances or events that gave rise to the request.

(2) An assessor may assess an adult's capacity in respect of a matter only if the assessor is satisfied that a capacity assessment in respect of the matter is necessary. 2017, c. 4, s. 12.

Scope

13 When conducting a capacity assessment, an assessor shall determine whether the adult being assessed is capable of making decisions in respect of any matter being assessed and shall take into account observational information and collateral information gathered from other sources. 2017, c. 4, s. 13.

Refusal to undergo or continue

14 Subject to Section 15, where an adult refuses to undergo or continue with a capacity assessment at any point during the capacity assessment, the assessor shall

- (a) leave the adult's residence without delay, if the assessor is at the adult's residence;
- (b) take no further steps with respect to the in-person capacity assessment other than to note on the capacity assessment report that the adult refused to undergo or continue with the capacity assessment; and
- (c) notify the person who requested the capacity assessment that the adult refused to undergo or continue with the capacity assessment. 2017, c. 4, s. 14.

Assessment without adult present

15 (1) A capacity assessment, or any part of it, may be conducted without the presence of the adult being assessed based on observational information and collateral information gathered from other sources if

- (a) the adult refuses, in full or in part, to undergo or continue with a capacity assessment;
- (b) the adult cannot reasonably be assessed; or
- (c) the adult is not reasonably able to participate in the capacity assessment.

(2) An assessor may conduct a capacity assessment without the presence of the adult being assessed only if the assessor is satisfied that the capacity assessment can be completed accurately using the information available. 2017, c. 4, s. 15.

Collection of information by assessor

16 (1) In this Section,

“information” includes personal information as defined in the *Freedom of Information and Protection of Privacy Act*, personal health information as defined in the *Personal Health Information Act* and personal information as defined in the *Personal Information Protection and Electronic Documents Act* (Canada);

“person” includes a partnership, an unincorporated association, a public body as defined in the *Freedom of Information and Protection of Privacy Act*, a custodian as defined in the *Personal*

Health Information Act and an organization as defined in the *Personal Information Protection and Electronic Documents Act* (Canada).

(2) An assessor conducting a capacity assessment of an adult may collect from a person any information in relation to the adult, other than financial information, that is relevant to the conduct of the capacity assessment.

(3) A person shall, upon request of the assessor, disclose to the assessor the requested information in relation to the adult.

(4) Where the assessor is of the opinion that access to financial information about an adult being assessed is necessary for the capacity assessment, the applicant who made the application for which the capacity assessment is required may apply to the Court for an order under subsection (5).

(5) Upon application, the Court may make an order directing a person to provide financial information about the adult to the assessor for the purpose of a capacity assessment.

(6) Where the assessor collects information in relation to an adult under this Section, the assessor shall

(a) use and disclose the information only for the purpose of conducting a capacity assessment of the adult; and

(b) take reasonable care to ensure the information is kept secure from unauthorized use or disclosure.

(7) The assessor shall not attempt to collect any information in relation to the adult other than the information that the assessor is entitled to collect under this Section. 2017, c. 4, s. 16.

Capacity assessment report

17 (1) Upon completing a capacity assessment of an adult, an assessor must complete a capacity assessment report.

(2) The assessor shall advise the adult of the results of the capacity assessment, including the determination of the adult's capacity or incapacity, and offer the adult a copy of the capacity assessment report. 2017, c. 4, s. 17.

Content of report where adult found to lack capacity

18 Where an assessor is of the opinion that the adult being assessed does not have capacity respecting any matter being assessed, the assessor shall

(a) consider whether the adult is likely to regain some or all of the adult's capacity respecting the matter and, if so, indicate that opinion in the capacity assessment report;

(b) where the assessor believes that the adult is likely to regain some or all of the adult's capacity respecting the matter, indicate in the capacity assessment report when the adult is likely to regain capacity, if the assessor is able to reasonably estimate a period within which this will occur; and

(c) indicate in the capacity assessment report what forms of support or assistance, if any, would help the adult to manage the adult's needs successfully with regard to the matter being assessed, without the need for a representative for the adult being appointed. 2017, c. 4, s. 18.

Required content of report and deadline

19 (1) A capacity assessment report must be in the form prescribed by the Minister and include

(a) confirmation that the right of the adult being assessed to refuse to undergo or continue with the capacity assessment was explained to the adult;

(b) the results of any medical evaluation the assessor required under Section 11;

(c) a recommendation as to whether, where the Court appoints a representative for the adult, a further capacity assessment should be conducted at a later date and, if so, within what period;

(d) any preference indicated by the adult as to who should, or should not, be appointed as the representative for the adult.

(2) A capacity assessment report filed for the purpose of any application under this Act must be dated no later than six months before the application is filed with the Court, unless the Court orders otherwise. 2017, c. 4, s. 19.

Reliance on report

20 A capacity assessment report filed in support of an application under this Act may be relied on for the purpose of a later application in respect of the same adult if

(a) the capacity assessment report is dated no earlier than six months before the date the later application is filed, unless the court orders otherwise; and

(b) where the applicant in the later application is a different person than applicant in the earlier application, the applicant in the earlier application is named as a respondent in the later application. 2017, c. 4, s. 20.

APPOINTMENT OF REPRESENTATIVE**Who may be appointed**

21 (1) The following persons are eligible to be appointed as a representative:

(a) an individual;

(b) subject to subsection (2), a trust company as defined in the *Trust and Loan Companies Act*;

(c) the Public Trustee.

(2) A trust company may be appointed as the representative for an adult only in respect of the adult's financial matters.

(3) The Court may appoint as the representative for an adult any eligible person who

- (a) where the person is an individual, has reached the age of majority; and
- (b) consents to act as representative.

(4) When appointing the representative for an adult, the Court shall satisfy itself that the person being appointed

- (a) will act in accordance with the duties of a representative under this Act; and
- (b) is suitable to act as the adult's representative, having regard to
 - (i) the views and wishes of the adult,
 - (ii) the relationship between the adult and the person to the extent that it appears relevant to the ability of the person to discharge the person's duties as representative,
 - (iii) the apparent ability of the person to effectively exercise authority concerning the matters to be assigned to the authority of the representative,
 - (iv) any circumstance, including the person's place of residence, that could impair the Court's ability to effectively supervise the person's discharge of the duties of a representative,
 - (v) any matter prescribed by the regulations, and
 - (vi) any other matter the Court considers relevant.

(5) When assessing whether a proposed representative will act in accordance with the duties of a representative under this Act and is suitable to act as the representative for an adult, the Court may consider evidence of any matter, including a potential conflict of interest, that might create a substantial risk that the proposed representative would not act in accordance with the duties of a representative under this Act.

(6) For the purpose of subsection (5), a proposed representative does not have a potential conflict of interest by reason only that the proposed representative is a relative or potential beneficiary of the adult. 2017, c. 4, s. 21.

Where proposed representative unsatisfactory

22 Where the Court is satisfied that it is appropriate to make a representation order but is not satisfied that the proposed representative satisfies the requirements of Section 21, the Court may appoint as representative any other person who satisfies the requirements of that Section. 2017, c. 4, s. 22.

Multiple representatives

23 (1) The Court may appoint more than one representative for an adult.

(2) A representation order appointing more than one representative for an adult may

- (a) grant to a representative the exclusive authority to act and make decisions in respect of a matter specified in the order; and
- (b) provide that the representatives are to act jointly or separately in respect of a matter specified in the order.

(3) Where two or more representatives are appointed to act jointly, the representation order must establish a dispute resolution process to resolve any conflict that may arise between the representatives respecting the exercise of their authority under the order.

(4) Except as otherwise provided under subsection (2), where more than one representative is appointed for an adult, the representatives may act and make decisions separately respecting the matters specified in the representation order.

(5) Where two or more representatives are appointed to act separately respecting matters specified in the representation order and one of them

- (a) dies;
- (b) resigns;
- (c) becomes incapable of acting or unwilling to act as representative; or
- (d) after reasonable inquiries by another representative, is unable to be found,

the remaining representatives may apply to the Court for approval to assume the decision-making authority previously exercised by the representative who has died, resigned or became incapable of acting or unwilling to act as representative or who is unable to be found.

(6) Where two or more representatives are appointed to act jointly and one of them

- (a) dies;
- (b) resigns;
- (c) becomes incapable of acting or unwilling to act as representative; or
- (d) after reasonable inquiries by another representative, is unable to be found,

the remaining representatives may continue to act. 2017, c. 4, s. 23.

Alternative representative

24 (1) In this Section, “previous representative” means the representative for whom a person is appointed as alternative representative in the representation order.

(2) The Court may appoint an alternative representative for an adult if

(a) the proposed alternative representative has given written consent to the appointment; and

(b) the Court is satisfied that the persons to whom the notice of application is required to be sent have had sufficient notice of the proposed alternative representative's willingness to act as an alternative representative.

(3) Sections 21, 22 and 23 apply with necessary changes to the appointment of an alternative representative.

(4) Subject to the terms of the representation order, where an alternative representative is appointed, the alternative representative shall act as representative without further proceedings

(a) on becoming aware of

(i) the death or resignation of the previous representative,

(ii) the appointment of a representative for the previous representative, or

(iii) the coming into effect, because of the previous representative's incapacity, of a personal directive or enduring power of attorney made by the previous representative; or

(b) if authorized in writing by the previous representative, during the period set out in the authorization.

(5) An authorization referred to in clause (4)(b) must indicate the period during which the alternative representative may act as representative and terminates upon the earlier of

(a) the end of the period specified in the authorization; and

(b) the revocation in writing of the authorization by the previous representative.

(6) Where an alternative representative acts as representative because of an event referred to in clause (4)(a), the alternative representative shall notify the Court in writing and provide evidence of the event to the Court.

(7) Where an alternative representative acts as representative, the alternative representative has the same authority and is subject to the same duties as the previous representative. 2017, c. 4, s. 24.

Period of appointment

25 Subject to subsection 8(5), a representative may be appointed indefinitely or for such period as may be specified in the representation order. 2017, c. 4, s. 25.

Resignation

26 (1) A representative for an adult may resign if, in respect of all matters under the representative's authority,

- (a) the representative is unable or unwilling to continue to act as representative for the adult;
- (b) the representative was appointed to act jointly with one or more other persons and at least one of the other persons remains appointed as representative for the adult; or
- (c) a person has been and remains appointed as an alternative representative for the adult.

(2) Where a representative for an adult resigns, the representative shall provide written notice of the resignation to

- (a) the Court;
- (b) the adult; and
- (c) the remaining representative, the alternative representative or, where there is no remaining representative or alternative representative, the Public Trustee. 2017, c. 4, s. 26.

AUTHORITY AND DUTY OF REPRESENTATIVE

Authority

27 (1) The authority granted to a representative by the Court must be specified in the representation order.

(2) The Court may grant the representative for an adult only such authority as the Court is satisfied

- (a) relates to a matter in respect of which the adult does not have capacity;
- (b) is not subject to the authority of an attorney under an enduring power of attorney or a delegate under a personal directive;
- (c) is necessary to make decisions about the matters specified in the representation order; and
- (d) will result in the most effective, but the least restrictive and intrusive, form of assistance and support that is required to promote and protect the adult's well-being and interests in financial matters.

(3) When determining the least restrictive and least intrusive form of support that is reasonably and practically available to assist the adult in making a decision, the Court shall consider the fundamental rights, freedoms, dignity and autonomy of the adult.

(4) The Court may grant the representative for an adult authority to act and make decisions respecting any one or more of the following matters:

- (a) where, with whom and under what conditions the adult is to live, whether permanently or temporarily;
- (b) subject to subsection (5), with whom the adult may associate;

(c) whether the adult is to participate in social and recreational activities and, where the adult is to participate in the activities, the nature and extent of the participation and any matters related to such participation;

(d) whether the adult is to be employed and, where the adult is to be employed, the nature or type of employment, who is to employ the adult and any matters related to such employment;

(e) whether the adult is to participate in any educational, vocational or other training and, where the adult is to participate in training, the nature and extent of the training and any matters related to such training;

(f) whether the adult is to apply for any licence, permit, approval or other consent or authorization required by law;

(g) whether to commence, continue, settle or defend any claim or proceeding that relates to the adult;

(h) the adult's personal care and healthcare;

(i) the financial matters of the adult; and

(j) any other matter the Court considers appropriate.

(5) Where the Court grants the representative for an adult authority to act and make decisions respecting with whom the adult may associate, the representative may only exercise the authority to prevent the adult from associating with an individual if associating with the individual could seriously jeopardize the health and safety of the adult.

(6) The Court may grant the representative for an adult authority to permit the adult to open or maintain a deposit account in the adult's name at a bank or other financial institution, subject to any limits or conditions the Court considers appropriate.

(7) The Court may grant the representative for an adult authority to open or maintain an account for the adult at a care facility into which the representative may deposit money to be used for the incidental expenses incurred by the adult.

(8) The Court may grant the representative for an adult authority to act and make decisions respecting all matters relating to the adult's person and estate only if the Court is satisfied that the adult lacks capacity to make decisions respecting all matters enumerated in subsection (4).

(9) For greater certainty, the Court may grant the representative for an adult authority to make a single decision.

(10) When making a representation order, the Court may impose any conditions or restrictions on the authority of the representative that the Court considers appropriate, including a requirement that any specified asset of the adult who is the subject of the order not be sold, encumbered, transferred or otherwise disposed of without the approval of the Court. 2017, c. 4, s. 27.

Approval of representation plan

28 When making a representation order, the Court shall

- (a) approve the representation plan, subject to any variations the Court considers necessary; or
- (b) require the representative to submit an amended representation plan for approval within the time specified in the order. 2017, c. 4, s. 28.

Specification of date of review

29 (1) When making a representation order, the Court shall specify in the order a date by which the representative for the adult is to apply for the review of the order if

- (a) the capacity assessment report indicates that the adult's capacity is likely to improve; or
- (b) in any case where the capacity assessment report does not indicate that the adult's capacity is likely to improve, the Court considers it appropriate to do so.

(2) In deciding under clause (1)(b) whether to specify a date by which an application for review of a representation order made in respect of an adult must be made and in determining under clause (1)(a) or (b) the date by which such application must be made, the Court shall consider

- (a) the nature and extent of the incapacity of the adult;
- (b) the adult's need for support or assistance; and
- (c) the support or assistance that is or may become available to the adult. 2017, c. 4, s. 29.

Exercise of authority

30 (1) The representative for an adult may take possession and control of any property, whether real or personal, in respect of which the representative has authority under a representation order.

(2) A representative for an adult who has authority to act and make decisions respecting the financial matters of an adult or who is otherwise expressly authorized to do so under a representation order may, in an instrument other than a will,

- (a) change a beneficiary designation made by the adult if the Court authorizes the change and specifies who is to be the new beneficiary; or
- (b) create a new beneficiary designation if
 - (i) the designation is made in an instrument that is renewing, replacing or converting a similar instrument made by the adult, while the adult had capacity to do so, and the newly designated beneficiary is the same beneficiary as was designated in the similar instrument, or
 - (ii) the designation is made in a new instrument that is not renewing, replacing or converting a similar instru-

ment made by the adult, while the adult had capacity to do so, and the newly designated beneficiary is the adult's estate.

(3) Subject to this Act, the representation order and the approved representation plan, the representative for an adult may take any action, make any decision, give any consent, sign any document or do any other thing in respect of a matter within the representative's authority that the adult could do if the adult had capacity to do so.

(4) Any action taken, decision made, consent given, refused or withdrawn, document signed or other thing done by a representative for an adult in respect of a matter within the representative's authority has the same effect as if the adult had taken the action, made the decision, given, refused or withdrawn the consent, signed the document or done the other thing while having capacity. 2017, c. 4, s. 30.

Disposal of real property

31 (1) The representative for an adult may not dispose of any real property of the adult except in accordance with an order made under subsection (2).

(2) The Court may, upon application by the representative for an adult, make an order authorizing the disposition of the real property of the adult on such terms as the Court considers appropriate.

(3) Where real property is disposed of by the representative for an adult under a disposition order, the representative shall file with the Court a report on the disposition no more than 25 days after the day on which the disposition is completed.

(4) A report filed under subsection (3) must include

(a) proof of an increase in the representative's bond required under subsection 46(1) to account for the proceeds of the disposition; and

(b) any information prescribed by the regulations. 2017, c. 4, s. 31.

Collection of information by representative

32 (1) In this Section,

"information" includes personal information as defined in the *Freedom of Information and Protection of Privacy Act*, personal health information as defined in the *Personal Health Information Act* and personal information as defined in the *Personal Information Protection and Electronic Documents Act* (Canada);

"person" includes a partnership, an unincorporated association, a public body as defined in the *Freedom of Information and Protection of Privacy Act*, a custodian as defined in the *Personal Health Information Act* and an organization as defined in the *Personal Information Protection and Electronic Documents Act* (Canada).

(2) The representative for an adult may collect from a person any information in relation to the adult that is relevant to the exercise of the representative's authority or the carrying out of the representative's duties.

(3) A person shall, upon request of the representative for an adult, disclose the requested information in relation to the adult to the representative.

(4) Where the representative for an adult collects information in relation to the adult under this Section, the representative shall

(a) use and disclose the information only for the purpose for which it was collected; and

(b) take reasonable care to ensure the information is kept secure from unauthorized use or disclosure.

(5) The representative for an adult shall not attempt to collect any information in relation to the adult other than the information that the representative is entitled to collect under subsection (2). 2017, c. 4, s. 32.

Application for order if decision not given effect

33 (1) The representative for an adult may apply to the Court for an order under this Section if the representative has reason to believe that

(a) a decision the representative is authorized to make is not being given effect because

(i) the adult is failing or refusing to act in accordance with the decision, or

(ii) a person or other entity is obstructing the doing of anything necessary to give effect to the decision; and

(b) there would be a serious risk to the health or safety of the adult if the decision were not given effect.

(2) Where the Court is satisfied that the circumstances referred to in clauses (1)(a) and (b) exist, the Court may make any order the Court considers necessary and appropriate to give effect to the decision of the representative, including an order authorizing any person or entity to assist the representative or another person or entity in doing anything necessary to give effect to the decision. 2017, c. 4, s. 33.

Limitations on authority

34 (1) The representative for an adult may not

(a) represent the representative as being the adult in any communication with another person or entity or in any other respect;

(b) make or change, on behalf of the adult, a will; or

(c) make any decision prescribed by the regulations.

(2) The representative for an adult may not, on behalf of the adult,

(a) commence divorce proceedings;

- (b) change or consent to a change in the arrangements respecting the custody, parenting arrangements, parenting time, contact time or interaction in relation to a child;
- (c) consent to the adoption or guardianship of a child;
- (d) consent to a treatment, procedure or therapy that involves using aversive stimulus; or
- (e) consent to removal of tissue from the adult, while alive, for implantation in another living human body or for medical education or research,

except where the Court orders otherwise. 2017, c. 4, s. 34.

Court approval required for gift

35 (1) The representative for an adult may make a gift out of the adult's property only with the approval of the Court.

(2) The representative for an adult may apply to the Court for approval to make a gift out of the adult's property.

(3) The Court may approve the making of a gift if it is satisfied that

- (a) the gift is not required to meet the needs of
 - (i) the adult,
 - (ii) the spouse of the adult, if any,
 - (iii) any child of the adult who has not reached the age of majority, and
 - (iv) any child of the adult who has reached the age of majority and is unable to earn a livelihood because of a physical or mental disability; and
- (b) having regard to the past practices of the adult, there are reasonable grounds to believe that the adult would want to make the gift if the adult had the capacity to do so. 2017, c. 4, s. 35.

Limitation on how representative may act

36 A representative shall act in accordance with this Act, the regulations, the representation order under which the representative was appointed and the approved representation plan. 2017, c. 4, s. 36.

Amendment of representation plan

37 (1) The representative for an adult may amend the approved representation plan for the adult by filing an amended representation plan with the Court.

(2) Subject to the regulations, a representative shall file an amended representation plan as required by the Court or upon any material change in the information contained in the most recently approved representation plan.

(3) Upon the filing with the Court of an amended representation plan, the Court may make an order continuing, varying or rescinding the representation order on any terms or conditions the Court considers appropriate.

(4) When continuing or varying a representation order under subsection (3), the Court shall

(a) approve the amended representation plan, subject to any variations the Court considers necessary; or

(b) require the representative to submit an amended representation plan for approval within the time specified in the order.

(5) A representation plan approved under subsection (4) supersedes the former approved representation plan. 2017, c. 4, s. 37.

Actions, decisions and expenditures for adult and adult's family

38 (1) Subject to subsection (2), a representative for an adult shall take such actions, make such decisions and, where the representative has authority respecting the adult's financial matters, make such expenditures out of the adult's property as are reasonably required for the support, care, benefit and education of

(a) the adult;

(b) the spouse of the adult, if any;

(c) any child of the adult who has not reached the age of majority;

(d) any child of the adult who has reached the age of majority and is unable to earn a livelihood because of a physical or mental disability; and

(e) with the approval of the Court, any other individual.

(2) The representative for an adult shall not make any expenditures in respect of a person referred to in clause (1)(b), (c) or (d) if doing so would deplete the property of the adult to an extent that the representative could not make such expenditures as are reasonably required for the support, care, benefit and education of the adult. 2017, c. 4, s. 38.

Representative to keep adult informed to extent possible

39 (1) The representative for an adult shall act and make decisions

(a) in the least restrictive and least intrusive manner that will protect and promote the adult's well-being and interests in financial matters; and

(b) in a way that encourages the adult to become, to the extent possible, capable of the adult's own care and of making decisions in respect of matters under the representative's authority.

(2) Upon being appointed, the representative for an adult shall, within a reasonable time and in a manner that the adult is likely to best understand, inform the adult of the representative's appointment, the extent of the representative's authority and any conditions, limits or requirements to which the representative's authority is subject.

(3) The representative for an adult shall, within a reasonable time and in a manner that the adult is likely to best understand,

- (a) inform the adult of any significant decision that is to be made on the adult's behalf;
- (b) encourage and facilitate the adult's participation in decision-making;
- (c) advise the adult of the options that are reasonably and practically available; and
- (d) inform the adult of any significant decision the representative has made. 2017, c. 4, s. 39.

Guidance in decision-making

40 (1) The representative for an adult shall, when making a decision within the representative's authority,

- (a) follow any clear and relevant instructions given by the adult while the adult had capacity, including instructions contained in any personal directive or enduring power of attorney the effect of which has been suspended or that has been rescinded by the Court, unless
 - (i) the adult subsequently expressed a contrary wish while the adult still had capacity,
 - (ii) circumstances have changed such that the instruction is contrary to the intentions of the adult at the time the instruction was given, or
 - (iii) circumstances exist that would have caused the adult to set out different instructions had the circumstances been known, based on what the representative knows of the values and beliefs of the adult and from any other written or oral instructions of the adult;
- (b) in the absence of the instructions referred to in clause (a), act in accordance with the adult's current wishes if it is reasonable to do so;
- (c) in the absence of the instructions referred to in clause (a) or the wishes referred to in clause (b), act in accordance with what the representative reasonably believes the wishes of the adult would be based on what the representative knows of the values and beliefs of the adult; and
- (d) in the absence of the instructions referred to in clause (a) or the wishes referred to in clause (b) and, where the representative is not able to determine in accordance with clause (c) what the wishes of the adult would be, act in the manner that the representative reasonably believes would best promote and protect the adult's well-being and interests in financial matters.

(2) When the representative for an adult is attempting to ascertain the adult's instructions, wishes, values and beliefs in order to make a decision and to ascertain whether the instructions, wishes, values and beliefs are an informed and

voluntary expression of the adult, the representative shall make reasonable efforts to consult with any persons who the representative has reason to believe may be familiar with the adult's instructions, wishes, values and beliefs. 2017, c. 4, s. 40.

No decision if adult has capacity

41 The representative for an adult may not make a decision for the adult if, in respect of the decision, the representative knows or has reasonable grounds to believe that the adult has capacity. 2017, c. 4, s. 41.

Reassessment of capacity

42 (1) Subject to an order of the Court and subsection (2), the representative for an adult shall, upon request by the adult, assist in arranging a reassessment of the adult's capacity.

(2) Subject to an order of the Court, the representative for an adult may not be required to assist in arranging a reassessment of the adult's capacity more often than once every six months except in extraordinary circumstances. 2017, c. 4, s. 42.

Application of Trustee Act

43 (1) Subject to subsection (2) and the representation order, Part I of the *Trustee Act* applies with necessary changes to the making of investments by the representative for an adult and, for greater certainty, a reference to the instrument creating the trust is to be read as a reference to the order and approved representation plan.

(2) Section 6 of the *Trustee Act* does not apply in the case of liability for loss arising from a decision or course of action by a representative that contravenes the express terms of the representation order or the approved representation plan. 2017, c. 4, s. 43.

Will of adult

44 (1) Where the representative for an adult has authority respecting financial matters, the representative shall make reasonable efforts to determine if the adult has a will and, where the adult has a will, the provisions of the will.

(2) A person who holds an original will made by an adult shall, upon request by the representative who has authority respecting financial matters, deliver a copy of the will to the representative, subject to any contrary instruction of the adult made at a time when the adult had capacity. 2017, c. 4, s. 44.

Property dealt with in will or estate plan

45 (1) The representative for an adult may not sell, mortgage, encumber, transfer or otherwise dispose of property, other than money, that the representative knows is the subject of a specific gift in the adult's will, or otherwise specifically dealt with by the adult's estate plan, unless it is necessary to comply with the representative's other obligations as representative.

(2) Where the representative for an adult disposes of any property that is the subject of a specific gift in the adult's will, or otherwise specifically dealt with by the adult's estate plan, the Court may, upon the application of any person

affected by the disposition, make any order it considers necessary or advisable to best give effect to the adult's intentions having regard to the circumstances in which the property was disposed of.

(3) An application referred to in subsection (2) may be made before or after the death of the adult. 2017, c. 4, s. 45.

Bonding requirement

46 (1) Subject to subsection (4), a representative other than the Public Trustee or a trust company who is granted authority over any financial matter shall provide a bond in an amount equal to one and one quarter times the value of the personal property that is subject to the representative's authority.

(2) A bond provided by a representative may include

- (a) a personal bond with one or more sureties; or
- (b) a bond issued by a surety company licensed to carry on business in the Province.

(3) The amount of the bond provided by a representative must be adjusted from time to time so that it does not fall below one and one quarter times the value of the personal property that is subject to the representative's authority.

(4) Where the Court is satisfied that sufficient safeguards are or will be in place to protect and promote the adult's well-being and interests in financial matters, the Court may dispense with the requirement for a bond, or reduce the amount of the bond required, if

- (a) the representative is not granted authority over any of the adult's financial matters; or
- (b) the value of the adult's estate is less than \$3,000. 2017, c. 4, s. 46.

Duty owed to adult

47 Subject to what is expressly authorized by this Act, the regulations, the representation order and the approved representation plan, the representative for an adult owes to the adult the duty to

- (a) act in good faith;
 - (b) not make secret profits;
 - (c) not delegate the representative's authority to another person;
- and
- (d) not act for the representative's own benefit or the benefit of any person other than the adult. 2017, c. 4, s. 47.

Exercise of care, skill and diligence

48 The representative for an adult shall, when exercising the representative's authority, exercise the care, skill and diligence that a reasonably prudent person would exercise in managing the person's own affairs. 2017, c. 4, s. 48.

Keeping adult's property separate from representative's

49 Except where the Public Trustee acts as representative or as otherwise provided for by an enactment, the representation order or the approved representation plan, the representative for an adult shall

- (a) keep property subject to the representative's authority separate from the representative's own property; and
- (b) hold any money or financial assets that are subject to the representative's authority in a separate account that identifies the adult as the beneficial owner. 2017, c. 4, s. 49.

REPORTING BY REPRESENTATIVE**Maintenance of accounts**

50 Where the representative for an adult has authority respecting any of the adult's financial matters, the representative shall maintain accounts in accordance with the regulations. 2017, c. 4, s. 50.

Court-ordered reporting

51 Subject to the regulations, on its own motion or on the application of the Public Trustee or any other interested person, the Court may, at any time, order the representative to submit to the Court, the Public Trustee or any other person

- (a) where the representative is responsible for any financial matters, accounts of any transactions and financial activities undertaken by the representative on behalf of the adult;
- (b) a report as to the representative's observations and opinion respecting the adult's capacity;
- (c) to the extent they are the subject of the representative's authority, a report as to the adult's personal care and healthcare since the later of the date of the representation order and the date on which the previous report was submitted; or
- (d) any information the Court considers appropriate. 2017, c. 4, s. 51.

Submission of accounts upon death of adult

52 Where the appointment of the representative for an adult ends because of the death of the adult and any financial matters of the adult were the subject of the representative's authority, the representative shall, within two months of the death of the adult, submit accounts to the Court. 2017, c. 4, s. 52.

Reporting upon end of appointment

53 (1) Where the appointment of the representative for an adult ends for any reason other than the death of the adult, the representative shall, within three months of the end of the appointment, submit

- (a) to the extent they are the subject of the representative's authority, a report respecting the adult's personal care and healthcare;
- (b) where the representative was responsible for any financial matters, accounts;

(c) a copy of any accounts, reports and information submitted under Section 51; and

(d) any records relating to the adult's affairs or the representative's activities on behalf of the adult that are in the representative's possession or subject to the representative's control,

to the Court, the adult, any other person who has or will assume authority for the matters that had been subject to the representative's authority and, except where the representative is the Public Trustee, the Public Trustee.

(2) Where the appointment of the representative for an adult ends because of the death or incapacity of the representative, a personal representative, attorney or representative of the representative whose appointment has ended shall, upon request, provide any reports, accounts or records referred to in subsection (1) to

(a) the alternative representative who commences acting as representative for the adult upon the death or incapacity of the representative whose appointment has ended;

(b) a new representative appointed by the Court; or

(c) where there is no alternative representative or new representative, the Public Trustee. 2017, c. 4, s. 53.

Order if reporting unsatisfactory

54 (1) Where a person who is required to submit a document under Section 51, 52 or 53 does not do so to the satisfaction of the person or entity to whom the documents are to be submitted, the person or entity to whom the documents are to be submitted may apply to Court and the Court may make such order as it considers necessary to ensure the submission of the documents to the person or entity.

(2) Where a person who is required to submit a document to the Court under Section 51, 52 or 53 does not do so to the satisfaction of the Court, the Court may, on its own motion, make such order as it considers necessary to ensure the submission of the documents to the Court. 2017, c. 4, s. 54.

REIMBURSEMENT AND COMPENSATION OF REPRESENTATIVE

Reimbursement for direct expenses

55 The representative for an adult is entitled to be reimbursed out of the property of the adult for the direct expenses incurred and disbursements made in exercising the authority and carrying out the duties of a representative. 2017, c. 4, s. 55.

Request for compensation

56 (1) A representative may, in accordance with the regulations, request to be compensated in accordance with the fee schedule prescribed by the regulations.

(2) Where a representative has requested to be compensated in accordance with the fee schedule,

(a) the representative is not entitled to take the compensation under the fee schedule until authorized to do so by the Court; and

(b) the Court may reduce or eliminate the compensation to which the representative would otherwise be entitled under the fee schedule if the Court is satisfied the representative has not adequately discharged the representative's duties.

(3) Where a representative has not requested to be compensated in accordance with the fee schedule, the Court may determine the representative's compensation and, in doing so, shall consider the effort, care and responsibility undertaken by the representative and the time spent by the representative discharging the representative's duties.

(4) The Court may determine the compensation for the representative for an adult and authorize the representative to take the compensation out of the adult's property on an interim or final application for examination and approval of the representative's accounts or at such other time as the Court considers appropriate.

(5) Notwithstanding any authority to take compensation authorized by the Court, a representative may not take compensation from any funds derived from a government income maintenance or supplement program that is exempt from seizure, attachment or execution. 2017, c. 4, s. 56.

Costs and fees of Public Trustee

57 Notwithstanding Sections 55 and 56, the Public Trustee must be paid the costs and fees for acting as representative to which the Public Trustee is entitled under the *Public Trustee Act*. 2017, c. 4, s. 57.

PROCEEDINGS IN RELATION TO REPRESENTATION ORDER

Review application

58 (1) A representative for an adult shall apply for review of the representation order

(a) as required by the order;

(b) if there has been a significant change in the needs, circumstances or capacity of the adult that is relevant to the need for or terms of the order; or

(c) if there has been a change in circumstances that affects the representative's

(i) ability to exercise the authority or carry out the duties of the representative, or

(ii) suitability to be a representative for the adult who is the subject of the order.

(2) An adult who is the subject of a representation order, the representative for the adult or any interested person may, in accordance with the regulations, apply to the Court for review of the order.

(3) Subsections 5(4) to (7) apply with necessary changes to an application for review made under this Section.

(4) Where an application for review of a representation order is made by the representative for an adult, the application under this Section must include, unless the Court orders otherwise,

(a) where the representative is responsible for any financial matters, accounts of any transactions and financial activities undertaken by the representative on behalf of the adult since the later of the date of the order and the date of the most recent review of the order;

(b) to the extent they are the subject of the representative's authority, a report as to the adult's personal care and healthcare since the later of the date of the order and the date of the most recent review of the order;

(c) any accounts, reports and information submitted under Section 51 since the later of the date of the order and the date of the most recent review of the order;

(d) where the application requests that the representation order be continued or varied, a representation plan;

(e) a recent capacity assessment report respecting the adult if the capacity of the adult is at issue;

(f) any other document or evidence required by the Court.

(5) Where an application for review of a representation order is made by a person other than the representative for the adult who is the subject of the order, the Court may require the representative to file with the Court any of the documents or evidence referred to in subsection (4). 2017, c. 4, s. 58.

Authority of Court on review

59 (1) Subject to subsections (2) and (4), on an application for a review of a representation order, the Court may make an order continuing, varying or rescinding the order on any terms or conditions the Court considers appropriate.

(2) The Court shall rescind the representation order if the Court is satisfied that the adult who is the subject of the order is no longer in need of a representative.

(3) The Court may rescind the representation order, discharge the representative for the adult and appoint a new representative who meets the requirements of this Act or make any other order the Court considers appropriate if the Court is satisfied that the representative

(a) is not acting or is unable or unwilling to continue to act as representative;

(b) has refused or is refusing to act or to continue to act as representative;

(c) has failed or is failing to act as representative or to act in accordance with this Act, the regulations, the order or the approved representation plan;

(d) has acted in an improper manner or in a manner that has endangered or that might endanger the adult's well-being or interests in financial matters;

(e) has committed a breach of trust; or

(f) is no longer suitable to be the representative for the adult.

(4) Before rescinding a representation order, the Court shall satisfy itself that, where necessary,

(a) suitable arrangements have been or will be made to protect and promote the well-being and interest in financial matters of the adult who is the subject of the order; or

(b) an application for another order has been or will be made.

(5) When continuing or varying a representation order, the Court shall specify a date by which the representative for the adult is to apply for the review of the continued or varied order if

(a) the capacity assessment report indicates that the adult's capacity is likely to improve; or

(b) in any case where the capacity assessment report does not indicate that the adult's capacity is likely to improve, the Court considers it appropriate to do so.

(6) Subsection 29(2) applies with necessary changes to the decision whether to specify under clause (5)(b), and the determination under clause (5)(a) or (b) of, the date referred to in subsection (5).

(7) When continuing or varying a representation order, the Court shall

(a) approve the representation plan included with the application for review of the representation order, subject to any variations the Court considers necessary; or

(b) require the representative to submit an amended representation plan for approval within the time specified in the order.

(8) A representation plan approved under subsection (7) supercedes the former approved representation plan.

(9) No decision or action taken by a representative under a representation order is invalid by reason only that the representative has not applied for the review of the order as required by subsection 58(1). 2017, c. 4, s. 59.

Validity of prior actions when order rescinded or varied

60 (1) The rescission or variation of a representation order does not affect the validity of any action taken, decision made, consent given, refused or withdrawn or thing done by the representative for an adult on behalf of the adult before the rescission or variation.

(2) A contract entered into by the representative for an adult on behalf of the adult is binding on the adult after the representation order is rescinded or varied to the same extent as if the adult had entered into the contract while having capacity to do so. 2017, c. 4, s. 60.

Application to Court for direction

61 (1) The representative for an adult may, in accordance with the regulations, if any, apply for the opinion, advice or direction of the Court on any question respecting the adult or respecting the management or administration of the adult's well-being or financial matters.

(2) A representative acting on an opinion, advice or direction given by the Court is deemed, so far as the representative's duty is concerned, to have discharged the representative's duty as representative in respect of the subject-matter of the opinion, advice or direction.

(3) Subsection (2) does not operate to indemnify a representative in respect of any act done in accordance with an opinion, advice or direction if the representative is guilty of any fraud or wilful concealment or misrepresentation in obtaining the opinion, advice or direction. 2017, c. 4, s. 61.

Authority of Court on applications generally

62 (1) The Court may, upon application by an interested person or in the course of considering any other application made under this Act in respect of a representation order,

(a) inquire into a complaint or claim of misconduct, neglect or default on the part of the representative;

(b) make any order that the Court is authorized to make under Section 59 when reviewing a representation order; and

(c) order that the representative for the adult reimburse the adult to the extent of any loss suffered by the adult as a result of the misconduct, neglect or default of the representative.

(2) The Court may order the trial of an issue in respect of a complaint or claim under subsection (1)(a) and may make all necessary directions with respect to it.

(3) Section 59 applies with necessary changes to the making of an order referred to in clause (1)(b). 2017, c. 4, s. 62.

Appeal of order

63 (1) An appeal lies to the Nova Scotia Court of Appeal in respect of any order made under this Act.

(2) An interested person may appeal an order under subsection (1) on behalf of an adult who is the subject of the order. 2017, c. 4, s. 63.

Authority re costs or expenses

64 The Court or the Nova Scotia Court of Appeal may order that any costs or expenses incurred in a proceeding pursuant to this Act be paid

- (a) by any party to the proceeding;
- (b) out of the estate of the adult who is the subject of the proceeding,

or by any combination of the parties and the estate. 2017, c. 4, s. 64.

Foreign order

65 (1) The Court may, upon application by a person who is granted authority in respect of an adult under a foreign order, make an order providing that the foreign order

- (a) is of the same force and effect in the Province as if it were issued by the Court; and
- (b) is subject to appeal and review in the same manner as a representation order,

and shall append a copy of the foreign order thereto.

(2) Where the foreign order includes authority respecting financial matters,

- (a) the application must include an accurate inventory of the estate of the adult in the Province so far as this information has come to the knowledge of the applicant; and
- (b) the applicant shall, upon discovering any additional property in the Province belonging to the estate of the adult, provide to the Court a revised inventory of the estate of the adult.

(3) Subsections 5(4) to (7) apply with necessary changes to an application made under subsection (1) and, upon the order being made, the order must be served upon or sent to the same persons as were served with or sent the notice application in the same manner as is prescribed under those subsections.

(4) On making an order under subsection (1), the Court may

- (a) require the applicant to
 - (i) account or report, and
 - (ii) apply for a review of the order,

at such times and upon such conditions as the Court considers appropriate; and

- (b) impose any terms, conditions or limits on the order as the Court considers appropriate.

(5) Sections 58 and 59 apply with necessary changes to the review of an order made under subsection (1).

- (6) The Court may not make an order under subsection (1) until
- (a) a certificate has been issued by the registrar, clerk or other officer of the court or body that issued the foreign order to the effect that the order is wholly unrevoked and of full effect; and
 - (b) subject to subsection (7), a bond or other security has been provided to the Court to cover the personal property in the Province of the adult in respect of whom the foreign order was made, unless the Court dispenses with security.

(7) A bond is not required under clause (6)(b) if the certificate of the registrar, clerk or other officer of the court or body that issued the foreign order states that security has been provided to that court or body in an amount sufficient to satisfy any requirement under the laws of the jurisdiction of that court or body. 2017, c. 4, s. 65.

Proceedings under this Act

66 (1) In any proceeding under this Act, the adult who is the subject of the proceeding

- (a) has the right to retain and instruct counsel; and
- (b) is entitled to be heard by the Court in the manner most appropriate to the adult's circumstances.

(2) Subject to subsection (1) and the regulations, the Court may consider and determine an application under this Act in the absence of the applicant and any other person.

(3) Subject to the *Civil Procedure Rules*, the Court may refer any question arising in a proceeding under this Act to a person qualified to answer the question.

(4) At a hearing of an application under this Act, any person on whom the application is served or to whom the notice of application is sent and, with leave of the Court, any other interested person may appear and make representations.

(5) On an application under this Act, the Court may request submissions from any person on the circumstances of the adult who is the subject of the application and the potential for less restrictive alternatives, including whether there is support or assistance available to the adult that could affect the need for representation in making decisions respecting one or more matters. 2017, c. 4, s. 66.

Relief from liability

67 Where in any proceeding it appears to the Court that

- (a) a representative is or might be personally liable for a breach of any duty arising under this Act; and
- (b) the representative has acted honestly, reasonably and in good faith, and ought fairly to be excused for the breach of duty and for omitting to obtain the direction of the Court in the matter in which the representative committed the breach,

the Court may relieve the representative either wholly or partly from personal liability for the breach. 2017, c. 4, s. 67.

GENERAL

No action lies

68 (1) No action lies against the Minister, an assessor or any person acting under the Minister or an assessor, who has acted honestly, reasonably and in good faith, for anything done or omitted to be done in exercising authority or carrying out duties or functions under this Act.

(2) Except where the Public Trustee is exercising authority or carrying out duties or functions as the representative for an adult, no action lies against the Public Trustee or a person acting under the Public Trustee, who has acted honestly, reasonably and in good faith, for anything done or omitted to be done in exercising authority or carrying out duties or functions under this Act. 2017, c. 4, s. 68.

No liability for deposit account

69 Where the representative for an adult is authorized to permit the adult to open or maintain a deposit account and the representative does so in accordance with the representation order, the representative is not liable to account for or see to the application of any money paid into or out of the account. 2017, c. 4, s. 69.

Offence and penalty

70 A representative for an adult who wilfully

- (a) causes mental or physical harm to the adult;
- (b) causes damage to or the loss of the property of the adult; or
- (c) contravenes subsection 32(4) or (5),

is guilty of an offence and liable on summary conviction to a fine of not more than \$10,000. 2017, c. 4, s. 70.

Review of Act

71 The Minister shall, by December 28, 2020, undertake a review of the Act's effectiveness in meeting its purposes, and include consideration of supported decision-making, and, within one year after the review is undertaken, table a report on the review in the Assembly if the Assembly is then sitting or, where it is not then sitting, file it with the Clerk of the Assembly. 2017, c. 4, s. 71.

Regulations

- 72 (1)** The Governor in Council may make regulations
- (a) prescribing matters as being financial matters;
 - (b) respecting representation plans;
 - (c) respecting the validity of vulnerable sector checks for the purpose of being included with applications under this Act;
 - (d) prescribing documents or evidence that is to be included with an application for a representation order, including evidence to be included in a supporting affidavit;

- (e) respecting the service of notices of application and the sending of copies of notices of application;
- (f) respecting capacity assessments and assessors, including
 - (i) respecting how capacity assessments are to be conducted,
 - (ii) respecting the content of capacity assessment reports,
 - (iii) prescribing health professions for the purpose of the definition of “assessor”, designating eligible persons as assessors and authorizing the Minister to designate eligible persons as assessors,
 - (iv) authorizing the Minister to establish mandatory and non-mandatory guidelines and standards for capacity assessments and requiring assessors to comply with mandatory guidelines and standards,
 - (v) requiring assessors to undergo such training and possess such qualifications as the Minister may prescribe,
 - (vi) authorizing the Minister to establish or approve training courses and continuing-competency programs for assessors,
 - (vii) respecting the circumstances under which a capacity assessment may be conducted in the absence of the adult who is to be assessed and the conduct of such a capacity assessment,
 - (viii) authorizing the Court to order an adult who is the subject of a representation order or an application under this Act to undergo a capacity assessment and prescribing the circumstances under which such an order may be made,
 - (ix) prescribing fees that may be charged for capacity assessments,
 - (x) prescribing the circumstances in which fees for capacity assessments are to be paid by the Crown, and
 - (xi) respecting the authority of an assessor to collect, use and disclose information, as defined in subsection 32(1), in relation to an adult who is the subject of a capacity assessment;
- (g) prescribing matters that the Court must consider when determining whether a person is suitable to act as an adult’s representative;
- (h) respecting the provision of evidence to the Court by an alternative representative of a circumstance referred to in subclause 24(4)(a)(i), (ii) or (iii);
 - (i) respecting the requirement to file a report under subsection 31(3) and prescribing information that such a report is to include;
 - (j) respecting the making of an application under subsection 33(1);

- (k) prescribing decisions that the representative for an adult is not permitted to make;
- (l) respecting the making of gifts by the representative for an adult out of the adult's property;
- (m) respecting the obligations of the representative for an adult to
 - (i) inform the adult of any significant decision to be made or made by the representative,
 - (ii) encourage and facilitate the adult's participation in decision-making, and
 - (iii) advise the adult of the options that are reasonably and practically available and consistent with the adult's wishes;
- (n) respecting bonds and the requirement to provide a bond under this Act;
- (o) respecting the maintenance of accounts;
- (p) respecting the submission of accounts, records and information by a representative to the Court, the Public Trustee or any other person;
- (q) respecting applications for the review of a representation order;
- (r) respecting compensation of representatives, including
 - (i) prescribing a fee schedule for the compensation of representatives, and
 - (ii) respecting the request of a representative to be compensated in accordance with the fee schedule;
- (s) respecting applications by the representative for an adult for the opinion, advice or direction of the Court on any question respecting the adult or respecting the management or administration of the adult's well-being or financial matters;
- (t) respecting the determination of an application under this Act in the absence of the applicant and any other person, including respecting the filing of a notice of contest;
- (u) respecting the procedures for applications under this Act;
- (v) respecting matters subject to a representative's authority;
- (w) respecting the exercise of a representative's authority, the limits on a representative's authority and the duties of a representative;
- (x) respecting the powers and duties of the Public Trustee in relation to matters under this Act and prescribing additional powers and duties of the Public Trustee;

(y) authorizing a person or other entity to receive, investigate and take action in relation to reports of abuse or misuse of representation orders and respecting the making, receipt and investigation of, and the taking of action in relation to, reports, including

(i) respecting the delegation of the authority of the person or other entity,

(ii) respecting the collection, use and disclosure of information as defined in subsection 32(1) for the purpose of investigating a report,

(iii) limiting the liability of the person or other entity conducting an investigation, and

(iv) authorizing justices to issue an order to enter and inspect any premises, including dwellings, named in the order for the purpose of an investigation;

(z) respecting the recognition of orders made under the former *Incompetent Persons Act* and the application of this Act to orders made under that Act;

(aa) requiring the use of forms prescribed by the Minister in proceedings under this Act and respecting the information that is to be provided by persons completing such forms;

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

(ac) further defining any word or expression defined in this Act;

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

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2017, c. 4, s. 72.

TRANSITION

Effect of reference to guardian

73 Except where a contrary intention appears, a reference in any enactment to a guardian is to be read and construed as including a reference to a representative appointed under this Act. 2017, c. 4, s. 73.

Guardianship orders under former *Incompetent Persons Act*

74 (1) Where, as of December 28, 2017, a guardianship order made under the former *Incompetent Persons Act* is in effect,

(a) the guardianship order continues in effect as if it were a representation order made under this Act;

(b) the person appointed as the guardian of an incompetent person is deemed to be the representative for the incompetent person and, subject to this Act, has the same authority in respect of the

incompetent person's affairs as the guardian had under the guardianship order; and

(c) the guardian who is deemed to be the representative for the incompetent person shall apply to the Court for a review of the guardianship order continued in effect under this Section if the guardian knows or has reasonable grounds to believe that the incompetent person has the capacity to make decisions regarding any matters over which the guardian has decision-making authority under the guardianship order.

(2) For greater certainty, where, as of December 28, 2017, a guardianship order made under the former *Incompetent Persons Act* is in effect, the individual who is the subject of the guardianship order or any other interested person may apply to the Court for a review of the guardianship order. 2017, c. 4, s. 74.

CHAPTER A-6

An Act Respecting the Nova Scotia School for Adult Learning and Other Designated Components of Adult Learning in Nova Scotia

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WHEREAS the Government of Nova Scotia is committed to the development of Nova Scotia as a learning province where every place is a learning place and everyone a learner;

AND WHEREAS participation in lifelong learning through formal, non-formal and informal learning opportunities at all stages of life has intrinsic value, enhancing the confidence, skills and abilities of Nova Scotia residents with respect to family life, social and civic engagement, workforce participation, productivity and success, and health and well-being, including the development of mind, body and spirit and participation in community and cultural life;

AND WHEREAS lifelong learning opportunities reflect a learning continuum ranging from participation in families, schools, post secondary education, community and other adult-learning organizations, workplace education and training, community and cultural experiences, sports and recreation activities, and volunteer organizations;

AND WHEREAS lifelong learning includes adult learning;

AND WHEREAS adult learning is recognized as a shared responsibility amongst learners, their families, educators, employers and employees, communities and government;

AND WHEREAS adult learning requires learner-centered, multi-faceted, holistic teaching approaches that are consistent with recognized adult-learning principles;

AND WHEREAS participation in adult learning is enhanced when individuals have the necessary literacy and essential skills required to maximize their learning opportunities:

Short title

1 This Act may be cited as the *Adult Learning Act*. 2010, c. 31, s. 1.

Purpose of Act

2 The purpose of this Act is to provide designated components of adult learning whose primary mandate is to support adult-learning programs and services to enable adult learners to develop their potential and acquire the knowledge, skills and attitudes needed to contribute to a healthy society and a prosperous and sustainable economy. 2010, c. 31, s. 2.

Interpretation

3 In this Act,

“Department” means the Department of Labour, Skills and Immigration;

“designated component” means the Nova Scotia School for Adult Learning or a specified adult-learning component designated under this Act;

“Minister” means the Minister of Labour, Skills and Immigration;

“Nova Scotia School for Adult Learning” means the adult-learning component of the Department known as the Nova Scotia School for Adult Learning;

“personal information” means personal information as defined in the *Freedom of Information and Protection of Privacy Act*;

“prescribed” means prescribed by the regulations made by the Minister. 2010, c. 31, s. 3.

Minister’s authority

4 (1) The Minister has the general supervision and management of this Act and the regulations.

(2) The Minister may delegate to a person employed in the Department any power conferred or duty imposed on the Minister under this Act except the power to make regulations. 2010, c. 31, s. 4.

Minister shall consult

5 The Minister shall regularly consult with the adult-learning community, including adult learners, adult-learning practitioners and adult-learning organizations, to continue the strategic development, implementation and evaluation of adult learning in the Province. 2010, c. 31, s. 5.

Minister may require information

6 The Minister may require Government agencies and the other departments, branches and offices of the Government of the Province to provide the Minister with information to assist in the continued strategic development, implementation and evaluation of adult learning in the Province. 2010, c. 31, s. 6.

Adult Learning

7 (1) The purpose of the Nova Scotia School for Adult Learning is to provide support for learning organizations to offer tuition-free adult-learning programs in English or French for adult Nova Scotians seeking to improve their knowledge and skills.

(2) The support may include funding to assist learning organizations to offer adult-learning programs. 2010, c. 31, s. 7.

Designated component

8 (1) The Minister may prescribe a component of adult learning as a designated component.

(2) The purpose of a designated component is to provide support for learning organizations that offer adult-learning programs for adult Nova Scotians seeking to improve their knowledge and skills.

(3) The support may include funding to assist learning organizations to offer adult-learning programs. 2010, c. 31, s. 8.

Annual report

9 (1) An annual report to the Minister must be prepared with respect to each designated component.

(2) The contents of the report must be as prescribed. 2010, c. 31, s. 9.

Requirements for funding

10 To be eligible to receive funding from a designated component, a learning organization

(a) must be a recognized learning organization that meets the prescribed criteria;

(b) must provide an adult-learning program that, in the opinion of the Minister, meets the prescribed requirements and standards;

(c) must apply in the manner and provide the information required by the Minister; and

(d) must enter into an agreement with the Minister that contains

(i) the prescribed terms and conditions, and

(ii) any other terms and conditions that are required by the Minister. 2010, c. 31, s. 10.

Evaluating and monitoring

11 (1) For the purpose of evaluating and monitoring a learning organization and an adult-learning program offered by a learning organization that has received support from a designated component, the Minister may

(a) require the learning organization to produce for examination or copying

(i) records, documents or things relating to the learning organization's operations, and

(ii) information relating to the adult learners who attend the learning program,

that are in its custody or under its control;

(b) monitor the manner in which the learning organization provides its adult-learning program, facilities, resource materials and other aspects of the learning organization's learning environment through site visits, review of resource materials and records and such other means as may be determined by the Minister;

(c) conduct interviews or surveys of adult learners attending the adult-learning program, and require the learning organization to provide information respecting adult learners who are attending or have attended the adult-learning program, for the purpose of conducting interviews or surveys;

(d) require the learning organization to provide any and all records, documents, or things necessary for an external audit; and

(e) take any other steps that the Minister considers necessary to evaluate the learning organization and adult-learning program.

(2) Personal information required by the Minister must be limited to the minimum amount necessary to accomplish the purpose for which it is required or disclosed. 2010, c. 31, s. 11.

Recognition

12 For the purpose of adult learning supported by designated components, formal, non-formal and informal learning may be recognized by

(a) the High School Diploma for Adults;

(b) the General Educational Development (GED) Certificate;

(c) the Recognition of International Credentials as prescribed;

(d) the Recognition of Prior Learning as prescribed; and

(e) such additional forms of recognition as prescribed. 2010, c. 31,

s. 12.

Annual report on adult learning

13 (1) The Minister shall prepare an annual report on adult learning for the Province.

(2) The annual report must include the activities of the Nova Scotia School for Adult Learning, the performance of each learning organization and adult-learner outcomes. 2010, c. 31, s. 13.

Agreements in respect of adult learning

14 The Minister may enter into agreements with the Government of Canada, the government of another province of Canada, a municipality, learning organizations or any person in respect of adult learning in the Province. 2010, c. 31, s. 14.

Regulations by Minister

15 (1) The Minister may make regulations

- (a) establishing the criteria for designating a component of adult learning as a designated component;
- (b) establishing the obligations of adult learners;
- (c) establishing learner-centered requirements and standards respecting adult-learning programs, including standards respecting
 - (i) the requirements for admission,
 - (ii) the methods of instruction, hours of instruction and duration of programming,
 - (iii) the professional development, qualifications and competencies of instructors, and
 - (iv) the availability and quality of resource materials;
- (d) prescribing criteria for determining eligibility for the purpose of clause 10(a);
- (e) respecting records to be made and maintained by learning organizations that receive support under a designated component, and information that those learning organizations are required to provide to the Minister, including records and information respecting
 - (i) financial matters,
 - (ii) the qualifications and competencies of instructors, and
 - (iii) the attendance and measures of the performance of adult learners who are or have attended the adult-learning program;
- (f) respecting the times at which and the form and manner in which records and information under clause (e) are to be provided to the Minister;
- (g) respecting forms of recognition of adult learning for the purpose of this Act;
- (h) respecting the contents of a report required by this Act.

(2) The exercise by the Minister of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2010, c. 31, s. 15.

Regulations by Governor in Council

16 (1) The Governor in Council may make regulations

(a) defining any word and expression used but not defined in this Act;

(b) respecting any other matter that the Governor in Council considers 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 a regulation within the meaning of the *Regulations Act*.
2010, c. 31, s. 16.

CHAPTER A-7

An Act to Provide for Protection of Adults from Abuse and Neglect

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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 *Adult Protection Act*. R.S., c. 2, s. 1.

Purpose of Act

2 The purpose of this Act is to provide a means whereby adults who lack the ability to care and fend adequately for themselves can be protected from abuse and neglect by providing them with access to services that will enhance their ability to care and fend for themselves or that will protect them from abuse or neglect. R.S., c. 2, s. 2.

Interpretation

3 In this Act,
“adult” means a person who is or is apparently 16 years of age or older;
“adult in need of protection” means an adult who, in the premises where the adult resides,
(a) is a victim of physical abuse, sexual abuse, mental cruelty or a combination thereof, is incapable of protecting the adult’s own self therefrom by reason of physical disability or mental infir-

mity, and refuses, delays or is unable to make provision for the adult's protection therefrom; or

(b) is not receiving adequate care and attention, is incapable of caring adequately for the adult's own self by reason of physical disability or mental infirmity, and refuses, delays or is unable to make provision for the adult's adequate care and attention;

"Co-ordinator" means the Coordinator of Adult Protection Services appointed pursuant to this Act;

"court" means the Family Court for the Province of Nova Scotia;

"Minister" means the Minister of Community Services;

"prescribed" means prescribed by the regulations. R.S., c. 2, s. 3.

Administration of Act and appointment of Coordinator

4 (1) The Minister is charged with the general administration of this Act and may from time to time designate in writing the Coordinator or any other person to have, perform and exercise any of the powers, privileges, duties and functions of the Minister or the Coordinator under this Act, and shall, when so designating, specify the powers, privileges, duties and functions to be had, performed and exercised by the person so designated.

(2) Where a designation is made pursuant to subsection (1) and the person designated signs or executes a document pursuant to the designation, the person shall refer to the name of the person's office together with the words "Authorized pursuant to Section 4 of the *Adult Protection Act*" and, where a document contains such reference, the document

(a) must be received in evidence without further proof of the authority of the person who signs or executes the same; and

(b) may be relied upon by the person to whom the document is directed or given and by all other persons as an effective exercise of the power or function to which the document relates.

(3) The Coordinator of Adult Protection Services may be appointed in accordance with the *Civil Service Act*. R.S., c. 2, s. 4.

Duty to report information

5 (1) Every person who has information, whether or not it is confidential or privileged, indicating that an adult is in need of protection shall report that information to the Minister.

(2) No action lies against a person who gives information under subsection (1) unless the giving of the information is done maliciously or without reasonable and probable cause. R.S., c. 2, s. 5.

Inquiry and assessment by Minister

6 (1) Where the Minister receives a report that a person is an adult in need of protection, the Minister shall

(a) make inquiries with respect to the matter; and

(b) where the Minister finds there are reasonable and probable grounds to believe the adult is in need of protection, cause an assessment to be made.

(2) The Minister may, where the Minister considers it advisable, request a qualified medical practitioner to assess the adult, the care and attention the adult is receiving and whether the adult has been abused. R.S., c. 2, s. 6.

Assistance by Minister

7 Where, after an assessment, the Minister is satisfied that a person is an adult in need of protection, the Minister shall assist the person, if the person is willing to accept the assistance, in obtaining services that will enhance the ability of the person to care and fend adequately for the person's own self or will protect the person from abuse or neglect. R.S., c. 2, s. 7.

Order for entry

8 (1) In this Section, "court" includes a judge of the Provincial Court of Nova Scotia.

(2) Where the adult who is being assessed refuses to consent to the assessment or a member of the family of the adult or any person having care or control of the adult interferes with or obstructs the assessment in any way, the Minister may apply to the court for an order authorizing the entry into any building or place by a peace officer, the Minister, a qualified medical practitioner or any person named in the order for the purpose of making the assessment.

(3) Where the Minister

(a) has given at least four days' notice of the hearing to the adult or the person having care or control of the adult; or

(b) has applied *ex parte* and the court is satisfied there are reasonable and probable grounds to believe that the person who is being assessed is in danger,

the court may grant the order referred to in subsection (2) after making due inquiry and being satisfied that there are reasonable and probable grounds to believe that the person who is being assessed is an adult in need of protection. R.S., c. 2, s. 8.

Order that in need of protection

9 (1) Where on the basis of an assessment made pursuant to this Act the Minister is satisfied that there are reasonable and probable grounds to believe a person is an adult in need of protection, the Minister may apply to a court for an order declaring the person to be an adult in need of protection and, where applicable, a protective intervention order.

(2) The Minister shall give at least 10 days notice of the application in the prescribed form to the person in respect of whom the application is made or some person having custody or control of that person and, where applicable, the person against whom a protective intervention order may be made.

(3) Where the court finds, upon the hearing of the application, that a person is an adult in need of protection and either

(a) is not mentally competent to decide whether or not to accept the assistance of the Minister; or

(b) is refusing the assistance by reason of duress,

the court shall so declare and may, where it appears to the court to be in the best interest of that person,

(c) make an order authorizing the Minister to provide the adult with services, including placement in a facility approved by the Minister, that will enhance the ability of the adult to care and fend adequately for the person's own self or that will protect the adult from abuse or neglect;

(d) make a protective intervention order directed to any person who, in the opinion of the court, is a source of danger to the adult in need of protection

(i) requiring that person to leave the premises where the adult in need of protection resides unless that person is the owner or lessee of the premises,

(ii) prohibiting or limiting that person from contact or association with the adult in need of protection,

(iii) requiring that person to pay maintenance for the adult in need of protection in the same manner and to the same extent as that person could be required to pay pursuant to the *Parenting and Support Act*.

(4) Where a court makes an order pursuant to clause (3)(c) or (d), it may advise the Public Trustee that there appears to be no guardian to act on behalf of the adult in need of protection or that it appears that there is a guardian or a person acting pursuant to a power of attorney who is neglecting or dealing with the estate contrary to the best interests of the adult in need of protection.

(5) An order made pursuant to subsection (3) expires six months after it is made.

(6) An application to vary, renew or terminate an order made pursuant to subsection (3) may be made by the Minister, the adult in need of protection or an interested person on the adult's behalf, or a person named in a protective intervention order upon notice of at least 10 days to the parties affected which notice may not be given in respect of a protective intervention order earlier than three months after the date of the order.

(7) An order made pursuant to subsection (3) may be varied, renewed or terminated by the court if the court is satisfied that it is in the best interests of the adult in need of protection.

(8) A renewal order expires six months after it is made.

(9) The determination of all matters by a court pursuant to this Section must be made on the balance of probabilities.

(10) An order made pursuant to this Section may be appealed in accordance with the *Summary Proceedings Act* and on appeal the order may be con-

firmed, with or without modification, terminated or remitted with direction to the court appealed from, or another order authorized by this Act may be substituted. R.S., c. 2, s. 9.

Removal for protection

10 (1) Where on the basis of an assessment made pursuant to this Act the Minister is satisfied that there are reasonable and probable grounds to believe that

- (a) the life of a person is in danger;
- (b) the person is an adult in need of protection; and
- (c) the person is not mentally competent to decide whether or not to accept the assistance of the Minister or is refusing the assistance by reason of duress,

the Minister may authorize the immediate removal of the person to such place as the Minister considers fit and proper for the protection of the person and the preservation of the person's life, and a person so authorized may take reasonable measures to remove the person whose life is in danger.

(2) Within five days after a person is removed pursuant to subsection (1), the Minister shall apply to the court for an order declaring that the person is an adult in need of protection unless the person is sooner returned.

(3) Prior to the hearing of an application pursuant to subsection (2), the Minister shall give notice of the application in the prescribed form to the person in respect of whom the application is made or some person having custody or control of that person.

(4) The court shall proceed forthwith to hear the application of the Minister.

- (5)** Upon the completion of the hearing, the court may
- (a) dismiss the application and direct the return of the person removed; or
 - (b) make an order in accordance with subsection 9(3).

(6) Subsections 9(4) to (10) apply with necessary changes to an order made pursuant to this Section. R.S., c. 2, s. 10.

Costs

11 Costs may be awarded against the Minister in the discretion of the court dismissing an application by the Minister pursuant to this Act and the amount shall be determined in accordance with the rules of the court. R.S., c. 2, s. 11.

Welfare of adult is paramount consideration

12 In any proceeding taken pursuant to this Act, the court or judge shall apply the principle that the welfare of the adult in need of protection is the paramount consideration. R.S., c. 2, s. 12.

Role of Public Trustee on removal of adult

13 (1) Where an adult is removed from the premises where the adult resides to another place pursuant to this Act and it appears to the Minister that there is an immediate danger of loss of, or damage to, any property of the adult by reason of the adult's temporary or permanent inability to deal with the property, and that no other suitable arrangements have been made or are being made for the purpose, the Minister shall inform the Public Trustee.

(2) Subject to Section 16 of the *Public Trustee Act*, where the Public Trustee receives information pursuant to subsection (1) and where the Public Trustee is of the opinion that the Public Trustee's intervention is appropriate, the Public Trustee may assume immediate management of the estate of that person and may take possession of the property of that person and shall safely keep, preserve and protect the same until

- (a) the Public Trustee determines that it is no longer necessary to manage the estate of the person;
- (b) the Supreme Court or a judge thereof has appointed the Public Trustee or another person to be guardian of the estate of the adult in need of protection;
- (c) a court finds that the person is not an adult in need of protection; or
- (d) the order that a person is an adult in need of protection expires, terminates or is rescinded. R.S., c. 2, s. 13; 2014, c. 27, s. 7.

Other remedy or right of action unaffected

14 (1) Nothing in this Act limits a remedy available or affects an action that may be taken pursuant to another enactment.

(2) Nothing in this Act limits or affects the responsibility of a municipal unit pursuant to the provisions of the *Social Assistance Act* or the obligation of a person to provide maintenance. R.S., c. 2, s. 14.

Assistance by peace officer

15 A peace officer shall assist with the execution of an order issued pursuant to this Act or with the conveyance of an adult in need of protection to a place directed in accordance with this Act when requested to do so by a person acting for the Minister or pursuant to an order of the court. R.S., c. 2, s. 15.

Failure to report information is offence

16 (1) Every person who has information, whether or not it is confidential or privileged, indicating that an adult is in need of protection and who fails to report that information to the Minister is guilty of an offence under this Act.

(2) A prosecution for an offence referred to in this Section must be commenced within one year after the day on which the offence was committed and not thereafter. R.S., c. 2, s. 16.

Contravention of Act or order

17 Every person who violates this Act or a protective intervention order is guilty of an offence punishable on summary conviction and is liable to a fine of not more than \$1,000 or to imprisonment for not more than one year, or both. R.S., c. 2, s. 17.

Jurisdiction of Family Court

18 The court has exclusive original jurisdiction over offences against this Act. R.S., c. 2, s. 18.

Regulations

- 19** (1) The Governor in Council may make regulations
- (a) respecting the provision of services for adults in need of protection;
 - (b) respecting the procedure for an assessment pursuant to this Act;
 - (c) respecting forms to be used pursuant to this Act;
 - (d) respecting the contents and service of documents to be used pursuant to this Act;
 - (e) defining any word or expression used in this Act and not defined in this Act;
 - (f) respecting any 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 a regulation within the meaning of the *Regulations Act*. R.S., c. 2, s. 19.

CHAPTER A-8

An Act to Establish an Advisory Council on the Status of Women

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Short title

1 This Act may be cited as the *Advisory Council on the Status of Women Act*. R.S., c. 3, s. 1.

Interpretation

2 In this Act,

“Council” means the Advisory Council on the Status of Women established pursuant to Section 3;

“Executive Director” means the Executive Director appointed pursuant to Section 5;

“Minister” means the member of the Executive Council who is charged by the Governor in Council with the administration of this Act. R.S., c. 3, s. 2.

Advisory Council

3 (1) A Council to be known as the Advisory Council on the Status of Women is established.

(2) The Council is composed of such members as are appointed by the Governor in Council on the recommendation of the Minister.

(3) The Governor in Council shall designate one of the members of the Council to be President of the Council.

(4) The President and at least one half of the remaining members of the first Council shall be appointed for a term not exceeding three years and the remaining members of the first Council shall be appointed for a term not exceeding two years.

(5) The President and each member of the Council is eligible for reappointment upon expiry of the term.

(6) Each member appointed to the Council subsequent to the appointments made pursuant to subsection (4) shall be appointed for terms not exceeding three years.

(7) Each member of the Council may be paid such remuneration for attendance at meetings of the Council as is determined by the Governor in Council.

(8) The President and each member of the Council shall be paid such travelling and living expenses incurred by them in the performance of their duties as are determined by the Governor in Council. R.S., c. 3, s. 3.

Duties and powers

4 (1) The Council shall

(a) advise the Minister upon such matters relating to the status of women as are referred to the Council for consideration by the Minister;

(b) bring to the attention of the Minister matters of interest and concern to women.

(1), may (2) The Council, in carrying out its duties pursuant to subsection

(a) receive and hear petitions and suggestions concerning the status of women;

(b) undertake and recommend research on matters relevant to the status of women;

(c) recommend and participate in programs concerning the status of women;

(d) propose legislation, policies and practices to promote equality of opportunity and status; and

(e) publish reports, studies and recommendations. R.S., c. 3, s. 4.

Executive Director and staff

5 (1) The Governor in Council may appoint a person to be Executive Director of the Council.

(2) The Executive Director shall be paid such remuneration as is determined by the Governor in Council.

(3) The Executive Director shall perform such functions and duties as are assigned to the Executive Director by the Council, the Minister or the Governor in Council and in particular shall

(a) keep and maintain the records of the Council;

(b) provide stenographic and other services required by the Council; and

(c) supervise any research or other projects undertaken by the Council.

(4) Any staff required for the purposes of the Council may be appointed with the approval of the Minister in accordance with the *Civil Service Act* and that Act applies to the staff of the Commission. R.S., c. 3, s. 5.

Reports to Minister

6 (1) The Council shall report from time to time to the Minister and shall make an annual report to the Minister on the activities of the Council for each year.

(2) Where the Council reviews, considers or inquires into any matter at the request or with the approval of the Minister, the Council shall make a report to the Minister with respect to that matter at the conclusion of the deliberations. R.S., c. 3, s. 6.

Regulations

7 (1) The Governor in Council may make regulations

(a) for the management, administration and conduct of this Act;

(b) prescribing the duties of the Executive Director and any other employees engaged pursuant to this Act;

(c) respecting any matter or thing that is necessary to effectively carry out the intent and purpose of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. R.S., c. 3, s. 7.

CHAPTER A-9

An Act Respecting the Age of Majority

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Short title

1 This Act may be cited as the *Age of Majority Act*. R.S., c. 4, s. 1.

AGE OF MAJORITY

Age of majority

2 (1) Every person attains the age of majority, and ceases to be a minor, on attaining the age of 19 years.

(2) Every person who on April 13, 1971, had attained the age of 19 years, had attained the age of majority and ceased to be a minor.

(3) This Section applies for the purpose of any law or rule of law in respect of which the Legislature has jurisdiction. R.S., c. 4, s. 2.

STATUTORY AND DOCUMENTARY REFERENCES

Interpretation

3 (1) In the absence of an expressed definition or provision indicating a contrary intention, Section 2 applies with respect to the construction of the expressions “adult”, “full age”, “infant”, “infancy” and “minority” and similar expressions in

(a) any enactment, regulation, order or bylaw made under an enactment enacted or made before, on or after April 13, 1971; and

(b) any deed, will or other instrument of whatever nature made on or after that date.

(2) The use of words or expressions set out in subsection (1), or similar expressions, does not, in itself, indicate a contrary intention for the purpose of this Section without an expressed indication of a contrary intention.

(3) In any enactment or any regulation, order or bylaw made under an enactment, a reference to the age of 21 years is to be read as a reference to the age of 19 years.

(4) Where, by any enactment, an Act of Parliament or any provision thereof is made to apply in respect of any act, matter or thing over which the Legislature has jurisdiction, in applying that Act of Parliament, or the provision thereof, in respect of that act, matter or thing, any reference to the age of 21 years in that Act of Parliament or that provision thereof is to be read as a reference to the age of 19 years.

(5) Notwithstanding any rule of law, any will or codicil executed before April 13, 1971, is deemed, for the purpose of this Act, not to have been made on or after that date by reason only that the will or codicil is confirmed by a codicil executed on or after that date.

(6) In any order or direction of a court made before April 13, 1971, in the absence of an indication of a contrary intention, a reference to the age of 21 years or to any age between 19 and 21 years, or to any of the expressions referred to in subsection (1), is to be read as a reference to the age of 19 years.

(7) A reference to 21 years in an order or direction referred to in subsection (6) does not, in itself, indicate a contrary intention without some further indication of a contrary intention. R.S., c. 4, s. 3.

ACTIONS AND DEFENCES

Action or defence

4 This Act does not prejudice a right of action or a defence to an action that is based upon the age of a party and that was in existence on April 13, 1971, and, notwithstanding this Act, the law that was in force immediately prior to that date applies in that case. R.S., c. 4, s. 4.

COMPUTING AGE

Computation of age

5 (1) The time at which a person attains a particular age expressed in years is the commencement of a relevant anniversary of the date of the person's birth.

(2) This Section applies only where the relevant anniversary falls after April 13, 1971, and, in relation to any enactment or any regulation, order or bylaw made under an enactment, or any deed, will or other instrument, has effect subject to the provisions thereof. R.S., c. 4, s. 5.

ACCUMULATIONS AND PERPETUITIES

Accumulation and perpetuities

6 (1) This Act does not invalidate any direction or accumulation expressed in a settlement or other disposition made by deed, will or other instrument and executed before April 13, 1971, that, but for this Act, was a permissible period of accumulation.

(2) This Act does not apply so as to affect the law relating to perpetuities. R.S., c. 4, s. 6.

LIMITATION OF ACTIONS

Limitation period

7 Where, on April 13, 1971, a person had

(a) attained the age of 19 years but had not attained the age of 21 years; and

(b) a right of action in respect of which the period of limitation applicable to the bringing of the action would have commenced to run on the person attaining the age of 21 years had this Act not been enacted,

the period of limitation in respect of that right of action commenced to run on April 13th. R.S., c. 4, s. 7.

CONSTRUCTION OF DEEDS AND WILLS

Incorporation of statutory provision

8 Where any provision of an enactment, or of a regulation, order or bylaw made under an enactment, is incorporated in and has effect as part of a deed, will or other instrument, the construction of which is not affected by Section 3, for the purpose of the construction of the deed, will or other instrument, this Act does not affect the provision of the Act, regulation, order or bylaw. R.S., c. 4, s. 8.

CHAPTER A-10

An Act for the Conservation of Agricultural Marshland

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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 *Agricultural Marshland Conservation Act*. 2000, c. 22, s. 1.

Interpretation

2 In this Act,

“Commission” means the Agricultural Marshlands Conservation Commission;

“development” includes the erection, construction, alteration, placement, location, replacement or relocation of, or addition to, a structure or a change or alteration in the use made of lands or structures;

“marsh body” means a marsh body incorporated pursuant to this Act or continued by this Act;

“marshland” means land that is

- (a) subject to periodic tidal flooding; and
- (b) designated by the Minister as marshland pursuant to this Act;

“Marshland Administrator” means the Marshland Administrator appointed pursuant to this Act, and includes a person acting under the supervision and direction of the Marshland Administrator;

“marshland section” means an area of marshland that may be effectively dealt with as a unit in the construction and maintenance of works;

“Minister” means the Minister of Agriculture;

“rates” means rates levied pursuant this Act, including interest on rates;

“works” includes dykes, aboiteaux, breakwaters, canals, ditches, drains, roads and other structures, excavations and facilities for the conservation, development, improvement or protection of marshland to a standard appropriate for agricultural purposes. 2000, c. 22, s. 2; 2009, c. 7, s. 1.

Supervision and management

3 The Minister has the general supervision and management of this Act. 2000, c. 22, s. 3.

Powers of Minister

4 (1) Subject to the approval of the Governor in Council, the Minister may construct works to develop marshland for agricultural purposes.

(2) The Minister may reconstruct, repair, operate and maintain any works for the protection, drainage and improvement of marshland for agricultural purposes.

(3) The costs and expenses incurred as a result of the activities carried out pursuant to subsections (1) and (2) must be paid from money appropriated annually by the Legislature.

(4) For the purpose of carrying out the activities authorized by this Section, the Minister may

(a) enter into agreements with the Government of Canada, the government of any other province of Canada, any department, body or person;

(b) purchase, dispose of or rent real and personal property;

(c) engage all necessary employees, consultants, contractors or other persons;

(d) take or authorize any person to take any action that may be necessary for carrying out the purpose of this Act. 2000, c. 22, s. 4.

Designations

5 (1) The Minister may, by order, designate and fix the boundaries of any marshland section for the purpose of carrying out any works or projects pursuant to this Act.

(2) A marshland section designated pursuant to subsection (1) may include any lands adjacent to the marshland that the Minister considers necessary for the construction and maintenance of any works.

(3) Where the designation of a marshland section has been made pursuant to this Section, the Minister shall

(a) publish a notice containing a description of the marshland section in the Royal Gazette;

(b) deposit a description of the marshland section in the office of the registrar of deeds for the registration district in which the marshland section is situate or where the marshland section is located in one or more parcels of land registered pursuant to the *Land Registration Act*, record the legal description in the register or registers established for that parcel or those parcels pursuant to that Act; and

(c) give notice of the designation and a description of the marshland section to the owner of the marshland section. 2000, c. 22, s. 5; 2001, c. 6, s. 96; 2004, c. 38, s. 26.

Effect of designation

6 Any area designated by the Minister as a marshland section pursuant to Section 5 is marshland for the purpose of this Act. 2000, c. 22, s. 6.

AGRICULTURAL MARSHLAND CONSERVATION COMMISSION

Composition, remuneration and staff

7 (1) The Governor in Council may appoint an Agricultural Marshland Conservation Commission consisting of not more than five members.

(2) The Governor in Council shall appoint one member to be the Chair of the Commission.

(3) The Governor in Council shall appoint, from the public service of the Province, a suitable person to be the Secretary of the Commission.

(4) A majority of members of the Commission constitutes a quorum.

(5) Each member of the Commission shall be paid such remuneration as determined by the Governor in Council.

(6) Each member of the Commission must be reimbursed as determined by the Governor in Council for reasonable travel and other expenses incurred by that member in carrying out the duties of a member of the Commission.

(7) Each member of the Commission holds office for a period of up to three years unless the appointment is revoked and is eligible for reappointment.

(8) A vacancy on the Commission does not impair the ability of the Commission to act. 2000, c. 22, s. 7.

Duties of Commission

8 The Commission shall

- (a) advise the Minister on matters related to the conservation and protection of marshland and its development and maintenance;
- (b) hear appeals pursuant to this Act;
- (c) study and examine proposals for the construction, reconstruction, recondition, repair, maintenance, conduct or operation of works and make recommendations to the Minister;
- (d) approve rules made by a marsh body respecting works and land within a marshland section; and
- (e) perform such further or other duties as may be assigned to it by this Act or the regulations. 2000, c. 22, s. 8.

Expenses

9 The administration expenses of the Commission are administration expenses of the Department of Agriculture. 2000, c. 22, s. 9; 2009, c. 7, s. 2.

MARSHLAND ADMINISTRATOR**Appointment and duties**

10 The Minister shall appoint from the public service of the Province a suitable person to be the Marshland Administrator who shall perform such duties as are imposed by this Act or the regulations. 2000, c. 22, s. 10.

MARSH BODIES**Incorporation of marsh bodies**

11 (1) The owners of marshland in any marshland section may petition the Commission requesting that they be incorporated as a marsh body for that marshland section.

(2) The petition must set forth

- (a) the boundaries and size of the marshland section;
- (b) the names and addresses of all persons believed to be, after due inquiry, the owners of marshland within the marshland section;
- (c) the approximate amount of marshland owned by each owner within the marshland section;
- (d) the proposed name of the marsh body; and
- (e) the names of not more than nine persons to be the provisional executive committee of the marsh body.

(3) Subject to subsection (4), where the Minister is satisfied that

- (a) the petition is signed by not less than two thirds of the owners of marshland within the marshland section;

(b) the persons signing the petition are the owners of not less than one half of the marshland within the marshland section; and

(c) the Commission recommends that the owners be constituted as a marsh body,

the Minister may, by issuing a certificate in a form prescribed by the regulations, constitute the owners of land within the marshland section as a body corporate under the name set out in the certificate.

(4) Except in exceptional circumstances, a marsh body may not be incorporated for any marshland other than a marshland section, but in such circumstances a certificate of incorporation may be issued for marshland that comprises less than a marshland section or that comprises more than one marshland section.

(5) A certificate of incorporation issued pursuant to this Act must be published in the Royal Gazette.

(6) Each marsh body incorporated pursuant to Chapter 274 of the Revised Statutes, 1989, the *Marshland Reclamation Act*, and in existence immediately before November 30, 2000, is continued as a body corporate with the same powers and functions as a marsh body incorporated pursuant to this Act. 2000, c. 22, s. 11.

Membership of bodies

12 (1) Every person who is an owner of marshland in a marshland section is a voting member of the marsh body incorporated for the marshland.

(2) A member of a marsh body may, by instrument in writing filed with the secretary of the marsh body, nominate another person who is a tenant, occupant or manager of the marshland owned by the member to represent the member at meetings of members of the marsh body.

(3) A person nominated is, until the nomination is rescinded, a member of the marsh body and, without restricting the generality of the foregoing, has, at meetings of members of the marsh body, all the rights and privileges of the member represented and is eligible for election to and to serve as a member of the executive committee of the marsh body.

(4) At any meeting of the marsh body, a member that is a corporation may vote in the manner prescribed by the bylaws of the marsh body. 2000, c. 22, s. 12.

Variation of boundaries

13 (1) The Minister may vary the boundaries of a marshland section for which a marsh body is incorporated by adding marshland to the section or excluding marshland from the section where

(a) the Commission recommends that the Minister make the variation; and

(b) the Minister is satisfied that

(i) a resolution requesting the variation has been passed at a general or special meeting of the members of the

marsh body by a vote of not fewer than two thirds of the members of the marsh body present at the meeting, and

(ii) the owners of not fewer than two thirds of the marshland proposed to be added or excluded favour the variation.

(2) Where the Minister varies the boundaries of a marshland section for which a marsh body was incorporated,

(a) each owner of marshland added to the marshland section is a member of the marsh body;

(b) any marshland added to the marshland section is subject to this Act;

(c) each owner of marshland excluded from the marshland section ceases to be a member of the marsh body if, as a result of the variation, the owner ceases to own any land in the marshland section; and

(d) any marshland excluded from the marshland section ceases to be subject to this Act.

(3) Where a variation is made pursuant to this Section, the Minister shall insert a notice containing a description of the area in of the Royal Gazette. 2000, c. 22, s. 13.

Powers of marsh bodies

14 (1) A marsh body may

(a) acquire, use, sell and lease real and personal property;

(b) construct, reconstruct, recondition, repair, maintain, conduct and operate works;

(c) enter into agreements with the Minister or other persons for the construction, reconstruction, reconditioning, repairing, maintenance, conduct or operation of works;

(d) make bylaws not inconsistent with this Act for the regulation of its business and affairs;

(e) subject to the approval of the Commission, make rules respecting works and land within or affecting the marshland section;

(f) raise money for its purposes by borrowing or by the levying of rates pursuant to this Act;

(g) prepare a mission or an objectives statement;

(h) do and perform all other acts and things incidental or conducive to the attainment of its objects.

(2) The secretary of the Commission shall file with the Registrar of Regulations a copy of each rule made by a marsh body pursuant to clause 14(1)(e) and publication in the Royal Gazette is proof of approval by the Commission. 2000, c. 22, s. 14.

Executive Committee

- 15** (1) Each marsh body shall have an executive committee.
- (2) The executive committee consists of such number of members of the marsh body as are prescribed by the bylaws of the marsh body.
- (3) The executive committee has the management and direction of the business and affairs of the marsh body. 2000, c. 22, s. 15.

Execution of document

- 16** All documents to which a marsh body is a party must be executed on behalf of the marsh body by the chair and the secretary of the executive committee of the marsh body or by such members of the executive committee as the executive committee may authorize. 2000, c. 22, s. 16.

Provisional executive committee

- 17** (1) Those persons who are, in a petition requesting the incorporation of a marsh body, named as the provisional executive committee of the marsh body constitute the provisional executive committee of the marsh body and are the first executive committee of the marsh body.
- (2) The members of the provisional executive committee hold office and are the executive committee of the marsh body until their successors are elected pursuant to the bylaws of the marsh body.
- (3) The provisional executive committee shall elect from their number a chair and a secretary.
- (4) The provisional executive committee shall call an organization meeting of the members of the marsh body, not later than three months from the date of publication of the certificate of incorporation.
- (5) At the organization meeting, bylaws of the marsh body shall be adopted and an executive committee consisting of the number of persons prescribed by the by-laws shall be elected.
- (6) A member of the executive committee elected at a general meeting of the marsh body holds office for a term as prescribed by the bylaws and may be re-elected. 2000, c. 22, s. 17.

Chair and secretary of executive committee

- 18** (1) The members of the executive committee of a marsh body shall, at their first meeting after the organization meeting of the marsh body and, after each general meeting, elect one of their members to be chair of the executive committee.
- (2) The chair of the executive committee is also the chair of the marsh body and shall preside over meetings of the executive committee and the marsh body.
- (3) At the same meeting, the executive committee of a marsh body shall elect a secretary.

(4) The secretary of the executive committee is also the secretary of the marsh body. 2000, c. 22, s. 18.

Filling of vacancies

19 Where a vacancy occurs on the executive committee of a marsh body, the remaining members may appoint a successor to the member whose office becomes vacant, and the person appointed holds office until the next general meeting of the marsh body, when the vacancy shall be filled for the unexpired portion of the term. 2000, c. 22, s. 19.

Frequency of meetings

20 The executive committee of a marsh body shall meet as frequently as may be necessary to attend to the business and affairs of the marsh body, and must be convened by the chair of the executive committee at any time when at least two members of the marsh body request the meeting in writing. 2000, c. 22, s. 20.

Annual report

21 Within 90 days after the end of each calendar year, the executive committee of a marsh body shall meet and submit to the Commission a report respecting the activities of the marsh body during that calendar year. 2009, c. 7, s. 3.

Quorum

22 A majority of the members of the executive committee of a marsh body constitutes a quorum. 2000, c. 22, s. 21.

Financial year

23 The financial year of a marsh body is as fixed by the bylaws of the marsh body. 2000, c. 22, s. 22.

Meetings of members of body

24 (1) General meetings of the members of a marsh body shall be held as prescribed by the bylaws of the marsh body and at a time and place determined by the executive committee of the marsh body.

(2) A special meeting of the members of the marsh body may be called and held in the manner prescribed by the bylaws of the marsh body. 2000, c. 22, s. 23.

Voting rights

25 (1) At an organization meeting and at any other meeting of a marsh body within one year after its incorporation each member of the marsh body may vote.

(2) Notwithstanding subsection (1), a member may not vote at a meeting of the marsh body if, after one year from the date of its incorporation, all rates levied upon the member's land, pursuant to this Act, prior to one year before the date of the meeting have not been paid. 2000, c. 22, s. 24.

Notice of time and place of meeting

26 The chair or secretary of the executive committee of a marsh body shall give notice of the time and place of each general or special meeting of the marsh body by mailing a notice to each owner at the owner's last known address at least 10 days before the date of the meeting. 2000, c. 22, s. 25.

Report of executive committee

27 The executive committee of a marsh body shall, at each general meeting of the marsh body, present a report of its administration of the affairs of the marsh body and an audited financial statement covering its administration since the last general meeting. 2000, c. 22, s. 26.

Auditor

28 (1) The members of a marsh body shall, at the organization meeting and at each general meeting of the marsh body, appoint an auditor or auditors who shall examine the accounts of the marsh body.

(2) The auditor must have free access at all times to the books, accounts and vouchers of the marsh body and may require from the officers and secretary of the marsh body any information and explanation necessary for the performance of the duties of the auditor.

(3) The auditor may be paid such compensation for services as the executive committee of the marsh body determines.

(4) The executive committee of the marsh body shall publish the auditor's report and provide each member with a copy of the report. 2000, c. 22, s. 27.

Estimates and reserve fund

29 (1) The executive committee of a marsh body shall annually prepare estimates of the amount required for the purposes of the marsh body for the ensuing year, making allowances for losses and expenses that may occur in the collection of rates pursuant to this Act and for rates that may not be collected or collectable, and shall present the estimates to a general meeting of the marsh body for approval of the marsh body.

(2) In preparing its estimates, the executive committee may make provision for the raising of an amount that is not less than one per cent of the value at which all marshland within the marshland section is assessed for the purpose of levying rates pursuant to this Act to be placed in a special reserve fund.

(3) The executive committee may invest the special reserve fund in investments authorized by the *Trustee Act*.

(4) The special reserve fund may be used only for the payment of the cost of extraordinary work and no withdrawals shall be made from it without the approval in writing of the Commission. 2000, c. 22, s. 28.

ASSESSMENT AND RATING

Preparation of assessment list

30 The executive committee of a marsh body shall

(a) in such manner as is prescribed by the regulations, prepare and make available for inspection by the owners an assessment list containing the name of each person who is the owner of marshland for which the marsh body was incorporated, the owner's address and the number of hectares owned by the owner; and

(b) establish the value at which the land is assessed by the executive committee for the purpose of levying rates pursuant to this Act. 2000, c. 22, s. 29.

Right to appeal

31 (1) Any person complaining of being wrongfully inserted or omitted in an assessment list may appeal to the executive committee of the marsh body.

(2) An appeal may be taken by giving notice of the appeal to the secretary of the executive committee within 30 days after the assessment list was made available for inspection.

(3) The executive committee, for the purpose of an appeal, may examine witnesses on oath or affirmation, administered by the chair of the committee, and the person appealing or any person interested in the appeal may call and examine witnesses on oath or affirmation.

(4) The executive committee may, on an appeal or on its own motion,

(a) confirm or vary the number of hectares owned by any person;

(b) confirm or vary the value per hectare at which the land is assessed;

(c) add to the assessment list the name and assessment of any person improperly left off the assessment list if the person has been given notice of the addition and has had a reasonable opportunity to be heard; or

(d) strike off the assessment list the name and assessment of any person improperly entered. 2000, c. 22, s. 30.

Certification of assessment list

32 (1) The secretary of the executive committee of a marsh body shall certify that the assessment list was approved by the executive committee, and the certified assessment list must be open to inspection at the office of the secretary by any owner of land within the marshland section.

(2) The certified assessment list binds all owners assessed on the list. 2000, c. 22, s. 31.

Rates

33 (1) The executive committee of a marsh body may, no later than April 15th in each year, levy a rate on each owner of land included in the marsh section for which the marsh body was incorporated in such an amount that the aggregate of all rates so levied is sufficient to raise the amount estimated by the executive committee as the amount of money required for the purposes of the marsh body for the ensuing year.

(2) The rate must be

(a) based on the area of the land and expressed as so much per hectare of land; or

(b) based on the value of the land as established for the purpose of levying a rate pursuant to this Act and expressed as so much on each dollar of the value of the land.

(3) In subsection (2), “land” does not include

(a) buildings;

(b) utility poles;

(c) structures to be used for the generation of power; and

(d) such structures as the regulations may designate.

(4) A rate based on the value of the land may not be levied without the approval of the Commission.

(5) When the rate is fixed, the secretary of the executive committee shall have every owner rated in the assessment list served with a notice, either personally or by mail, showing the amount of the rate assessed for the current year as well as all arrears of the rate unpaid. 2000, c. 22, s. 32.

Recovery of rate

34 The amount due by any owner for a rate is a charge on the land and is a debt due to the marsh body and may be sued for and recovered as an ordinary debt in any court of competent jurisdiction. 2000, c. 22, s. 33.

Certificate as proof

35 In any action or proceeding for the recovery of a rate, a certificate appearing to be signed by the secretary of the executive committee of a marsh body is prima facie proof of the amount of the rate due and of the liability of the owner named in the certificate without proof of the signature or appointment of the secretary. 2000, c. 22, s. 34.

Collection of arrears

36 (1) Where an owner does not pay the rate assessed against that owner by July 1st in the year in which the rate has been levied, the secretary of the executive committee of the marsh body may issue a warrant for collection of the rate and of any arrears of the rate unpaid by the owner directed to any officer having jurisdiction in the place where the marshland section is situated.

(2) The officer shall, under the warrant, levy the amount mentioned in the warrant with costs and expenses of the collection by distress and sale of the goods and chattels of the owner named in the warrant.

(3) When the officer distrains upon goods or chattels, the officer shall advertise the sale for 10 days in advance of the sale in a conspicuous place and, where the rate and the costs and expenses are not paid at or before the time appointed for the sale, or any adjournment of the sale, the goods and chattels must be sold at public auction.

(4) The officer shall apply the proceeds of the sale towards payment of the rate and the costs and expenses incurred in the issue of the warrant, the making of the levy and the holding of the sale and, where any balance remains, it must be paid to the owner assessed for the rate. 2000, c. 22, s. 35.

Power of sale

37 (1) In addition to the other remedies provided in this Act for the collection of rates, the secretary of the executive committee of a marsh body may, in the manner provided by the *Municipal Government Act* for the sale of land for rates and taxes, sell or cause to be sold any marshland with respect to which rates are in arrears for a period of one year or more.

(2) For the purpose of a sale of land pursuant to this Section, the chair and the secretary of the executive committee have all the powers, privileges and authority of the mayor and treasurer, respectively, of a town.

(3) The secretary shall apply the proceeds of any sale in the following order:

- (a) first, in payment of the costs and expenses of the sale;
- (b) second, in payment of the rate and interest due to the marsh body; and
- (c) third, in payment of municipal taxes and interest on the land sold,

and the balance, if any, must be paid to the prothonotary of the Supreme Court of Nova Scotia of the justice centre area in which the land is situate to be paid out by the prothonotary as directed by an order of the Supreme Court. 2000, c. 22, s. 36.

Manner of pursuing remedies

38 The remedies provided in this Act for the collection of rates may be pursued consecutively and in the order the executive committee of a marsh body considers best, but no land may be sold in the manner provided for arrears of rates for which a judgment has been obtained. 2000, c. 22, s. 37.

BORROWING POWERS

Powers of executive committee

39 With the approval of the Commission, the executive committee of a marsh body may, in the name of the marsh body, borrow money for the purpose of defraying expenditures of the marsh body. 2000, c. 22, s. 38.

ENTRY AND DEVELOPMENT

Power of entry

40 Where the executive committee of a marsh body considers it is necessary for any purpose relating to the construction, maintenance or repair of works it may, without the consent of the owner, enter on any lands within the marshland section for which the marsh body was incorporated and do any work the executive committee considers necessary for its purposes. 2000, c. 22, s. 39.

Expropriation

41 A marsh body may expropriate an easement in, over or relating to land for any purpose relating to the construction, maintenance or repair of works. 2000, c. 22, s. 40.

Requirement for permit

42 (1) In this Section, “working day” means any day other than Saturday, Sunday, a holiday or another day on which the offices of the Government of the Province are closed.

(2) Notwithstanding the *Municipal Government Act* or any other provision of this Act, no development may, on and after November 7, 2000, be carried out in a marshland section unless

- (a) a permit for variance authorizing the development is granted by the Marshland Administrator; or
- (b) the development
 - (i) conforms with generally accepted farming practices that do not require structures to be built,
 - (ii) is necessary for the protection of the marshland section,
 - (iii) was lawfully commenced before November 7, 2000,
 - (iv) was not commenced before November 7, 2000, but could have been lawfully commenced before November 7, 2000, or
 - (v) has been exempted from the application of this Section pursuant to subsection (3).

(3) The Governor in Council may exempt a development from the application of this Section if

- (a) the development consists of the construction of roads, the installation of utility poles or the installation or construction of structures to be used for the generation of power; and
- (b) the Governor in Council considers that it is in the public interest to grant the exemption.

(4) Within 10 working days after receiving an application for a permit for variance, the Marshland Administrator shall

- (a) determine if the application is complete; and
- (b) where the application is incomplete, notify the applicant in writing advising what is required to complete the application.

(5) Within 30 working days after receiving a completed application for a permit for variance, the Marshland Administrator shall either grant the permit, with or without conditions, or inform the applicant of the reasons for not granting the permit.

(6) The applicant may appeal a decision of the Marshland Administrator to the Commission within 30 working days of the decision being issued by the Marshland Administrator.

(7) Within 60 working days of receiving an appeal, the Commission shall

- (a) confirm the decision of the Marshland Administrator;
- (b) order that the permit for variance be granted; or
- (c) order that the permit for variance be granted and impose conditions on the variance.

(8) A permit for variance expires

- (a) 12 months after the date it is issued unless the development commences within 12 months of the date of its issue; or
- (b) upon discontinuance of the development more than 12 months after the date of its issue.

(9) Subsection (2) does not apply to non-agricultural uses existing on November 30, 2000, on lands specified in the regulations. 2000, c. 22, s. 41; 2009, c. 7, s. 4.

Offence and remedies

43 (1) Everyone who violates subsection 42(2) is guilty of an offence.

(2) Where there is an offence under subsection (1), the Minister may apply to the Supreme Court of Nova Scotia for any or all of the remedies provided by this Section.

(3) The Supreme Court of Nova Scotia may hear and determine the matter at any time and, in addition to any other remedy or relief, may make an order

- (a) restraining the continuance or repetition of the offence with respect to the same property;
- (b) directing the removal or destruction of any structure or part of a structure that was constructed in violation of subsection 42(2) and authorizing the Minister, where an order is not complied with, to enter upon the land and premises with necessary workers and equipment and remove and destroy the structure, or part of it, at the expense of the owner;

(c) as to the recovery of the expense of removal and destruction and for the enforcement of this Section and for costs as is considered proper,

and an order may be interlocutory, interim or final.

(4) Where, after the proceeding is commenced,

(a) the offence that was the subject of the proceeding may have been done or committed by a person other than the defendant;

(b) the title to the property, or part or any interest in it, that vested or was vested at the time of the commencement of the proceeding in the defendant, has since become vested in a person other than the defendant; or

(c) there has been a fresh offence by the same person or by another person with respect to the same property,

it is not necessary to bring another application and the original application may be amended from time to time and at any time before final judgment to include all parties and all offences and the whole matter of the offences must be heard, dealt with and determined.

(5) Where the owner of any property where an offence under subsection (1) is taking place or has taken place cannot be found, the Minister may post a notice of the offence and upon the application upon the property, and the posting of the notice and the application is deemed to be personal service of the notice and the application on that owner. 2000, c. 22, s. 42; 2009, c. 7, s. 5.

Liability to repair

44 Marshland or works damaged as a result of use authorized by a permit granted to a person pursuant to Section 42 or exempted from the application of Section 42 pursuant to subsection 42(3), must be repaired by the person and, where necessary repairs are not carried out within 30 days of being brought to the attention of the person by the marsh body, the marsh body may make the repairs and may recover the cost of repairs by an action in debt against the person in any court and the court may make such orders as to cost it may determine. 2000, c. 22, s. 43.

Supervision of executive committee

45 (1) Where at any time a marsh body defaults in the performance of any of the terms of an agreement with the Minister for the construction, reconstruction, reconditioning, repairing, maintaining or operating of any work or works and it appears to the Governor in Council that permanent damage or injury may result to any marshland, the Governor in Council may, by order published in the Royal Gazette, suspend the powers and authority of the executive committee of the marsh body from a date set out in the order whereupon the powers and authority of the executive committee are suspended and are vested in and may be exercised by the Commission or its nominee or nominees.

(2) The Governor in Council may revoke an order made pursuant to subsection (1) and, upon such revocation, the powers and authorities of the executive committee revert to and may be exercised by the executive committee. 2000, c. 22, s. 44.

SURRENDER AND REVOCATION OF CERTIFICATE

Effect of surrender or revocation

46 (1) A marsh body may surrender to the Minister its certificate of incorporation if

- (a) the Commission approves of the surrender;
- (b) no debts or liabilities of the marsh body are outstanding;
- (c) a resolution authorizing the surrender of the certificate is passed at a general or special meeting of the marsh body by a vote of not fewer than two thirds of the members of the marsh body who own not less than half of the marshland section for which the marsh body was incorporated; and
- (d) at least 30 days before the meeting, a notice has been given to all members of the marsh body stating
 - (i) the time and place of the meeting, and
 - (ii) that such a resolution will be considered by the meeting.

(2) Where the Minister is satisfied that the marsh body has surrendered its certificate of incorporation in accordance with subsection (1), the Minister may, by order, accept the surrender and thereupon the marsh body is dissolved on and from such date as is set out in the order.

(3) Where a marsh body fails to comply with this Act or defaults on any agreement it has with the Minister, the Minister, after having given the members of the marsh body notice that the Minister intends to revoke the marsh body's certificate of incorporation, may, by order, revoke the certificate of incorporation, if

- (a) the Minister is satisfied that
 - (i) the Commission approves of the revocation, and
 - (ii) no debts or liabilities of the marsh body are outstanding; and
- (b) the Minister has, at least 30 days before revoking the certificate, given notice of intention to revoke the certificate to each member of the marsh body.

(4) Where an order is made pursuant to subsection (3) revoking the certificate of incorporation of a marsh body, the marsh body is dissolved on and after such date as is set out in the order.

(5) Acceptance of the surrender or the revocation of the certificate of incorporation by the Minister and of the dissolution of the marsh body must be published in the Royal Gazette. 2000, c. 22, s. 45.

Effect of surrender or revocation

47 Where a certificate of incorporation of a marsh body is surrendered or revoked and 60 days public notice is given, the Minister may, with the approval

of Governor in Council, cease to maintain works for the marshland section for which the marsh body was incorporated. 2000, c. 22, s. 46.

GENERAL

Penalty and separate offences

48 (1) Any person who contravenes this Act or the regulations is liable on summary conviction to a penalty of not more than \$3,000 and in default of payment to imprisonment for a term of not more than two years less a day.

(2) Where a person violates this Act on more than one day, each day constitutes a separate offence. 2000, c. 22, s. 47.

Conveyance of land

49 Where lands conveyed to the Crown in right of the Province pursuant to an agreement between the Minister and a person are required by the agreement to be reconveyed to the marsh body or the person, the Governor in Council may grant and convey the lands to the person and may authorize a member of the Executive Council to execute and deliver the necessary deed or deeds of conveyance in the name of the Crown in right of the Province. 2000, c. 22, s. 48.

Conflict

50 Where there is a conflict between any provision of this Act or the regulations and a more stringent provision of any other enactment, the more stringent provision prevails. 2000, c. 22, s. 49.

Immunity from liability

51 Neither the Crown in right of the Province nor any marsh body is liable to pay compensation for any damages caused by flooding as a result of activities undertaken pursuant to this Act. 2000, c. 22, s. 50.

Regulations

- 52 (1)** The Minister may make regulations
- (a) prescribing accounting and bookkeeping methods and systems to be adopted by marsh bodies;
 - (b) requiring marsh bodies to make reports and returns to the Commission;
 - (c) prescribing and amending forms and agreements;
 - (d) prescribing the terms and conditions for the issuing of permits for variance;
 - (e) prescribing the procedures for hearing appeals by the Commission;
 - (f) prescribing the manner in which the names and addresses of owners and the area of land is to be determined pursuant to Section 30;
 - (g) providing for the examination and audit of accounts of marsh bodies and for the inspection and examination of works;

- (h) prescribing further or other or additional functions, duties or powers of the Commission;
- (i) designating structures that are not included within the meaning of “land” for the purpose of subsections 33(2) and (3);
- (j) specifying land for the purpose of subsection 42(9);
- (k) respecting any other matter or thing that the Minister considers necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) In making a regulation pursuant to clause (1)(d) or (e), the Minister shall consult with each marsh body affected by the regulation and with each municipality in which lands affected by the regulation are located.

(3) Where there is a conflict between a regulation made by the Minister pursuant to this Act and a rule made by a marsh body pursuant to this Act, the regulation prevails.

(4) The exercise by the Minister of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2000, c. 22, s. 51; 2001, c. 1, s. 2.

Bylaws

53

- (1) A marsh body may make bylaws
- (a) prescribing the number of members on the executive committee of the marsh body and their terms of office;
 - (b) providing for the manner of calling meetings of members of the marsh body and of the executive committee and the procedure at such meetings;
 - (c) fixing the financial year of the marsh body;
 - (d) prescribing the frequency of general meetings of the marsh body;
 - (e) prescribing the frequency of reports and estimates;
 - (f) providing for the manner of voting at meetings of the marsh body;
 - (g) prescribing the procedures respecting the assessment list inspection and appeals;
 - (h) imposing an interest charge at the rate fixed by the bylaw upon rates that are unpaid on July 1st or such later date in any year as is fixed by the bylaw;
 - (i) generally for the management and conduct of its business and affairs.

(2) The secretary of a marsh body shall file with the Commission a copy of bylaws and amendments made by the marsh body. 2000, c. 22, s. 52; 2001, c. 1, s. 3.

Continuation of agreements

54 Each agreement made pursuant to Chapter 273 of the Revised Statutes, 1989, the *Marsh Act*, or Chapter 274 of the Revised Statutes, 1989, the *Marshland Reclamation Act*, and in effect immediately before November 30, 2000, is continued. 2000, c. 22, s. 53.

Designation not injurious affection

55 Property is deemed not to be injuriously affected by any designation referred to in clause (b) of the definition of “marshland” in Section 2. 2000, c. 22, s. 54.

CHAPTER A-11

Agricultural Weed Control Act

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Short title

1 This Act may be cited as the *Agricultural Weed Control Act*. R.S., c. 501, s. 1; 2010, c. 77, s. 2.

Interpretation

2 In this Act,

“Chief Inspector” means the Chief Inspector appointed under this Act;

“Minister” means the Minister of Agriculture;

“municipality” means a municipality of a county or district, a regional municipality or a town;

“noxious weed” means a plant that is designated under this Act as a noxious weed;

“occupant” means the person in possession of real property on which noxious weeds are found or, where there is no such person, the owner of such real property as shown on the last revised assessment roll of the municipality in which the property is located;

“weed seed” means the seed of a noxious weed. R.S., c. 501, s. 2; 1994-95, c. 7, s. 139; 2010, c. 22, s. 3.

Powers of Minister

3 For the purpose of the administration and enforcement of this Act, the Minister may

- (a) establish and administer policies, programs and guidelines pertaining to the control of agricultural weeds;
- (b) consult with and coordinate the work and efforts of other departments and agencies of the Government of the Province respecting any matter relating to the control of agricultural weeds;
- (c) enter into agreements with the Government of Canada or the government of any other province of Canada on matters relating to the control of agricultural weeds;
- (d) develop scientific databases to assist in the control of agricultural weeds;
- (e) gather, compile, publish and disseminate information, including statistical data, relating to the control of agricultural weeds;
- (f) establish and assist demonstration programs that are consistent with the intent of this Act;
- (g) convene conferences and conduct seminars and educational programs relating to the control of agricultural weeds;
- (h) give financial assistance to any person, group, society or association for purposes related to the control of agricultural weeds;
- (i) prescribe forms for the purpose of this Act. 2010, c. 77, s. 4.

Designation of noxious weeds

4 (1) The Minister may designate plants as noxious weeds generally or in respect of any part of the Province.

(2) The council of a municipality, after consultation with the county federation of agriculture, may recommend to the Minister plants for designation as noxious weeds within the municipality.

(3) A designation of a noxious weed under this Section must classify the weed as belonging to class number one or class number two.

(4) A designation of any plant as a noxious weed must be published in a newspaper having general circulation

- (a) where the designation applies generally, in the Province; or
- (b) where the designation applies only to a part of the Province, in the area in which the designation applies. R.S., c. 501, s. 3; 2010, c. 77, s. 5.

Duty to destroy noxious weeds

5 (1) Where noxious weeds of class number one exist on land from which they are likely to spread to cultivated or pasture land, the occupant shall destroy all noxious weeds thereon as often in every year as may be necessary to prevent the ripening of the seeds.

(2) The occupant of land shall destroy all noxious weeds of class number two as often and at such times as is necessary to eliminate such weeds. R.S., c. 501, s. 4.

Act binds Crown respecting highway

6 This Act and the regulations apply to the Crown in respect to public highways to which the *Public Highways Act* applies. R.S., c. 501, s. 5.

Chief Inspector and district inspectors

7 (1) The Minister may appoint a Chief Inspector and inspectors for the enforcement of this Act.

(2) The Chief Inspector has the general supervision and direction of all inspectors appointed pursuant to this Act.

(3) Where a person appointed pursuant to subsection (1) is not an employee of the Department, the Minister shall, before making the appointment, consult with and obtain the consent of the person or, where applicable, the employer of the person.

(4) An appointment under subsection (1) may direct that the authority of the inspector be exercised subject to any terms and conditions that the Minister prescribes in the appointment, including limitations on the scope of the appointment. R.S., c. 501, s. 6; 2010, c. 77, s. 6.

Authority of inspector

8 An inspector may enter upon any lands or premises, other than a private dwelling, for the purpose of determining compliance with this Act or the regulations. 2010, c. 77, s. 7.

Destruction of noxious weeds or weed seeds by occupant of land

9 (1) Where an inspector finds noxious weeds or weed seeds on any land, the inspector shall confer with the occupant as to a satisfactory method of destroying such noxious weeds or weed seeds.

(2) Where, after consulting with the occupant, prompt effective action is not taken, the inspector may issue an order in the form prescribed in the regulations requiring the occupant to destroy the noxious weeds or weed seeds within the period of time specified in the order, which shall not be less than seven days after the person named in the order has been served with a copy of the order.

(3) The order may be served by leaving a copy with an adult person at the usual place of residence of the person named therein or by sending it by registered post addressed to the person at the person's usual place of residence. R.S., c. 501, s. 9; 1994-95, c. 7, s. 140; 2010, c. 77, s. 8.

Order for non-resident to destroy noxious weeds or weed seeds

10 (1) Where an inspector finds noxious weeds or weed seeds on any land and the occupant does not reside within the Province, the inspector may issue an order in the form prescribed in the regulations requiring the occupant to destroy the noxious weeds or weed seeds within the period of time specified therein, which

must not be less than seven days after the person named in the order has been served with a copy of the order.

(2) The order must be served by sending a copy by registered post addressed to the person named therein at the person's usual place of residence.

(3) Where the occupant is unknown or cannot be located, the order may be served by posting in a conspicuous place on the land. R.S., c. 501, s. 10; 1994-95, c. 7, s. 141; 2010, c. 77, s. 9.

Notice prohibiting sowing of crop

11 (1) Where an inspector finds noxious weeds or weed seeds on any land, the inspector may, in order to effectively destroy the noxious weeds or weed seeds, issue a notice prohibiting the occupant or owner of any land from sowing a crop of any kind on the land.

(2) A notice issued under subsection (1) ceases to have effect three years following the date of issue, unless it is sooner rescinded by the inspector. R.S., c. 501, s. 11; 1994-95, c. 7, s. 142; 2010, c. 77, s. 10.

Appeal

12 If the person to whom an order has been directed feels that it is unjust, the person may, within four days, appeal by registered post to the Chief Inspector, who shall cause an immediate re-inspection to be made by another inspector, who may confirm, vary or rescind the order. R.S., c. 501, s. 12; 1994-95, c. 7, s. 143; 2010, c. 77, s. 11.

Obstruction of inspector prohibited

13 No person shall hinder or obstruct an inspector carrying out duties pursuant to this Act or furnish an inspector with false information or refuse to furnish an inspector with information. 2010, c. 77, s. 12.

Power and duty of inspector

14 (1) Where a person fails to comply with an order made under Section 9 or 10, the inspector may cause the noxious weeds or weed seeds to be destroyed in the manner prescribed in the regulations.

(2) An inspector shall keep a record of the expenses incurred in the discharge of duties under subsection (1) with respect to each parcel of land inspected.

(3) An occupant who has failed or refused to comply with a direction of an inspector is liable for the payment of the expenses of the inspector in destroying the weeds.

(4) A statement and notice of expenses must be served on the occupant in the same manner as the order made under Section 9 or 10.

(5) The person on whom an expense statement was served may, within seven days after the statement is served, appeal the amount of the expenses to the Chief Inspector, who may confirm or vary the statement.

(6) Where the occupant refuses or neglects to pay the amount set out in the statement, or as determined on appeal to be payable, within 15 days after request for payment has been made or, in the event of appeal, within 15 days after disposition of the appeal, it may be recovered as a debt due from the occupant by action brought in the name of the Minister in any court of competent jurisdiction. R.S., c. 501, s. 14; 1994-95, c. 7, s. 145; 2010, c. 77, s. 13.

Prohibited deposit of weeds

15 No person shall deposit or permit to be deposited any noxious weeds or weed seeds in any place where they might grow or spread. R.S., c. 501, s. 16.

Restriction on moving of farm machinery

16 Where the moving of any machine used for harvesting, handling or processing of farm crops is likely to cause noxious weeds or weed seeds to grow or spread, no person shall move or cause such machine to be moved without first removing all seeds and other residue from the machine. R.S., c. 501, s. 17.

Disposal of weed seeds in grain plant

17 Every person in charge of a grain elevator, grist mill, flour mill, seed-processing plant or other grain-cleaning or grain-grinding plant shall dispose of all refuse containing weed seeds in such a manner as will prevent the weed seeds from growing or spreading. R.S., c. 501, s. 18.

Offence and penalty

18 (1) Every person who contravenes this Act or the regulations or any order made under this Act is guilty of an offence and, on summary conviction, is liable for a first offence to a fine of not more than \$500 and for a second or subsequent offence to a fine of not less than \$500 nor more than \$1,000.

(2) Every day during which any such contravention or failure to comply continues is a separate offence. 1994-95, c. 7, s. 147; 2010, c. 77, s. 14.

Regulations

19 The Governor in Council, on the recommendation of the Minister, may make regulations

- (a) prescribing methods and procedures for the destruction of noxious weeds and weed seeds;
- (b) prescribing methods and procedures to be taken to prevent the establishment of any noxious weed;
- (c) regulating or prohibiting the transportation of farm produce that is, or may be, infested with noxious weeds or weed seeds;
- (d) providing for reimbursement of municipalities for money expended under this Act from such funds as may be appropriated by the Legislature for this purpose;
- (e) prescribing the forms required by this Act;
- (f) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S., c. 501, s. 20.

Weed Control Advisory Committee

20 (1) The Minister shall appoint a Weed Control Advisory Committee consisting of such number of persons as the Minister may determine and including at least one representative of the Nova Scotia Federation of Agriculture.

(2) The Minister shall consult with the Committee on all matters pertaining to the administration of this Act, including the making of recommendations to the Governor in Council pertaining to regulations or the designation of plants as noxious weeds. R.S., c. 501, s. 21.

CHAPTER A-12

An Act Respecting Agriculture and Marketing

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Short title

1 This Act may be cited as the *Agriculture and Marketing Act*. R.S., c. 6, s. 1.

Interpretation

2 In this Act,
“Department” means the Department of Agriculture;
“Minister” means the Minister of Agriculture. R.S., c. 6, s. 2; 2001, c. 39, s. 1.

PART I

ADMINISTRATION

Department of Agriculture

3 (1) The Department of Agriculture is continued and is presided over by the Minister of Agriculture.

(2) The Department shall be administered under and in accordance with this Act and the other statutes of the Province relating to agriculture and marketing. R.S., c. 6, s. 3; 2001, c. 39, s. 2.

Report

4 The Minister shall, at the close of each fiscal year, prepare a report of the administration of the agricultural affairs of the Province, and the amount expended for agricultural purposes for that year, and the report must be laid before the Legislature. R.S., c. 6, s. 4.

Advisory committee

5 The Minister may

- (a) establish an advisory committee to advise the Minister on
 - (i) the content and administration of this Act, and
 - (ii) any policy, program, standard, guideline or other matter under the administration of the Minister;
- (b) include a representative from the Nova Scotia Federation of Agriculture on an advisory committee; and
- (c) provide for the remuneration and payment of expenses of members of the advisory committee who are not in the public service. 2004, c. 24, s. 2.

Powers of Minister

6 The Minister may

- (a) establish and administer policies, programs and guidelines pertaining to agriculture and the development and protection of agricultural resources;
- (b) consult with and co-ordinate the work and efforts of other departments and agencies of the Province respecting any matter relating to agriculture;
- (c) enter into agreements with the Government of Canada or the government of any other province of Canada on matters relating to agriculture;
- (d) gather, compile, publish and disseminate information, including statistical data, relating to agriculture;
- (e) establish and assist demonstration programs that are consistent with the intent of this Act. 2012, c. 53, s. 1.

Rules and regulations

7 (1) The Minister, with the approval of the Governor in Council, may make rules and regulations for the purpose of carrying out the provisions of this Act.

(2) The Minister may, with the approval of the Governor in Council, make regulations respecting the livestock industry, including livestock breeding, production and facility standards, testing methods, inspection and livestock tracking. R.S., c. 6, s. 5; 2001, c. 39, s. 3.

Delegation by Minister

8 (1) The Minister may delegate the Minister's authority to issue a permit pursuant to this Act to any person.

(2) A delegation made pursuant to subsection (1) must be in writing. 2008, c. 4, s. 2.

PART II

AGRICULTURAL ASSOCIATIONS

Interpretation of Part

9 In this Part, “Superintendent” means the Superintendent of Agricultural Associations. R.S., c. 6, s. 6; 1992, c. 5, s. 23.

A - Agricultural Societies

Superintendent of Agricultural Associations

10 (1) The Minister may appoint a person in the public service to be the Superintendent of Agricultural Associations.

(2) The Superintendent may

(a) take measures for the organization of agricultural societies;

(b) inspect the stock owned by such societies and see that stock purchased by such societies is of a sufficiently high standard;

(c) inspect the books and accounts of any society organized under this Part, and of any society or association organized under this Part and receiving government aid;

(d) receive such accounts and reports of such societies as are required to entitle such societies to participate in the Provincial grant and to enforce compliance with this Act;

(e) assist such societies in arranging for meetings and generally promote improvements in the agriculture of the Province;

(f) provide for the distribution throughout the Province of agricultural literature and information;

(g) perform such other duties as may be required of the Superintendent by the Minister. R.S., c. 6, s. 7; 2004, c. 24, s. 3.

Inspection

11 The Governor in Council may appoint a person or persons to assist the Superintendent in inspecting the stock and the books and accounts of any society in the Province receiving government aid in connection with agriculture and the officers of every such society whenever required to do so shall permit its stock to be examined and shall submit its books and accounts to such inspection. R.S., c. 6, s. 8.

Formation of agricultural society

12 (1) An agricultural society may be organized for any district, whenever not fewer than 10 persons signify their willingness to become members by signing a declaration in the form prescribed by the regulations and paying each not less than one dollar annually to the funds of the society, provided, always, that the amount required to be paid under this Section must in no case be less than \$40.

(2) A true copy of the declaration must, within one month after the organization of the agricultural society, be transmitted to the Superintendent.

(3) The boundaries of the district must, subject to the approval of the Minister, be defined by the bylaws of the society. R.S., c. 6, s. 9.

Acquisition and alienation of property

13 An agricultural society, heretofore or hereafter formed under this Part, is a body corporate with power to acquire, hold, sell, lease, mortgage, improve and enjoy land. R.S., c. 6, s. 10.

Objects

14 (1) The objects of agricultural societies are to promote improvement in agriculture and in general rural community life by

(a) holding exhibitions or fairs and in connection therewith the awarding of prizes or premiums for livestock other than grade breeding males, for agricultural and horticultural implements and machinery, for the production of grain and all kinds of vegetables, plants, flowers, fruits and the products of domestic manufacture and industry, and generally for excellence in any agricultural or horticultural productions or operation, article of manufacture or work of art;

(b) organizing plowing matches, holding seed fairs and competitions respecting standing crops and for the best managed farms;

(c) owning, distributing or bonusing purebred registered animals and seed and plants of new or of valuable kinds;

(d) promoting the circulation of agricultural literature;

(e) offering prizes for essays on questions of scientific inquiry relating to agriculture, horticulture, domestic industries, manufactures and the useful arts;

(f) promoting and encouraging the organization and formation of co-operative societies, boys' and girls' clubs and other organizations;

(g) taking action to eradicate poisonous and noxious insects and weeds;

(h) promoting the improvement of home and school grounds;

(i) improving the agricultural and social life of the community.

(2) Any society that expends any of its funds for any purpose inconsistent with the objects mentioned in this Section forfeits all claim to participate in any grant or sum appropriated by the Legislature for the encouragement of agriculture. R.S., c. 6, s. 11.

Annual meeting and fiscal year

15 (1) The annual meeting of every agricultural society shall be held in accordance with the bylaws of the society but must be within 90 days of the fiscal year end of the society.

(2) At such meeting a president, vice-president, secretary and such other officers and directors as may be required for the proper conduct, management and operation of the society must be elected.

(3) The quorum for a meeting is as prescribed by the bylaws of the society.

(4) The fiscal year of every agricultural society ends on October 31st in each year unless otherwise prescribed by bylaw. R.S., c. 6, s. 12; 2004, c. 24, s. 4; 2005, c. 6, s. 2.

Power of officer at formation

16 The officers appointed at the formation of such societies shall, until the election of their successors at the annual meeting, exercise all the powers vested in the societies by this Act. R.S., c. 6, s. 13.

Special meeting

17 (1) Such societies may hold special meetings.

(2) A special meeting may be called by the secretary's written notice not less than one week before the day appointed for the meeting.

(3) The quorum at special meetings is as prescribed by the bylaws of the society. R.S., c. 6, s. 14; 2004, c. 24, s. 5.

Bylaws

18 (1) A society may, subject to the approval of the Minister, make bylaws for the management and regulation of the business of the society and for the carrying out of its objects.

(2) All such bylaws must, within one month of the making thereof, be forwarded by the secretary to the Superintendent who shall forward the same to the Minister for the approval aforesaid. R.S., c. 6, s. 15; 2004, c. 24, s. 6.

Annual report and statement

19 (1) The officers and directors shall, in addition to the ordinary duties of management, present at the annual meeting an audited report of the proceedings of the society during the preceding year in which is stated the names of all the members of the society and the amount paid by each, together with an audited statement of the receipts and disbursements of the society during such year, which report and statement, if approved by the meeting, must be entered in the journal of the society and a true copy thereof, verified by the oath of the president or secretary, must be sent to the Superintendent within 30 days following the annual meeting held in accordance with subsection 15(1).

(2) Notwithstanding subsection (1), the officers and directors may, subject to the approval of the Minister, provide, for the preceding year, in place of the audited report and statement referred to in subsection (1),

(a) a report of the proceedings of the society stating the names of the members of the society and the amount paid by each;

(b) a statement in the form of a balance sheet of its liabilities and assets signed by two officers; and

(c) a statement of its income and expenditures signed by two officers.

(3) The officers and directors shall enter the report and statements referred to in subsection (2) in the journal of the society and a true copy, verified by the oath of the president or secretary, must be sent to the Superintendent within 30 days following the annual meeting held in accordance with subsection 15(1).

(4) Any society failing to comply with this Section forfeits any claim to participate in any grant or sum appropriated by the Legislature for the benefit of agriculture. R.S., c. 6, s. 16; 2004, c. 24, s. 7.

Present agricultural society

20 All agricultural societies organized previous to April 15, 1939, and in good standing, are deemed to have been duly organized and are entitled, on complying with the requirements of this Act, to draw their respective proportions of the annual grants. R.S., c. 6, s. 17.

Approval of formation

21 A society formed on or after April 15, 1939, under Chapter 4 of the Acts of 1939, Chapter 5 of the Revised Statutes, 1954, Chapter 3 of the Revised Statutes, 1967, Chapter 6 of the Revised Statutes, 1989, or this Act is not deemed duly organized until the formation of the society has been approved by the Minister. R.S., c. 6, s. 18.

Change of breed of sire

22 No society may change the breed or breeds of sires owned by it except with the approval in writing of two thirds of the members of the society and with the consent of the Superintendent. R.S., c. 6, s. 20.

Default of return

23 Any society that fails for two successive years to make the return to the Superintendent of Agricultural Associations required by this Part is deemed to be dissolved and the directors elected at the last properly constituted meeting of such society are trustees of the assets of the society until the same are disposed of by order of the Minister. R.S., c. 6, s. 22.

B - Community Clubs

Community club

24 A community club may be organized in any school section in the Province and must include in its name the name of the community in which it is organized. R.S., c. 6, s. 41.

Eligibility as member

25 Every person ordinarily residing in the school district in which a community club is formed is, subject to the bylaws of the club, eligible for membership therein. R.S., c. 6, s. 42.

Special objects

- 26** The special objects of community clubs are to
- (a) enable and encourage members to confer together for the interchange of information on matters relating to agriculture and to the welfare and progress of the community generally;
 - (b) promote the distribution and circulation of agricultural literature; and
 - (c) improve the agriculture and rural life of the community. R.S., c. 6, s. 43.

Managing committee

27 (1) The affairs of every community club must be managed by a managing committee of such number and with such officers as may be fixed by the bylaws of the club.

(2) The fiscal year of every community club ends on September 30th in each year.

(3) Every community club shall, not later than October 15th in each year, hold an annual meeting at such time and place as may be fixed by the managing committee of the club. R.S., c. 6, s. 44.

Bylaws

28 Every community club may make bylaws for the regulation and conduct of the affairs of the club and for the carrying out of its objects. R.S., c. 6, s. 45.

C - Commodity Groups**Commodity group**

29 (1) A body of producers of a specific agricultural product or products organized on a Provincial basis may be designated by order of the Minister as a commodity group.

- (2)** The special objects of a commodity group are to
- (a) facilitate the interchange of information among commodity producers;
 - (b) promote better means of commodity production and marketing; and
 - (c) encourage and promote the use of a commodity.

(3) Subject to the approval of the Minister, a commodity group may

- (a) make bylaws for the regulation and conduct of its affairs and for the carrying out of its objects;
- (b) require any person engaged in the production of the commodity to pay to it an amount fixed by way of levy or charge;

(c) require any person engaged in the marketing of the commodity to deduct, from any amount payable by that person to any person engaged in the production of the commodity, any amount payable by the latter person to the commodity group by way of levy or charge fixed pursuant to clause (b) and to remit all amounts so deducted to the commodity group.

(4) Any sum collected pursuant to clause (3)(b) must be used to further the objects of the commodity group.

(5) A person engaged in the production of a commodity who gives notice to the commodity group organized in respect of that commodity by registered mail prior to December 15th in any year that the person does not wish to be subject to the levy or charge fixed pursuant to clause (3)(b) is not subject to such levy or charge fixed by that commodity group in the year following that notice.

(6) An amount deducted in any year and remitted to a commodity group pursuant to clause (3)(b) must be refunded by the commodity group to the commodity producer within 60 days of the date the levy or charge was made upon receipt by registered mail of a notice given by a commodity producer that the commodity producer does not wish to be subject to the levy or charge fixed pursuant to clause (3)(b).

(7) For the purpose of this Section, the commodity group has the power to determine whether subsection (5) or (6) or both apply to that group's commodity.

(8) A commodity group shall submit to the Minister not later than January 31st in each year an audited statement of the receipts and disbursements of the commodity group during the preceding year. R.S., c. 6, s. 46.

PART III

ENCOURAGEMENT OF HORTICULTURE

Provincial Horticulturist

30 The Governor in Council may appoint a person to be Provincial Horticulturist, who holds office during pleasure and is paid such salary as the Governor in Council determines. R.S., c. 6, s. 76.

Expenditure by Governor in Council

31 The Governor in Council, upon the recommendation of the Minister and under the direction of the Provincial Horticulturist, may annually, for the purpose of encouraging horticulture in the Province, expend such sums, not exceeding the amount voted for that purpose by the Legislature, as is considered expedient, in

- (a) the collection of information in regard to horticulture;
- (b) the imparting of information and instruction on horticultural subjects;
- (c) the carrying on of such work or activities as may create interest in any of the various phases of horticulture;

(d) the establishment, operation and care of such demonstrational plantings of a horticultural nature as may be considered desirable to carry into effect the intent and purpose of this Part;

(e) generally, in paying the expenses of and incidental to the promotion of horticulture in the Province. R.S., c. 6, s. 77.

Duties

32 The duties of the Provincial Horticulturist are to

(a) supervise or take part in the carrying out of any activities considered desirable to carry into effect the intent and purpose of this Part;

(b) supervise and give direction to the carrying out of the aims and objects of this Part;

(c) generally improve the horticulture of the Province;

(d) perform such other duties as the Governor in Council may prescribe. R.S., c. 6, s. 78.

HORTICULTURAL SOCIETIES

Horticultural society

33 A horticultural society may be organized in the Province subject to the following provisions:

(a) an application for permission to organize a society must be made in writing to the Provincial Horticulturist and must be signed by not fewer than 25 persons over the age of 16 years, each of whom has subscribed one dollar to the funds of the society, and such money must be paid to and be held by one of the members in trust for the society;

(b) the application must be filed with the Provincial Horticulturist, who shall transmit the same to the Minister who, where the Minister approves thereof, shall declare the subscribers and such other persons as may thereafter become members of the society to be a society within the meaning of this Part, and the Minister shall issue a certificate of organization accordingly;

(c) it shall take its name from the city, town, village or community where it is organized, provided that the name of the society is subject to the approval of the Minister;

(d) as soon as practicable after the formation of a society, a meeting of the subscribers and of such other persons as desire to become members must be held at such time and place and after such notice as the Provincial Horticulturist directs;

(e) within one week after the meeting, the secretary shall send to the Provincial Horticulturist a report of the meeting containing a statement of the names and addresses of the members of the society and a list of the officers of the society;

(f) the annual fee for each member of a horticultural society must not be less than one dollar;

(g) the fiscal year of every horticultural society ends on October 31st in each year. R.S., c. 6, s. 79.

Objects

34 The objects of a horticultural society are to encourage interest and improvement in horticulture by

- (a) holding meetings for instruction and discussions on subjects connected with the theory and practice of horticulture;
- (b) encouraging the improvement of home and public grounds by the planting of trees, shrubs and flowers and by otherwise promoting outdoor art and public beauty, co-operating with municipal authorities for the preservation of natural beauty and for the beautification of public parks, highways, streets and boulevards and accepting and administering grants for such purposes;
- (c) importing and otherwise procuring and distributing seeds, plants, shrubs and trees of kinds desired by the members;
- (d) interesting members and others in the study of horticulture by the holding of contests and competitions and such other means as may be considered proper;
- (e) holding exhibitions and awarding premiums for the production of vegetables, plants, flowers, fruits, trees and shrubs; and
- (f) promoting the circulation of horticultural periodicals and other horticultural publications. R.S., c. 6, s. 80.

Quorum

35 At the organization meeting and at any regular meeting of a horticultural society, 10 members constitute a quorum. R.S., c. 6, s. 81.

Officers

36 The officers of a horticultural society consist of a president, a vice-president, a secretary-treasurer and such number, not more than 10, of directors as may be determined by the society. R.S., c. 6, s. 82.

Annual meeting

37 (1) Every society must hold an annual meeting between November 1st and November 15th in each year at such time and place as the directors may determine.

(2) At least one week notice of every annual meeting must be given by publication of the notice of the meeting in a newspaper having a general circulation in the district in which the society is formed or by mailing notices of the meeting to every member of the society at least one week before the meeting. R.S., c. 6, s. 83.

Annual report and financial statement

38 At every annual meeting, the directors shall present a report of the activities and accomplishments of the society during the preceding year, together with a financial statement for the preceding year certified by auditors approved for that purpose by the Minister. R.S., c. 6, s. 84.

Meetings

39 (1) General meetings of the society, other than the annual meeting, shall be called by the directors from time to time during each year.

(2) Notice of such general meetings must be given as nearly as may be in the manner provided for the annual meeting.

(3) Meetings of the directors may be held at the call of the president or of the secretary-treasurer on three days' notice. R.S., c. 6, s. 85.

Annual grant

40 Out of any money appropriated by the Legislature for the purpose, every society organized under this Part is entitled to an annual grant of \$15, provided

(a) the society has held a minimum of four general meetings during the year;

(b) the secretary-treasurer, or some other person designated for the purpose by the society, has submitted a list of officers of the society, a list of members of the society and the audited financial statement of the society;

(c) the society has carried on an active program promoting some of the phases of horticultural work within the objects of such society and has not later than November 25th made a report of the work of the preceding year to the Provincial Horticulturist; and

(d) the Minister approves. R.S., c. 6, s. 86.

PART IV**ENCOURAGEMENT OF SEED GROWING****Provincial Agronomist**

41 (1) The Governor in Council may appoint a person to be the Provincial Agronomist who holds office during pleasure and is paid such salary as the Governor in Council determines.

(2) The Provincial Agronomist has and may exercise all the powers of an inspector appointed under this Part. R.S., c. 6, s. 87.

Special growing area

42 The Governor in Council, upon the recommendation of the Minister, may proclaim any area or areas in any part of the Province as a special area for the purpose of encouraging the growing of pure seed of any farm or garden crops and to prevent the cross-pollination of such seed. R.S., c. 6, s. 88.

Alteration of area

43 The Governor in Council may alter the boundaries of any such area or areas and determine or change the variety or varieties of seed to be grown in any such area or areas. R.S., c. 6, s. 89.

Prohibited growing within area

44 No person may grow within any such area an open pollinated seed crop of a variety other than that for which the area is proclaimed. R.S., c. 6, s. 90.

Rules and regulations

- 45** The Governor in Council may make rules and regulations
- (a) for the approval of a variety or varieties of seed;
 - (b) for the proclaiming of a variety area or areas;
 - (c) for the cancelling of any or all of such areas;
 - (d) providing for the inspection, test and approval of such seed and the inspection of such areas;
 - (e) providing for the appointment of an inspector or inspectors;
 - (f) providing for the remuneration, travelling and other expenses of the inspectors, together with all other expenses incurred in carrying out this Part or any rule or regulation made under the authority thereof;
 - (g) prohibiting the growing of any variety of seed other than that for which the area is proclaimed;
 - (h) providing penalties for the breach of any provision of this Part or any rule or regulation made under the authority thereof;
 - (i) regulating such other matters as may be expedient or necessary to carry out the purpose and provisions of this Part. R.S., c. 6, s. 91.

PART V**ENCOURAGEMENT OF DAIRYING****Interpretation**

- 46** In this Part,
- “cheese factory” means a place where milk is manufactured into cheese, or into cheese and cream, for the purpose of sale or resale to consumers;
- “condensed milk factory” means a place where milk or cream is manufactured into condensed or evaporated milk for the purpose of sale or resale to consumers;
- “cream station” means a place suitably equipped with the necessary washing, steaming, grading, sampling and cooling equipment, operated as a branch of a creamery, where cream is received by an agent of the creamery and where either several or all of the following services are being performed by the agent, namely, the weighing, sampling, grading, testing and sorting of cream before it is transported or forwarded to the creamery in containers of the producer of the cream or where the cream is transferred into shipping or other containers for the purpose of being so transported or forwarded;
- “dairy” means a place where milk or cream, whether pasteurized or unpasteurized, is gathered or produced for the purpose of sale or resale to consumers;

“ice cream factory” means a place where ice cream is manufactured for the purpose of sale or resale to consumers;

“Superintendent” means the Superintendent of Dairying. R.S., c. 6, s. 92.

Superintendent of Dairying and personnel

47 The Superintendent of Dairying, and such deputies, inspectors, officers and clerks as may be necessary to enable the Superintendent to perform the duties assigned to the Superintendent, shall be appointed in accordance with the *Civil Service Act*. R.S., c. 6, s. 93.

Duties of Superintendent

48 The Superintendent shall advise the Minister in respect of matters relating to dairying in the Province and shall take measures for the promotion of dairying in the Province by such means as may be approved of by the Minister. R.S., c. 6, s. 94.

Duties of Superintendent and inspector

49 The Superintendent and any dairy inspector shall carry out the provisions of this Part and shall perform such additional duties as may be assigned to them by the Governor in Council or by the Minister. R.S., c. 6, s. 95.

Inspection and promotion of dairying

50 The Superintendent and any dairy inspector shall, for the purpose of carrying out this Part, inspect cheese factories, condensed milk factories, creameries, cream stations, dairies and ice cream factories and shall give such instructions and advice as may be considered necessary for the promotion of dairying in the Province. R.S., c. 6, s. 96.

Annual encouragement grant

51 The Governor in Council, upon the recommendation of the Minister, may annually for the purpose of encouraging dairying in the Province, expend such sum as the Legislature may appropriate for such purpose in

- (a) the collection of information in regard to dairying;
- (b) the imparting of information and instruction on the management, operation and care of dairies;
- (c) aiding and encouraging, in such manner and by such means as may be considered expedient, dairying within the Province. R.S., c. 6, s. 97.

DAIRY FARMERS OF NOVA SCOTIA

Dairy Farmers of Nova Scotia

52 The Dairy Farmers of Nova Scotia continues to exist as before April 15, 1939. R.S., c. 6, s. 98.

Objects

53 The objects of the organization are the furthering of the interests of the dairy industry of the Province by

- (a) holding an annual convention;
- (b) co-operating with the dairy farmers in various sections of the Province and by holding local dairy meetings and sending speakers to annual meetings;
- (c) collecting, arranging and sending out to dairy farmers useful information in connection with dairying;
- (d) co-operating in promoting the educational work of the Department;
- (e) holding exhibitions of dairy products; and
- (f) such other means as may be approved by the Minister. R.S., c. 6, s. 100.

Bylaws

54 The organization may, subject to the approval of the Governor in Council, make bylaws for the regulation of the business of the organization and the carrying out of its objects. R.S., c. 6, s. 101.

Annual grant

55 The Governor in Council may, out of the General Revenue Fund, annually grant for the use of the Association an amount not exceeding \$1,000, subject to such terms and conditions as may be prescribed by the Governor in Council. R.S., c. 6, s. 102.

PART VI**SOIL IMPROVEMENT****“agricultural limestone” defined**

56 In this Part, “agricultural limestone” includes pulverized limestone and marl for use on lands. R.S., c. 6, s. 103.

Provincial Chemist

57 The Governor in Council may appoint a person to be the Provincial Chemist who holds office during pleasure and receives such salary as the Governor in Council determines. R.S., c. 6, s. 104.

Duties

- 58** The duties of the Provincial Chemist are to
- (a) study, examine or test soil for the purpose of determining its suitability for agricultural purposes or for certain agricultural purposes;
 - (b) advise farmers and other persons as to the most economical and suitable use of fertilizers and other soil amendments;
 - (c) examine the limestone deposits of the Province and to encourage the use of ground, pulverized, burnt or hydrated limestone for agricultural purposes;

(d) analyze and determine the suitability for agricultural purposes of water, feed, sprays and other substances used for agricultural purposes;

(e) perform such other duties as may be assigned to the Provincial Chemist by the Minister or the Governor in Council. R.S., c. 6, s. 105.

Powers of Governor in Council

59 The Governor in Council may

(a) operate such limestone or marl quarries, plants, mills, workshops, warehouses or storage depots for the production, manufacture, storage or distribution of agricultural limestone as may be considered useful in carrying into effect the provisions of this Part;

(b) facilitate the economical distribution of agricultural limestone by rebates of freight rates, cash bonuses or by such other methods as may be considered advisable and for such periods as is considered expedient;

(c) purchase, acquire or own machinery or equipment for the purpose of grinding, manufacturing or distributing agricultural limestone, and lease or rent the same on such terms as may be considered expedient;

(d) without in any way limiting or being limited by the foregoing clauses, generally do all such things as may be considered necessary or advisable for the purpose of carrying into effect the purpose and intent of this Part. R.S., c. 6, s. 106.

Regulations

60 (1) The Minister may, subject to the approval of the Governor in Council, make such regulations as the Minister considers necessary for the better carrying out of the purpose and intent of this Part and for the effective administration thereof.

(2) Such regulations must be published in the Royal Gazette and, upon being so published, have the same force and effect as if enacted in this Part. R.S., c. 6, s. 107.

PART VII

PLANT DISEASES, INSECTS AND PESTS

Interpretation of Part

61 In this Part,

“inspector” means an inspector or other officer appointed under this Part for carrying out this Part;

“vegetation” means any tree, shrub, vine or plant or the fruit or any portion whatsoever of a tree, shrub, vine or plant. R.S., c. 6, s. 110.

Application of Part

62 This Part applies only to such plant diseases, insects and pests as the Governor in Council may declare to be subject to this Part. R.S., c. 6, s. 111.

Provincial Entomologist

63 (1) The Governor in Council may appoint a person to be Provincial Entomologist, who holds office during pleasure and is paid such salary as the Governor in Council determines.

(2) The Provincial Entomologist has and may exercise all the power of an inspector appointed under this Part. R.S., c. 6, s. 112.

Regulations

64 The Governor in Council may make such regulations as are considered expedient to eradicate, control or to prevent the introduction into the Province or the dissemination therein of any such plant disease, insect or pest. R.S., c. 6, s. 113.

Content of regulations

65 Such regulations may provide

(a) that except as is otherwise provided in the regulations, it is unlawful for any person to have in that person's possession, in the Province, or in any particular part thereof at any time or during any particular time or times, any vegetation, vegetable or other matter that the Minister considers to be likely to introduce into the Province or to disseminate therein any such plant disease, insect or pests;

(b) the terms or conditions upon which any person may lawfully have in the person's possession any such vegetation, vegetable or other matter;

(c) for the treatment and method of treatment to be given to any vegetation, vegetable matter or premises to eradicate or control or to prevent the spread of any such plant disease, insect or pest, and whether the treatment must be given by the owner or by a person appointed for the purpose;

(d) for the treatment, prior to the sale or disposal thereof of any vegetation, vegetable or other matter infected or suspected to be infected with any such plant disease, insect or pest;

(e) for the prohibition of the sale of any vegetation or vegetable matter infected with any such plant disease, insect or pest;

(f) that the occupier of the premises, on which is discovered any such plant disease, insect or pest, must immediately notify the Minister thereof, and must also send specimens of the plant disease, insect or pest to the Provincial Entomologist;

(g) for establishing quarantine areas in the Province and regulating or prohibiting the moving or transportation of any vegetation or vegetable matter from or into any area so established;

(h) for the entry upon and inspection for the purpose of this Part of any premises and of anything growing or found thereon;

(i) for the seizure, confiscation, destruction or other disposal of any vegetation, vegetable or other matter and the container thereof, if any, in respect of which a breach of this Part, or of any regulation made thereunder, is committed;

(j) for the payment of such fees as considered necessary to meet the cost of inspection, fumigation or other treatment of any vegetation, vegetable or other matter or containers brought or sent into the Province;

(k) for the payment by the owners of vegetation, vegetable or other matter of the expense of any treatment required by the regulations;

(l) generally for or respecting the doing or abstaining from the doing of any act, matter or thing whatsoever that the Minister may consider expedient for carrying out this Part, whether such regulations are of the kind enumerated in this Section or not. R.S., c. 6, s. 114.

Appointment of officers

66 (1) The Minister may appoint inspectors and such other officers as the Minister considers expedient for carrying out this Part, and the regulations made thereunder.

(2) The inspectors and other officers shall act under the direction of the Minister. R.S., c. 6, s. 115.

Right of entry

67 Any inspector may enter any place or premises whatsoever in which the inspector suspects that any such plant disease, insect or pest exists. R.S., c. 6, s. 116.

Penalty

68 Any person contravening or neglecting to carry out or offering any hindrance to the carrying out of any provision of this Part, or of any regulation made thereunder, is liable upon summary conviction to a fine of not more than \$100, and in default of payment to imprisonment for a period not exceeding 60 days. R.S., c. 6, s. 117.

Publication of Regulation

69 Every regulation made under this Part must be published in two successive issues of the Royal Gazette, but every such regulation is nevertheless in force on and from the date on which the same is made. R.S., c. 6, s. 118.

PART VIII

PREVENTION AND CONTROL OF THE APPLE MAGGOT (*Rhagoletis pomonella* Walsh)

Interpretation

70 In this Part,

“agrologist” means a member of the Nova Scotia Institute of Agrologists;

“control zone” means any area designated as an apple-maggot control zone where apples are grown commercially;

“inspector” means an inspector appointed pursuant to this Part;

“occupant” means the person in possession of real property on which or in which apple maggot is found or, where such person cannot be determined, the owner of the real property as shown on the last revised assessment roll of the municipality in which the property is located;

“orchard” means any land on which any apple tree is growing;

“regulation” means a regulation made pursuant to this Part;

“vegetation” means any apple tree or American hawthorn tree of any age or fruit of any apple tree or American hawthorn tree. 2001, c. 39, s. 5.

Agrologist and inspectors

71 (1) The Minister shall appoint an agrologist who is responsible for this Part and for the inspectors appointed pursuant to this Part.

(2) Where the agrologist appointed pursuant to subsection (1) is not an employee of the Department, the agrologist is subject to the supervision of the Department.

(3) The agrologist referred to in subsection (1) may also serve as an inspector.

(4) The Minister may appoint inspectors to enforce this Part and the regulations made pursuant to this Part.

(5) Additional duties and responsibilities of inspectors may be prescribed by the regulations. 2001, c. 39, s. 5.

Owner or occupier responsibility

72 (1) An owner or occupant is required to control apple maggot in or on infested vegetation that is within a control zone of a commercial orchard.

(2) Where an inspector finds infested vegetation, the inspector shall confer with the owner or occupant as to a satisfactory method of control as prescribed by the regulations.

(3) Where, after consulting with the owner or occupant, prompt effective action is not taken, the inspector may issue a destruction order in the form prescribed by the regulations and the order may be served by registered mail or, where the owner or occupant is unknown or cannot be located, by posting it in a conspicuous place on the land.

(4) Where the person to whom a destruction order has been issued pursuant to subsection (3) feels that the order is unjust, the person may, within four days of service of the notice, appeal, by telephone, facsimile transmission or registered mail, to the agrologist who shall immediately cause a reinspection to take place.

(5) Following a reinspection pursuant to subsection (4), the agrologist may confirm, vary or rescind the destruction order. 2001, c. 39, s. 5.

Inspector

73 (1) An inspector may enter upon any lands on which the inspector suspects any apple maggot exists.

(2) No person shall hinder or obstruct an inspector in the course of the inspector's duties or furnish the inspector with false information or refuse to furnish the inspector with information.

(3) Where an inspector is denied access or is obstructed in any way except as provided in subsection (4), the inspector may apply to a justice of the peace for a warrant.

(4) An inspector may be denied access if granting access would result in an immediate threat of injury or harm to the inspector. 2001, c. 39, s. 5.

Offence and penalty

74 Every person who contravenes this Part or a regulation is guilty of an offence and liable on summary conviction to the penalties provided for in the *Summary Proceedings Act*. 2001, c. 39, s. 5.

Regulations

75 (1) The Governor in Council, on the recommendation of the Minister, may make regulations

(a) prescribing additional duties and responsibilities of inspectors;

(b) prescribing the treatment and method of treatment to be given to any orchard or vegetation to control or to prevent the spread of the apple maggot and determining whether the treatment should be given by the owner, occupant or by a person appointed for that purpose;

(c) prescribing the treatment, prior to the sale or disposal, of any vegetation infested with the apple maggot;

(d) prescribing the method of destruction and the manner of disposal of any vegetation infested with the apple maggot, including the container, if any, to be used for the disposal;

(e) prescribing fees for inspections and payment to inspectors;

(f) prescribing any forms required by this Part;

(g) respecting any matter considered necessary or advisable to carry out effectively the intent and purpose of this Part.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2001, c. 39, s. 5.

PART IX

COUNTY AND DISTRICT EXHIBITIONS

Annual exhibition

76 Subject to the approval of the Governor in Council, any agricultural society, county or district federation of agriculture or any other society or association may hold for its respective county or district an annual exhibition of agricultural or horticultural produce, farm stock and articles of domestic manufacture, at which prizes are granted for the best specimen produced. R.S., c. 6, s. 155.

Grant

77 (1) The Governor in Council may grant to any society or association, in aid of an exhibition under this Part, such sum or sums not exceeding in total the amount voted for that purpose by the Legislature as is considered expedient.

(2) No money granted under this Section may be paid to any society or association unless the society or association has filed with the Minister an audited financial statement satisfactory to the Minister of the affairs of the society or association for the preceding year. R.S., c. 6, s. 156.

Combined grant

78 (1) The Governor in Council may combine the grants in aid of two or more adjoining counties, districts or parts of counties or districts for one exhibition if a majority of the agricultural societies in each of such counties, districts or parts of counties or districts so request.

(2) Where two or more counties, districts or parts of counties or districts unite for the purpose of a joint exhibition, no separate grant in aid may be made to any such counties, districts or parts of counties or districts.

(3) Where there is a united exhibition under this Part, the Governor in Council may grant, in aid to such exhibitions, the maximum grant which may have been made in the county or district in which the exhibition is held and in addition thereto such amount as the Governor in Council determines, but not exceeding the minimum amount that could be granted if a separate exhibition were held in such counties or districts or parts of counties or districts. R.S., c. 6, s. 157.

Municipal grant

79 (1) The council of any regional municipality, town or other municipality in a county in which a county or district exhibition is held, or in a county or district which has joined with another county or district pursuant to Section 78, may annually grant to the exhibition such sum of money as the council determines.

(2) Every sum granted for such purpose must be held to be sums required for the ordinary, lawful purposes for the regional municipality, town or other municipality and must be raised, levied and collected in the same manner and in all respects as other sums required for the ordinary, lawful purposes of the regional municipality, town or other municipality are raised, levied or collected. R.S., c. 6, s. 158.

Grant for judge

80 (1) The Minister may annually expend, for the purpose of sending competent judges to county or district exhibitions, a sum not exceeding the amount voted by the Legislature for this purpose.

(2) Any society or association desiring the services of such judges shall select dates for its exhibition that are satisfactory to the Minister and for this purpose shall submit the proposed dates to the Minister at the time of the application for a grant in aid. R.S., c. 6, s. 159.

Regulations

81 The Minister, with the approval of the Governor in Council, may make regulations

(a) prescribing the form and content of applications for a grant in aid of an exhibition;

(b) prescribing conditions for the payment of grants or of any specific grant;

(c) providing for the transfer to the Exhibition Association of Nova Scotia or other organization of any fund that relates to exhibitions and that is administered by the Minister or the Department, or by the Minister of Finance and Treasury Board or the Department of Finance and Treasury Board on behalf of the Minister or the Department, and regulating the operation of any such fund that has been so transferred;

(d) restricting the eligibility of exhibits for prizes at more than one exhibition;

(e) respecting the place where an exhibition may be held, and providing for the determination of a location of an exhibition by votes of society or association members or by any other means;

(f) respecting the qualifications of judges;

(g) respecting the granting of concessions at exhibitions, including restrictive conditions to apply to concessions and to the operators of the concessions;

(h) generally respecting the conduct of exhibitions and the terms and conditions relating thereto. R.S., c. 6, s. 160.

PART X**GRADING, PACKING, INSPECTION AND SALE
OF NATURAL PRODUCTS OF THE PROVINCE****Interpretation of Part**

82 In this Part,

“grade” means any grade established pursuant to this Part or the regulations;

“grader” means a grader appointed under this Part;

“inspector” means an inspector appointed under this Part;

“product” includes animals, wool, meats, eggs, poultry, fruit, fruit products, vegetables, vegetable products, maple products, honey and such other natural products of agriculture as the Governor in Council may designate and such articles of food or drink wholly or partly manufactured or derived from any such product as the Governor in Council may designate;

“regulations” means regulations made by the Governor in Council under this Part. R.S., c. 6, s. 165.

Regulations

- 83 (1)** The Governor in Council may make regulations
- (a) classifying and establishing grades for any product;
 - (b) with respect to packages or containers and providing for the inspection, grading, packaging, packing, marking, shipping, advertising and selling of products within the Province;
 - (c) prescribing when and where any regulations are in force;
 - (d) for the registration of packers and of persons assembling products and for the registration of and licensing of brokers, commission agents and dealers and prescribing fees for such registration and licensing and fees for the inspection of products;
 - (e) prescribing the powers and duties of inspectors;
 - (f) generally for the better carrying out of the provisions and purpose of this Part.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. R.S., c. 6, s. 166.

Inspectors

84 The Minister may appoint an inspector or inspectors whose duty is to assist in carrying out the provisions of this Part. R.S., c. 6, s. 167.

Graders

85 The Minister may appoint a grader or graders and may prescribe the duties and functions of a grader. R.S., c. 6, s. 168.

Powers of inspector and regulations

- 86 (1)** Any inspector may at all reasonable times, for the purpose of enforcing this Part or the regulations,
- (a) enter any place or premises, any steamship, vessel or boat or any carriage, car, truck or other vehicle used or being used for the carriage of products or believed by the inspector as being so used;
 - (b) require to be produced, for inspection or for the purpose of obtaining copies thereof or extracts therefrom, any books, shipping bills, bills of lading, sale records or other records or papers;

(c) inspect any product which is being transported by vehicle and require the driver, of any vehicle believed by the inspector to be carrying a product or products, to stop for the purpose of inspection;

(d) detain any product for the time necessary to complete the inspector's inspection or otherwise;

(e) at the expense of the producer, packer or owner, take samples of products wherever or whenever the inspector may consider necessary.

(2) Whenever an inspector believes on reasonable grounds that this Act or the regulations have been violated, the inspector may seize the products and other things by means of or in relation to which the inspector reasonably believes the violation was committed.

(3) Products and other things seized pursuant to subsection (2) may not be detained after

(a) this Act and the regulations have, in the opinion of the inspector, been complied with; or

(b) the expiration of 90 days from the day of seizure, or such longer period as may be prescribed with respect to any agricultural product or other thing,

unless before that time proceedings have been instituted in respect of the violation, in which event the agricultural products and other things may be detained until the proceedings are finally concluded.

(4) Where a person has been convicted of a violation of this Act, every agricultural product or other thing by means of or in relation to which the offence was committed is, upon the conviction, in addition to any penalty imposed, forfeited to the Crown if such forfeiture is directed by the court.

(5) The Governor in Council may make regulations

(a) respecting the detention of articles seized under this Section and for preserving or safeguarding any articles so detained;

(b) respecting the disposition of articles forfeited under this Section. R.S., c. 6, s. 169.

Risk and expense upon detention

87 Any product detained under this Part or the regulations is at all times at the risk and expense of the owner, but the inspector shall immediately notify the owner or person having possession of the product or products by prepaid telegram, letter or otherwise that the product or products are being detained in storage or otherwise, as the case may be. R.S., c. 6, s. 170.

Evidence

88 (1) A certificate of the appointment of any inspector or grader and any certificate purporting to be signed by an inspector or grader is without further proof of the signature or official position of the person signing the certificate prima facie evidence in any court of the facts set forth in any such certificate.

(2) In a prosecution under this Part or the regulations the fact that the person charged had a product in the person's possession is prima facie proof that the product is a product to which this Part or the regulations, as the case may be, applies. R.S., c. 6, s. 171.

Obstruction of inspector or grader

89 No person shall obstruct an inspector or grader, refuse to permit any product to be inspected or give to an inspector or grader a false name or address or other false information. R.S., c. 6, s. 172.

Registration of head packer

90 The Minister may at the request of any provincial producers' association authorize the registration of supervisor packers or head packers or other persons in charge of or responsible for the work of those engaged in the packing of a product in orchards, packing houses, warehouses or other places. R.S., c. 6, s. 173.

Penalty

91 Every person who

(a) transports, packs, advertises, sells, offers for sale or has in the person's possession for sale any product, that in any respect does not comply with the provisions of this Part or the regulations, except as may by regulation be permitted for manufacturing or processing purposes;

(b) represents any product to be of a certain grade, variety or class unless such product has been so graded or classed in accordance with the regulations;

(c) misrepresents the grade, variety, class or origin of any product;

(d) sells, offers for sale or has in the person's possession for sale any product in any package or container of which the faced or shown surface falsely represents the contents or any package or container that is not properly filled; or

(e) violates any provision of this Part or the regulations,

is liable to a fine of not more than \$100, and in default of payment to imprisonment for a term not exceeding 30 days. R.S., c. 6, s. 174.

Consent to prosecution

92 No prosecution may be commenced under this Part or the regulations except with written consent of the Attorney General. R.S., c. 6, s. 175.

PART XI**COMMUNITY PASTURES****Advisory committee**

93 The Minister may

(a) appoint an advisory committee to advise the Minister with respect to policies and agreements in relation to the use and management of community pastures; and

- (b) provide for the remuneration and payment of expenses of members of the advisory committee who are not in the public service. 2004, c. 24, s. 12.

PART XII

LAND CONSERVATION AND USE

Federal-Provincial agreement

94 With the approval of the Governor in Council the Minister may enter into and carry out an agreement with the Government of Canada or a minister or agency thereof for the execution, in collaboration with that Government, minister or agency, of work or a program of work for the protection, reclamation, conservation and improvement of land and for the more effective and economical utilization of land or for any of those purposes. R.S., c. 6, s. 184.

Execution of work

95 Where an agreement is in effect under Section 94, the Minister may enter into and carry out an agreement with any person or municipality for the joint execution of work or a program of work for any or all of the purposes referred to in the agreement with the Government of Canada or a minister or agency thereof. R.S., c. 6, s. 185.

Municipal-Provincial agreement

96 (1) A municipality may enter into and carry out an agreement with the Minister for any of the purposes referred to in Section 94.

(2) Any money required by a municipality for the purpose of carrying out an agreement under this Part is, for the purpose of the *Municipal Government Act*, deemed to be money required for municipal purposes. R.S., c. 6, s. 186.

Powers of Minister

97 For the purpose of carrying out an agreement entered into under this Part, the Minister may

- (a) acquire and use real and personal property;
- (b) construct drains, roads, breakwaters, dams, ditches, canals, excavations and other works and things for the reclamation, protection, conservation or improvement of land;
- (c) engage, employ or enter into contracts with persons for execution of any work;
- (d) make regulations respecting the use or protection of or the more effective utilization of land reclaimed, protected or improved by work performed pursuant to an agreement and prescribe penalties for violation of those regulations;
- (e) do any other act or thing necessary or incidental to the carrying out of any such agreement. R.S., c. 6, s. 187.

Sum charged to Capital Account

98 The Minister of Finance and Treasury Board, with the approval of the Governor in Council, may charge to Capital Account such sum or sums as are considered necessary for the purpose of this Part or, where it is considered expedient to do so, the Minister of Finance and Treasury Board may pay the said sum or sums out of the Special Reserve Account of the Province or out of the revenue of the Province for any year or years. R.S., c. 6, s. 188.

PART XIII

FUR FARMING

Interpretation

99 In this Part,

“fur farm” means an enclosure in which fur-bearing animals are kept in captivity and that is so constructed that it will effectively prevent ingress or egress of animals of the same species as those so kept in captivity;

“fur-bearing animal” means mink, chinchilla, fox or rabbit. R.S., c. 6, s. 189.

Prohibited entry

100 When notices prohibiting trespassing that are easily discernible at a distance of not less than 25 yards are posted upon the outer fence or enclosure surrounding the dens or pens of fur-bearing animals that are kept on a fur farm or are kept in captivity for breeding purposes, no person, except with the consent of the owner or caretaker of the farm or place where the animals are kept, shall

(a) enter upon the land of the owner of the farm or place within a distance of 25 yards of the fence or enclosure;

(b) upon the land of the owner of the farm or place, approach within 25 yards of the fence or enclosure; or

(c) for the purpose of entering the enclosed area or for any other purpose, pass within the fence or enclosure or climb over, break or cut through it. R.S., c. 6, s. 192.

Prohibition

101 (1) No person owning, possessing or having the care of a dog shall permit the dog on land upon which a fur farm is operated or an enclosure exists where fur-bearing animals are kept for breeding purposes to be or to approach within 50 yards of the outer fence or enclosure within which the dens or pens of the animals are located.

(2) The owner or caretaker of a fur farm or enclosure, where fur-bearing animals are kept for breeding purposes, may kill a dog that the owner or caretaker finds on land on which a fur farm is operated or an enclosure is maintained where fur-bearing animals are kept for breeding purposes and within 50 yards of the outer fence or enclosure within which the dens or pens of the animals are located. R.S., c. 6, s. 193.

Penalty

102 A person who violates any provision of this Part is liable on summary conviction to a penalty of not less than \$50 nor more than \$300 and in default of payment to imprisonment for one day for every five dollar or major fraction thereof of the fine or penalty imposed. R.S., c. 6, s. 194; 2010, c. 4, s. 40; 2012, c. 58, s. 33.

PART XIV

NOVA SCOTIA WINE, CIDERS AND FRUIT LIQUEURS
INDUSTRY DEVELOPMENT BOARD**Interpretation of Part**

103 In this Part,

“Board” means the Nova Scotia Wine, Ciders and Fruit Liqueurs Industry Development Board;

“member” means a member of the Nova Scotia Wine, Ciders and Fruit Liqueurs Industry Development Board;

“wine” means an alcoholic beverage

(a) made from grapes, apples or other fruits, or other agricultural products containing sugar,

and includes ciders and fruit liqueurs; and

(b) that meets the requirement of the regulations to be designated as a Nova Scotia wine;

“winery” means the production facilities and related growing area for the production of wine. 2006, c. 8, s. 1.

Nova Scotia Wine, Ciders and Fruit Liqueur Industry Development Board

104 (1) A board to be known as the Nova Scotia Wine, Ciders and Fruit Liqueurs Industry Development Board is established.

(2) The Minister may appoint such members of the Board the Minister determines advisable, and shall include a representative of each of

(a) the Department of Agriculture;

(b) the Department of Communities, Culture, Tourism and Heritage;

(c) the Department of Economic Development; and

(d) the Nova Scotia Liquor Corporation.

(3) The member that represents the Department of Agriculture is the Chair of the Board.

(4) Members shall be appointed for a term not exceeding three years and are eligible for reappointment. 2006, c. 8, s. 1.

Duties of Board

105 The Board shall

- (a) advise the Minister on
 - (i) standards for the quality and production of wine,
 - (ii) standards, guidelines, policy and the regulation of the wine industry,
 - (iii) standards, guidelines, policy and the regulation of the Nova Scotia grape-growing industry,
 - (iv) the production, processing, labelling, classification, composition, promotion and certification of wine; and
 - (b) perform such other duties that the Minister assigns with respect to assisting the Minister with the proper administration of this Part.
- 2006, c. 8, s. 1.

Agreements

106 The Minister may enter into an agreement with any person, the Government of Canada, a provincial government, a municipal government or any agency of those governments for any purpose under this Part or the regulations made pursuant to this Part. 2006, c. 8, s. 1.

Duty of owner or operator of registered winery

107 Every owner or operator of a registered winery shall comply with the requirements of this Part and the regulations. 2006, c. 8, s. 1.

Nova Scotia wine appellation

108 No person shall sell or offer for sale a product as a Nova Scotia wine unless it meets the requirements of the regulations. 2006, c. 8, s. 1.

Category or class of wine

109 No person shall sell or offer for sale a product as a category or class of wine unless it meets the requirements of the regulations. 2006, c. 8, s. 1.

Audit of winery

110 The Minister may cause to be conducted an audit of a winery registered under the regulations. 2006, c. 8, s. 1.

Offence and penalty

111 Every person who contravenes this Part or the regulations is guilty of an offence and liable on summary conviction to the penalties provided for by the *Summary Proceedings Act*. 2006, c. 8, s. 1.

Regulations

112 (1) The Minister may, with the approval of the Governor in Council, make regulations

- (a) respecting the registration and certification of wineries;
- (b) respecting the suspension and revocation of the registration and certification of wineries;

- (c) respecting categories of wineries;
- (d) establishing classifications and categories of wine;
- (e) prescribing acreage requirements for the registration of a winery;
- (f) respecting the certification of production facilities of agricultural inputs in the production of wine;
- (g) respecting the suspension and revocation of the certification of production facilities of agricultural inputs in the production of wine;
- (h) respecting terms and conditions for the labelling and promotion of wine;
- (i) respecting compliance with permit and contracting requirements of the Nova Scotia Liquor Corporation;
- (j) respecting standards for the production and quality of wine;
- (k) respecting standards for wine producing facilities;
- (l) respecting the criteria for a product to be designated as a Nova Scotia wine;
- (m) respecting the criteria for a wine to be designated as a particular classification or category of wine;
- (n) prescribing geographic boundaries of wine production regions;
- (o) respecting the keeping of records;
- (p) respecting the auditing of wineries and the reporting of the results of an audit;
- (q) prescribing fees;
- (r) delegating any of the duties set out in these regulations to a third party;
- (s) defining any word or expression used but not defined in this Part;
- (t) further defining any word or expression defined in this Part;
- (u) respecting any matter the Minister determines necessary or advisable to carry out effectively the intent and purpose of this Part.

(2) The exercise by the Minister of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*, 2006, c. 8, s. 1.

PART XV

Regulations

- 113 (1) The Minister may make regulations

- (a) prescribing forms and providing for their use;
- (b) prescribing fees for the purpose of this Act.

(2) The Form contained in the Schedule to Chapter 6 of the Revised Statutes, 1989, is deemed to be prescribed pursuant to clause (1)(a) and to have been published in accordance with the *Regulations Act* and may be amended or repealed pursuant to this Act.

(3) The exercise by the Minister of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2012, c. 53, s. 2.

CHAPTER A-13

An Act Respecting Agriculture and Rural Credit

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Short title

1 This Act may be cited as the *Agriculture and Rural Credit Act*. R.S., c. 7, s. 1.

Interpretation

2 In this Act,

“agri-rural business” means a business that primarily produces or adds value to inputs to or outputs from farming operations;

“Board” means Nova Scotia Farm Loan Board;

“borrower” means

(a) a person 19 years of age or more who is a Canadian citizen or who has satisfied the Board of the person’s intention to become a Canadian citizen;

(b) a corporation that is operating or proposes to operate a farm, provided a majority of the shares are beneficially held by residents of the Province;

“Department” means Department of Agriculture;

“farm” means an area of land that in the opinion of the Board is suitable for purposes of agricultural production, including a greenhouse, fur or tree farming operation;

“Minister” means Minister of Agriculture. R.S., c. 7, s. 2; 2011, c. 49, s. 1.

Farm Loan Board

3 (1) There is a corporation called the Nova Scotia Farm Loan Board, consisting of such number of directors as the Governor in Council determines.

(2) Directors shall be appointed by the Governor in Council to hold office during pleasure for a term not exceeding five years.

(3) The Governor in Council shall designate one of the directors to be Chair of the Board and one of the directors to be Vice-chair of the Board.

(4) A director is eligible for reappointment upon the expiration of the director's term of office, but is not eligible to be appointed to the Board for more than two consecutive terms.

(5) The directors of the Board shall receive such remuneration, allowances and expenses as the Governor in Council determines.

(6) Two thirds of the directors serving at any time constitute a quorum of the Board. R.S., c. 7, s. 3; 2011, c. 49, s. 2.

Supervision

4 The operation of the Board is under the general supervision and direction of the Minister. R.S., c. 7, s. 4.

Personnel

5 The officers, staff and employees required for the proper conduct, management and operation of the Board must be appointed in accordance with the *Civil Service Act*, and all such officers, staff and employees report to the Minister. R.S., c. 7, s. 5; 2011, c. 49, s. 3.

Successor board

6 (1) The Board is the successor of the Nova Scotia Land Settlement Board and all property, rights, obligations and liabilities of the Nova Scotia Land Settlement Board existing immediately before April 1, 1967, are deemed to be property, rights, obligations and liabilities of the Nova Scotia Farm Loan Board.

(2) The Board has the same powers for the enforcement and protection of any estate, right, title or interest as were enjoyed by the Nova Scotia Land Settlement Board.

(3) Where in any Act, order, regulation, mortgage, contract or other document there is a reference to the Nova Scotia Land Settlement Board, there must be substituted therefor a reference to the Board as constituted under this Act. R.S., c. 7, s. 6.

Purposes, duties, powers

7 The purposes, duties and powers of the Board are

(a) to make loans to, or guarantee loans of, a borrower for the purpose of acquiring or improving any farm, plant, machinery or equipment;

- (b) to make loans to, or guarantee loans of, a borrower for the purpose of acquiring quota or for acquiring, building or improving a farm dwelling;
- (c) to make loans to a borrower for the purpose of paying out or refinancing existing loans of that borrower;
- (d) to acquire, hold, lease and dispose of farms or buildings or an interest in farms or buildings;
- (e) to acquire, develop or improve real or personal property that is used or intended to be used in an agri-rural business;
- (f) to acquire, hold, lease, subdivide and dispose of agricultural lands;
- (g) to acquire, hold, lease and dispose of livestock, agricultural machinery and equipment or an interest therein and such other equipment or an interest therein as the Board may consider essential to ensure the success of the borrower;
- (h) to erect buildings, make permanent improvements and carry on farming operations on farms or other lands owned by the Board or an interest therein;
- (i) to collaborate with personnel of the Department regarding the extension of credit to further agricultural production;
- (j) to acquire from the Governor in Council for the purpose of encouraging agricultural production and development within the Province any land expropriated under the *Expropriation Act*;
- (k) to approve of or reject applications for the purchase of farms, stock or agricultural personal property, upon such terms as the Board may determine;
- (l) to approve or reject loan applications or loan guarantees upon such terms as the Board may determine;
- (m) such other purposes, duties and powers as the Minister may from time to time approve of or determine. R.S., c. 7, s. 7; 2004, c. 24, s. 13; 2011, c. 49, s. 4.

Regulations

8 The Board may, subject to the approval of the Governor in Council, make regulations

- (a) prescribing the manner in which applications for loans may be made;
- (b) prescribing the terms and conditions upon which loans may be made;
- (c) prescribing the terms and conditions upon which property of the Board, including agricultural land or an interest therein, may be sold, leased and disposed of;
- (d) prescribing the limits of loans;
- (e) deferring the payment of the whole or any part of any loan for such reasons as the Board may in its discretion determine;

- (f) fixing the rates of interest to be charged on loans and on accounts, including arrears;
- (g) providing for the commuting of any payments due to the Board;
- (h) prescribing the manner and conditions upon which borrowers may transfer their rights;
- (i) prescribing the fees and expenses payable by borrowers under this Act;
- (j) prescribing the powers and duties of supervisors or other officers, assistants, clerks or employees of the Board;
- (k) prescribing forms of mortgages, agreements and other documents;
- (l) requiring borrowers to acquire and maintain insurance;
- (m) prescribing the form and conditions under which borrowers shall present a financial statement with respect to their farm operation;
- (n) generally for the conduct and management of its business and for the better carrying out of the purpose of this Act. R.S., c. 7, s. 8; 2004, c. 24, s. 14; 2011, c. 49, s. 5.

Financial provisions

9 (1) The Minister of Finance and Treasury Board, with the approval of the Governor in Council, may advance to the Board and charge to the Capital Account such sums of money as the Governor in Council considers necessary for the purpose of carrying out all or any of the provisions of this Act, or, if it is considered expedient to do so, the Minister of Finance and Treasury Board may pay the said sum or sums out of the Special Reserve Account of the Province or out of the revenue of the Province for any year or years.

(2) All such money and all repayments shall be expended or applied by the Board under the provisions of this Act.

(3) The administration expenses of the Minister and of the Board are administration expenses of the Department.

(4) The fiscal year of the Board must correspond to the fiscal year of the Province. R.S., c. 7, s. 9.

Execution of documents

10 All deeds, mortgages, transfers, assignments, discharges, releases, agreements, securities or other documents of whatsoever nature or kind must be executed by officers of the Board as designated by the directors of the Board and approved by the Deputy Minister of the Department. R.S., c. 7, s. 10; 2011, c. 49, s. 6.

Audit

11 The system of accounting and the books and records in use by the Board is subject to audit by the Auditor General. R.S., c. 7, s. 11.

Annual report

12 The Board shall prepare and submit to the Minister a report concerning the work of the Board during the previous year, and the report must be tabled by the Minister at the next ensuing session of the Legislature. R.S., c. 7, s. 12; 2011, c. 49, s. 7.

Priority of Board

13 (1) Notwithstanding any law, statutory or otherwise, in force in the Province, no person may, except with the consent in writing of the Board, acquire any estate, right, title, interest, lien, charge, claim or demand whatsoever in, on, to or against any property of a borrower in priority to or to the prejudice of any claim of the Board, while any part of the sale price or the amount of any advance made by the Board with respect to such property or any interest thereon remains unpaid to the Board.

(2) Notwithstanding subsection (1), that subsection does not apply with respect to property where an interest in that property may be perfected or registered pursuant to the *Personal Property Security Act*. R.S., c. 7, s. 13; 1995-96, c. 13, s. 76.

CHAPTER A-14

An Act Respecting Agrologists

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Short title

- 1** This Act may be cited as the *Agrologists Act*. R.S., c. 8, s. 1.

Interpretation

- 2** In this Act,
- “agrologist” means a person registered as a professional agriculturist under this Act;
- “agrologist in training” means a person registered as an agrologist in training under this Act;
- “Council” means the Council of the Institute;
- “Institute” means the Nova Scotia Institute of Agrologists;
- “member” means a member of the Institute;
- “practising agrology” means teaching or demonstrating the science or art of agriculture or advising or conducting scientific experiments and research in relation thereto as a chief occupation;
- “Registrar” means the Registrar of the Institute. R.S., c. 8, s. 2.

INSTITUTE

Institute of Agrologists

- 3** (1) The Nova Scotia Institute of Agrologists is continued as a body corporate.
- (2) The Institute consists of the persons who are at present members and those who hereafter become members in accordance with this Act.
- (3) The objects of the Institute are to
- (a) promote and increase the knowledge, skill and proficiency of its members in the practice of agrology;
 - (b) do all things that may be necessary or incidental or conducive to the usefulness of agrologists to the public; and
 - (c) ensure for the benefit of the public the proficiency and competency of agrologists. R.S., c. 8, s. 3.

COUNCIL

Management Council

4 (1) There is constituted as the governing board of the Institute the Council of management composed of the President, President-elect, Immediate Past President, and at least seven other councillors elected in the manner provided by the bylaws of the Institute.

(2) All members of the Council shall be resident in the Province and in good standing in the Institute.

(3) On retirement each President holds office as Immediate Past President on the next succeeding Council.

(4) The President-elect shall be elected by and from the registered members of the Institute.

(5) The President-elect shall serve as President during the second year following the President-elect's election and shall hold office until the President-elect's successor has served as President-elect for one year.

(6) The President-elect shall be elected annually and shall have all the powers of the President during the President's absence.

(7) Subject to subsection (8), the elected members of Council hold office for a term of two years.

(8) The members of the governing board who hold office at present shall continue to hold office until the expiration of the respective terms for which they were elected or until their successors are elected and, where additional members are added to the Council, they shall hold office for such term and subject to such conditions as may be prescribed by the bylaws of the Institute.

(9) In case of resignation or death of an elected member of the Council, the vacancy must be filled in the manner provided by the bylaws of the Institute.

(10) No person is eligible for election to the Council or qualified to fill a vacancy thereon or to vote for members thereof unless duly registered under this Act and the bylaws of the Institute.

(11) The Council shall decide all questions in dispute relating to elections to the Council and the eligibility and rights of membership and the decision of the Council in such matters is final. R.S., c. 8, s. 4.

OFFICERS

Officers

- 5** (1) The officers of the Institute are
- (a) the President, the President-elect and the Immediate Past President;

(b) a Registrar, a Secretary and a Treasurer who in each case must be a member in good standing, but one person may be appointed to two offices; and

(c) any officers who may be appointed by the Council or elected pursuant to the bylaws of the Institute.

(2) The Registrar, the Secretary and the Treasurer shall be appointed by the Council from among the members of the Institute.

(3) All officers appointed by the Council hold office during pleasure of the Council.

(4) The Council may, subject to the bylaws, fix salaries or fees to be paid to the officers appointed under this Act. R.S., c. 8, s. 5.

MEETINGS

Meetings

6 (1) The meetings of the Institute and of the Council shall be held at the times and places fixed by the bylaws of the Institute.

(2) Notices of meetings of the Institute must be mailed at least 14 days before the day on which the meeting is to be held.

(3) At all meetings, the President for the time being has a casting vote only.

(4) Where the President is absent from a meeting, the President-elect or, in the President-elect's absence, the Immediate Past President or, in the absence of all three, a member to be chosen from the members present shall act as President.

(5) All questions submitted to the Institute or the Council are decided by a majority of the members present, a quorum being not fewer than 15 in number in the case of the Institute and four in the case of the Council. R.S., c. 8, s. 6.

POWERS OF THE INSTITUTE

Acquisition and alienation of property

7 The Institute may acquire by gift, purchase or otherwise, and alienate, sell, mortgage, lease or otherwise charge or dispose of, real or personal property for the purpose of carrying into effect and of promoting the aims, objects and designs of the Institute. R.S., c. 8, s. 7.

BYLAWS OF THE INSTITUTE

Bylaws, rules and regulations

8 (1) The Institute may make bylaws, rules and regulations respecting

(a) the election of the Council and the filling of vacancies thereon and defining the duties thereof;

- (b) the conduct, discipline and honour of its members;
- (c) the management of its property;
- (d) the appointment of such officers, in addition to those provided for in Sections 4 and 5, as may be necessary for carrying out the purposes of the Institute, and the defining of the duties of such officers;
- (e) the maintenance of the Institute by levying annual and other fees and prescribing the same, and the levying of fines for non-payment of fees;
- (f) the time, place and conduct of the annual and other meetings of the Institute and meetings of the Council;
- (g) the admission of candidates to membership in the Institute;
- (h) the enrolment of agrologists in training and recording of agricultural students and technicians;
- (i) all other purposes considered necessary or convenient for the management or welfare of the Institute and for the conduct of its business.

(2) The Institute shall file in the Department of Justice, within 30 days after the date of making, two copies, certified by the Registrar to be true copies, of

- (a) all bylaws, rules and regulations hereafter made under this Act; and
- (b) all amendments made to such bylaws, rules and regulations.

QUALIFICATIONS TO REGISTER

Eligibility for membership

9 (1) A person is eligible for full membership or for membership as an agrologist in training in the Institute if the person satisfies the Council that the person

- (a) has obtained
 - (i) a degree in agriculture from a university or college recognized by the Council, or
 - (ii) a degree and has passed such examinations as the Council after evaluating the person's degree and the person's subsequent experience considers necessary to establish that the person's qualifications are equivalent to those persons holding a degree in agriculture under subclause (i); and
- (b) has been engaged in agrology in a professional or other capacity for a period or periods totalling three years after having obtained the degree and that the major part of that time occurred within the three-year period immediately preceding the Council's approval as to the applicant's compliance with this clause.

(2) For the purpose of computing the period of three years referred to in clause (1)(b) the Council may include

- (a) time spent in practising agrology as an enrolled agrologist in training;
- (b) time spent in post-graduate studies at a university or college recognized by the Council;
- (c) time spent in active farming operations.

(3) A person is eligible for membership in the Institute if the person satisfies the Council that the person holds a membership in good standing in a professional agricultural body having admission standards considered by the Council to be equivalent to those required by subsection (1).

- (4) Every applicant who is eligible under this Section and who
 - (a) has paid the required fees; and
 - (b) is of good character and reputation in the opinion of the Council,

shall be registered as a member of the Institute by the Registrar and shall be issued a certificate of membership in the form prescribed by the regulations and such membership shall be subject to such regulations as may be prescribed by bylaws.

(5) A person to whom clause (1)(a) applies may, on application and upon paying the fee prescribed in the bylaws, be registered with the Institute as an agrologist in training.

(6) No partnership, company, corporation or association of persons shall as such be registered as a member of the Institute.

(7) A graduate from a university or college approved by the Council may apply to be enrolled as an agrologist in training and, on payment of the registration fee and subsequent annual fees determined by the bylaws of the Institute, the graduate may be allowed to practise agrology under the guidance of an agrologist.

- (8) The term of training for an agrologist in training is three years.

R.S., c. 8, s. 9.

EXAMINATIONS

Examination

10 (1) The examination of candidates for admission to the Institute shall be under the control of the Council.

- (2) The Council may
 - (a) from time to time appoint a board of examiners to examine candidates to determine their admission; and
 - (b) make regulations
 - (i) prescribing the subjects of examination and the fees payable by applicants, and

- (ii) governing the conduct of examinations.
- (3) Every examination of candidates for admission to membership of the Institute shall be held at a time and place fixed by the Council.
- (4) Application for admission to examination for membership of the Institute must be
 - (a) made on a form to be supplied on application to the Secretary of the Council; and
 - (b) filed with the Registrar of the Institute at least four weeks before the time fixed for the examination.
- (5) Every application referred to in subsection (4) must
 - (a) be accompanied by the prescribed examination fee; and
 - (b) contain such information concerning the applicant's preliminary education and course of study as the Council may prescribe. R.S., c. 8, s. 10.

REGISTRATION

Register of Agrologists

- 11** (1) The Council shall cause to be kept by the Registrar a record, to be known as the Register of Agrologists, in which shall be entered the names and addresses of all persons who having complied with this Act and the bylaws thereunder have been admitted to the Institute, and the Register shall be open to inspection to any person at all reasonable times free of charge.
- (2) The Registrar shall keep the Register correctly and strictly in accordance with this Act, the bylaws of the Institute and the rules, orders and regulations of the Council.
- (3) The Registrar shall issue an annual certificate of registration in the form and subject to the regulations prescribed by bylaw of the Institute to all persons whose names have been duly entered in the Register as agrologists by the authority of the Council.
- (4) All certificates of registration expire on December 31st but are renewable for one year upon payment of the prescribed fee.
- (5) The Registrar shall, under the direction of the Council, cause to be printed and published a correct list of names, in alphabetical order according to the surnames, with the respective residences of all persons whose names are in the Register and, if the list is not published yearly, the Registrar shall issue a yearly addendum.
- (6) Such list or addendum published or purporting to be published by the Institute is prima facie evidence in all courts in the Province and before all judges of the provincial court and justices of the peace in and for the Province that the persons therein named are registered according to this Act and, subject to sub-

section (7), the absence of the name of any such person from the list or addendum is prima facie evidence that such person is not registered.

(7) A certificate of registration purporting to be signed by a person in that person's capacity as Registrar of the Institute is prima facie evidence in said courts that the person is such Registrar and of the facts certified. R.S., c. 8, s. 11.

FEES

Fees

12 (1) Members must pay on registration and annually the fees prescribed by the bylaws of the Institute.

(2) The names of those in default shall be removed from the Register by order of the Council after one month's notice by prepaid registered mail to the parties, and shall not be reinstated except upon payment of such fees, and fines, if any, as may be imposed under the bylaws of the Institute.

(3) Any person, resident in another province and who is a registered member in good standing in a professional agricultural organization, recognized by the Institute and with which the Institute has a reciprocal agreement, may transfer the person's membership to the Institute without being assessed a registration fee.

(4) Any person, resident in another province and who is a registered member in good standing in a professional agricultural organization, recognized by the Institute and with which the Institute has a reciprocal agreement, may be allowed to practise agrology part-time in the Province without being assessed a registration fee. R.S., c. 8, s. 12.

DISCIPLINE

Complaint

13 (1) The Council may hear and determine any complaint against a member of the Institute for

- (a) violation of any of the provisions of this Act, or of the bylaws, rules or regulations of the Institute;
- (b) breach of the professional ethics of the Institute; or
- (c) disgraceful or improper conduct.

(2) Upon receipt of a complaint referred to in subsection (1), the Council shall

- (a) appoint a time and a place for hearing the complaint; and
- (b) give to the complainant and the accused member of the Institute due notice in writing of the time and place at which the Council will meet to hear the complainant and the accused member, and the evidence adduced on their behalf.

- (3) The notice of the hearing of the complaint must
- (a) be signed by the President or President-elect;
 - (b) be served on the accused member at least 14 days before the date set for the hearing; and
 - (c) embody or be accompanied by a copy of the charges made against the accused member.
- (4) The Council shall, at the time and place mentioned in the notice of the hearing or at any time and place to which the hearing may be adjourned, hear the complainant and the accused member and the evidence adduced on their behalf and, if the complaint is found proven, the Council may reprimand or fine the accused member or may suspend or expel the accused member from membership in the Institute.
- (5) The testimony of witnesses at the hearing must be taken under oath and all witnesses called on behalf of the complainant or the accused member may be examined, cross-examined and re-examined.
- (6) The evidence given at any hearing must be taken down in shorthand and must in case of appeal be transcribed.
- (7) Where the accused member does not attend the hearing, the Council, upon proof of the service on the accused member of the notice of the hearing and the charge against the accused member, may proceed in the absence of the accused member in the same manner as if the accused member were present at the hearing, and the accused member is not entitled to notice of any adjourned or other meetings and proceedings of the Council in the matter of the complaint.
- (8) Where the Council directs the accused member be suspended or expelled, it may direct that the costs of and incidental to the inquiry be paid by the member, and after the taxation of the costs on the district court scale by a taxing officer, execution may issue out of any county court for the recovery thereof as upon a judgment in an action in that court.
- (9) The Council, where a member has been suspended or expelled, may
- (a) reinstate the member; and
 - (b) restore all the member's rights and privileges as a member upon such terms and conditions as the Council may decide.
- (10) For the purpose of this Section, five members of the Council constitute a quorum.
- (11) No action lies against the Council or any member thereof for any proceedings taken in good faith, or for orders made or enforced, under the disciplinary provisions of this Act.
- (12) The Council may make rules to regulate
- (a) the making of complaints; and

(b) the hearing and determination of matters of complaint under this Section. R.S., c. 8, s. 13.

Appeal

14 (1) A person suspended or expelled from the Institute may, at any time within three months after the date of the order of the Council, appeal to a judge of the Supreme Court of Nova Scotia against the order.

(2) The judge to whom the appeal has been made, after due notice to all parties concerned, shall hear the appeal and allow or dismiss the appeal or make such order varying the order of the Council and such order as to costs as the judge considers just.

(3) The appeal must be founded upon a copy of the evidence and the record of the proceedings before the Council and the order of the Council certified by the Registrar, who shall furnish a copy of the same to the appellant upon request.

(4) The decision of the judge to whom the appeal is made is final. R.S., c. 8, s. 14.

Frivolous complaint

15 When a complaint against any person has been finally determined in the person's favour and found by the Council to have been frivolous and vexatious, the Council may order the costs to be paid to the person out of the funds of the Institute as the Council considers just. R.S., c. 8, s. 15.

OFFENCES

Illegal practice

16 (1) A person who, not being an agrologist and registered under this Act,

(a) practises agrology;

(b) assumes verbally or otherwise the title of agrologist or makes use of any abbreviation thereof, or of any name, title or designation that may lead the public to the belief that the person is an agrologist of the Province or a member of the Institute;

(c) purports to the public to be an agrologist,

is guilty of an offence and liable on summary conviction to a fine not exceeding \$200.

(2) A person who is guilty of an offence under subsection (1) shall be incapable of recovering any fees, rewards or disbursements for any service rendered as such agrologist. R.S., c. 8, s. 16.

Limitation period

17 No prosecutions may be commenced for an offence against this Act after the expiration of two years from the date of the alleged offence. R.S., c. 8, s. 17.

Certificate as prima facie evidence

18 A certificate of the Registrar under the seal of the Institute is prima facie evidence of registration or non-registration. R.S., c. 8, s. 18.

EXEMPTIONS**Act does not apply**

19 Nothing in this Act applies to

- (a) a person carrying on the business of farming or the growing of crops, unless the person becomes a member of the Institute or practises agrology;
- (b) a member of the Canadian Armed Forces while actually employed on duty with those Forces;
- (c) undergraduate student assistants in agriculture working under the direct supervision of an agrologist and not taking responsibility for their work other than to their immediate superiors;
- (d) a person who is not registered as an agrologist under this Act but is registered as a professional engineer under the *Engineering Profession Act*, or as a veterinarian under the *Veterinary Medicine Act*, if the person does not purport to be an agrologist;
- (e) a person who is not registered as an agrologist under this Act but practises a profession, trade or calling as a chemist, forester, land appraiser or valuator, land surveyor, or a person servicing or repairing farm machinery, if the person does not purport to be an agrologist. R.S., c. 8, s. 19.

Return by Registrar

20 The Registrar shall, when required by the Governor in Council to do so, transmit to the Attorney General a certified return under the seal of the Institute setting forth all such information and particulars relating to the Institute as the Governor in Council may require. R.S., c. 8, s. 20.

Head office

21 The head office of the Institute shall be located at such place as may be specified in the bylaws of the Institute. R.S., c. 8, s. 21.

REGULATIONS**Regulations**

22 (1) The Registrar may make regulations prescribing forms for the purpose of subsection 9(4) of this Act.

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

(3) The form contained in the schedule to Chapter 8 of the Revised Statutes, 1989, is deemed to be prescribed pursuant to subsection (1) and to

have been published in accordance with the *Regulations Act* and may be amended or repealed pursuant to this Act.

CHAPTER A-15

An Act to Establish an Advisory Commission on the Acquired Immune Deficiency Syndrome

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Short title

1 This Act may be cited as the *AIDS Advisory Commission Act*. R.S., c. 9, s. 1.

Purpose

2 The purpose of this Act is to appoint an advisory body to advise the Government of the Province on issues related to the acquired immune deficiency syndrome and its impact on society. R.S., c. 9, s. 2.

Interpretation

3 In this Act,
“AIDS” means the acquired immune deficiency syndrome;
“Commission” means the Advisory Commission on AIDS appointed pursuant to this Act;
“Minister” means the Minister of Health and Wellness. R.S., c. 9, s. 3.

Advisory Commission

4 (1) An advisory commission to be known as the Advisory Commission on AIDS is established, composed of not more than 13 members appointed by the Governor in Council, one of whom is designated as Chair.

(2) Each member of the Commission holds office for such term as is determined by the Governor in Council and may be reappointed.

(3) A majority of the members of the Commission constitutes a quorum.

(4) Each member of the Commission shall be paid such remuneration as the Governor in Council determines and must be reimbursed for reasonable travelling and other expenses necessarily incurred by the member in connection with the work of the Commission. R.S., c. 9, s. 4.

Role of Advisory Commission

5 The role of the Commission is to advise the Minister with respect to matters referred to the Commission by the Minister. R.S., c. 9, s. 5.

Executive Secretary

6 The Governor in Council may appoint a person to be the Executive Secretary of the Commission for such term and upon such conditions as are determined by the Governor in Council. R.S., c. 9, s. 6.

Technical advice and assistance

7 The Minister may appoint members of the Department of Health and Wellness to assist the Commission and to act as technical advisers to the Commission in its deliberations. R.S., c. 9, s. 7.

Administration

8 Matters of administration relating to the Commission are the responsibility of the Minister. R.S., c. 9, s. 8.

Regulations

9 (1) The Governor in Council may make regulations respecting any 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 a regulation within the meaning of the *Regulations Act*. R.S., c. 9, s. 9.

CHAPTER A-16

**An Act to Establish a Day to Recognize
Alexander Graham Bell**

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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 *Alexander Graham Bell Day Act*. 2005, c. 1, s. 1.

Alexander Graham Bell Day
2 Throughout the Province, in each and every year, March 7th shall be kept and observed under the name of Alexander Graham Bell Day. 2005, c. 1, s. 2.

CHAPTER A-17

An Act Respecting an Alternative Penalty to Fines

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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 *Alternative Penalty Act*. 1989, c. 2, s. 1.

Interpretation

2 In this Act, “offence” means an offence punishable as provided by or in accordance with the *Summary Proceedings Act*. 1989, c. 2, s. 2.

Fine-option program

3 (1) The Governor in Council may establish or approve a program whereby a fine imposed in respect of an offence may be discharged, in whole or in part, by earning credits for performing community-service work and providing for the discharge of such fine.

- (2)** A program referred to in subsection (1) may determine
- (a) who is eligible to participate;
 - (b) what qualifies as community-service work for the purposes of the program;
 - (c) the rate at which credits are earned;
 - (d) the manner of crediting amounts earned;
 - (e) matters considered by the Governor in Council necessary for or incidental to carrying out the program.

(3) The Governor in Council may approve a program in another jurisdiction that is similar to a program established pursuant to subsection (2) if there is an appropriate agreement between the Province and that other jurisdiction. 1989, c. 2, s. 3.

CHAPTER A-18

An Act to Establish the Nova Scotia Amateur Sports Advisory Council

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Short title

1 This Act may be cited as the *Amateur Sports Advisory Council Act*.
R.S., c. 11, s. 1.

INTERPRETATION

Interpretation

2 In this Act,
“Council” means the Nova Scotia Amateur Sports Advisory Council;
“Minister” means the Minister of Education and Early Childhood
Development. R.S., c. 11, s. 2.

ADVISORY COUNCIL

Advisory Council

3 (1) A council to be known as the Nova Scotia Amateur Sports
Advisory Council is established, composed of 10 or more members appointed by
the Governor in Council.

(2) The Governor in Council may designate one of the members of the Council as Chair and one of the members as Vice-chair.

(3) The Council may establish an executive committee and such other committees of the Council as may be required.

(4) The Minister may provide to the Council such facilities and assistance as may be necessary. R.S., c. 11, s. 3.

FUNCTION

Function and duty

4 The Council shall perform such functions and duties as are assigned to the Council by the Minister and shall advise and assist the Minister with respect to the following matters:

(a) the promotion, development and improvement of amateur sports and athletics in the Province and provision for various sports activities and athletic events;

(b) the promotion of sports activities and athletics among young people particularly in rural areas and in areas in which athletic facilities are inadequate;

(c) the improvement of all amateur sports and athletics through the use of coaching clinics, training of officials, opportunities for competition and special assistance to athletes;

(d) the promotion of community involvement in amateur sports and athletics by all members of the community by means of publicity and assistance to local organizations;

(e) the financing of amateur sports and athletics. R.S., c. 11, s. 4.

ADMINISTRATION

Officers

5 The Minister may establish offices for the Council and may appoint persons, including persons in the public service, to the offices and such officers shall perform such administrative and other duties as are assigned to them from time to time by the Council. R.S., c. 11, s. 5.

FUNDS

Administration expense

6 The cost and expenses incurred in the administration of this Act, including the remuneration or expenses of any member of the Council or other person, may be paid out of money appropriated by the Legislature or from the General Revenue Fund. R.S., c. 11, s. 6.

CHAPTER A-19

An Act to Provide for the Safety of Amusement Devices by Inspection and Licensing

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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 *Amusement Devices Safety Act*. R.S., c. 12, s. 1.

Purpose

2 The purpose of this Act is to

(a) guard against personal injuries in the assembly, disassembly and use of amusement devices and temporary structures at carnivals, fairs and amusement parks;

(b) ensure that such amusement devices and structures are designed, constructed, assembled or disassembled, maintained and operated to prevent such injuries; and

(c) establish criteria for entitlement to a licence to operate amusement devices and structures, including the provision of insurance for persons injured or killed while in, on or about such amusement devices and structures. R.S., c. 12, s. 2.

Interpretation

3 In this Act,

“amusement device” means a device or combination of devices designed or intended to entertain or amuse people by physically moving them;

“amusement park” means a tract of land used as a temporary or permanent location for amusement devices, and includes any place where amusement devices or structures are installed or in operation;

“Chief Inspector” means the Chief Inspector appointed under this Act;

“inspector” means an inspector appointed under this Act, and includes the Chief Inspector;

“Minister” means the Minister of Labour, Skills and Immigration;

“owner” means any person, syndicate, association, corporation or club operating, conducting or managing an amusement device or amusement park, and includes the employee, manager, lessee, transferee or partner of an owner. R.S., c. 12, s. 3.

Administration

4 The Minister is charged with the general administration of this Act and the regulations. R.S., c. 12, s. 4.

Inspectors

5 (1) The Minister may appoint persons in the public service to be inspectors for the purpose of this Act and may designate one of the persons so appointed to be the Chief Inspector who, has the general supervision and direction of other inspectors.

(2) The Minister may authorize the Chief Inspector to employ the services of any person who holds a certificate of competency under this Act to inspect amusement devices and structures and such person, when so appointed, is deemed to be an inspector within the meaning of this Act and shall report to the Chief Inspector with respect to any of the person’s duties hereunder.

(3) Inspectors have the powers, authorities and immunities of a peace officer. R.S., c. 12, s. 5; 2004, c. 34, s. 1.

Certificate of competency

6 No person shall inspect an amusement device or structure who does not hold a certificate of competency under this Act. R.S., c. 12, s. 6.

Licence to operate

7 No person shall either personally or by an agent operate or cause to be operated for profit or reward an amusement device or structure unless the person holds a licence under this Act in respect of that amusement device or structure. R.S., c. 12, s. 7.

Issuance of licence

8 No licence may be issued under this Act in respect of an amusement device or structure until

- (a) the amusement device or structure has been inspected by an inspector under this Act and a certificate of inspection issued in respect thereof;
- (b) proof of financial responsibility has been exhibited to the Minister of Service Nova Scotia; and
- (c) any tax or fee due and owing in respect of the operation of the amusement device or structure that is required by the *Theatres and Amusements Act* has been paid. R.S., c. 12, s. 8.

Financial responsibility

9 (1) No person is entitled to a licence under this Act until the person has exhibited to the Minister of Service Nova Scotia proof of financial responsibility to satisfy claims for damages on account of physical injuries or property damage suffered by any person by reason of any act or omission on the part of the owner, the owner's agent or employees in the operation, design, construction, assembling, disassembling or maintaining of amusement devices and structures.

(2) The said proof of financial responsibility must be in such amount, character and form as the Governor in Council determines by regulation to be necessary for the protection of those being in, near or upon such amusement devices or structures. R.S., c. 12, s. 9.

Powers of inspector

10 For the purpose of this Act, an inspector may

- (a) at all reasonable times enter, inspect and examine an amusement park and the amusement devices and structures contained therein or thereupon;
- (b) require the production of any licence, certificate, notice or document required by this Act or the regulations to be kept and to inspect, examine and make a copy of or extract from it;
- (c) make such examination and inquiry as the inspector considers necessary to ascertain whether the provisions of this Act and the regulations are being complied with, with respect to the amusement park and the amusement devices and structures therein and the persons employed in respect thereto;
- (d) exercise such other powers and authority as may be necessary or incidental to the carrying out of the inspector's functions under this Act. R.S., c. 12, s. 10.

Co-operation with inspector

11 (1) No person shall obstruct or attempt to obstruct an inspector in the performance of the inspector's duties or the exercise of the inspector's powers under this Act.

(2) The owner of an amusement park or of an amusement device or structure shall comply with every direction and request of an inspector given pursuant to this Act and furnish the inspector any assistance required for the purpose of entering, inspecting and examining an amusement park and the amusement devices and structures therein or thereupon. R.S., c. 12, s. 11.

Direction by inspector

12 (1) An inspector may give directions orally or in writing to any person for the carrying out of any matter or thing regulated, controlled or required by this Act or the regulations and may require that the inspector's directions be carried out within such time as the inspector specifies.

(2) If a person to whom an inspector gives oral directions under subsection (1) requests that the directions be in writing, the inspector shall put the directions in writing.

(3) An owner affected by a direction of an inspector given under subsection (1) may appeal therefrom by giving notice forthwith to the Chief Inspector orally or in writing.

(4) Oral notice of appeal may be given by telephone and must be confirmed in writing.

(5) After giving the owner an opportunity to be heard, the Chief Inspector shall vary, rescind or confirm a direction of an inspector from which an owner has appealed. R.S., c. 12, s. 12.

Source of danger

13 (1) Where an inspector considers that any amusement park or amusement device or structure contained therein or thereupon or any part thereof is a source of danger to the health and safety of persons in, on or about the amusement park, amusement devices or structures, the inspector

(a) shall give such directions in writing to the owner as the inspector considers necessary directing the owner immediately or within such time as the inspector specifies to

(i) take measures for guarding the source of danger, or

(ii) protect the safety or health of any person against dangers therefrom; and

(b) may direct that any amusement park, amusement device or structure shall not be used until the inspector's directions are complied with.

(2) A direction made under clause (1)(b) may be made orally and be effective immediately.

(3) Where an inspector gives a direction under clause (1)(b), the inspector may affix to the amusement park, the amusement device or structure a notice of the direction and no person unless authorized by the inspector shall

- (a) use the amusement park, amusement device or structure until the directions of the inspector are complied with; or
- (b) remove the notice. R.S., c. 12, s. 13; 2004, c. 34, s. 2.

Deemed obstruction

14 A person who

- (a) wilfully delays an inspector in the exercise of any power conferred upon the inspector by this Act; or
- (b) fails to comply with a direction of an inspector given under this Act or to produce any licence, certificate or document that the person is required by or under this Act to produce,

is deemed to obstruct the inspector in the exercise of the inspector's powers or the performance of the inspector's duties under this Act. R.S., c. 12, s. 14.

Report of accident

15 Where a person is injured or killed in an amusement park or as a result of being in, near or upon an amusement device or structure, the owner shall make a written report of the accident to the Chief Inspector within 24 hours after its occurrence. R.S., c. 12, s. 15.

Prohibited use or operation

16 (1) No person who has reasonable cause to believe that any amusement device or structure is unsafe or contravenes any provision of this Act or the regulations shall use or operate it or cause or permit it to be used or operated.

(2) No person shall use or operate an amusement device or structure in an unsafe manner or in a manner that does not comply with any provision of this Act or the regulations. R.S., c. 12, s. 16.

Production of drawings, specifications and other information

17 (1) An inspector, for the purpose of carrying out the inspector's duties under this Act, may require the production of any drawings and specifications of an amusement park, amusement device or structure or any part thereof and may inspect the same and may require information from any person concerning any matter related to the amusement park, amusement device or structure.

(2) No person shall neglect or refuse to produce drawings and specifications as required by an inspector under subsection (1) and no person shall furnish an inspector with false information or neglect or refuse to furnish information required by an inspector in the exercise of the inspector's duties under this Act. R.S., c. 12, s. 17.

Penalty

18 (1) Every person who violates any provision of this Act or the regulations or any direction, order or notice made under this Act or the regulations is guilty of an offence and is liable on summary conviction to a penalty of

- (a) in the case of an individual, a fine of not more than \$5,000 or a term of imprisonment of up to six months or both; and

(b) in the case of a corporation, a fine of not more than \$200,000.

(2) Where a person fails to comply with or violates any of the provisions of this Act or the regulations or any direction or notice made thereunder on more than one day each such day is deemed to constitute and shall constitute a separate offence. R.S., c. 12, s. 18; 2004, c. 34, s. 3.

Payment of fee or penalty

19 All fees collected under this Act and the regulations and all penalties recovered for offences under this Act or the regulations must be paid to the Minister of Finance and Treasury Board and shall form part of the General Revenue Fund. R.S., c. 12, s. 19.

Regulations

20 (1) The Governor in Council may make regulations respecting such matters and things as the Governor in Council considers necessary or expedient to ensure the safety and health of persons in, on or about amusement parks, amusement devices and structures, including regulations

(a) prescribing qualifications for persons who may be appointed inspectors or who may make inspections under this Act;

(b) providing for the issue of certificates of competency to inspectors and determining the period for which such certificates continue in force and the terms upon which they may be renewed;

(c) providing for the issue of certificates of competency to persons other than inspectors and determining the period for which such certificates continue in force and the terms and conditions under which they may be renewed;

(d) regulating the use, location, design, construction, installation, operation, maintenance, repair, testing and inspection of amusement devices and structures and equipment used in connection therewith;

(e) prescribing methods of determining maximum capacity for the purpose of this Act and the regulations;

(f) governing the conduct of persons in, on or about amusement devices and structures;

(g) prescribing the form of licences and the conditions under which licences or any class thereof may be granted, suspended, revoked or transferred, prohibiting the transfer of licences or any class thereof and providing for fees to be paid on the grant or transfer of such licences;

(h) prescribing the fees to be paid for inspection by inspectors;

(i) prescribing the form and location of directions, notices and markings that must be kept in, on or about amusement parks, amusement devices and structures;

(j) excluding from this Act any class of amusement park, amusement device or structure;

- (k) determining
 - (i) the form of financial responsibility,
 - (ii) the type of financial responsibility, and
 - (iii) the amount of financial responsibility, which, in the case of liability insurance, must be an amount not less than \$1,000,000,

necessary to satisfy claims for damages on account of any physical injury or property damage that might be suffered by any person by reason of the operation of an amusement park, amusement device or structure;

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

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. R.S., c. 12, s. 20; 2004, c. 34, s. 4.

Research

21 (1) The Minister may undertake research into the cost and means of preventing injuries or disabilities occurring to persons in, on or about amusement devices and structures where the Minister considers it appropriate and may undertake such research in co-operation with the Government of Canada or of any province or with any person or organization undertaking similar research.

(2) The Minister may collect, compile, analyze, abstract and publish information relating to any research undertaken by the Minister pursuant to this Section. R.S., c. 12, s. 23.

CHAPTER A-20

An Act Respecting the Study of Anatomy

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Short title

1 This Act may be cited as the *Anatomy Act*. R.S., c. 13, s. 1.

Interpretation

2 In this Act,
“Inspector” means the Inspector of Anatomy appointed pursuant to this Act;
“Minister” means the Minister of Health and Wellness. R.S., c. 13, s. 2.

Power of Minister

3 The Minister has supervision over the distribution and disposal of all bodies that come under this Act. R.S., c. 13, s. 3.

Inspector of Anatomy

4 (1) The Minister shall appoint a fit and proper person to be Inspector of Anatomy.

(2) A person who is connected with the anatomy department of any medical school or college is not eligible to be the Inspector. R.S., c. 13, s. 4.

Delivery of body

5 The person having charge of a dead body that is to be donated for use by a legally established medical school or college for the advancement of anatomical or pathological science may deliver the body to the Inspector who may give

directions regarding the use and disposition of the body in accordance with the terms of its donation. R.S., c. 13, s. 6.

Duties of Inspector

6 (1) The Inspector shall keep a register in which must be entered the receipt and disposal of all bodies coming into the Inspector's charge.

(2) The Inspector shall preserve all bonds, certificates and other papers that come into the Inspector's possession in connection with the Inspector's office, and shall produce the same together with the register to the Minister when required to do so.

(3) The Inspector shall visit and inspect, at stated intervals, the rooms of any medical school or college that have received any such bodies, and shall require proper attention to be given by the authorities of the school or college to the preservation of the remains and their decent burial or cremation in accordance with the religious faith of the deceased in a cemetery, of the fact of which burial or cremation the Inspector shall be fully satisfied, and shall record the same in the Inspector's register. R.S., c. 13, s. 7; 2022, c. 26, s. 33.

Bond

7 The Inspector of Anatomy shall not deliver up a body to a medical school or college unless the school or college has provided to the Inspector a bond, with sufficient sureties or executed by officers of the school or college thereunto authorized by the governing body of the college, in the penal sum of \$1,000 conditioned that every body that is thereafter received by the school or college may be used only within the Province for the promotion of medical science and after being so used the remains thereof must be decently buried or cremated in the manner specified in this Act. R.S., c. 13, s. 8; 2022, c. 26, s. 34.

Register of bodies

8 (1) Every medical school or college shall keep a register in which is entered the date of receipt of every body supplied to the school or college by the Inspector or according to the *Human Organ and Tissue Donation Act* together with the name, sex, age, religion and nationality of the deceased, also the date of delivery for burial or cremation, with the name or description of the cemetery in which the body was buried or the place where the body was cremated.

(2) The register must at all times be open to the inspection of the Minister. R.S., c. 13, s. 9; 2019, c. 6, s. 38.

Expense and remuneration of Inspector

9 (1) All expenses connected with the delivery or removal of any such body must be paid by the college or medical school receiving the same, and not by the Province or any municipality or any officer or servant thereof.

(2) The medical school or college shall pay to the Inspector such remuneration for the Inspector's services as is determined by the Minister. R.S., c. 13, s. 10; 2022, c. 26, s. 35.

Penalty

10 (1) A medical examiner or an officer of a regional municipality, town or other municipality who knowingly omits, neglects or refuses to comply with any provision of this Act is liable to a penalty of not less than \$100 and not more than \$200.

(2) A medical school or college that receives in its premises, or permits upon its premises the dissection of, a body that has not been supplied to it by the Inspector or received with the Inspector's permission, or has not been supplied according to the *Human Organ and Tissue Donation Act* or other law is liable to a penalty of not less than \$100 and not more than \$200. R.S., c. 13, s. 11; 2019, c. 6, s. 39; 2022, c. 26, s. 36.

Default of payment

11 In every case where a pecuniary penalty is imposed by this Act, and no provision is made for imprisonment in default of payment, the offender is liable on conviction and default of payment to imprisonment for a period of one day for every five dollars of the penalty imposed. R.S., c. 13, s. 12.

Body removed outside Province

12 Except with the written permission of the Inspector, no person shall send or take a body out of the Province for surgical or anatomical purposes, and every person violating this Section is, for each offence, liable to a penalty of \$100. R.S., c. 13, s. 13.

Distribution of Act

13 The Minister shall cause a copy of this Act to be sent to every person who is under the provisions hereof required to notify the Inspector of any body being in the person's possession, charge or control. R.S., c. 13, s. 15; 2022, c. 26, s. 38.

CHAPTER A-21

An Act Respecting the Rights of Fishing in Nova Scotia

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Short title

1 This Act may be cited as the *Angling Act*. R.S., c. 14, s. 1.

Interpretation

2 In this Act,

“lawfully fishing” means fishing in accordance with the game laws of the Province and the laws of Canada and any regulations made thereunder for the purpose of sport, and includes the taking and carrying away of any fish lawfully caught;

“occupant” means a person having the right, exclusive of the public, to fish in any river, stream or lake either as the owner of the lands abutting thereon or otherwise;

“owner” means a person having the rightful possession of and control over lands, either as holder of the legal title, as tenant or otherwise, and includes joint owners and tenants in common;

“timberland” means uncultivated land used or held only or primarily for lumber purposes;

“uncultivated land” means land that is in its natural wild state, and includes land that has been wholly or partially cleared, but is otherwise in its natural state. R.S., c. 14, s. 2.

Right to go upon land, river, stream or lake

3 (1) Any resident of the Province has the right to go on foot along the banks of any river, stream or lake, upon and across any uncultivated lands and Crown lands for the purpose of lawfully fishing with rod and line in such rivers, streams or lakes.

(2) Any resident of the Province has the right to go on, upon or across any river, stream or lake in a boat or canoe or otherwise, for the purpose of lawfully fishing with rod and line in such rivers, streams or lakes.

(3) The rights conferred by this Section do not in any way limit or restrict the right of any owner or occupant to compensation for actual damages caused by any person going upon or across such lands for the purpose aforesaid, and is not to be construed to give the right to build any fires upon such lands. R.S., c. 14, s. 3.

CHAPTER A-22

An Act Respecting Animal Health

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Short title

1 This Act may be cited as the *Animal Health Act*. R.S., c. 15, s. 1.

Interpretation

2 In this Act,
“animal” means livestock, poultry and any other animal designated by the regulations;
“livestock” means horses, cattle, sheep, swine, goats, rabbits, foxes, chinchilla and mink;
“Minister” means the Minister of Agriculture;
“poultry” means domestic fowl and pigeons, and includes any bird that is in captivity. R.S., c. 15, s. 2.

Supervision of Act

3 The Minister has the general supervision and management of this Act. R.S., c. 15, s. 3.

Regulations

4 (1) Notwithstanding any other enactment, the Governor in Council may make such regulations as the Governor in Council considers necessary or expedient for the purpose of eradicating, preventing or controlling the spread of disease among animals in the Province and, without limiting the generality of the foregoing, may make regulations

(a) providing that no person may have in the person’s possession an animal infected with a disease;

(b) providing that no animal may be admitted into the Province without a certificate from the Canadian Food Inspection Agency or of such other person as may be designated by the regulations, as to the freedom of such animal from disease;

- (c) providing the terms and conditions upon which any person may have in the person's possession at any time or times, an animal that the Minister considers likely to convey a disease to any other animal;
- (d) providing for the treatment and method of treatment to be given to any animal or premises to eradicate, control or prevent the spread of a disease and prescribing whether the treatment must be given by the owner or by a person appointed for the purpose;
- (e) providing for the treatment, prior to sale or disposal, of an animal infected or suspected of being infected with a disease;
- (f) providing for the prohibition of the sale of any animal infected with a disease;
- (g) providing that the owner of any animal that is infected with a disease and requiring any veterinarian who examines it to notify the Minister in the manner prescribed;
- (h) designating an area of a farm or establishment as a quarantine area;
- (i) establishing quarantine areas in the Province;
- (j) regulating or prohibiting the moving or transportation within the Province of an animal from or into any area established as a quarantine area;
- (k) providing for the segregation or destruction and disposal of an animal infected with a disease;
- (l) providing for the entry upon and inspection for the purpose of this Act of any premises and of any animal found thereon;
- (m) providing for payment by the owner of an animal of the expense of any treatment required by the regulations;
- (n) notwithstanding any other enactment, designating animals or classes thereof and the diseases to which this Act and the regulations apply;
- (o) defining any word or expression used but not defined in this Act;
- (p) generally, for any other matter or thing necessary or incidental to attaining the objects of this Act.

(2) Any regulation made under this Act may be general or particular in its application and may apply to all or any part of the Province.

(3) The exercise by the Governor in Council of the authority contained in this Section is a regulation within the meaning of the *Regulations Act*. R.S., c. 15, s. 4.

Personnel and experts

5 (1) The inspectors and other officials necessary for the administration of this Act and the regulations must be appointed in accordance with the *Civil Service Act*.

(2) Notwithstanding subsection (1), the Minister may engage upon such terms and conditions as the Minister considers fit the services of such professional or technical persons and experts to advise the Minister as the Minister considers necessary for the efficient carrying out of this Act and the regulations. R.S., c. 15, s. 5.

Administration expenses

6 Expenses incurred pursuant to this Act must be paid out of the General Revenue Fund. R.S., c. 15, s. 6.

Offence and penalty

7 Any person contravening or neglecting to carry out or offering any hindrance to the carrying out of this Act or the regulations is guilty of an offence and liable upon summary conviction to a fine of not more than \$1,000, and in default of payment to imprisonment for a period not exceeding 60 days. R.S., c. 15, s. 7.

CHAPTER A-23

An Act to Protect Animals and to Aid Animals in Distress

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Short title

- 1** This Act may be cited as the *Animal Protection Act*. 2018, c. 21, s. 1.

Interpretation

- 2 (1)** In this Act,
- “abandoned” means, in respect of an animal, that the animal appears to be ownerless after reasonable steps have been taken to contact its owner or its custodian on behalf of the owner;
- “animal” means a non-human vertebrate;
- “Appeal Board” means the Animal Welfare Appeal Board established by this Act;
- “Chief Inspector” means the person appointed as Chief Inspector for the Society under this Act;
- “companion animal” means an animal other than a farm animal;
- “custodian”, in respect of an animal, means
- (a) an owner of the animal;
 - (b) a parent of a minor who is an owner of the animal;
 - (c) a person who has possession of the animal;
 - (d) a person who has been given custody, care of, management of or control over the animal;
 - (e) a person who had possession of the animal or had custody, care of, management of or control over the animal immediately before the animal was seized, taken into custody or abandoned; or
 - (f) any other person who at law has responsibility for the animal;
- “farm animals” include
- (a) cattle, horses, sheep, swine, poultry, yaks and goats;
 - (b) game farm animals, including cervids, wild boar, bison, buffalo, ratites, llamas and alpacas;

(c) foxes, chinchilla, mink, rabbits and waterfowl raised for agricultural purposes; and

(d) any animal designated as a farm animal by the Minister;

“former Act” means Chapter 33 of the Acts of 2008, the *Animal Protection Act*;

“inspector” means

(a) a person appointed as an inspector responsible for inspections of companion animals under Section 12;

(b) a person delegated powers and duties with respect to inspections under Section 16, to the extent of the delegation; or

(c) a person appointed as an inspector responsible for inspections of farm animals under Section 17;

“judge” means a judge of the Provincial Court of Nova Scotia;

“Minister” means the member of the Executive Council charged by the Governor in Council with the administration of this Act;

“parent”, in respect of a child, means

(a) a birth or adoptive parent who has custody of or guardianship rights respecting the child;

(b) a person who has stood in *loco parentis* to the child for a period of not less than one year and who has a continuing relationship with the child;

(c) a legal guardian of the child; or

(d) a person responsible for the care of the child and with whom the child resides;

“peace officer” means a member of the Royal Canadian Mounted Police or Nova Scotia Provincial Police, a police officer appointed by a regional municipality, town or municipality of a county or district or a special constable appointed under the *Police Act* for the purpose of this Act;

“premises” includes any place, building, vehicle, vessel, receptacle or thing where animals are kept or may be kept for

(a) slaughter;

(b) food production;

(c) fir or fibre production;

(d) sale or adoption;

(e) hire;

(f) exhibition;

(g) sport;

(h) transportation;

- (i) boarding;
- (j) breeding;
- (k) training;
- (l) research activities;
- (m) companionship; or
- (n) any activity as determined by the Minister;

“Provincial Inspector” means the person appointed as Provincial Inspector under this Act;

“research activities” means the use of animals in

- (a) scientific investigation;
- (b) scientific teaching or training; or
- (c) the testing of products, including medical devices and biological, chemical and pharmacological products,

that are subject to the standards and guidelines prescribed by the regulations with respect to the care of animals used in those activities;

“Society” means the Nova Scotia Society for the Prevention of Cruelty;

“veterinarian” means a person who is permitted to practise veterinary medicine in the Province under the *Veterinary Medicine Act*.

(2) An animal is in distress if the animal is

- (a) in need of adequate care, food, water or shelter or in need of reasonable protection from heat or cold appropriate to the animal;
- (b) injured, sick, in pain or suffering undue hardship, anxiety, privation or neglect;
- (c) deprived of adequate ventilation, space, veterinary care or medical treatment;
- (d) abused;
- (e) subjected to cosmetic surgery as defined in Section 27;
- (f) kept in conditions that are unsanitary or unsafe so as to impair the animal’s health, safety or well-being;
- (g) kept in conditions that contravene the standards of care prescribed by the regulations;
- (h) subjected by any person to being trained for or engaged in animal fighting; or
- (i) subjected to circumstances prescribed by the regulations.

2018, c. 21, s. 2.

Exceptions to application of Act

3 (1) This Act does not apply to wildlife, as defined in the *Wildlife Act*, that is not in captivity.

(2) This Act does not apply to mandatory testing procedures undertaken by a research laboratory that are required by the Department of Health (Canada), the World Health Organization or an organization prescribed in the regulations. 2018, c. 21, s. 3.

SOCIETY FOR THE PREVENTION OF CRUELTY**Society continued**

4 The Nova Scotia Society for the Prevention of Cruelty, continued under the former Act, is continued as a body corporate. 2018, c. 21, s. 4.

Object

5 The object of the Society is to provide effective means for the prevention of cruelty to and the promotion of the welfare of companion animals in the Province. 2018, c. 21, s. 5.

Membership

6 The membership of the Society consists of

(a) each person who was, immediately before November 12, 2019, a member of the Society; and

(b) each person who, after November 12, 2019, becomes a member of the Society in accordance with its bylaws,

as long as that person remains a member of the Society. 2018, c. 21, s. 6.

Powers

7 (1) Subject to subsections (5) and (6), the Society may carry on such activities and exercise such powers as are necessary or conducive to attaining its object and, without restricting the generality of the foregoing, may

(a) promote the humane treatment and welfare of companion animals and the principles of the Society;

(b) formulate and amend its constitution and make bylaws necessary to attain its object and, in particular, for the internal control, management and administration of its affairs, including bylaws

(i) respecting the manner in which persons are admitted to membership in the Society, establishing qualifications for membership and classes of members and determining the rights and duties of different classes of members,

(ii) prescribing dues,

(iii) respecting patrons,

(iv) establishing a Board of Directors, an Executive and committees, imposing and conferring duties and powers on the Board of Directors, the Executive and each committee

and providing the manner in which the Board of Directors, the Executive and each committee is to be elected or appointed,

(v) respecting the manner in which the meetings of the Society, its Board of Directors, its Executive and its committees are called, the order of business and the procedure to be followed at each meeting and the method of voting at each meeting,

(vi) respecting the election or appointment of officers and volunteer agents of the Society and conferring and imposing rights and duties on them, and

(vii) respecting the manner in which documents are executed by the Society; and

(c) encourage and assist in the formation of branches of the Society throughout the Province.

(2) Subject to subsections (5) and (6), each bylaw of the Society in force immediately before November 12, 2019, is a bylaw of the Society until it is repealed or amended under this Act.

(3) Subject to subsections (5) and (6), the constitution of the Society in force immediately before November 12, 2019, is the constitution of the Society until it is amended or repealed under this Act.

(4) The Society may delegate any of its powers to its Board of Directors.

(5) The Board of Directors of the Society includes two members appointed by the Minister, who are employed in the civil service of the Province.

(6) Annual general meetings of the Society are open to the public.
2018, c. 21, s. 7.

Branches

8 (1) Each branch of the Society in existence before November 12, 2019, is continued as a body corporate.

(2) Each branch of the Society continued or formed under this Act and registered with the Society

(a) is a body corporate; and

(b) has all the powers of the Society set out in subsection 7(1).

(3) The Society shall formulate the constitution, bylaws and policies of its branches.

(4) A certificate purporting to be signed by an officer of the Society and certifying that a branch is registered with the Society is conclusive evidence that the branch is a body corporate under this Act.

(5) The boundaries of the area for which a branch is continued or formed are as approved by the Society.

(6) A branch of the Society ceases to be a body corporate upon being removed from the register of the Society in accordance with the bylaws of the Society. 2018, c. 21, s. 8.

Powers of Society and branches

9 The Society and each branch may exercise such powers as may be necessary to achieve its objects and, without restricting the generality of the foregoing, may

- (a) receive, acquire and hold gifts, grants, donations and legacies;
- (b) acquire by way of grant, gift, purchase, bequest, devise or otherwise real and personal property and use and apply such property in the attainment of its objects;
- (c) buy, own, hold, lease, mortgage, sell and convey real and personal property; and
- (d) borrow money and mortgage its property or any part thereof to secure repayment thereof or performance of any obligation. 2018, c. 21, s. 9.

Control of branches

10 Each branch is subject to the control and direction of the Society and may, in accordance with the bylaws of the Society, be

- (a) dissolved by the Society; or
- (b) suspended by the Society or the Society's Executive. 2018, c. 21, s. 10.

ANIMAL WELFARE INSPECTIONS

Responsibilities of inspectors

11 (1) The Chief Inspector and inspectors appointed under subsection 12(1) are responsible for inspections of companion animals.

(2) The Provincial Inspector and inspectors appointed under Section 17 are responsible for the inspection of farm animals. 2018, c. 21, s. 11.

Chief Inspector and other inspectors of companion animals

12 (1) The Board of Directors of the Society shall appoint a Chief Inspector and inspectors for the purpose of inspecting companion animals.

(2) The Chief Inspector must meet the minimum qualifications prescribed by the regulations.

(3) The Chief Inspector may not be a member of the Board of Directors of the Society or an officer of the Society. 2018, c. 21, s. 12.

Powers of Chief Inspector

13 (1) The Chief Inspector has

- (a) the powers and duties of an inspector of companion animals and the powers and duties prescribed in the regulations;
- (b) the power to establish qualifications, requirements and standards for inspectors of the Society;
- (c) the power to recommend persons to the Society for appointment as inspectors of the Society;
- (d) the power to recommend to the Society the revocation of the appointment of an inspector of the Society; and
- (e) the general power to oversee the inspectors of the Society in the performance of their duties.

(2) The Chief Inspector may formulate and coordinate the establishment of industry customs and codes of practice supporting the humane treatment of companion animals. 2018, c. 21, s. 13.

Notification respecting farm or companion animal

14 (1) The Chief Inspector shall notify the Provincial Inspector of any reports received by the Chief Inspector or the Society respecting the welfare of a farm animal.

(2) The Provincial Inspector shall notify the Chief Inspector of any reports received by the Provincial Inspector respecting the welfare of a companion animal. 2018, c. 21, s. 14.

Annual report and records

15 (1) The Society shall submit to the Minister an annual report in the form and at the time determined by the Minister disclosing all inspections and activities carried out by the Society, the Chief Inspector and inspectors of the Society for the year in respect of which the report is prepared.

(2) Within 60 days of receiving the report referred to in subsection (1), the Minister shall table the report in the Assembly or, where the Assembly is not then sitting, file the report with the Clerk of the Assembly.

(3) The Minister may disseminate an annual report of the Society at any time, whether or not it has been tabled in the Assembly or filed with the Clerk of the Assembly.

(4) The Society shall maintain written records of inspections respecting the welfare of companion animals and shall make the records available to the Minister upon request. 2018, c. 21, s. 15.

Inspections of farm animals

16 (1) The Minister is responsible for all inspections of farm animals under this Act.

(2) The Minister may delegate to any person any power conferred or duty imposed with respect to inspections.

(3) Where any question arises with respect to whether an animal is a farm animal, the Minister shall decide the question and the decision of the Minister is final and may not be appealed.

(4) The Minister may formulate and coordinate the establishment of industry customs and codes of practice supporting the humane treatment of farm animals. 2018, c. 21, s. 16.

Provincial Inspector and other inspectors of farm animals

17 The Minister may appoint a Provincial Inspector and inspectors for the purpose of inspecting farm animals. 2018, c. 21, s. 17.

Qualifications of inspectors

18 (1) No person may act as an inspector unless the person is appointed as a special constable under the *Police Act*.

(2) The Society may recommend an individual to the Minister for appointment or reappointment by the Minister of Justice as a special constable under the *Police Act* or recommend that the appointment of such individual be revoked.

(3) The Minister may recommend an individual to the Minister of Justice for appointment or reappointment as a special constable under the *Police Act* or recommend that the appointment of such individual be revoked.

(4) A person who is exercising the powers or performing the duties of an inspector shall, upon request, produce evidence of the person's authority to do so. 2018, c. 21, s. 18.

Powers of inspectors

19 An inspector may

- (a) inspect animals in relation to this Act;
- (b) in the case of inspectors of companion animals, inspect and monitor on an ongoing basis facilities where companion animals are housed or handled, including stables, kennels, retail stores, research laboratories and animal shows;
- (c) in the case of inspectors of farm animals, inspect and monitor on an ongoing basis facilities where farm animals are housed or handled, including stables, kennels, agricultural shows, research laboratories, farms, fur ranches, abattoirs and other agricultural operations;
- (d) promote the humane treatment of animals; and
- (e) where necessary or advisable, seek the aid of and co-operate with

- (i) peace officers,
- (ii) persons in the Civil Service,
- (iii) agricultural representatives,
- (iv) veterinarians, and
- (v) other relevant experts. 2018, c. 21, s. 19.

Inspection of premises

20 (1) For the purpose of ensuring compliance with this Act, the regulations or any order or directions made under this Act or the regulations, an inspector or peace officer may

- (a) at any reasonable hour of the day or night, enter and inspect any premises, other than a private dwelling place;
- (b) conduct any test;
- (c) seize any animal or carcass to conduct tests;
- (d) seize any animal in accordance with this Act;
- (e) take samples; and
- (f) take any action considered necessary or advisable by the inspector or peace officer.

(2) An inspector or peace officer may require any person in a private dwelling place to produce any animal on the premises, including from within the private dwelling place, for examination and, once the animal is produced, examine the animal to determine whether this Act is being complied with.

(3) An inspector or peace officer who, on reasonable and probable grounds, believes that

- (a) there is an animal abandoned in a private dwelling place and the custodian cannot be found;
- (b) an animal in a private dwelling place is in distress and the custodian cannot be found or refuses to produce the animal as required by subsection (2); or
- (c) an animal in a private dwelling place is owned or possessed in contravention of a court order and the custodian cannot be found or refuses to produce the animal as required by subsection (2),

shall apply to a justice for a warrant or telewarrant to enter the private dwelling place for the purpose of carrying out the duties of the inspector or peace officer under this Act.

(4) Where an inspector or peace officer is of the opinion that an offence under this Act is being committed with regard to a research animal, the inspector or peace officer shall

- (a) consult with, or be accompanied by, the chair of the animal care committee associated with that research; or
- (b) consult with standards-setting agencies prescribed by the regulations or, where the facility in which the research animal is kept is part of the Canadian Council on Animal Care audit program, the Canadian Council on Animal Care, before taking any further action.

(5) The owner or person in charge of premises entered by an inspector or peace officer and any person found within the premises shall

- (a) give the inspector or peace officer all reasonable assistance necessary to enable the inspector or peace officer to carry out any action authorized under this Act;

(b) comply with all reasonable directions of the inspector or peace officer;

(c) accompany the inspector or peace officer during an inspection when requested; and

(d) furnish the inspector or peace officer with any information the inspector or peace officer requires to carry out any action authorized under this Act.

(6) An inspector or peace officer may

(a) require the production of any records relating to the care of an animal and remove those records temporarily for the purpose of making copies;

(b) take photographs or recordings of the premises, including animals, or any activity taking place around the premises;

(c) make any inspection or inquiry necessary or advisable to ascertain whether this Act or the regulations, or any order or direction made under this Act or the regulations, are being complied with; and

(d) exercise such other powers as may be necessary or incidental to the carrying out of the functions of the inspector or peace officer under this Act or the regulations.

(7) For the purpose of this Act, an inspector or peace officer may require the operator of a vehicle or vessel that is in motion to stop and, where an inspector or peace officer signals or requests an operator of a vehicle or vessel to stop, the operator shall comply immediately and shall not move the vehicle or vessel until permitted to do so by the inspector or peace officer.

(8) An inspector or peace officer and every person lawfully accompanying an inspector or peace officer may, while carrying out duties under this Act, enter on or pass over any land or water, whether enclosed or not, without being liable for trespass and without the owner of the property having the right to object. 2018, c. 21, s. 20.

Seizure of animal

21 (1) Where an inspector believes on reasonable and probable grounds that a person is in violation of a condition of a court order to not own or possess an animal, the inspector may seize the animal.

(2) Where an animal has been seized under subsection (1), the inspector shall provide a written seizure-of-animal notice to the person owning or possessing the animal and advise the person of the right to appeal to the Appeal Board. 2018, c. 21, s. 21.

No interference or obstruction — provision of information

22 (1) No person shall interfere with or obstruct a person in the exercise of the person's powers or performance of the person's duties under this Act.

(2) No person shall knowingly furnish an inspector or peace officer with false information or neglect or refuse to furnish information required by the inspector or peace officer in the exercise of the powers or the performance of the duties of the inspector or peace officer under this Act or the regulations. 2018, c. 21, s. 22.

Directions of inspector or peace officer

23 (1) An inspector or peace officer may give directions orally or in writing for the carrying out of duties under this Act or the regulations and may require that such directions be carried out within such time as is specified.

(2) Directions given orally under subsection (1) must be confirmed in writing as soon as practicable. 2018, c. 21, s. 23.

Administrator

24 (1) Where the Society takes up a practice or tolerates a situation incompatible with its mandate with respect to inspections under this Act, the Governor in Council may, on the recommendation of the Minister, appoint a person as Administrator of the Society for the purpose of inspections under this Act and the Administrator has all the powers of the Society under this Act for the purpose of inspections.

(2) An Administrator appointed under subsection (1) shall be paid such remuneration and expenses that the Governor in Council determines.

(3) On the appointment of an Administrator under subsection (1), the Society's authority under this Act is suspended until such time as is determined by the Governor in Council. 2018, c. 21, s. 24.

Ministerial orders

25 Subject to the approval of the Governor in Council, the Minister may make an order

(a) dividing the Province into districts for the purpose of enforcing this Act in relation to companion animals;

(b) appointing, subject to their consent, one or more individuals, organizations or municipalities in place of the Society to carry out any or all of the functions or duties of the Society under this Act for a district or for the Province; and

(c) assigning such powers, functions and duties as are necessary to the individual, organization or municipality appointed under clause (b) for the purpose of this Section. 2018, c. 21, s. 25.

PROTECTING THE WELFARE OF ANIMALS

Prohibitions — animal in distress

26 (1) No person shall cause an animal to be in distress.

(2) No custodian of an animal shall permit the animal to be in distress.

(3) The custodian of an animal is not continuing to permit the animal to be in distress if the custodian takes immediate appropriate steps to relieve the distress.

(4) An animal is not caused or permitted to be in distress if the distress, pain, suffering or injury results from

- (a) an activity carried on in the practice of veterinary medicine;
- (b) slaughter in accordance with the laws of the Province or of Canada governing slaughter practices; or
- (c) an activity prescribed by the regulations.

(5) Subsection (3) does not apply if

- (a) the custodian of an animal has demonstrated a pattern of causing or permitting any animal to be in distress;
- (b) the custodian of an animal has failed to comply with Section 20 or 22 or has expressed unwillingness to take corrective action;
- (c) the custodian of an animal has been previously convicted of an offence under this Act or under any sections of the *Criminal Code* (Canada) related to animal cruelty; or
- (d) the inspector determines that the distress is of a nature or has surrounding circumstances requiring immediate seizure to alleviate suffering or to preserve life.

(6) Subject to the regulations, no person shall sell to a purchaser any cat or dog that has not been issued a certificate of health by a veterinarian, in the form prescribed by the Minister, whether or not the purchaser has waived the requirement for a certificate. 2018, c. 21, s. 26.

Prohibition — cosmetic surgery

27 (1) No person shall perform, or permit to be performed, cosmetic surgery on an animal unless it is an accepted activity under Section 28.

(2) Cosmetic surgery means surgery performed solely for the purpose of altering the appearance of an animal, without a medical benefit, and includes the following, including any similar alterations:

- (a) tail docking;
- (b) tail nicking, setting or blocking;
- (c) ear cropping;
- (d) devocalization or debarking;
- (e) onychectomy (declawing);
- (f) dewclaw removal;
- (g) any other prescribed alteration or surgery. 2018, c. 21,

s. 27.

Acceptable surgery and practices

28 Notwithstanding Section 27, the following accepted activities regarding surgery or alterations to an animal do not contravene this Act:

- (a) surgery performed by a veterinarian to treat an injury or disease of an animal or for other medical reasons determined by a veterinarian to be necessary or beneficial to the health of the animal;
- (b) agricultural practices carried out in accordance with the National Farm Animal Care Council codes of practice or any other codes of practice prescribed by the regulations. 2018, c. 21, s. 28.

Seizure of abandoned animal

29 (1) An animal is deemed to be in distress if it is abandoned by its custodian in a manner that is likely to cause distress.

(2) Where an animal appears to be abandoned, an inspector or peace officer may enter upon the lands and premises on the lands where the animal is located to seize the animal.

(3) Where an animal has been seized under subsection (2), the inspector or peace officer shall take reasonable steps to find the owner of the animal or, where the owner cannot be found, the custodian on behalf of the owner and issue the owner of the animal or the custodian on behalf of the owner a written seizure-of-animal notice advising of the right to appeal to the Appeal Board.

(4) Where more than one person is identified as an owner of a seized animal, the Minister or the Society, as the case may be, may select one of those persons to be responsible for care of the animal until such time as those persons determine the question of ownership. 2018, c. 21, s. 29.

Seizure of animal in distress

30 (1) Where an inspector or peace officer finds or has evidence of an animal in distress and the custodian of the animal continues to permit the animal to be in distress, is not present and cannot be found promptly or the conditions listed in subsection 26(5) exist, the inspector or peace officer may take such action as the inspector or peace officer considers necessary to relieve the distress, including

- (a) seizing the animal;
- (b) arranging for any necessary transportation, food, water, care, shelter or medical treatment; and
- (c) delivering the animal into the custody of the Society, the Minister or a suitable caretaker.

(2) Where an inspector or peace officer seizes an animal under this Section, the inspector shall, at the earliest practicable time, issue the owner of the animal or, where the owner cannot be found, the custodian on behalf of the owner, a written seizure-of-animal notice advising of the right to appeal to the Appeal Board.

(3) Before taking action under subsection (1), an inspector or peace officer shall take reasonable steps to find the custodian and inform the custodian of the animal's distress.

(4) Where the owner or custodian of the animal is not present and cannot be found and informed of the animal's distress, the inspector, the peace officer or the Society or the Minister into whose custody the animal is delivered shall take reasonable steps to find the owner or, where the owner cannot be found, the custodian on behalf of the owner and issue to the owner or custodian on behalf of the owner a written seizure-of-animal notice advising of the right to appeal to the Appeal Board.

(5) Where an inspector or peace officer has reasonable and probable grounds for believing that an animal is in distress in or upon any premises other than a private dwelling place, the inspector or peace officer and every person lawfully accompanying the inspector or peace officer may, with or without a warrant, and by force if necessary, enter the premises and search for the animal and exercise the powers conferred on the inspector or peace officer under this Act with respect to any animal in distress found therein.

(6) Before entering any premises under this Section, an inspector or peace officer shall take reasonable steps to find the owner or person in charge of the premises and endeavour to obtain the co-operation of the owner or person in charge in entering the premises.

(7) Where an animal is not in distress, but the inspector has reasonable and probable grounds for believing that an animal has been abused or tortured by the actions of its custodian, the inspector may seize the animal.

(8) Where an animal has been seized under subsection (7), the inspector shall take reasonable steps to find the owner of the animal or, where the owner cannot be found, the custodian on behalf of the owner and issue the owner or custodian on behalf of the owner a written seizure-of-animal notice advising of the right to appeal to the Appeal Board.

(9) Where an inspector or peace officer uses force in entering premises, the inspector or peace officer shall use no more force than is reasonably required under the circumstances. 2018, c. 21, s. 30.

Seizure of things

31 (1) An inspector or peace officer who is lawfully in premises under this Act or a warrant issued under this Act may seize anything that is produced or that is in plain view if the inspector or peace officer has reasonable grounds to believe that it

- (a) will provide evidence of an offence under this Act; or
- (b) was used or is being used in connection with the commission of an offence under this Act and that the seizure is necessary to prevent the continuation or repetition of the offence.

(2) An inspector or peace officer may remove anything that is seized or may detain it in the place where it is seized.

(3) An inspector or peace officer shall inform a person from whom anything is seized of the reason for the seizure and shall give the person a receipt for it as soon as is practicable. 2018, c. 21, s. 31.

Animals in critical distress

32 (1) In this Section, “critical distress” means distress in an animal of such nature that

- (a) immediate veterinary treatment cannot prolong the animal’s life; or
- (b) prolonging the animal’s life would result in the animal suffering unduly.

(2) Where, in the opinion of

- (a) a veterinarian; or
- (b) where a veterinarian is not readily available, a peace officer,

an animal is in critical distress, the veterinarian or peace officer may euthanize the animal or cause the animal to be euthanized.

(3) Where suffering of an animal referred to in subsection (1) is not unduly prolonged thereby, a peace officer or, where the Society or the Minister has custody of the animal, the Society or the Minister, as the case may be, shall take reasonable steps to find the owner of the animal or, where the owner cannot be found, the custodian on behalf of the owner and notify the owner or custodian on behalf of the owner of the intent to euthanize the animal.

(4) Where an animal may be euthanized under subsection (2) and the owner of the animal or the custodian on behalf of the owner cannot be found, a peace officer or a veterinarian acting under the direction of a peace officer may euthanize the animal without the owner’s or the custodian’s consent. 2018, c. 21, s. 32.

Power to sell, give away or euthanize animal

33 (1) The Minister or the Society, as the case may be, may sell, give away or euthanize an animal that has been seized if no appeal has been filed under Section 37 by the required deadline.

(2) Where no appeal has been filed under Section 37 in respect of a seized animal, the owner of the animal or the custodian on behalf of the owner shall pay for expenses properly incurred by the Society and by the Minister.

(3) Where an appeal has been heard and the seizure decision upheld, the owner of the animal or the custodian on behalf of the owner shall pay for expenses properly incurred by the Society and by the Minister. 2018, c. 21, s. 33.

Where owner cannot be found

34 Where an animal is in the custody of the Society or the Minister and the owner of the animal or a custodian on behalf of the owner cannot be found within seven days after the animal has come into the custody of the Society or the Minister, the Society or the Minister, as the case may be, may sell, give away or euthanize the animal. 2018, c. 21, s. 34.

Notice to custodian sufficient

35 For the purpose of this Act, where the owner of an animal cannot be found, notice given to a custodian of the animal is sufficient notice to the owner. 2018, c. 21, s. 35.

Animal Cruelty Appeal Board

36 (1) The Animal Cruelty Appeal Board established by the former Act is continued under this Act and is renamed the Animal Welfare Appeal Board.

(2) The Appeal Board is composed of not more than 10 members appointed by the Governor in Council for such terms as the Governor in Council determines.

(3) The Governor in Council shall appoint one of the members of the Appeal Board as Chair and another as Vice-chair.

(4) A proceeding before the Appeal Board shall be heard and determined by a panel consisting of one or more members of the Appeal Board assigned by the Chair or Vice-chair.

(5) The Appeal Board may, subject to this Act and the regulations, make rules of procedure for the conduct and management of appeals.

(6) Members of the Appeal Board shall receive such remuneration and be reimbursed for such reasonable expenses incurred by them in carrying out their duties as are determined by the Governor in Council.

(7) A vacancy on the Appeal Board does not impair the ability of the Appeal Board to act.

(8) A panel of one or more members of the Appeal Board may hear an appeal and exercise and perform the duties of the Appeal Board in relation to the appeal. 2018, c. 21, s. 36.

Appeal of seizure

37 (1) Subject to subsection (3), an owner of a seized animal or a custodian on behalf of the owner may, within seven days of receiving a seizure-of-animal notice, appeal the seizure and request the return of the animal by notice in writing on the form prescribed by the Minister, to the Appeal Board.

(2) A notice under subsection (1) must set out the reason for the appeal.

(3) A notice under subsection (1) must be accompanied by payment of the fee prescribed by the regulations.

(4) This Section does not apply if an order under Section 41 is in force with respect to the animal.

(5) Within the number of days prescribed by the regulations after receipt of a notice of appeal, the Chair of the Appeal Board shall notify the appel-

lant and the Society or the Minister, as the case may be, of the time, date and place at which the Appeal Board will hear the appeal.

(6) The date fixed for a hearing must be not more than the number of days prescribed by the regulations after receipt of the notice of appeal by the Chair of the Board and the decision of the Board must be issued within the number of days prescribed by the regulations after receipt of the notice of appeal by the Chair.

(7) An appeal made under this Section does not stay the operation of an order seizing an animal. 2018, c. 21, s. 37.

Conduct of hearing

38 (1) At a hearing, the appellant and the Society or the Minister, as the case may be, are entitled to hear the evidence, call and cross-examine witnesses, present arguments and be represented.

(2) A hearing is open to the public unless the Appeal Board is of the opinion that

(a) the interests of a person other than the appellant may be detrimentally affected if the hearing, or part of the hearing, is not held in private; and

(b) the desirability of avoiding public disclosure of financial, personal or similar matters necessitates holding the hearing in private.

(3) The Appeal Board may, on the request of the appellant or a witness whose testimony is of a confidential or personal and sensitive nature, order that no person publish the identity of the witness or any information that could disclose the identity of the witness.

(4) The Appeal Board may order that no person disclose the identity of the appellant or witness.

(5) After a hearing, or at any time with the consent of the person making the appeal and the Society or the Minister, as the case may be, the Appeal Board may order that

(a) an animal seized inappropriately be returned to its owner or to the custodian on behalf of the owner at no cost; or

(b) an animal seized appropriately be retained by or returned to the Society or Minister to be sold, given away or euthanized.

(6) Notice of a decision of a panel of the Appeal Board under subsection (5) must be given to the appellant and the Society or the Minister, as the case may be, within the number of days prescribed by the regulations after the hearing and written reasons for the decision must be given to those persons within the number of days prescribed by the regulations after the hearing.

(7) The Appeal Board may make a decision or summary of a decision available to the public.

(8) Where the Appeal Board makes a decision or summary of a decision available to the public, the Appeal Board may omit any information that

- (a) would detrimentally affect the interests of a person other than the appellant;
- (b) would disclose financial, personal or similar matters;
- (c) is of a confidential, personal and sensitive nature; or
- (d) would disclose the identity of the appellant or a witness. 2018, c. 21, s. 38.

Custody and sale of animal

39 (1) Where an owner of an animal or a custodian on behalf of an owner appeals the seizure of the animal under Section 37, the Society or the Minister shall retain custody of the animal until a decision on the appeal has been issued.

(2) Where an animal is given to a person to care for the animal on behalf of the Society or the Minister, the animal remains in the custody of the Society or the Minister, as the case may be.

(3) Where an animal in the custody of the Society or the Minister gives birth, any animal born to the animal is also in the custody of the Society or the Minister, as the case may be, and this Act applies with necessary changes to the animal born as if the animal born is an animal taken or delivered into custody under this Act along with the animal that gave birth.

(4) Expenses payable to the Society or the Minister under this Act may be recovered as a debt in any court of competent jurisdiction.

- (5) Where an animal is sold or given away under this Act,
- (a) the manner of selling or giving away the animal is at the discretion of the Society or the Minister, as the case may be; and
 - (b) the person to whom the animal is sold or given away owns the animal free of any encumbrance.

- (6) Where an animal is sold under this Act,
- (a) the expenses properly incurred by the Society or the Minister under this Act with respect to the animal are a first lien on the proceeds of the sale; and
 - (b) any surplus remaining after the expenses referred to in clause (a) are paid must be held in trust for or paid to the owner of the animal. 2018, c. 21, s. 39.

Duty of veterinarian to report

40 (1) Every veterinarian who, in the course of practising veterinary medicine, has found reasonable grounds to believe that a person or custodian of an animal has caused or permitted an animal to be in distress shall report that belief to the Society with respect to companion animals and to the Minister with respect to farm animals.

(2) No action lies against a person for reporting anything under subsection (1) unless the reporting is done falsely and maliciously. 2018, c. 21, s. 40.

Order for delivery of animal into custody

41 (1) Upon application, or in any proceeding for an offence against this Act, a judge may order a person to deliver an animal to the custody of the Society, in the case of a companion animal, or the Minister, in the case of a farm animal, or, where the animal already is in the custody of the Society or the Minister, that the Society or the Minister not return the animal to such a person if, in the opinion of the judge, the person is not fit to care for the animal.

(2) Notwithstanding anything in this Act, the Society or the Minister may sell or give away an animal delivered into or retained in its custody under subsection (1).

(3) Any money received by the Society or the Minister as a result of selling an animal under subsection (2) must be returned to the person who was ordered under subsection (1) to deliver the animal to the custody of the Society or the Minister or the owner of the animal, less any amount to cover expenses properly incurred by the Society or the Minister with respect to that animal.

(4) The Society or the Minister may cause an animal delivered into custody under subsection (1) to be euthanized only if the Society or the Minister, after reasonable attempts, is unable to sell or give the animal to a suitable person. 2018, c. 21, s. 41.

GENERAL

Offences and penalties

42 (1) Any person who contravenes this Act, the regulations or an order issued under this Act or the regulations is guilty of an offence and liable on summary conviction

(a) for a first offence, to a fine of not more than \$25,000 and, in default of payment, to imprisonment for a term not exceeding six months, or to imprisonment for a term not exceeding six months, or to both fine and imprisonment;

(b) for a second offence, to a fine of not more than \$50,000 and, in default of payment, to imprisonment for a term not exceeding six months, or to imprisonment for a term not exceeding six months, or to both fine and imprisonment; or

(c) for a third or subsequent offence, to a fine of not more than \$75,000 and, in default of payment, to imprisonment for a term not exceeding two years, or to imprisonment for a term not exceeding two years, or to both fine and imprisonment.

(2) Notwithstanding subsection (1), where a person is found guilty of an offence under this Act or the regulations, a judge may make an order requiring the person to comply with such conditions as the judge considers appropriate and just in the circumstances for securing the person's good conduct and for preventing the person from repeating the same offence or committing other

offences, which conditions may be in lieu of or in addition to the penalties set out in subsection (1).

(3) Where a person is found guilty of an offence under this Act or the regulations, the judge may make an order restraining the person from having ownership, custody, care or control of animals for such period as is specified in the order.

(4) A person who is found guilty of an offence with respect to an animal under this Act or the regulations may be ordered by the court to pay to the Society or Minister, as the case may be, the whole or any part of the cost of transportation, food, care, shelter or medical treatment provided to the animal and, where the animal is euthanized, its euthanasia. 2018, c. 21, s. 42.

Limitation period for prosecution

43 The prosecution of an offence contrary to this Act or the regulations may not be commenced more than two years after the date on which the act or omission that is alleged to constitute the offence occurred. 2018, c. 21, s. 43.

No action lies

44 No action lies against any person acting in good faith for anything done under this Act. 2018, c. 21, s. 44.

Act prevails

45 Where a conflict exists between this Act and any other enactment, other than Section 101 of the *Agriculture and Marketing Act*, the *Animal Health Act* and Sections 3 and 6 of the *Sheep Protection Act*, this Act prevails. 2018, c. 21, s. 45.

Regulations by Minister

46 (1) The Minister may make regulations

- (a) respecting standards of design, construction and maintenance of animal shelters, enclosures, facilities, restraints and tethers;
- (b) respecting standards of care with which animals are to be maintained;
- (c) prescribing circumstances that cause animals to be in distress;
- (d) defining or prescribing unacceptable animal practices, modifications or mutilations;
- (e) respecting the transportation of animals;
- (f) prescribing or adopting acceptable codes of practice respecting animals;
- (g) respecting standards for the sale of companion animals;
- (h) determining what are reasonable steps to find and notify an owner of an animal or a custodian on behalf of the owner;

(i) determining reasonable expenses to be charged to the owner of an animal or the custodian on behalf of the owner, taken into custody under this Act for transportation of the animal, food, care, shelter and veterinary medical treatment provided to the animal and for the euthanasia of the animal;

(j) prescribing annual report requirements and times for the purpose of subsection 15(1);

(k) prescribing activities for the purpose of clause (n) in the definition of “premises” in subsection 2(1);

(l) prescribing standards-setting agencies for the purpose of clause 20(4)(b);

(m) prescribing activities for the purpose of subsection 26(4);

(n) prescribing exemptions from the prohibition under subsection 26(6).

(2) No regulation may be made under subsection (1) that is not consistent with the Canadian Council on Animal Care Guidelines for the scientific use of animals.

(3) A regulation made under this Section may be of general application or may apply to such animals, such class or classes of animals, such class or classes of places or such class or classes of matters or things as the Minister determines and there may be different regulations with respect to different animals, different classes of animals, different classes of places and different classes of matters or things.

(4) No action may be taken against a person under this Act if the person complies with the Guidelines referred to in subsection (2).

(5) The exercise by the Minister of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2018, c. 21, s. 46.

Regulations

- 47 (1) The Governor in Council may make regulations
- (a) prescribing acceptable methods of euthanasia;
 - (b) prescribing societies, organizations, institutions or persons to which this Act applies for the purpose of enforcing this Act and determining the extent to which this Act applies to the society, organization, institution or person;
 - (c) prescribing persons who have a duty to report suspected animal distress;
 - (d) exempting research activities from the requirements of subsection 30(1) if the research activities are being conducted under an audit program approved by the Canadian Council on Animal Care or an organization prescribed in the regulations;
 - (e) prescribing procedures and periods for appeals to the Appeal Board;

(f) prescribing further powers and duties of the Chief Inspector, the Provincial Inspector or inspectors;

(g) prescribing minimum qualifications for persons appointed as the Chief Inspector, the Provincial Inspector or inspectors;

(h) respecting the licensing and standards of pet establishments, including catteries, kennels, day and overnight care facilities, breeding facilities, animal rescue facilities and retail stores;

(i) respecting fees or ranges of fees for appeals;

(j) prescribing fees for the purpose of this Act;

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

(l) further defining any word or expression defined in this Act;

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

(2) No regulation may be made under subsection (1) that is not consistent with the Canadian Council on Animal Care Guidelines for the scientific use of animals.

(3) A regulation made under this Section may be of general application or may apply to such animals, such class or classes of animals, such class or classes of places or such class or classes of matters or things as the Governor in Council determines and there may be different regulations with respect to different animals, different classes of animals, different classes of places and different classes of matters or things.

(4) No action may be taken against a person under this Act if the person complies with the Guidelines referred to in subsection (2).

(5) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*, 2018, c. 21, s. 47.

CHAPTER A-24

An Act to Require an Anti-idling Policy for the Government of Nova Scotia and Public Passenger Vehicles

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WHEREAS vehicle exhaust emissions are a source of air pollution;

AND WHEREAS idling worsens the problem significantly;

AND WHEREAS reducing idling is a cost-effective and easy way to reduce greenhouse gases and air pollutants;

AND WHEREAS reducing engine idling will also reduce wear and tear on engine parts and save money by conserving fuel:

Short title

1 This Act may be cited as the *Anti-idling Act*. 2010, c. 32, s. 1.

Interpretation

2 In this Act,

“idling” means the operation of the engine of a motor vehicle while the vehicle is not in motion and not being used to operate auxiliary equipment that is essential to the basic function of the vehicle;

“public passenger vehicle” means

- (a) a school bus;
- (b) a tour bus;
- (c) a transit bus; or
- (d) any other motor vehicle with a seating capacity of 17 or more passengers that is operated upon any highway by or on behalf of a person carrying on the business of a public carrier of passengers or of passengers and freight;

“school bus” means a motor vehicle operated by or under an arrangement with an education entity, as defined in the *Education Act*, for transporting pupils and teachers to and from school or for any school purpose,

including the transportation of pupils and teachers to and from school social, dramatic, musical or athletic functions or competitions, teacher institutes and similar activities;

“tour bus” means a motor vehicle of a design commonly known in the transportation industry as a highway coach, an intercity coach or an intercity motor bus, whether the vehicle is used or intended for use on scheduled routes or for charters, tours, sightseeing trips or another purpose;

“transit bus” means a motor vehicle operated by a public utility, as defined in the *Public Utilities Act*. 2010, c. 32, s. 2; 2018, c. 1, Sch. A, s. 101.

Anti-idling policy for public passenger vehicles

3 The Government of the Province and every person who owns, operates, manages or controls a public passenger vehicle shall establish in writing on or before October 1, 2011, and thereafter maintain in effect, an anti-idling policy that promotes the reduction of unnecessary idling. 2010, c. 32, s. 3.

CHAPTER A-25

An Act Respecting the Effect of an Apology and to Prohibit its Use as Evidence of Fault or Liability

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Short title

- 1** This Act may be cited as the *Apology Act*. 2008, c. 34, s. 1.

Interpretation

- 2** In this Act,
- “apology” means an expression of sympathy or regret, a statement that one is sorry or any other words or actions indicating contrition or commiseration, whether or not the words or actions admit or imply an admission of fault in connection with the matter to which the words or actions relate;
- “court” includes a tribunal, an arbitrator and any other person who is acting in a judicial or quasi-judicial capacity. 2008, c. 34, s. 2.

Effect of apology

- 3 (1)** An apology made by or on behalf of a person in connection with any matter
- (a) does not constitute an express or implied admission of fault or liability by the person in connection with that matter;
- (b) does not constitute a confirmation of a cause of action or acknowledgment of a claim in relation to that matter for the purpose of the *Limitation of Actions Act* or the *Real Property Limitations Act*;
- (c) notwithstanding any wording to the contrary in any contract of insurance or any other enactment or law, does not void, impair or otherwise affect any insurance coverage that is or, but for the apology, would be available to the person in connection with that matter; and
- (d) may not be taken into account in any determination of fault or liability in connection with that matter.

(2) Notwithstanding any other enactment or law, evidence of an apology made by or on behalf of a person in connection with any matter is not admissible in any court as evidence of the fault or liability of the person in connection with that matter. 2008, c. 34, s. 3.

Act does not affect prosecutions

4 Nothing in this Act affects a prosecution for a contravention of an enactment. 2008, c. 34, s. 4.

Regulations

- 5 (1) The Governor in Council may make regulations
- (a) defining any word or expression used but not defined in this Act;
 - (b) considered necessary or advisable by the Governor in Council 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 a regulation within the meaning of the *Regulations Act*. 2008, c. 34, s. 5.

CHAPTER A-26

An Act Respecting Certified Applied Science Technicians and Technologists

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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 *Applied Science Technology Act*. 1999, c. 3, s. 1.

Purpose of Act

2 (1) The purpose of this Act is to regulate and govern the use by a person of the designations “Certified Engineering Technician”, “Certified Engineering Technologist”, “Certified Applied Science Technician” and “Certified Applied Science Technologist” and the initials “CET”, “C.E.T.”, “AScT”, “A.Sc.T.”, “CTech” and “C. Tech.”, or any like words, initials or expressions used alone or in combination with other words or expressions, as a professional designation indicating that a person is recognized by law as a certified engineering technician, certified engineering technologist, certified applied science technician or certified applied science technologist of the Society of Certified Engineering Technicians and Technologists of Nova Scotia.

(2) Notwithstanding subsection (1), this Act does not restrict the right of a person to carry on any occupation. 1999, c. 3, s. 2.

Interpretation

- 3 (1)** In this Act,
- “approved school or program” means a school, course of study or educational program in an applied science technology approved by the Council;
 - “bylaw” means a bylaw made by the Council;
 - “certification” means the entry of the name of a person in the register;
 - “Certification Board” means the Certification Board established pursuant to this Act;
 - “Certification Review Board” means the Certification Review Board established pursuant to this Act;
 - “certified applied science technician” means a person whose name is entered in the Register as a certified applied science technician;

“certified applied science technologist” means a person whose name is entered in the Register as a certified applied science technologist;

“certified engineering technician” means a person whose name is entered in the Register as a certified engineering technician;

“certified engineering technologist” means a person whose name is entered in the Register as a certified engineering technologist;

“Complaints Committee” means the Complaints Committee established pursuant to this Act;

“Council” means the Council of the Society;

“Court” means the Supreme Court of Nova Scotia;

“Discipline Committee” means the Discipline Committee established pursuant to this Act;

“Executive Director” means the Executive Director of the Society;

“member” means a certified engineering technician, a certified engineering technologist, a certified applied science technician or a certified applied science technologist and any individual whose name is entered in the Temporary Register or in any of the rosters established and maintained pursuant to this Act, the bylaws or the rules;

“occupation of applied science technology” means providing services by a certified engineering technician, a certified engineering technologist, a certified applied science technician or a certified applied science technologist in accordance with

(a) their academic qualifications, learning and experience;

(b) generally accepted practices and procedures within nationally accepted codes and standards; and

(c) the Society’s Code of Ethics;

“prescribed” means prescribed by bylaws or rules made by the Council pursuant to this Act;

“professional incompetence” means an act or omission on the part of a member, in the occupation of applied science technology, that demonstrates a lack of knowledge, skill or judgement or a disregard for the interests of the recipient of the member’s services of such a nature and to such an extent as to render the member unfit to carry on the occupation of applied science technology or to carry on the occupation of applied science technology without conditions, limitations or restrictions;

“professional misconduct” means a serious digression from established or recognized standards or rules of the Society or generally of the occupation of applied science technology, and includes a breach of such rules of ethics or conduct as may be prescribed by bylaw;

“Register” means the Register kept pursuant to this Act;

“Registrar” means the Registrar of the Society;

“rosters” means the rosters kept pursuant to this Act;

“rule” means a rule made by the Council;

“Society” means the Society of Certified Engineering Technicians and Technologists of Nova Scotia continued by this Act;

“Temporary Register” means the Temporary Register kept pursuant to this Act.

(2) The designations “Certified Engineering Technician”, “Certified Engineering Technologist”, “Certified Applied Science Technician” and “Certified Applied Science Technologist” and the initials “CET”, “C.E.T.”, “AScT”, “A.Sc.T.”, “CTech” and “C. Tech.”, or any like words, initials or expressions used alone or in combination with other words or expressions indicating that a person is recognized by law as a certified engineering technician, certified engineering technologist, certified applied science technician or certified applied science technologist or indicating that a person is a member of the Society in the Province, when used in an Act of the Legislature or a regulation, rule, order or bylaw made pursuant to an Act of the Legislature enacted or made before or after August 4, 1999, or when used in any public document, is to be read as including a person whose name is entered in the Register or the Temporary Register. 1999, c. 3, s. 3.

SOCIETY

Incorporation of Society

4 The Society of Certified Engineering Technicians and Technologists of Nova Scotia, incorporated pursuant to the *Societies Act*, is continued as a body corporate. 1999, c. 3, s. 4.

Council

5 (1) A Council of the Society, consisting of not fewer than 10 directors, is responsible for the administration of this Act and shall control, govern and manage, or supervise the control, government and management of, the business and affairs of the Society.

(2) The number of directors, their respective terms of office, the manner of their appointment or election and their qualifications are established and governed by the bylaws of the Society and the bylaws may provide for alternative directors, for the filling of vacancies and for the appointment of additional directors. 1999, c. 3, s. 5.

Bylaws

6 (1) Unless otherwise provided by this Act or the bylaws, the Council may, by resolution, make, amend or repeal any bylaws regulating the business or affairs of the Society and, without restricting the generality of the foregoing, may make, amend or repeal bylaws

(a) governing and regulating

(i) the admission, suspension, expulsion, removal, discipline and reinstatement of members, the conditions pre-

edent to membership in the Society and the conditions for continued membership in the Society,

- (ii) the certification and renewal, suspension, cancellation, and reinstatement of certification of certified engineering technicians, certified engineering technologists, certified applied science technicians and certified applied science technologists, including the imposition of limitations, restrictions and conditions on any certification issued or granted pursuant to this Act;
- (b) establishing one or more categories of membership and determining the rights, privileges and obligations of the members of each category;
- (c) creating and organizing local regions, branches or other subsections of the Society and governing the management of such regions, branches or subsections;
- (d) approving or accrediting schools, courses of study or educational programs in applied science technology and establishing terms and conditions for approval or continued approval of such schools, courses of study and educational programs, including basic standards of curricula;
- (e) determining the method of setting annual certification or membership fees payable to the Society and providing for the collection of the fees;
- (f) providing for the election or appointment, removal and remuneration of and establishing the powers and duties of officers, officials, employees and agents of the Society or the Council;
- (g) creating and governing committees for the carrying out of the business and affairs of the Council and the Society;
- (h) delegating to officers, officials, employees or committees any of the duties, powers and privileges of the Council;
- (i) fixing and regulating the quorum, time, place, calling, conduct and business of annual, special and general meetings of the Society, the Council and committees of the Society or the Council, and establishing the method of voting, including voting by mail, proxy voting, delegate voting or other means and establishing the qualifications of persons entitled to vote;
- (j) developing, establishing, maintaining and administering
 - (i) standards for the education programs leading to certification as an applied science technologist or technician,
 - (ii) standards for continuing education and requiring the participation in continuing education programs by certified engineering technicians, certified engineering technologists, certified applied science technicians and certified applied science technologists,
 - (iii) rules of ethics or conduct for certified engineering technicians, certified engineering technologists, certified

applied science technicians and certified applied science technologists;

(k) respecting and governing the management and disposition of trust, charitable or benevolent funds committed to the care of the Society;

(l) setting the fiscal year of the Society, determining the place where the head office of the Society shall be located and the place or places where other offices of the Society shall be located;

(m) determining the aspects, subjects or matters of the business and affairs of the Society that may be regulated and governed by rules of the Council;

(n) authorizing the making of co-operative or affiliation arrangements with any institution, organization or professional body in any jurisdiction;

(o) respecting and governing such subjects, matters and things as the Council considers appropriate to administer this Act or to advance or protect the interests of the public, the Society or the members,

and, subject to subsection (2), the bylaws are valid, binding and effective from the date of the Council's resolution enacting the bylaw until the bylaw is amended or repealed by an ordinary resolution at an annual, special or general meeting of the Society called for that purpose or until the bylaw ceases to be effective pursuant to subsection (4) and, where a bylaw is confirmed or confirmed as amended, it continues in effect in the form in which it was so confirmed.

(2) Bylaws relating to matters referred to in clause (1)(a), (b), (c), (f), (i), (j) or (m) are not effective or may not be acted upon until confirmed by an ordinary resolution at an annual, special or general meeting of the Society and, where a bylaw is amended by ordinary resolution at a meeting, it becomes effective in the form in which it is amended.

(3) Council shall cause the text of a bylaw enacted by it to be sent to all members with the notice of the next annual meeting following the enactment or with the notice of any special or general meeting called for the purpose of considering the bylaw and, at such meeting, the bylaw may be confirmed, rejected, repealed or amended by an ordinary resolution.

(4) Where a bylaw is repealed at a meeting of the Society or where the Council does not send the bylaw to the members as required by subsection (3), the bylaw ceases to be effective and no subsequent Council resolution making that bylaw or any bylaw having substantially the same purpose or effect is effective until it is confirmed in the manner set out in subsection (2). 1999, c. 3, s. 6.

Rules

7 Unless otherwise provided by this Act or the bylaws, the Council may, by resolution, make any rule not contrary to the bylaws regulating any of the aspects, subjects or matters of the business or affairs of the Society as may be governed by bylaw and any rule is valid, binding and effective from the date of the resolution of Council until amended or repealed by an ordinary resolution at an annual,

special or general meeting of the Society called for the purpose of considering the rule. 1999, c. 3, s. 7.

Preservation of rights and legality of acts

8 No act or thing done in reliance on, or right acquired under or pursuant to, a bylaw or rule that is subsequently repealed or amended is prejudicially affected by the repeal or amendment. 1999, c. 3, s. 8.

Exemption from Regulations Act

9 The *Regulations Act* does not apply to the Society or any bylaw, rule or resolution made by the Society or the Council, but a bylaw or rule of the Society or the Council must be available for inspection by any person at the head office of the Society at all reasonable times during business hours, free of charge. 1999, c. 3, s. 9.

Executive Committee

10 (1) There is an Executive Committee of Council, composed of members of Council, that may, between meetings of Council or at such other times as may be prescribed, carry out any of the duties and exercise any of the powers and privileges of the Council and such other duties as may be assigned to it by the Council, the bylaws or the rules.

(2) The number of members of the Executive Committee, their respective terms of office, the manner of their appointment or election and their qualifications are established and governed by the bylaws. 1999, c. 3, s. 10.

Executive Director and Registrar

11 (1) Council may appoint an Executive Director of the Society, who holds office during the pleasure of the Council.

(2) Council may appoint a Registrar of the Society, who holds office during the pleasure of the Council.

(3) The Executive Director and the Registrar are at all times subject to the directions of the Council.

(4) The offices of Executive Director and Registrar may both be held by one person at the same time. 1999, c. 3, s. 11.

REGISTER

Register and Temporary Register

12 (1) The Registrar shall keep or cause to be kept

(a) a Register in which is entered the name and address of every person who has been granted membership pursuant to this Act, the bylaws or the rules;

(b) a Temporary Register in which is entered the name and address of every person who is permitted to purport to be a member pursuant to this Act, the bylaws or the rules under such circumstances, conditions, limitations and restrictions and for such tempo-

rary and limited periods of time as are set out in the bylaws or the rules; and

(c) rosters of members in which are entered the name and address of every person who has been granted membership in a category of membership established by the bylaws or the rules, other than persons whose names are entered in the Register.

(2) The Register must be divided into

(a) a part in which is entered the names of persons qualified pursuant to the bylaws or rules for certification as a certified engineering technician or certified applied science technician;

(b) a part in which is entered the names of persons qualified pursuant to the bylaws or rules for certification as a certified engineering technologist or certified applied science technologist; and

(c) such other parts as may be prescribed, in which are entered the names of persons qualified pursuant to the bylaws or rules for such classifications and levels of certification as may be prescribed.

(3) The Register and the Temporary Register must be open for inspection by any person at the head office of the Society at all reasonable times during regular business hours, free of charge, but an officer or employee of the Society may refuse any person access to, or the privilege of inspecting, the registers if there is cause to believe that the person is seeking access or inspection primarily for a commercial purpose. 1999, c. 3, s. 12.

Rights of persons registered

13 (1) A person whose name is entered in the Register, subject to any conditions, limitations or restrictions set out in the person's certificate, the bylaws or the rules, is entitled to purport to be a "Certified Engineering Technician", a "Certified Engineering Technologist", a "Certified Applied Science Technician" or a "Certified Applied Science Technologist", as the case may be, and use the designations "CET", "C.E.T.", "CTech", "C.Tech.", "AScT" or "A.Sc.T.", as the case may be.

(2) A person whose name is entered in the Temporary Register is entitled to the privileges and rights referred to in subsection (1) for such limited period of time, in such circumstances and subject to such conditions, limitations and restrictions as may be prescribed. 1999, c. 3, s. 13.

Removal of name from Register

14 (1) The Registrar shall remove or cause the removal from the Register or one or more of the rosters of the name of any person who fails to meet or maintain the qualifications and standards for entry in such Register or roster.

(2) The certification of a certified engineering technician, certified engineering technologist, certified applied science technician or certified applied science technologist terminates and ceases to have effect when the person's name is removed from the Register. 1999, c. 3, s. 14.

Effect of disciplinary action outside Province

15 A person who was entitled to use any designation indicating that the person was a member of a society pursuant to the laws governing or concerning the occupation of applied science technology in any other jurisdiction and who has been suspended from or otherwise restricted in or disqualified from using any such designation in another jurisdiction by reason of misconduct, dishonesty or incompetence is not entitled to apply for certification pursuant to this Act until such time as the suspension, restriction or disqualification has been removed in the other jurisdiction. 1999, c. 3, s. 15.

CERTIFICATION**Certificate of certification**

16 (1) The Registrar shall issue or cause to be issued annually, or at such other times as may be set out in the rules, a certificate of certification or a validation seal to be affixed to a previously issued certificate to persons whose names are entered in the Register or the Temporary Register, and each certificate or validation seal must state the date on which it expires and any conditions, limitations or restrictions imposed on the certification of the person in respect of whom the certificate or validation seal is issued.

(2) No person is entitled to have the person's name entered in the Register or to receive a certificate or validation seal unless the person

(a) has satisfied the prescribed requirements for certification; and

(b) has paid all applicable prescribed fees.

(3) A person whose certification has been suspended or revoked shall, without demand, forthwith deliver the certificate or validation seal to the Registrar. 1999, c. 3, s. 16.

Evidentiary effect of statement

17 A statement certified under the hand of the Registrar respecting the records of the Society or the certification of a person is admissible in evidence in any proceeding as prima facie proof of the facts set out in the certificate relating to the certification of a person or the lack of certification and any condition, limitation or restriction in respect of the certification of a person. 1999, c. 3, s. 17.

Prerequisites to entitlement to certification

18 An applicant for certification who

(a) fulfills the requirements of approved applied science technology experience and education prescribed by the rules or set out in a manual of experience and education approved by the rules;

(b) provides satisfactory evidence of good character;

(c) pays the prescribed fees; and

(d) meets such other criteria and has such other qualifications as may be prescribed,

following consideration of the person's application by the Certification Board, and upon approval of the Council, is entitled to become certified as a member of the Society and to have the person's name entered in the part of the Register that the Council determines to be appropriate. 1999, c. 3, s. 18.

Certification Board

19 (1) The Council shall appoint and maintain a Certification Board and a Certification Review Board consisting of members of the Society and such other persons as the Council may select.

(2) The quorum, number of members of the Certification Board and the Certification Review Board, their terms of office, qualifications and the manner of their appointment are established and governed by the bylaws, and the bylaws may regulate the powers, procedures, functions and operations of the Certification Board and the Certification Review Board and may permit the establishment of panels of either Board to act for and to carry out and exercise all the duties and powers of the respective Boards.

(3) The duties of the Certification Board are to

(a) recommend to the Council the standards and grades that should be recognized by the certification procedure as provided for in this Section;

(b) conduct or approve examinations, including national examinations, of candidates for certification at such times and at such places as the Certification Board may direct;

(c) consider all applications for certification, review the qualifications of all applicants and recommend to the Council those applicants it considers to have met the qualifications required for certification set out in this Act, the bylaws or the rules; and

(d) carry out the duties and functions and exercise the powers and privileges as may be assigned by the Council.

(4) At the written request of a person whose application for certification has not been recommended to the Council by the Certification Board and upon payment of the prescribed fees, the Certification Review Board shall review the application for certification of the person and may

(a) confirm the decision of the Certification Board; or

(b) refer the application to the Certification Board for reconsideration and make such recommendations to the Certification Board as it considers appropriate. 1999, c. 3, s. 19.

COMPLAINTS AND DISCIPLINE

Interpretation of Sections 21 to 26

20 In Sections 21 to 26,

“complaint” means a complaint, report or allegation, in writing and signed by the complainant, regarding the conduct, actions, competence, character, fitness or ability of a member;

“member” includes a former member and any person whose name is or was entered in any Register or roster of the Society. 1999, c. 3, s. 20.

Treatment of complaints

21 (1) The Council shall cause an investigation to be carried out by the Complaints Committee of every complaint received, if the complaint in substance alleges that a member

(a) has been guilty of

(i) professional misconduct or professional incompetence as a certified engineering technician, certified engineering technologist, certified applied science technician or certified applied science technologist,

(ii) conduct unbecoming a member, including any conduct that might adversely affect the standing or good name of the occupation of applied science technology or the Society,

(iii) any conduct in breach of this Act, the bylaws or the Code of Ethics, or

(iv) dishonesty; or

(b) is suffering from an ailment or condition rendering the member unfit or incapable of carrying on the occupation of applied science technology.

(2) All complaints against a member received by the Society or the Council must be delivered forthwith by the Registrar to the Chair of the Complaints Committee and a copy of the complaint must immediately be forwarded to the member. 1999, c. 3, s. 21.

Complaints Committee

22 (1) The Council shall maintain a standing committee to be known as the Complaints Committee.

(2) The Complaints Committee shall be composed of certified engineering technicians, certified engineering technologists, certified applied science technicians or certified applied science technologists and no member of the Committee shall be a director of the Council or a member of the Discipline Committee.

(3) The quorum, number of members, terms of office, qualifications and the manner of the appointment of members of the Complaints Committee are established and governed by the bylaws, and the bylaws may regulate the powers, procedures, functions and operations of the Committee and permit the establishment of panels of the Committee to act for and to carry out and exercise all the duties and powers of the Committee.

(4) The Council shall appoint one of the members of the Complaints Committee to be the Chair of the Committee.

(5) The Complaints Committee shall

(a) consider and investigate all complaints delivered to it and attempt to resolve informally any complaint if the Committee considers it appropriate; and

(b) perform such duties as may be assigned to it by the Council, the bylaws or the rules.

(6) The Complaints Committee shall consider only written evidence and, in this Section, "evidence" includes any documents that may be presented to the Committee.

(7) The Complaints Committee may engage such persons as it considers necessary, including legal counsel, to assist it in the consideration and investigation of complaints and, subject to the bylaws, shall determine its own rules of procedure.

(8) A member against whom a complaint has been made is entitled to

(a) prompt notice that a complaint has been received by the Complaints Committee or that Council has caused an investigation to be commenced by the Committee and a copy of the complaint;

(b) copies of all evidence presented to the Complaints Committee in writing concerning the complaint; and

(c) at least 14 days notice of the first meeting of the Complaints Committee called to consider the complaint, accompanied by copies of all evidence in writing concerning the complaint, other than privileged documents, then in the possession of the Committee and the opportunity after such notice to submit to the Committee, in writing, any explanation, evidence, documents or representation the member may wish to make concerning the complaint or investigation.

(9) After reviewing all the evidence presented to it, the Complaints Committee shall determine whether the complaint warrants further consideration and may

(a) dismiss the complaint; or

(b) refer the complaint to the Discipline Committee.

(10) A complainant who is dissatisfied with a decision made pursuant to clause 9(a) may appeal, within 30 days, to the Discipline Committee. 1999, c. 3, s. 22.

Discipline Committee

23 (1) The Council shall maintain a standing committee to be known as the Discipline Committee.

(2) The Discipline Committee shall be composed of certified engineering technicians, certified engineering technologists, certified applied science technicians or certified applied science technologists but no member of the Committee shall be a director of the Council.

(3) The quorum, number of members, terms of office, qualifications and the manner or the appointment of the members of the Discipline Committee are established and governed by the bylaws, and the bylaws may regulate the powers, procedures, functions and operations of the Committee and permit the establishment of panels of the Committee to act for and to carry out and exercise all the duties and powers of the Committee.

(4) The Council shall appoint one of the members of the Discipline Committee to be the Chair of the Committee.

(5) The Discipline Committee shall, subject to the bylaws, conduct its proceedings in accordance with its own rules of procedure and may do all things and engage such persons, including legal counsel, as it considers necessary to provide for the investigation, hearing and consideration of a complaint or appeal, and in no case is the Discipline Committee bound to follow the technical rules of evidence or procedure applicable in judicial proceedings.

(6) The Discipline Committee shall

(a) consider and investigate complaints referred to it by the Complaints Committee or the complainant and attempt to resolve informally any complaint if the Committee considers it appropriate; and

(b) perform such duties as may be assigned to it by the Council.

(7) The Discipline Committee shall

(a) consider the complaint, hear the evidence, ascertain the facts and make a decision with respect to the merits of each complaint as to whether the member is guilty of a matter referred to in clause 21(1)(a) or is suffering from an ailment or condition referred to in clause 21(1)(b), in such manner as the Committee considers fit; and

(b) where the Discipline Committee in its absolute discretion at any time after the receipt of a complaint considers it necessary or advisable, without hearing, require any member to produce records or documents in the member's possession or custody or under the member's control or in the possession or custody or control of any corporation of which the member is a director, officer or shareholder and, where the member fails to produce the records or documents, the Discipline Committee may suspend the member's certification or membership until the member produces the records or documents, unless the member is prohibited by law from producing the records or documents.

(8) After reviewing all of the evidence presented to it the Discipline Committee may, as part of its decision with respect to the merits of any complaint, do one or more of the following:

(a) order that the member's certification or membership be suspended for a specific period of time, during which the member's name must be removed from the Register, the Temporary Register or any roster in which the member's name is entered;

(b) order that the member's certification or membership be suspended pending the satisfaction and completion of such conditions as may be ordered by the Committee;

(c) order that the member's certification or membership be revoked and the member's name be removed from the Register, the Temporary Register or any roster in which the member's name is entered;

(d) order that conditions or limitations be imposed on the member's certification or membership and so inform the member's employer, if any;

(e) issue a reprimand;

(f) dismiss the complaint;

(g) impose such fine as the Committee considers appropriate, not exceeding \$5,000, to be paid by the member to the Society for the use of the Society and recoverable by the Society by civil action for debt;

(h) order that the imposition of any penalty be suspended or postponed for such period of time and upon such terms and conditions as the Committee considers appropriate;

(i) order that the decision of the Committee or notice of the decision be published in such manner as the Committee considers fit; or

(j) make such order as the Committee considers just.

(9) Before commencing an investigation into a complaint, the Discipline Committee may order that security for costs be paid to the Society by the complainant in such amount and on such terms as the Committee may consider just, and the Committee is not obligated to proceed with an investigation until the security for costs is paid.

(10) Notwithstanding anything contained in this Act, where at any time a member admits any allegation in a complaint alleging a matter set out in subsection 21(1) and the member waives, in writing, the right to any other or further hearing or proceedings pursuant to Sections 21 to 26, the Discipline Committee may

(a) agree to cancel all hearings or proceedings and to accept the member's resignation on such terms and conditions as the Committee may specify; or

(b) make any order, finding or decision that may be made pursuant to this Section or Section 29. 1999, c. 3, s. 23.

Evidence and burden of proof

24 (1) Any party to a hearing may obtain from the Court subpoenas for the attendance of witnesses and the production of books, documents and things at the hearing, and failure to comply with a subpoena or refusal to give evidence is a contempt of court.

(2) The testimony of witnesses must be taken under oath or solemn affirmation, which any member of the Discipline Committee may administer.

(3) The burden of proof in all proceedings before the Discipline Committee is the balance of probabilities. 1999, c. 3, s. 24.

Suspension

25 The Registrar may, without hearing, order the suspension of the certification or membership of a member if the Registrar has reasonable and probable grounds for believing that the member in question has been convicted of a criminal offence of such kind or type that, in the opinion of the Registrar, the continued certification or membership of the member in question would immediately affect the good name of the Society or the profession and, upon the Registrar ordering the suspension, the Discipline Committee shall immediately commence an investigation. 1999, c. 3, s. 25.

Rights of member subject to complaint

26 (1) In all proceedings before the Discipline Committee, the member against whom a complaint is made or in respect of whom an investigation is commenced

(a) may be represented by legal counsel, at the member's own expense;

(b) is entitled to a full right to examine, cross-examine and re-examine witnesses in accordance with the rules of procedure established by the Discipline Committee;

(c) is entitled to receive copies of all documents presented to the Discipline Committee in connection with the complaint or investigation, unless the documents are privileged by law;

(d) is entitled to at least 14 days written notice of the date of the first hearing of the Discipline Committee; and

(e) must receive prompt notice of and a copy of the decision rendered.

(2) Subsection 41(1) does not apply to a discipline proceeding pursuant to Sections 21 to 26. 1999, c. 3, s. 26.

Appeal to Court

27 (1) Where

(a) a complainant is dissatisfied with a decision of the Discipline Committee;

(b) a member against whom a complaint has been made is dissatisfied with a decision of the Discipline Committee; or

(c) an applicant for certification is dissatisfied with a decision of the Certification Board, after such decision has been considered by the Certification Review Board,

the person may, within 30 days of the date on which notice of the decision is mailed to the last known address of the person, appeal the decision to the Court and shall, within 14 days, serve a copy of the notice of appeal on the Registrar.

(2) A notice of appeal pursuant to subsection (1) must set forth the grounds of appeal and state the relief sought. 1999, c. 3, s. 27.

Order or decision on appeal and standing of Society

28 (1) The Court may make any order or decision that the Discipline Committee or the Certification Review Board, as the case may be, could have made and may make such order as to costs as may be just.

(2) The Society has standing to appear and participate in any appeal to the Court.

(3) Notwithstanding that an appeal to the Court has been instituted in respect of a decision or order, that decision or order continues to be valid and binding and no stay of proceedings may be granted prior to the hearing of the appeal. 1999, c. 3, s. 28.

Costs

29 (1) The Discipline Committee or the Court may order that the costs of an investigation, proceeding, hearing or appeal pursuant to this Act be paid to any one or more of the Society or the parties, in whole or in part, by

(a) the member against whom the complaint was made, except where the complaint is completely dismissed without any other decision, finding or order adverse to that member; or

(b) the complainant or person at whose request the complaint was made or an investigation was commenced if the Discipline Committee or the Court is of the opinion that the complaint or investigation was unwarranted,

and it may be made a condition of the certification of any member that such costs be paid forthwith where the costs are imposed pursuant to clause (a) or where the complainant referred to in clause (b) is a member.

(2) Before hearing an appeal, the Court may order that security for costs be paid to the Society by the appellant in such amount and upon such terms as the Court considers just.

(3) In this Section, “costs” includes

(a) all costs, expenses and disbursements and all legal costs, on a solicitor and client basis, and other expenses of any kind incurred by the Society, the Complaints Committee, the Discipline Committee, the Certification Board or the Certification Review Board in relation to an investigation, proceeding, hearing or appeal;

(b) honoraria and expenses paid to members of the Complaints Committee, the Discipline Committee, the Certification Board or the Certification Review Board in relation to an investigation, proceeding, hearing or appeal; and

(c) the legal costs, on a solicitor and client basis, and expenses and disbursements incurred by any other party to an investigation, proceeding, hearing or appeal. 1999, c. 3, s. 29.

GENERAL

Trustee or custodian

30 The Society may act as trustee or custodian of any funds or property that may be committed for any purpose to the care or management of the Society. 1999, c. 3, s. 30.

Conduct of meetings

31 The Council and any committee of the Council or the Society may conduct meetings by telephone or other communication facilities in the manner and on the terms and conditions established by the bylaws or the rules, and persons participating in a meeting by such means are deemed to be present in person at the meeting. 1999, c. 3, s. 31.

Effect of certain documents

32 A resolution, report, recommendation, decision, finding or order of the Council or a committee of the Council or the Society in writing signed by all directors or persons entitled to vote on such resolution, report, recommendation, decision, finding or order, or signed counterparts thereof, is as valid as if passed, enacted, determined or made at a meeting of the Council or a committee. 1999, c. 3, s. 32.

Exemption from liability

33 None of the Society, the Council or any of the committees of the Council or the Society, or any member, officer or employee of any of those bodies, is liable for any loss or damage of any kind suffered or incurred by any person as a result of anything done or not done, any proceedings taken or any order made or enforced by it or them in good faith in the administration of or pursuant to this Act, the bylaws or the rules. 1999, c. 3, s. 33.

Deemed date of receipt of notice

34 Where notice is required or permitted to be made or given pursuant to this Act, the bylaws or the rules, a notice is deemed to have been received seven days after the mailing by registered mail postage prepaid of the notice to the last known address of the person to whom the notice is directed. 1999, c. 3, s. 34.

OFFENCE AND PENALTY

Failure to inform employer

35 (1) A person authorized to purport to be a certified engineering technician, certified engineering technologist, certified applied science technician or certified applied science technologist pursuant to this Act who fails to inform the person's employer of any condition, limitation or restriction is guilty of an offence.

(2) In subsection (1), it is sufficient proof of the offence alleged if it is proved that the accused has done or committed a single act of the kind alleged. 1999, c. 3, s. 35.

Prohibition

36 Except as provided in this Act, the bylaws or the rules, no person, other than a person whose name is entered in the Register or the Temporary Register, shall

(a) publicly or privately, whether or not for hire, gain or hope of reward purport to be in any way a certified engineering technician, certified engineering technologist, certified applied science technician or certified applied science technologist of the Society; or

(b) assume or use any title, name, designation, initials or description, including those referred to in this Act, that does or could lead the public to believe that the person is a certified engineering technician, certified engineering technologist, certified applied science technician or certified applied science technologist of the Society. 1999, c. 3, s. 36.

Offence

37 A person who knowingly furnishes false or misleading information in or in respect of any application made pursuant to this Act, the bylaws or the rules or in any statement or return required to be furnished pursuant to this Act, the bylaws or the rules, is guilty of an offence. 1999, c. 3, s. 37.

Penalties

38 A person who is guilty of an offence under this Act, the bylaws or the rules is liable on summary conviction for a first offence to a fine not exceeding \$2,000 and, for each subsequent offence, to a fine not exceeding \$5,000 or, in default of payment, to imprisonment for a term not exceeding six months, or both. 1999, c. 3, s. 38.

Enforcement by injunction

39 Where a member or former member or an applicant for certification does or attempts to do anything contrary to this Act or any bylaw or rule made pursuant to this Act, the doing of such thing may be restrained by an injunction of the Court at the instance of the Council acting in the name of the Society. 1999, c. 3, s. 39.

Further right to injunction

40 Where a person, other than a person referred to in Section 39, does or attempts to do anything contrary to this Act, the doing of such thing may be restrained by an injunction of the Court at the instance of the Council acting in the name of the Society. 1999, c. 3, s. 40.

Prosecutions

41 (1) No prosecution by the Society or any other person for an offence under this Act may be commenced after the expiration of one year from the date of the last act that is part of the alleged offence.

(2) The Council may institute and carry on or authorize any person to institute and carry on the prosecution of an offence under this Act.

(3) Where a violation of this Act continues for more than one day, each day that the violation continues is deemed a separate offence. 1999, c. 3, s. 41.

TRANSITIONAL

Preservation of certain rights

42 (1) Nothing in this Act affects the powers and duties, tenure of office or terms of remuneration of any director or officer of the Society or any committee appointed before August 4, 1999, or anything done or suffered, or any right, title or interest acquired before August 4, 1999, or any legal proceedings or remedy in respect of any such thing, right, title or interest.

(2) Until repealed, altered or amended pursuant to this Act, a bylaw, regulation or rule of the Society made or fees prescribed and in force on August 4, 1999, shall, notwithstanding any conflict with this Act, continue in force and have effect as if made pursuant to this Act. 1999, c. 3, s. 43.

CHAPTER A-27

An Act for the Better Apportionment of Rents and Other Periodical Payments

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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 *Apportionment Act*. R.S., c. 16, s. 1.

Interpretation

2 In this Act,

“annuities” includes salaries and pensions;

“dividends” includes, besides dividends strictly so-called, all payments made by the name of dividend, bonus or otherwise out of the revenue of trading or other public companies whatsoever, incorporated or unincorporated, divisible among all or any of the members of such respective companies, whether such payments are usually made or declared at any fixed times or otherwise, but does not include payments in the nature of a return or reimbursement of capital;

“rent” includes rent service, rent charge and rent seck, and also all periodical payments or renderings in lieu of or in the nature of rent. R.S., c. 16, s. 2.

Payments in the nature of income

3 All rents, annuities, dividends and other periodical payments in the nature of income, whether reserved or made payable under an instrument in writing or otherwise, are, like interest on money lent, considered as accruing from day to day, during the period for or in respect to which the payment of the same is declared or expressed to be made, and are apportionable in respect to time accordingly. R.S., c. 16, s. 3.

When payable

4 The apportioned part of any such rent, annuity, dividend or other payment, is payable or recoverable at the following times and not before

(a) in the case of a continuing rent, annuity or other such payment, when the entire portion of which such apportionment forms part becomes due and payable; and

(b) in the case of a rent, annuity or other such payment determined by re-entry, death or otherwise, when the next entire portion of the same would have been payable if the same had not so determined. R.S., c. 16, s. 4.

Remedy preserved

5 (1) All persons and their respective heirs, executors, administrators and assigns, and also the executors, administrators and assigns respectively of persons whose interests determine with their own death, have the same remedies for recovering such apportioned parts as aforesaid when payable, allowing proportionate parts of all just allowances, as they respectively would have had for recovering such entire portions as aforesaid if entitled thereto respectively.

(2) No such apportioned part of any entire or continuing rent may be recovered from any persons liable to pay rents reserved out of or charged on lands or other hereditaments of any tenure, or may be recovered out of such lands or other hereditaments, but the entire or continuing rent, including such apportioned part, shall be recovered and received by the heir or other person who, if the rent had not been apportionable under this Act, or otherwise, would have been entitled to such entire or continuing rent, and such apportioned part is recoverable from such heir or other person by the executors or other persons entitled under this Act to the same. R.S., c. 16, s. 5.

Act does not apply

6 This Act does not apply to any annual sums made payable in policies of assurance of any description, nor to any case in which it is expressly stipulated that no apportionment shall take place. R.S., c. 16, s. 6.

CHAPTER A-28

An Act Respecting Apprenticeship and Trades Qualifications

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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 *Apprenticeship and Trades Qualifications Act*. 2003, c. 1, s. 1.

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

“accredited training provider” means a training provider accredited by the Director in accordance with the general regulations to deliver technical training or pre-apprenticeship training;

“Agency” means the Nova Scotia Apprenticeship Agency, a special operating agency designated pursuant to the *Public Service Act*;

“appeal panel” means an appeal panel established by the Board pursuant to this Act and the Operating Charter;

“apprentice” means a person who enters into an apprenticeship agreement;

“apprenticeship agreement” means a written agreement, to which the Director is a party, under which an apprentice undertakes to learn a designated trade through apprenticeship training and

(a) an employer undertakes to employ the apprentice and provide the apprentice with practical experience and the opportunity to obtain technical training;

(b) a recognized association assumes the responsibilities of an employer pursuant to subsection 27(3) and undertakes to provide the apprentice with practical experience and the opportunity to obtain technical training; or

(c) the Director undertakes to

(i) provide the apprentice with the opportunity to obtain technical training, and

(ii) record the credits earned and competencies acquired by the apprentice in technical training and practical experience in a designated trade through employment in the Province or one or more other provinces of Canada in relation to which the Minister has entered into an extra-provincial apprenticeship recognition agreement;

“apprenticeship and trades qualifications system” means an industry-led system of apprenticeship training that leads to a certificate of apprenticeship or certificate of qualification in a designated trade, and includes

(a) a youth apprenticeship program;

(b) an equity program;

(c) pre-apprenticeship training;

(d) skills upgrading and enhancement in a designated trade; and

(e) programs that enhance employer participation and engagement;

“apprenticeship training” means training received by an apprentice in a designated trade as required under this Act, and

includes practical experience, technical training and any pre-apprenticeship training, or training or experience in a designated trade pursuant to subsection 25(5);

“authorized person” means any person the Minister authorizes in writing to carry out an activity or function under this Act;

“Board” means the Apprenticeship Board established under the Operating Charter;

“certificate of apprenticeship” means a certificate of apprenticeship issued pursuant to this Act;

“certificate of equivalency” means a certificate of equivalency issued pursuant to this Act;

“certificate of qualification” means a certificate of qualification issued pursuant to this Act;

“Chief Executive Officer” means the Chief Executive Officer of the Agency;

“compulsory certified trade” means a designated trade that is specified as a compulsory certified trade in the trade regulations;

“Deputy Minister” means the Deputy Minister of Labour, Skills and Immigration;

“designated trade” means a trade, or branch of a trade, designated by the Minister;

“Director” means the Director of Programs and Operations appointed pursuant to Section 7;

“employee representative” means

(a) a person who performs work for an employer; or

(b) a representative of a labour union or organization or association of employees employed in a designated trade, and may include a representative of a recognized association;

“employer” means any person, firm, association or public authority that employs a person in a designated trade;

“employer representative” means

(a) a person or agent who has control or direction of, or is directly or indirectly responsible for, the employment of one or more persons in a designated trade, and includes an owner of a one-person business, but does not include a representative of a recognized association; or

(b) a representative of an organization or association of employers;

“equity program” means a bridging program that assists persons who are under-represented in the apprenticeship and trades qualifications system to prepare and qualify for apprenticeship training or a youth apprenticeship program;

“examination” means an oral, written, practical or electronic examination, either alone or in combination;

“extra-provincial apprenticeship recognition agreement” means an agreement entered into by the Minister pursuant to clause 39(b) with the authority responsible for apprenticeship in another province of Canada pursuant to which each province agrees to recognize some or all of the technical training and practical experience, or the equivalent thereof, acquired by an apprentice in any of the provinces that are party to the agreement, for the purpose of granting the apprentice credit towards an apprenticeship program, or the equivalent thereof, in the province in which the apprentice is ordinarily resident;

“general regulations” means the regulations made pursuant to Section 42;

“interprovincial red seal endorsement” means an interprovincial red seal endorsement issued under the authority of the Canadian Council of Directors of Apprenticeship Interprovincial (Red Seal) Program with respect to a trade;

“joint registration agreement” means an agreement entered into between either the Minister or the Director and a recognized association establishing the terms and conditions under which a recognized association may enter into apprenticeship agreements with respect to specified trades;

“journeyperson” means a person who holds a certificate of qualification in a designated trade or a certificate recognized by the Director pursuant to the general regulations;

“Minister” means the Minister of Labour, Skills and Immigration;

“municipality” has the same meaning as in the *Municipal Government Act*;

“Operating Charter” means the operating charter established for the Agency by the Governor in Council pursuant to Section 22 of the *Public Service Act*, and as amended from time to time pursuant to that Section;

“practical experience” means the portion of apprenticeship training in which an apprentice works on a job site learning the skills of a designated trade under the supervision of a journeyperson;

“pre-apprentice” means a person undertaking pre-apprenticeship training;

“pre-apprenticeship training” means experience and training in a designated trade undertaken by a person prior to apprenticeship training through a training provider;

“pre-apprenticeship-training recognition agreement” means an agreement entered into by the Minister pursuant to clause 39(c) with the authority responsible for apprenticeship in another province of Canada pursuant to which each province agrees to recognize some or all of the pre-apprenticeship training, or the equivalent thereof, acquired by a person in one or more of the provinces for the purpose of granting the person credit towards an apprenticeship program, or

the equivalent thereof, in the province in which the person is ordinarily resident;

“recognized association” means a union, organization or association that provides apprentices, journeypersons and other persons to do work within their designated trades for others;

“technical training” means the portion of apprenticeship training in which the apprentice receives formal instruction, including theoretical aspects of the designated trade designed to supplement skills acquired through practical experience;

“trade” includes a specialization in a trade;

“trade advisory committee” means an ad hoc trade advisory committee established by the Board in accordance with the Operating Charter;

“trade regulations” means regulations made under Section 23;

“Utility and Review Board” means the Nova Scotia Utility and Review Board established under the *Utility and Review Board Act*;

“youth” means a person under 20 years of age;

“youth apprenticeship program” means experience and training undertaken by a youth in an apprenticeship program for youth recognized pursuant to the general regulations.

(2) The determination of whether a person is ordinarily resident must be made according to the following rules:

(a) a person is ordinarily resident in the place where the person lives and to which, whenever absent, the person intends to return;

(b) a person may be ordinarily resident in only one place at a time;

(c) a person does not cease to be ordinarily resident in a place by leaving the place for a temporary purpose only; and

(d) where the rules set out in clauses (a) to (c) are not sufficient to determine the place where a person is ordinarily resident, the place where the person is ordinarily resident is determined by the Director, with reference to all the facts of the case. 2003, c. 1, s. 2; 2006, c. 23, s. 1; 2014, c. 3, s. 2; 2014, c. 41, s. 1; 2018, c. 7, s. 1.

Supervision of Act and delegation

3 (1) The Minister has the general supervision and management of this Act, the general regulations and the trade regulations, the general supervision of the Agency and the powers and duties assigned to the Minister by this Act, the general regulations and the Operating Charter.

(2) The Minister may delegate to, and designate, any person to perform such duties and exercise such powers of the Minister under this Act, the general regulations and the Operating Charter as may be set out in the designation, and any act done by a person so designated has the same force, validity and effect as if done by the Minister. 2014, c. 3, s. 3; 2018, c. 7, s. 2.

Board

4 The Minister shall appoint the members of the Board pursuant to the Operating Charter. 2014, c. 3, s. 4.

Powers and duties of Board

5 The Board has the powers and duties assigned to it by this Act, the general regulations and the Operating Charter. 2014, c. 3, s. 5; 2018, c. 7, s. 3.

Chief Executive Officer

6 (1) A Chief Executive Officer must be appointed by the Deputy Minister and may be employed pursuant to the *Civil Service Act* or *Personal Services Contract Regulations* made under the *Public Service Act*.

(2) The Chief Executive Officer has the general leadership, management and administration of the Agency, and has the powers and duties assigned to the Chief Executive Officer by this Act, the general regulations and the Operating Charter. 2014, c. 3, s. 5; 2014, c. 41, s. 2; 2018, c. 7, s. 4.

Directors and other employees

7 The Director of Programs and Operations, the Director of Partnership and Innovation and any other employees required for the administration of this Act, the general regulations, the trade regulations and the Operating Charter must be appointed pursuant to the *Civil Service Act*. 2014, c. 3, s. 5; 2014, c. 41, s. 3; 2018, c. 7, s. 5.

Powers and duties of Director

8 The Director shall carry out the powers and duties assigned to the Director under this Act, the general regulations, the trade regulations and the Operating Charter, including

- (a) keeping a record of every apprenticeship agreement and every suspension, cancellation, transfer, termination or completion of the terms of an agreement;
- (b) keeping a record of the credits earned and competencies acquired by an apprentice for technical training and practical experience through employment in the Province or another province of Canada with respect to which the Minister has entered into an extra-provincial apprenticeship recognition agreement;
- (c) keeping a record of the credits earned and competencies acquired by a person for pre-apprenticeship training in the Province or another province of Canada with respect to which the Minister has entered into a pre-apprenticeship-training recognition agreement;
- (d) making or directing examinations, audits and inquiries to ensure compliance with this Act;
- (e) carrying out a program of apprenticeship in a designated trade;
- (f) undertaking or contracting for the training of apprentices under the apprenticeship and trades qualifications system;
- (g) providing for the examination of apprentices and applicants for trade certification;

- (h) conducting investigations relating to compliance with this Act pursuant to a written complaint or report;
- (i) suspending or cancelling the registration of an apprenticeship agreement for cause;
- (j) prescribing forms for the purpose of this Act and providing for their use; and
- (k) performing such other duties as may be assigned by the Chief Executive Officer or the Minister. 2014, c. 3, s. 5; 2014, c. 41, s. 4; 2018, c. 7, s. 6.

Powers and duties of Director of Partnership and Innovation

9 The Director of Partnership and Innovation shall carry out the duties and powers assigned to the Director of Partnership and Innovation under this Act, the general regulations, the trade regulations and the Operating Charter, including

- (a) granting credit to an apprentice for technical training and practical experience acquired through employment in the Province or another province of Canada with respect to which the Minister has entered into an extra-provincial apprenticeship recognition agreement;
- (b) granting credit to a person for some or all of the pre-apprenticeship training, or the equivalent thereof, acquired by the person in the Province or another province of Canada for the purpose of granting the person credit towards an apprenticeship program in the Province;
- (c) establishing and approving curriculum standards for the technical training of apprentices and monitoring the technical training;
- (d) prescribing forms for the purpose of this Act and providing for their use; and
- (e) performing such other duties as may be assigned by the Chief Executive Officer or the Minister. 2014, c. 41, s. 5; 2018, c. 7, s. 7.

Examiners

10 (1) Subject to the approval of the Minister, the Director may appoint one or more examiners to assist in the conduct of examinations prescribed for a designated trade.

(2) Each examiner shall be paid such remuneration and such reasonable and necessary expenses incurred by the examiner in the performance of the duties of the examiner as the Minister determines. 2003, c. 1, s. 15.

Powers for ensuring compliance

11 For the purpose of ensuring compliance with this Act, the general regulations and the trade regulations, the Director, or any authorized person, may, at any reasonable time,

- (a) enter and inspect the premises, equipment and training facilities of an employer;
- (b) require an employer to produce a book, payroll or other record;
- (c) inspect, take extracts from or make copies of the records of an employer and inquire into matters that relate to the wages, hours of work,

conditions of employment, training, qualification or supervision of any employer, employee or apprentice who has entered into an apprenticeship agreement registered pursuant to this Act;

(d) examine a person with respect to matters pursuant to this Act, the general regulations or the trade regulations;

(e) exercise such other powers as may be necessary or incidental to the carrying out of the Director's or authorized person's functions pursuant to this Act, the general regulations or the trade regulations. 2003, c. 1, s. 16; 2014, c. 3, s. 6; 2018, c. 7, s. 8.

Interference with or failure to facilitate duties of Director

12 (1) No person shall obstruct the Director or any authorized person in the exercise of a power or the performance of a duty pursuant to this Act, the general regulations or the trade regulations.

(2) A person contravenes subsection (1) if the person

(a) wilfully delays the Director or any authorized person in the exercise of a power or the performance of a duty pursuant to this Act, the general regulations or the trade regulations;

(b) fails to comply with a written or oral order of the Director or any authorized person given pursuant to this Act, the general regulations or the trade regulations; or

(c) fails to produce any certificate or document that the person is required by this Act, the general regulations or the trade regulations to produce.

(3) No person shall knowingly furnish the Director or any authorized person with false information or neglect or refuse to furnish information required by the Director or the authorized person in the exercise of a power or the performance of a duty pursuant to this Act, the general regulations or the trade regulations.

(4) A person shall use all necessary means in that person's power to facilitate any entry, inspection, examination, testing or inquiry by the Director or an authorized person in the exercise of the Director's or authorized person's powers or duties pursuant to this Act, the general regulations or the trade regulations. 2018, c. 7, s. 9.

Compliance orders

13 (1) The Director or an authorized person may issue a compliance order that the Director or authorized person believes, on reasonable grounds, is necessary to ensure compliance with this Act, the general regulations or the trade regulations.

(2) A compliance order may

(a) be given orally or in writing;

(b) include any terms and conditions that the Director or authorized person considers reasonable; and

(c) require that the order be carried out within such time as the Director or authorized person specifies.

(3) The Director or authorized person shall confirm an oral order issued under subsection (1) in writing as soon as practicable.

(4) For greater certainty, an oral order issued under subsection (1) is effective immediately, before it is confirmed in writing.

(5) An order issued under subsection (1) remains in place for such period as may be specified in the order or until the order is revoked by the Director or authorized person.

(6) A written order issued under subsection (1) must

(a) name the person to whom it is addressed;

(b) state the actions that must be taken in order to comply with the order, including, in the case of an order requiring that a person stop working, any actions that must be taken before the person may resume work or before work at the work site or premises may resume;

(c) state the reasons for the order;

(d) state that the person who receives the order may, in writing, appeal the order in accordance with Section 35;

(e) state the address for filing a notice of appeal;

(f) be dated the day the order is made;

(g) be served on the person to whom it is addressed by personal service or service by mail to the person's last known address; and

(h) address any other matter that is required by the general regulations to be addressed in a written order.

(7) The Director or authorized person who issued the order under subsection (1) may amend the order, in which case subsection (6) applies to the amendment. 2018, c. 7, s. 9.

Compliance order re compulsory certified trade

14 (1) A compliance order in relation to the practice of a compulsory certified trade contrary to subsection 30(2) must be issued to

(a) the person contravening that subsection;

(b) where subsection 30(3) is also being contravened, the employer of the person referred to in clause (a); and

(c) where subsection 30(4) is also being contravened, the recognized association responsible for providing the person referred to in clause (a) to do work within a designated trade for others.

(2) A compliance order referred to in subsection (1) must, in addition to any other requirements set out in the order, require that the person

(a) immediately stop work in the compulsory certified trade or stop performing any task, activity or function specified in the order;

(b) where the person is claiming to be an apprentice or journeyperson in the compulsory certified trade, immediately cease making such claims; and

(c) continue to refrain from performing such work, task, activity or function or making such claims during the period for which the order is in effect.

(3) The Director or authorized person shall

(a) make reasonable efforts to communicate any oral order that includes provisions set out in subsection (2) to the employer of the person to whom it was issued and to any recognized association that provided the person to the work site or premises as soon as practicable following its issuance; and

(b) provide a copy of a written order or written confirmation of an oral order that includes provisions set out in subsection (2) to the employer of the person to whom it was issued and to any recognized association that provided the person to the work site or premises within 24 hours of its issuance.

(4) Upon receipt of a compliance order referred to in subsection (1), the employer and the recognized association shall provide any necessary assistance to the employee in observing the order and in fulfilling its terms and conditions.

(5) A compliance order issued under clause (2)(b) or (c) must, in addition to any other requirements set out in the order,

(a) require that the employer or recognized association direct the person who is contravening subsection 30(2) to observe the requirements in subsection (2); and

(b) be provided by the employer or recognized association to the person who is contravening subsection 30(2). 2018, c. 7, s. 9.

Compliance order re direct supervision or minimum ratio

15 A compliance order in relation to a breach of a requirement in the general regulations or trade regulations respecting

(a) the direct supervision of an apprentice; or

(b) the minimum ratio of journeypersons to apprentices,

may be issued to the employer of any apprentice who is the subject of the breach or the recognized association responsible for providing the apprentice to do work within a designated trade for others, and any such order must, in addition to any other requirements set out in the order, require that the employer or the recognized association direct any apprentice who is the subject of the breach to

(c) immediately stop work or stop performing any task, activity or function specified in the order; and

- (d) continue to refrain from performing such work, task, activity or function or making such claims during the period for which the order is in effect,

and be provided by the employer or the recognized association to any apprentice who is the subject of the breach. 2018, c. 7, s. 9.

Issuance of compliance order and required terms

16 A compliance order may be issued to a person who

- (a) notwithstanding Section 31, is claiming to hold a certificate of qualification in a designated trade if the person does not hold a certificate of qualification or holds a certificate of qualification that is suspended; or

- (b) notwithstanding Section 31, is using any title, name, abbreviation or description implying that the person holds an interprovincial red seal endorsement to a certificate of qualification for a designated trade if the person does not hold an interprovincial red seal endorsement to a certificate of qualification of that designated trade,

and any such order must require that the person, in addition to any other requirements set out in the order,

- (c) immediately cease claiming to hold a certificate of qualification or an interprovincial red seal endorsement in the trade; and

- (d) continue to refrain from making such claims during the period for which the order is in effect. 2018, c. 7, s. 9.

Stop work order

17 (1) Where the Director or authorized person has reasonable grounds to believe that the person to whom a compliance order is issued under Section 13 is

- (a) practising a compulsory certified trade contrary to subsection 30(2);

- (b) the employer of a person referred to in clause (a) or the recognized association responsible for providing the person referred to in clause (a) to do work within the designated trade for others; or

- (c) in breach of a requirement in the general regulations or trade regulations respecting the direct supervision of an apprentice or the minimum ratio of journeypersons to apprentices,

that order or a separate order issued under Section 13 may require that some or all of the work being performed at the work site or premises, other than activity required to ensure that the work site or premises are safe, must immediately stop and not start again until the Director or authorized person is satisfied that

- (d) work at the work site or premises will be performed only by persons who are authorized to do so; and

- (e) the persons who will be performing the work are in compliance with the Act, the general regulations and the trade regulations, including any direct supervision and minimum ratio requirements applicable to apprentices and journeypersons.

(2) Where satisfied that the circumstances that gave rise to an order under subsection (1) are no longer present, the Director or authorized person may terminate the order by giving the person to whom the order is addressed written permission to

- (a) resume the work or activity specified in the order; or
- (b) resume the work at the work site or premises. 2018, c. 7, s. 9.

Administrative penalty

18 (1) Where the Director believes that a person has failed to comply with a compliance order issued under Section 13, the Director shall provide evidence of the non-compliance to the Chief Executive Officer.

(2) Where an authorized person believes that a person has failed to comply with a compliance order issued under Section 13, the authorized person shall provide evidence of the non-compliance to the Director.

(3) Where the Chief Executive Officer or the Director, after receiving the evidence referred to in subsection (1) or (2), is of the opinion that a person has failed to comply with a compliance order issued under Section 13, the Chief Executive Officer or the Director, as the case may be, may issue a notice in writing requiring the person to pay an administrative penalty in the amount set out in the notice.

(4) An administrative penalty issued under subsection (3) may not exceed \$5,000.

- (5) The notice referred to in subsection (3) must state
- (a) the name of the person to whom it is addressed;
 - (b) the designated trade that is the subject of the order;
 - (c) the provision of this Act, the general regulations or the trade regulations that the person failed to comply with;
 - (d) the amount of the penalty, determined in accordance with the general regulations;
 - (e) when and how the penalty must be paid; and
 - (f) that the person may apply, in accordance with Section 36, to have the penalty reviewed by the Utility and Review Board.

(6) A notice issued under subsection (3) must be served on the person required to pay the penalty by personal service or service by mail to the person's last known address. 2018, c. 7, s. 9.

Unpaid administrative penalty debt to Crown

19 (1) Subject to an appeal under Section 36, a person required to pay an administrative penalty shall pay it within 30 days after the notice of the penalty is served on the person.

(2) An administrative penalty becomes a debt due to the Crown in right of the Province if not paid

(a) within 30 days after the notice of the penalty is served, if the penalty is not appealed; or

(b) within 30 days of the decision on the appeal, if the penalty is appealed and the Utility and Review Board confirms that a penalty is owing.

(3) The Director may certify a debt referred to in subsection (2), or any part of such debt that has not been paid, and the certificate may be filed with a prothonotary of the Supreme Court of Nova Scotia and, upon being filed, may be enforced in the same manner as a judgment of the Court. 2018, c. 7, s. 9.

Continuing contravention after penalty paid

20 A person who pays an administrative penalty issued under Section 18 for failing to comply with a compliance order issued with respect to a contravention of this Act, the general regulations or the trade regulations may not be charged with an offence respecting that contravention unless the contravention continues after the penalty is paid. 2018, c. 7, s. 9.

Publication of notice of administrative penalty

21 (1) The Director shall report the details of any notice of an administrative penalty issued by the Director under Section 18 to the Chief Executive Officer.

(2) After the period for appealing notice of an administrative penalty has expired, where no appeal has been filed with the Utility and Review Board in accordance with subsection 36(2), the Chief Executive Officer may make public the details of the notice of administrative penalty in such manner as the Chief Executive Officer determines, and may include personal information as defined in the *Freedom of Information and Protection of Privacy Act* in the disclosure. 2018, c. 7, s. 9.

Designation of trades

22 In Section 23, “designate” means identify and define a trade that, upon designation, becomes subject to this Act, the general regulations, the trade regulations and the Operating Charter. 2014, c. 3, s. 8; 2018, c. 7, s. 10.

Trade regulations

23 (1) Subject to subsection (3), the Board may make trade regulations designating a trade and establishing and approving objectives, standards and requirements for a trade other than a trade that is specified in the trade regulations as a compulsory certified trade.

(2) Subject to subsection (3), the Governor in Council may make trade regulations designating a trade and establishing and approving objectives, standards and requirements for a trade that is specified in the trade regulations as a compulsory certified trade.

(3) Trade regulations may

(a) designate a trade or a branch of a trade;

(b) establish and approve objectives, standards and requirements in relation to

(i) apprenticeship training and certification in the trade, and

(ii) certification in the trade without apprenticeship training; and

(c) prescribe one or more of the following matters in relation to a particular designated trade:

(i) the educational prerequisites and essential skills in relation to the designated trade that a person must have to be eligible to enter into an apprenticeship agreement as an apprentice,

(ii) the conditions that a person must meet to be eligible to enter into an apprenticeship agreement as an employer,

(iii) the term of an apprenticeship in the designated trade,

(iv) the requirement for a probationary period in relation to the designated trade and the length of the probationary period,

(v) the minimum ratio of journeypersons to apprentices and any additional terms and conditions pertaining to journeypersons and apprentices in relation to the minimum ratio,

(vi) the wage rate for an apprentice in the designated trade,

(vii) the number of documented hours specified for a level in the designated trade,

(viii) the requirements in addition to those set out in clause 29(1)(a) that must be satisfied before a certificate of qualification may be granted to an apprentice in the designated trade,

(ix) for the purpose of an application by a trade qualifier for a certificate of qualification,

(A) the practical experience that must be completed before the trade qualifier is eligible to be examined for a certificate of qualification,

(B) the period of employment in the designated trade that is required before the Director may grant the certificate of qualification, and

(C) any other applicable requirements that must be satisfied before the Director will grant the certificate of qualification,

(x) requiring a journeyperson in the designated trade to display the journeyperson's certificate of qualification at the journeyperson's place of employment,

(xi) establishing, in relation to a designated trade that is not a compulsory certified trade, the term of validity for a certificate of qualification for the trade,

(xii) establishing, in relation to a designated trade that is not a compulsory certified trade, that the certificate of qualification issued in the trade may be renewed, and indicating

(A) any applicable requirements that must be met before renewal may occur, and

(B) the applicable term for the renewal,

(xiii) where the employee performs some but not all of the tasks that come within the scope of a compulsory certified trade,

(A) permitting a joint application to be made by an employee and the employer of the employee for an exemption from the application of subsections 30(2) and (3), and

(B) setting out the terms and conditions under which the employee and employer may make joint application for the renewal of the exemption,

(xiv) establishing the term of validity for a certificate of qualification for a compulsory certified trade,

(xv) establishing, in relation to a compulsory certified trade, that a certificate of qualification issued in the trade may not be renewed,

(xvi) establishing, in relation to a renewable certificate of qualification for a compulsory certified trade,

(A) any applicable requirements that must be met before the renewal may occur, and

(B) the applicable term for the renewal.

(4) In the case of a conflict between the trade regulations and the general regulations, the general regulations prevail.

(5) Where the Board repeals trade regulations made pursuant to subsection (1) for a designated trade other than a designated trade that is specified in the trade regulations as a compulsory certified trade, the Board may, by trade regulation, revoke the designation of the designated trade that is the subject of those trade regulations.

(6) Where the Governor in Council repeals trade regulations made pursuant to subsection (2), the Governor in Council may, by trade regulation, revoke the designation of the designated trade that is the subject of those trade regulations.

(7) The exercise by the Board or by the Governor in Council of the authority contained in this Section is a regulation within the meaning of the *Regulations Act*. 2018, c. 7, s. 11.

Collection and disclosure of pre-apprenticeship training information

24 (1) An accredited training provider shall collect and disclose to the Director at least once a year and at such other times as the Director may request

(a) a list of all persons enrolled in any pre-apprenticeship training program offered by the accredited training provider during the previous calendar year and up to the time the list is prepared; and

(b) for each person referred to in clause (a),

(i) whether the person is, at the time the list is prepared, a pre-apprentice,

(ii) the pre-apprenticeship training program in which the person is or was enrolled,

(iii) where the person is no longer a pre-apprentice at the time the list is prepared, whether that person completed the pre-apprenticeship training program in which the person was enrolled, and

(iv) such other information as may be prescribed by the general regulations.

(2) A pre-apprentice enrolled with an accredited training provider shall register with the Director, in the manner specified in the general regulations, but may opt out of registration at any time in such manner as may be specified in the general regulations. 2018, c. 7, s. 11.

Apprenticeship agreements

25 (1) A person who wishes to obtain a certificate of qualification in a designated trade and an employer who undertakes to employ the person as an apprentice to learn the trade shall jointly enter into an apprenticeship agreement with the Director.

(2) Either an employer or an apprentice who is a party to an apprenticeship agreement shall, in accordance with the general regulations, apply to the Director to have the agreement registered pursuant to subsection (3).

(3) The Director shall register an apprenticeship agreement if the Director is of the opinion that the agreement

(a) complies with the general regulations; and

(b) provides for the apprenticeship training required under this Act, the general regulations and the trade regulations.

(4) An apprenticeship agreement has no effect under this Act unless it is registered by the Director.

(5) Subject to the general regulations, the Director of Partnership and Innovation may grant credits to a prospective apprentice for previous training or experience in the designated trade, including previous apprenticeship training and training or experience acquired in another province of Canada.

(6) Notwithstanding subsection (5), and subject to the general regulations, the Director of Partnership and Innovation shall grant credits to a pro-

spective apprentice for previous training or experience in the designated trade that is acquired in another province of Canada in accordance with the terms and conditions of any pre-apprenticeship-training recognition agreement that has been entered into with respect to that province.

(7) The Director may, by giving written notice to the parties to an apprenticeship agreement, suspend or cancel the registration of the agreement if, in the Director's opinion, the apprentice is not receiving the apprenticeship training required under this Act, the general regulations and the trade regulations.

(8) An employer who is a party to an apprenticeship agreement may withdraw from the agreement without the consent of the apprentice and shall immediately give written notice of the withdrawal to the Director.

(9) An apprentice may terminate an apprenticeship agreement without the consent of the employer or the Director and shall immediately give written notice of the termination to the Director.

(10) The parties to an apprenticeship agreement are deemed not to have contravened the agreement if the apprentice

(a) is lawfully on strike or is lawfully locked out by the employer; or

(b) is unable to work owing to a lawful strike or lawful lockout that affects the employer's place of business.

(11) An employer or a recognized association may assign an apprenticeship agreement to another employer, a recognized association or the Director, with the prior written approval of the Director and the consent of the other employer, the recognized association or the Director, as the case may be, and the apprentice.

(12) No person shall work for an employer as an apprentice in a designated trade except under an apprenticeship agreement, and no employer shall employ a person as an apprentice except under an apprenticeship agreement.

(13) The Director may require from the parties to a proposed apprenticeship agreement or parties seeking certificates of qualification such information as the Director considers necessary or as prescribed in the general regulations or the trade regulations.

(14) Where, before a trade becomes a designated trade, a person is employed pursuant to a written agreement in that trade, the employer shall, within three months after the trade becomes a designated trade, register the agreement pursuant to this Act, but the agreement is not otherwise affected by this Act. 2003, c. 1, s. 18; 2014, c. 3, s. 9; 2014, c. 41, s. 6; 2018, c. 7, s. 12.

Apprenticeship agreements with Director only

26 (1) The Director may, at the request of a prospective apprentice, enter into an apprenticeship agreement with the prospective apprentice if the prospective apprentice

(a) is ordinarily resident in the Province;

(b) is not employed in the Province at the time the agreement is entered into;

(c) is or has been employed within the preceding year in a province of Canada with respect to which the Minister has entered into an extra-provincial apprenticeship recognition agreement or in which the prospective apprentice has an offer of employment from an employer;

(d) is determined by the Director of Partnership and Innovation to be eligible to be granted credit for the equivalent of technical training or practical experience acquired in the province referred to in clause (c), in the trade in relation to which the apprenticeship agreement is proposed; and

(e) in the opinion of the Director, is likely to benefit from entering into an apprenticeship agreement with the Director.

(2) An apprenticeship agreement entered into pursuant to subsection (1) does not constitute an employment agreement.

(3) For greater certainty, subsections 25(3) to (9) apply to an apprenticeship agreement made pursuant to subsection (1).

(4) An apprenticeship agreement entered into pursuant to subsection (1) is subject to such terms and conditions as may be prescribed by the general regulations. 2014, c. 41, s. 7; 2018, c. 7, s. 13.

Agreements with recognized associations

27 (1) The Director may recognize and approve a recognized association to enter into an apprenticeship agreement through a joint registration agreement between the Director and the recognized association with respect to such trades as the Director specifies under terms and conditions as agreed upon by the Director and the recognized association.

(2) The Director shall record the approval and, for each recognized association, record

- (a) the joint registration agreement;
- (b) the trades for which the association may enter into apprenticeship agreements; and
- (c) the number of journeypersons in the recognized association.

(3) A recognized association that enters into an apprenticeship agreement assumes the responsibilities of the employer of the apprentice under this Act, subject to the general regulations and the trade regulations.

(4) Where a person who is apprenticed by virtue of an apprenticeship agreement made and entered into pursuant to this Section is employed by a person other than the recognized association, the general regulations, the trade regulations and the terms of the agreement apply to the person who employs the apprentice. 2003, c. 1, s. 19; 2014, c. 3, s. 10; 2018, c. 7, s. 14.

Certificate of apprenticeship

28 Subject to the general regulations and the trade regulations, the Director shall issue a certificate of apprenticeship in a designated trade to a person who, in the opinion of the Director, has successfully completed the apprenticeship training and related certification examination. 2003, c. 1, s. 20; 2018, c. 7, s. 15.

Certificate of qualification and certificate of proficiency

29 (1) Subject to the general regulations and the trade regulations, the Director shall issue a certificate of qualification in a designated trade to a person who

- (a) holds a certificate of apprenticeship; or
- (b) in the opinion of the Director, otherwise meets the standards and requirements established for the trade and has successfully completed the related certification examination.

(2) Subject to the general regulations and the trade regulations, the Director may renew a certificate of qualification in a designated trade.

(3) Notwithstanding clause (1)(b), the Director may issue a certificate of proficiency to a person who, in the opinion of the Director, demonstrates through practical skills that the person meets the standards and requirements established for the trade, and who otherwise satisfies any additional requirements set out in the general regulations.

(4) The Director may suspend or cancel a certificate of qualification issued pursuant to subsection (1) or (2)

- (a) if the Director is of the opinion that the holder of the certificate
 - (i) obtained the certificate as a result of false or misleading statements or information,
 - (ii) has used the certificate, or allowed the certificate to be used, for an improper purpose, or
 - (iii) has improperly altered the certificate; or
 - (b) for any reason specified in the general regulations.
- 2003, c. 1, s. 21; 2006, c. 23, s. 2; 2014, c. 3, s. 11; 2018, c. 7, s. 16.

Compulsory certified trades

30 (1) The Governor in Council may, by trade regulation, specify that a designated trade is a compulsory certified trade.

(2) A person shall not practise or claim to be authorized to practise a compulsory certified trade unless the person

- (a) is a party to an apprenticeship agreement for which an application for registration has been made and the application is pending;
- (b) is engaged in apprenticeship training in the trade under an apprenticeship agreement that is registered pursuant to this Act and is not suspended;

- (c) holds, with respect to the trade,
 - (i) a certificate of qualification, or
 - (ii) a certificate of proficiency,

that is not suspended, and is in compliance with the general regulations and the trade regulations;

(d) holds a temporary permit issued by the Director pursuant to this Act with respect to the trade; or

(e) holds a certificate, other than a certificate referred to in clause (c), that is recognized by the Director pursuant to the general regulations and is not suspended.

(3) An employer shall not employ a person in a compulsory certified trade if the employer knows, or would reasonably be expected to know, that the person is prohibited from working in the trade under subsection (2).

(4) A recognized association shall not provide a person in a compulsory certified trade to do work within a designated trade for others if the recognized association knows, or would be reasonably expected to know, that the person is prohibited from working in the trade by subsection (2).

(5) Subject to the general regulations and the trade regulations, the Director may exempt a person referred to in subsection (2), an employer referred to in subsection (3) or a recognized association referred to in subsection (4) from the application of those subsections. 2003, c. 1, s. 22; 2014, c. 3, s. 12; 2018, c. 7, s. 17.

Certificate of qualification

31 No person shall claim to hold a certificate of qualification in a designated trade that is not a compulsory certified trade unless the person holds a certificate of qualification in that designated trade that is not suspended. 2018, c. 7, s. 18.

Interprovincial red seal endorsement

32 No person shall use any title, name, abbreviation or description implying that the person holds an interprovincial red seal endorsement to a certificate of qualification for a designated trade unless the person holds an interprovincial red seal endorsement to a certificate of qualification for that designated trade. 2018, c. 7, s. 18.

Temporary permit

33 (1) In accordance with the general regulations, the Director may issue a temporary permit allowing a person to work in a compulsory certified trade.

(2) A temporary permit issued pursuant to subsection (1) is valid for the period, and is subject to any terms and conditions specified in the permit. 2003, c. 1, s. 23; 2018, c. 7, s. 19.

Appeals

34 (1) A person may appeal any of the following decisions made by the Director:

- (a) the refusal to register an apprenticeship agreement to which the person is a party;
- (b) the refusal to grant credits to the apprentice;
- (c) the suspension or cancellation of the registration of an apprenticeship agreement to which the person is a party;
- (d) the refusal to issue a certificate of apprenticeship to the person;
- (e) the refusal to issue a certificate of qualification to the apprentice;
- (f) the suspension or cancellation of the person's certificate of qualification;
- (g) any other decision specified in the general regulations as being appealable.

(2) An appeal may be commenced by filing a notice of appeal with the Director within 30 days after the person is notified, in writing, of the refusal, suspension or cancellation or decision specified in the general regulations.

(3) Within five days of receipt of a notice of appeal, the Director shall transmit the notice of appeal to the Chair of the Board.

(4) For the purpose of hearing an appeal under this Section, the Board shall, within 60 days after a notice of appeal is filed, appoint an appeal panel consisting of

- (a) a person designated by the Board as the presiding officer;
- (b) one or two employer representatives who are, in the opinion of the Board, knowledgeable about the designated trade to which the appeal relates; and
- (c) one or two employee representatives who are, in the opinion of the Board, knowledgeable in the designated trade to which the appeal relates.

(5) The number of persons appointed under clauses (4)(b) and (c) must be equal.

(6) Subject to the general regulations, the Minister may determine the amount of any remuneration and reimbursement for expenses that may be paid to members of the appeal panel.

- (7) An appeal panel may, by order, do either of the following:
- (a) confirm, vary or rescind the Director's decision; or
 - (b) subject to subsections (8) and (9), refer the matter back to the Director for further consideration in accordance with the appeal panel's direction.

(8) Where the appeal panel refers the matter back to the Director under clause (7)(b), the Director shall provide a report in writing to the appeal panel after further consideration in accordance with the appeal panel's direction.

(9) The appeal panel shall decide the matter after receiving any report in writing from the Director under subsection (8) and the evidence and submissions of the appellant and any other parties to the appeal.

(10) The appeal panel shall notify the appellant and the Director in writing of its decision.

(11) The decision of the appeal panel is final and binding. 2003, c. 1, s. 24; 2014, c. 3, s. 13; 2018, c. 7, s. 20.

Appeal of compliance order

35 (1) A person issued a compliance order pursuant to Section 13 may appeal the order in accordance with subsection (2).

(2) An appeal from an order issued pursuant to Section 13 must be commenced by filing a notice of appeal with the Utility and Review Board within 14 days after the order is served on the person named in the order in accordance with clause 13(6)(g).

(3) Subject to subsection (4), an appeal acts as a stay of the operation of the order issued under Section 13 that is under appeal until the appeal is determined.

(4) With or without notice, upon application by the Director, the Utility and Review Board, after considering

- (a) primarily, the degree of risk and the potential impact of the risk on persons; and
- (b) secondarily,
 - (i) the degree of prejudicial harm to the person to whom the order was issued if the appeal of the order does not operate as a stay, and
 - (ii) whether there is a strong prima facie case for a successful appeal of the order,

may order that the appeal of the order does not operate as a stay pending the outcome of the appeal.

(5) On an appeal from an order issued under Section 13, the Utility and Review Board may, by order,

- (a) confirm, vary or revoke the order;
- (b) allow additional time for the person to whom the original order was issued to comply with the order and attach conditions to such compliance;
- (c) make any order that the Director or authorized person making the order under appeal could have made; or

(d) in accordance with subsections (6) and (7), refer the matter back to the Director or authorized person for further consideration in accordance with the Board's direction.

(6) Where the Utility and Review Board refers the matter back to the Director or authorized person under clause (5)(d), the Director or authorized person shall give the matter further consideration in accordance with the Board's direction and then provide a written report to the Board.

(7) The Utility and Review Board shall, after receiving a written report from the Director or authorized person under subsection (6) and the evidence and submissions of the appellant and any other parties to the appeal, confirm, vary or revoke the order. 2018, c. 7, s. 21.

Appeal of administrative penalty

36 (1) A person served with notice issued under subsection 18(3) that the person is required to pay an administrative penalty may appeal the penalty in accordance with subsection (2).

(2) An appeal from an administrative penalty issued pursuant to Section 18 may be commenced by filing a notice of appeal with the Utility and Review Board within 14 days after the person who is required to pay the administrative penalty is served with notice of the administrative penalty in accordance with subsection 18(6).

(3) Where an administrative penalty is appealed pursuant to subsection (2), the requirement to pay the administrative penalty is stayed until the Utility and Review Board decides the appeal.

(4) On an appeal from an administrative penalty issued under Section 18, the Utility and Review Board may, by order,

- (a) confirm, vary or revoke the penalty;
- (b) allow additional time for the person to whom the penalty was issued to comply with the order with respect to which the penalty was issued and attach conditions to such compliance; or
- (c) make any order that the Chief Executive Officer or the Director issuing the penalty could have made. 2018, c. 7, s. 21.

Appeals under Section 35 or 36

37 (1) The Director is a party to an appeal commenced under Section 35 or 36.

(2) On an appeal under Section 35 or 36, the Utility and Review Board has all the powers set out in the *Utility and Review Board Act*, including the power to establish its own processes and procedures for fulfilling its function and duties under those Sections.

(3) The Utility and Review Board shall notify the appellant, the Director and any other party to an appeal under Section 35 or 36, in writing, of its decision.

(4) Subject to Section 28 of the *Utility and Review Board Act*, a decision of the Utility and Review Board on an appeal under Section 35 or 36 is final and binding. 2018, c. 7, s. 21.

Licence required by municipality

38 Where a municipality requires a person engaged in a designated trade to have a licence issued by the municipality, that municipality shall not require a person who holds a certificate recognized by the Director pursuant to the general regulations or the trade regulations in that trade to take an examination before obtaining the licence. 2003, c. 1, s. 25; 2018, c. 7, s. 22.

Powers of Minister

39 The Minister may

- (a) enter into agreements with
 - (i) the Government of Canada or an agency of the Government of Canada,
 - (ii) the government of a province of Canada or an agency of a province of Canada,
 - (iii) a municipality or an agency of a municipality, or
 - (iv) such other persons or groups of persons as the Minister may consider necessary or expedient for the administration of this Act;
- (b) enter into and carry out extra-provincial apprenticeship recognition agreements;
- (c) enter into and carry out pre-apprenticeship-training recognition agreements;
- (d) enter into and carry out agreements with any person, group of persons, one or more employers or representatives of employers, one or more trade unions or one or more representatives of employees to co-operate in the establishment and provision of a plan or system of apprenticeship training in a trade; and
- (e) enter into and carry out joint registration agreements. 2003, c. 1, s. 26; 2014, c. 3, s. 14; 2014, c. 41, s. 8; 2018, c. 7, s. 23.

Offence and penalty

40 (1) A person who contravenes

- (a) this Act;
- (b) the general regulations or the trade regulations; or
- (c) a written or oral order of the Director or authorized person,

commits an offence and upon summary conviction is liable to a penalty not exceeding \$10,000 or to imprisonment for a term not exceeding three months for a first offence.

(2) A person convicted of a second or subsequent offence is liable on summary conviction to a fine of not more than \$50,000 or to imprisonment for a term of not more than 12 months.

(3) Where a court of competent jurisdiction convicts a person charged with paying an apprentice at a lesser rate of wages than the rate prescribed by the general regulations or the trade regulations for the work performed by the apprentice, the court, in addition to imposing a penalty, may order the person convicted to pay to the apprentice the difference between wages at the rate so prescribed and the wages actually paid.

(4) Where the general regulations provide for the issuance of a certificate based on the results of a test or trade examination, everyone who

(a) assists another person taking the test or examination by, before the taking of the test or examination, knowingly conveying or disclosing to that person, directly or indirectly, any information respecting the contents of the test or examination; or

(b) is an applicant for a certificate and knowingly acquires or attempts to acquire, before taking any such test or examination, any information respecting the contents of the test or examination,

commits an offence and is liable on summary conviction to a penalty not exceeding \$5,000 or to imprisonment for a term not exceeding three months for each offence.

(5) A person who acquires or attempts to acquire employment in a designated trade by the use of a certificate of apprenticeship or a certificate of qualification that is issued in the name of another person or that has been falsely or fraudulently obtained, commits an offence and is liable on summary conviction to a penalty not exceeding \$5,000 or to imprisonment for a term not exceeding three months for each such offence. 2003, c. 1, s. 27; 2018, c. 7, s. 24.

Conflict with another enactment

41 (1) Subject to subsection (2), where there is a conflict between this Act and any other enactment, this Act and the regulations prevail.

(2) Nothing in this Act, the general regulations or the trade regulations affects the rights and obligations of employers, employees and apprentices where those rights and obligations are included within a collective agreement within the meaning of the *Trade Union Act*. 2003, c. 1, s. 28; 2018, c. 7, s. 25.

General regulations

42 (1) The Governor in Council may make general regulations

(a) respecting, in addition to those functions, duties and authorities set forth in this Act, the general regulations, the trade regulations and the Operating Charter, the functions, duties and authorities of the Board, the Chief Executive Officer, the Director, the trade advisory committees and any other committees or entities established under, or persons identified in, the Operating Charter;

(b) respecting administrative penalties for contravening a compliance order, including general regulations

- (i) prescribing the form and content of the notice of administrative penalty,
- (ii) prescribing the range of administrative penalty amounts that may be issued, and
- (iii) respecting the determination of amounts of administrative penalties, which may vary according to the nature or frequency of the contravention and whether the person contravening the compliance order is an individual or a corporation;
- (c) respecting any other matter that must be addressed in a written order, including any matter referred to in Section 13, 14, 15, 16 or 17;
- (d) respecting trades, including designated trades;
- (e) respecting the qualifications of persons who may become apprentices in a designated trade, the nature, length and content of apprenticeship training and the objectives, standards and requirements of apprenticeship training;
- (f) respecting the responsibilities of the apprentice and the employer, and the requirements for, or limitations on, recognized associations that assume the responsibilities of the employer pursuant to subsection 27(3);
- (g) respecting the terms of employment of an apprentice;
- (h) limiting the maximum number of apprentices in any designated trade at any particular time;
- (i) respecting the minimum rate of wages for an apprentice and other terms and conditions for employment as an apprentice;
- (j) respecting the terms and conditions upon which certificates of qualification may be issued to persons engaged in a trade, including the information the Director may seek from a person who wishes to obtain a certificate of qualification;
- (k) respecting the giving of examinations of apprentices and other persons who do not hold a certificate of apprenticeship in a designated trade and the issuance of transcripts;
- (l) respecting the giving of examinations of applicants who have not taken or completed the prescribed apprenticeship training;
- (m) providing for the suspension or cancellation of the registration of an apprenticeship agreement and for the suspension or cancellation of certificates of qualification;
- (n) respecting the qualifications of persons who may become eligible for skills upgrading courses in any designated trade and prescribing the nature, length and content of such courses in preparation for a certificate of qualification;
- (o) respecting the assessment of persons to determine readiness for apprenticeship training, skills upgrading and skills enhancement training;
- (p) respecting eligibility requirements for employers;

- (q) respecting the documentation of the progress of an apprentice throughout apprenticeship training;
- (r) respecting standards of achievement;
- (s) respecting the form, content, process for withdrawal from and approval, registration and termination of an apprenticeship agreement and the information the Director may seek from the other parties, if any, to a proposed apprenticeship agreement;
- (t) respecting the form and content of trade regulations;
- (u) respecting objectives, standards and requirements for certification without apprenticeship training;
- (v) respecting objectives, standards and requirements for the issuance and replacement of certificates of apprenticeship;
- (w) respecting objectives, standards and requirements for the issuance, replacement and renewal of certificates of qualification and certificates of equivalency;
- (x) respecting objectives, standards and requirements for the issuance, replacement, renewal, suspension and cancellation of certificates of proficiency and the monitoring of holders of certificates of proficiency;
- (y) specifying reasons for suspending or cancelling certificates of qualification and certificates of equivalency;
- (z) respecting the conditions under which certificates of apprenticeship may be issued;
- (aa) respecting the giving of written notice when required by this Act;
- (ab) respecting fees, including prescribing fees and requiring the payment and waiving the payment of fees;
- (ac) respecting training standards and certification for trades designated by the Canadian Council of Directors of Apprenticeship, including the issuance of interprovincial red seal endorsements and the recognition of interprovincial red seal endorsements issued with respect to other provinces of Canada under the Canadian Council of Directors of Apprenticeship Interprovincial Standards (Red Seal) Program;
- (ad) respecting the issuance of endorsements;
- (ae) specifying decisions of the Director that may be appealed to an appeal panel;
- (af) respecting the remuneration and reimbursement of appeal panel members;
- (ag) respecting the procedures to be followed in appeals conducted pursuant to this Act;
- (ah) respecting the form, content and issuance of identity cards to apprentices and the holders of certificates of qualification and certificates of equivalency that have been issued by the Director and certificates of qualification that have been recognized by the

Director, including a requirement that identity cards contain a photograph of the card holder;

(ai) requiring that identity cards be kept in the possession of a person practising a designated trade, when they are doing so, and be produced on the request of the Director, an authorized person or a person authorized by the Director;

(aj) respecting the ratio of apprentices to journeypersons that may be employed by an employer;

(ak) respecting the requirement to have certificates of qualification and certificates of equivalency displayed in the workplace;

(al) respecting the accreditation of training providers, including setting out prerequisites for accreditation and requiring training providers to enter into agreements with the Director and setting additional terms and conditions to be included in such agreements;

(am) respecting additional information that must be provided to the Director by an accredited training provider pursuant to subclause 24(1)(b)(iv);

(an) respecting

(i) the registration of pre-apprentices enrolled with an accredited training provider, including the issuance of identification cards to enrolled pre-apprentices, and

(ii) the opting out of registration of pre-apprentices, pursuant to subsection 24(2);

(ao) respecting exemptions for the purpose of subsection 30(5);

(ap) respecting the issuance and cancellation of temporary permits;

(aq) respecting the recognition of other provincial certificates;

(ar) respecting compulsory certified trades, but not including the matters delegated to the Board by the Operating Charter;

(as) respecting the granting of credits by the Director of Partnership and Innovation to a prospective apprentice, apprentice or other person for previous training and experience, including pre-apprenticeship training acquired in a province of Canada with respect to which the Minister has entered into a pre-apprenticeship-training recognition agreement;

(at) respecting the recognition of, or granting credits for, a youth apprenticeship program;

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

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

- apply to
- (2) A general regulation made pursuant to subsection (1) may
- (a) all designated trades;
 - (b) a particular plant or plants;
 - (c) a particular sector, industry or industries.

(3) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2003, c. 1, s. 29; 2006, c. 23, s. 3; 2014, c. 3, s. 15; 2014, c. 41, s. 9; 2018, c. 7, s. 26.

Agreement under former Act

43 (1) In this Section, “former Act” means Chapter 17 of the Revised Statutes, 1989, the *Apprenticeship and Trades Qualifications Act*.

(2) An agreement entered into under the former Act and in effect on July 1, 2003, is deemed to be an agreement registered or entered into under this Act.

(3) A certificate issued, recognized or continued under the former Act and in effect on July 1, 2003, is deemed to be a certificate issued, recognized or continued under this Act. 2003, c. 1, s. 30.

CHAPTER A-29

An Act Respecting Arbitration

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Short title

1 This Act may be cited as the *Arbitration Act*. R.S., c. 19, s. 1.

INTERPRETATION

Interpretation

2 In this Act,

“court” means the Supreme Court of Nova Scotia;

“judge” means a judge of the Supreme Court of Nova Scotia;

“rules of court” means the rules of the Supreme Court of Nova Scotia;

“submission” means a written agreement to submit present or future differences to arbitration whether an arbitrator is named therein or not. R.S., c. 19, s. 2.

Application of Act to Crown

3 This Act applies to every arbitration to which the Crown is a party, as if the arbitration were pursuant to a submission, except in so far as this Act is inconsistent with the enactment regulating the arbitration or with any rules or procedure authorized or recognized by the enactment. R.S., c. 19, s. 3.

Commercial Arbitration Act

4 Notwithstanding anything contained in this Act, this Act does not apply to an arbitration commenced pursuant to the *Commercial Arbitration Act*, 1999, c. 5, s. 61.

ARBITRATION UNDER SUBMISSION

Effect of submission

5 A submission, unless a contrary intention is expressed therein, is irrevocable, except by leave of the court or a judge, and has the same effect in all respects as if it had been made an order of the court. R.S., c. 19, s. 4.

Submission includes certain provisions

6 A submission, unless a contrary intention is expressed therein, includes, so far as they are applicable to the reference under the submission, the following provisions:

(a) where no other mode of reference is provided, the reference is to a single arbitrator;

(b) where the reference is to two arbitrators, the two arbitrators may appoint an umpire at any time within the period during which they have power to make an award;

(c) the arbitrators shall make their award in writing within three months after entering on the reference or after being called on to act by notice in writing from any party to the submission, or on or before any later date to which the arbitrators, by any writing signed by them, extend the time for making the award;

(d) where the arbitrators have allowed their time or extended time to expire without making an award, or have delivered to any party to the submission, or to the umpire, a notice in writing stating that they cannot agree, the umpire may forthwith enter on the reference in lieu of the arbitrators;

(e) the umpire shall make the umpire’s award within one month after the original or extended time appointed for making the award of the arbitrators has expired, or on or before any later date to which the umpire, by

any writing signed by the umpire, extends the time for making the umpire's award;

(f) the parties to the reference, and all persons claiming through them respectively, shall, subject to any legal objection, submit to be examined by the arbitrators or umpire, on oath or affirmation, in relation to the matters in dispute, and shall, subject as aforesaid, produce before the arbitrators or umpire all books, deeds, papers, accounts, writings and documents within their possession or power respectively, that are required or called for, and do all other things that, during the proceedings on the reference, are required by the arbitrators or umpire;

(g) the witnesses on the reference shall, where the arbitrators or umpire think fit, be examined on oath or affirmation;

(h) the award to be made by the arbitrators or umpire is final and binding on the parties and persons claiming under them respectively;

(i) the costs of the reference and award are in the discretion of the arbitrators or umpire, who may direct to, and by whom, and in what manner, such costs, or any part thereof, must be paid and may tax or settle the amount of costs to be so paid, or any part thereof, and may award costs to be paid as between solicitor and client. R.S., c. 19, s. 5.

Official referee

7 Where a submission provides that the reference is to an official referee, any official referee to whom application is made shall, subject to any order of the court or a judge, hear and determine the matters agreed to be referred. R.S., c. 19, s. 6.

Stay of proceedings

8 (1) Where any party to a submission, or any person claiming through or under the party, commences any legal proceedings in any court against any other party to the submission, or any person claiming through or under the party, in respect to any matter agreed to be referred, any party to such legal proceedings may, at any time after appearance, and before delivering any pleadings, or taking any other steps in the proceedings, apply to that court to stay the proceedings.

(2) The court, or a judge thereof, if satisfied that there is no sufficient reason why the matter should not be referred in accordance with the submission, and that the applicant was, at the time when the proceedings were commenced, and still remains, ready and willing to do all things necessary to the proper conduct of the arbitration, may make an order staying the proceedings. R.S., c. 19, s. 7.

Notice to appoint and appointment by court

9 (1) Where

(a) a submission provides that the reference is to a single arbitrator, and all the parties do not, after differences have arisen, concur in the appointment of an arbitrator;

(b) an appointed arbitrator refuses to act, is incapable of acting or dies, and the submission does not show that it was intended that the vacancy should not be supplied, and the parties do not supply the vacancy;

(c) the parties, or two arbitrators, are at liberty to appoint an umpire or third arbitrator and do not appoint an umpire or third arbitrator;

(d) an appointed umpire or third arbitrator refuses to act, is incapable of acting or dies, and the submission does not show that it was intended that the vacancy should not be supplied, and the parties or arbitrators do not supply the vacancy;

(e) a submission provides that a reference must be to two arbitrators, one to be appointed by each party (whether or not the parties or two arbitrators are at liberty to appoint an umpire or third arbitrator) and either party does not, after differences have arisen, appoint an arbitrator,

any party may serve the other parties, or the arbitrators, as the case may be, with a written notice to appoint an arbitrator, umpire or third arbitrator.

(2) Where the appointment is not made within seven clear days after the service of the notice, the court or a judge may, on application by the party who gave the notice, appoint an arbitrator, umpire or third arbitrator, who has the like powers to act in the reference, and make an award, as if the arbitrator, umpire or third arbitrator had been appointed by consent of all parties. R.S., c. 19, s. 8.

Reference to two arbitrators

10 Where a submission provides that the references are to two arbitrators, one to be appointed by each party, then, unless the submission expresses a contrary intention,

(a) where either of the appointed arbitrators refuses to act, is incapable of acting or dies, the party who appointed the arbitrator may appoint a new arbitrator in the original arbitrator's place;

(b) where, on such a reference, one party fails to appoint an arbitrator, either originally or by way of substitution as aforesaid, for seven clear days after the other party, having appointed an arbitrator, has served the party making default with notice to make the appointment, the party who has appointed an arbitrator may appoint that arbitrator to act as sole arbitrator in the reference, and that arbitrator's award is binding on both parties as if the arbitrator had been appointed by consent,

provided that the court or a judge may set aside any appointment made in pursuance of this Section. R.S., c. 19, s. 9.

Powers of arbitrator or umpire

11 The arbitrators, or umpire, acting under a submission have, unless the submission expresses a contrary intention, power to

(a) administer oaths to, or to take the affirmation of, the parties and witnesses appearing;

(b) state an award as to the whole or part thereof in the form of a special case for the opinion of the court; and

(c) correct in an award any clerical mistake or error arising from an accidental slip or omission. R.S., c. 19, s. 10.

Subpoena

12 Any party to a submission may sue out of the court a subpoena *ad testificandum*, or a subpoena *duces tecum*, but no person may be compelled, under any such subpoena, to produce any document that the person could not be compelled to produce on the trial of an action. R.S., c. 19, s. 11.

Disobedience of subpoena

13 Any person on whom such subpoena has been served, and who has been paid or tendered the fees for travel and attendance prescribed for witnesses in the court, is liable, in case of disobedience of such subpoena, to the same punishment and liabilities as if the same had been issued in an action in the court for the attendance of witnesses at the trial. R.S., c. 19, s. 12.

Extension of time for award

14 The time for making an award may be extended by order of the court or a judge, whether the time for making the award has expired or not. R.S., c. 19, s. 13.

Reconsideration

15 (1) In all cases of reference to arbitration, whether under a submission or under a statute or otherwise, the court or a judge may remit the matters referred or any of them to the reconsideration of the arbitrators or umpire.

(2) Where an award is remitted, the arbitrators or umpire shall, unless the order otherwise directs, make their award within three months after the date of the order. R.S., c. 19, s. 14.

Removal of arbitrator or setting aside award

16 (1) Where an arbitrator or umpire has behaved in an improper manner the court may remove the arbitrator or umpire.

(2) Where an arbitrator or umpire has behaved in an improper manner, or an arbitration or award has been improperly procured, the court may set aside the award. R.S., c. 19, s. 15.

Issue and service of originating notice for Section 16

17 (1) In an application to a court or a judge respecting the matters referred to in Section 16, the originating notice must be issued and served within a reasonable time.

(2) In this Section, “within a reasonable time” means within 60 days after service of a copy of the award of the arbitrator has been made upon the party issuing the originating notice or such longer time as a court or a judge may determine. R.S., c. 19, s. 16.

Enforcement of award

18 An award on a submission may, by leave of the court or a judge, be enforced in the same manner as a judgment or order to the same effect. R.S., c. 19, s. 17.

REFERENCES UNDER ORDER OF COURT

Official or special referee

19 (1) Subject to the rules of court and to any right to have particular cases tried by a jury, the court, or a judge, may refer any question arising in any cause or matter for inquiry or report to any official or special referee.

(2) The report of an official or special referee may be adopted wholly or partially by the court or a judge, and if so adopted may be enforced as a judgment or order to the same effect. R.S., c. 19, s. 18.

Trial ordered

20 In any cause or matter, other than a criminal proceeding by the Crown,

(a) where all the parties interested who are not under disability consent;

(b) where the cause or matter requires any prolonged examination of documents, or any scientific or local investigation which cannot, in the opinion of the court or judge, conveniently be made before a jury, or conducted by the court through its other ordinary officers; or

(c) where the question in dispute consists wholly or in part of matters of account,

the court or a judge may, at any time, order the whole cause or matter, or any question or issue of fact arising therein, to be tried before a special referee or arbitrator respectively agreed on by the parties, or before an official referee or officer of the court. R.S., c. 19, s. 19.

Power of referee or arbitrator

21 (1) In all cases of reference to an official or special referee or arbitrator under an order of the court or a judge in any cause or matter, the official or special referee or arbitrator is an officer of the court, and has such authority, and shall conduct the reference in such manner, as is prescribed by rules of court, and subject thereto, as the court or a judge directs.

(2) The report or award of any official or special referee or arbitrator, or any such reference, is unless set aside by the court or a judge, equivalent to the verdict of a jury.

(3) The remuneration to be paid to any official or special referee or arbitrator to whom any matter is referred under order of the court or a judge, must be determined by the court or a judge. R.S., c. 19, s. 20.

Power of court or judge

22 The court or a judge has, as to references under order of the court or a judge, all the powers that are by this Act conferred on the court or a judge as to references by consent out of court. R.S., c. 19, s. 21.

GENERAL PROVISIONS

Habeas corpus

23 The court or a judge may order that a writ of habeas corpus *ad testificandum* issue to bring up a prisoner for examination before an official or special referee or before any arbitrator or umpire. R.S., c. 19, s. 22.

Stated case

24 Any referee, arbitrator or umpire may, at any stage of the proceedings under a reference, and shall, if so directed by the court or a judge, state in the form of a special case for the opinion of the court any question of law arising in the course of the reference. R.S., c. 19, s. 23.

Costs

25 Any order made under this Act may be made on such terms as to costs or otherwise as the authority making the order thinks just. R.S., c. 19, s. 24.

Conferring of jurisdiction

26 Provision may be made by rules of court for conferring on a judge or other officer of the court, all or any of the jurisdiction conferred by this Act on the court or a judge. R.S., c. 19, s. 25.

CHAPTER A-30

**An Act to Provide for
the Designation of Arbor Day**

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Short title
1 This Act may be cited as the *Arbor Day Act*. R.S., c. 20, s. 1.

Designation of Arbor Day
2 The Governor in Council may designate one day each year to be kept and observed throughout the Province under the name of Arbor Day. R.S., c. 20, s. 2.

CHAPTER A-31

An Act Respecting the Practice of Architecture

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Short title

- 1 This Act may be cited as the *Architects Act*. 2006, c. 12, s. 1.

Interpretation

- 2 In this Act,
- “architect” means a person who engages in the practice of architecture;
- “Association” means the Nova Scotia Association of Architects;
- “Board” means the Board of Registration of the Association established pursuant to the regulations;

“building” means any structure used or intended for supporting or sheltering any use or occupancy;

“bylaws” means the bylaws of the Association;

“corporate permit” means a permit issued to a partnership or corporation in accordance with the regulations;

“Council” means the Council of the Association;

“design and technical documents” means designs, drawings, specifications, studies and other technical reports prepared in the course of practising architecture;

“designated architectural certification board” means any architectural certification board designated by the regulations;

“designated architectural registration board” means any architectural registration board designated by the regulations;

“judge” means a judge of the Supreme Court of Nova Scotia;

“licence” means the document issued pursuant to Section 22 and the renewal of that document pursuant to Section 26;

“licensed architect” means an architect holding a current licence;

“member” means, except where the context otherwise requires, a person who has been issued a licence pursuant to Section 22 or a renewal of such licence pursuant to Section 26, or any person whose name appears in the register and in any class of membership as prescribed by the regulations;

“membership” means membership in any class of members as prescribed by regulations;

“practice of architecture” means rendering or offering to render services, hereinafter described, in connection with the design and construction, enlargement or alteration of a building or group of buildings and the space within the site surrounding the buildings, that have as their principal purpose human occupancy or habitation and those services include pre-design services, programming, planning, providing designs, drawings, specifications and other technical submissions, the administration of construction contracts and the coordination of any elements of technical submissions prepared by others;

“President” means the President of the Association;

“professional engineer” means a person authorized to practise professional engineering pursuant to the *Engineering Profession Act*;

“public use” means use by members of the public or any segment of the public, whether by virtue of express or implied invitation by the owners or occupants;

“public representative” means a person appointed to the Council, the Board or a committee who is not a member of the Association;

“Registrar” means the Registrar of the Association;

“responsible control” means that amount of control over and detailed knowledge of the content of technical submissions during their preparation as is ordinarily exercised by registered architects applying the required professional standard of care and, for greater certainty does not include, review-

ing, or reviewing and correcting, technical submissions after they have been prepared by others;

“technical submissions” means drawings and specifications issued for the purpose of a building permit, construction contract or construction, or where otherwise required by law;

“temporary licence” means an authorization issued by the Association in accordance with the regulations that permits the practice of architecture on a temporary or project-specific basis and that is subject to any conditions or restrictions set out in the temporary licence. 2006, c. 12, s. 2.

ASSOCIATION

Association continued

3 The Nova Scotia Association of Architects, as constituted as of September 23, 2008, continues to be a body corporate and politic with perpetual succession and a common seal with its head office at Halifax. 2006, c. 12, s. 3.

Council

4 (1) There is a Council of the Association which is elected or appointed in the manner provided for in this Act and the bylaws.

(2) The Council consists of

- (a) the President;
- (b) the immediate past President;
- (c) a member of the academic staff of a school or faculty of architecture within the Province designated annually by the board of governors of that institution;
- (d) six members of the Association appointed in the manner provided for in the bylaws; and
- (e) one or two public representatives appointed in the manner provided for in the bylaws.

(3) The term of all members of the Council is as set out in the bylaws. 2006, c. 12, s. 4

Powers of Council

5 Subject to this Act, the regulations and the bylaws, the Council shall govern, control and administer the affairs of the Association and may exercise all powers vested in it by this Act, the regulations and the bylaws. 2006, c. 12, s. 5.

Officers

6 (1) The officers of the Association are the President, Vice-president and Secretary-treasurer and those officers shall exercise the powers and have the duties set out in the bylaws.

(2) The President is elected by a majority vote of the members taken in the manner prescribed by the bylaws.

individual (3) No individual is eligible for election as President unless that

- (a) is a licensed architect; and
- (b) has served on Council for at least one year.

(4) No individual may be nominated for the office of President while serving a second consecutive year as President of the Association. 2006, c. 12, s. 6.

First meeting

7 At its first meeting after election, the Council shall

- (a) elect from its members who are licensed architects a Vice-president, a Secretary-treasurer and a Registrar and appoint from among the members of the Association a Board of Registration; and
- (b) make such other appointments as it considers appropriate to carry out its mandate. 2006, c. 12, s. 7.

Meetings

8 (1) Meetings of the Association and Council shall be called, held and governed in the manner prescribed in the bylaws.

(2) The annual meeting of the Association shall be held at a time and date specified in the bylaws. 2006, c. 12, s. 8.

Purposes of Association

9 The Association has as its purposes

- (a) the protection of the public through
 - (i) the maintenance of professional competence and ethical conduct of its members, and
 - (ii) the enforcement of this Act with respect to illegal practice;
- (b) the advancement of the knowledge, skill and proficiency of its members in all matters relating to the practice of architecture; and
- (c) the promotion of the architectural profession and architectural services in the public interest. 2006, c. 12, s. 9.

Bylaws

10 (1) The Association may make bylaws for the governance of the Association and the management and conduct of the Association, including

- (a) the calling, conduct and manner of governance of meetings of the Association, the Board and the Council;
- (b) the nomination and election of members of the Council and prescribing the duties and functions of members of the Council;

- (c) the appointment to and term of office of members of the Council and prescribing those persons' powers, duties and functions;
- (d) the term of office of members of the Board;
- (e) the power to fill vacancies on the Council or in any other office or on any committee created by the Association;
- (f) the number required to constitute a quorum at meetings of the Association, meetings of Council and meetings of committees and the Board;
- (g) prescribing fees and reimbursement for expenses payable to members of the Council, the Board or any committee of the Council or the Association or for a member representing the Association;
- (h) the establishment of and payment of sums of money for scholarships, fellowships and any other educational incentive or benefit programs that the Council or the Association considers appropriate;
- (i) the issuance of, the information to be engraved on and the use to be made of seals and stamps held by persons holding a licence;
- (j) the provision of entries and deletion of names and information from the register;
- (k) the prescribing of forms to be used for membership, obtaining a licence and any other form or document that may be required for the purpose of this Act, the regulations and the bylaws;
- (l) the ability of the Association to acquire, hold and dispose of real and personal property;
- (m) the ability to lease or erect buildings for the use of the Association;
- (n) the ability to borrow money for the Association and to give security for any money so borrowed on any of the real, personal or mixed property of the Association by way of mortgage, pledge, charge or otherwise;
- (o) the ability to invest the funds of the Association from time to time in such investments as are authorized for investment of trust funds under the *Trustee Act*; and
- (p) the criteria for and the manner in which the title of honorary member will be bestowed on members or non-members of the Association.

(2) The Association may make bylaws with respect to

- (a) the standards of ethical conduct for members, including the adoption of canons of ethics governing the conduct of members;
- (b) a guide for fees for architectural services;
- (c) a guide for proposal calls for architectural services.

(3) The *Regulations Act* does not apply to bylaws of the Association.

(4) No bylaw of the Association comes into force until the bylaw has been passed by three fourths of the licensed architects present at a special or general meeting of the Association. 2006, c. 12, s. 10.

Regulations

11 (1) The Association may make regulations

(a) respecting the establishment, operation and proceedings of the Complaints Committee, the Discipline Committee, the Board or other committees, the appointment of members to such committees or the Board and procedures for filling vacancies on committees or the Board and the delegation to such committees or the Board of any powers or duties of the Association or the Council under this Act;

(b) prescribing the academic qualifications of, training requirements for and the conditions under which applicants for membership are admitted into the Association;

(c) governing the evaluation by the Board of the academic or other qualifications of and training requirements for applicants for a licence;

(d) prescribing or incorporating technical standards and professional competence for the practice of architecture;

(e) establishing the disciplinary procedures for all members of the Association;

(f) establishing other classes of membership in addition to the class of licensed architect that may include classes of membership to be known as intern architect, honorary member, student member, retired member and associate member;

(g) establishing requirements for registration of applicants for any class of membership, including the academic qualifications, work experience, examination requirements, membership fees and such other qualifications as may be determined by the Association;

(h) designating the descriptive title that may be used by individuals within any class of membership in the Association other than licensed architect;

(i) conferring the right, if any, to attend meetings of the Association and the right, if any, to vote at meetings of the Association to be held by an individual under any class of membership;

(j) establishing the rights, duties and obligations of individuals registered under any class of membership, including the requirement to abide by the Association's standards of ethical conduct, notice required for and conditions of resignation from the Association and such other matters as the Association prescribes by regulation;

(k) respecting the granting of a temporary licence to practise to a qualified applicant and the academic qualifications, work

experience, examination requirements, fees requirements and other qualifications required to obtain such temporary licence to practise and the rights, duties and obligations of the holders of a temporary licence;

(l) designating architectural registration boards for the purpose of this Act;

(m) designating architectural accreditation boards for the purpose of this Act;

(n) establishing and prescribing the powers of any joint practice board pursuant to Section 61;

(o) respecting requirements for professional liability insurance and circumstances where such insurance is not required;

(p) prescribing criteria and requirements for the issuance of a licence or corporate permit to individuals, partnerships or corporations from outside or within the Province;

(q) respecting the requirements for professional development activities necessary for renewal of a licence, and the interim procedures applicable when professional development requirements have not been met;

(r) establishing rules for the payment of the costs by a respondent arising from any action taken by the Association, the Council, the Complaints Committee or the Discipline Committee;

(s) prescribing circumstances in which the Discipline Committee may impose a publication ban;

(t) governing appeals to Council from the Board's refusal to grant a licence or the renewal of a licence;

(u) prescribing policies and procedures for investigating and dealing with complaints about the mental or physical incapacity of a member.

(2) No regulation of the Association made pursuant to subsection (1) comes into force until

(a) the Registrar certifies that

(i) a copy of the proposed regulation was mailed to each member of the Association at least 30 days before the day on which the regulation was considered by a meeting of the Association, and

(ii) the regulation was passed by three fourths of the licensed architects present at the meeting; and

(b) the regulation is approved by the Governor in Council.

(3) Any regulation made pursuant to clause (1)(n) comes into effect only upon the passing by such other professional association or associations of identical regulations pursuant to the legislation governing such other professional association or associations subject only to such changes in references to the applicable legislation and applicable association required of the context.

(4) The exercise by the Association of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2006, c. 12, s. 11.

MEMBERSHIP

Classes of membership

12 The Association shall maintain a class of membership known as licensed architect and the Association may establish and maintain, pursuant to the regulations, other classes of membership as determined from time to time. 2006, c. 12, s. 12.

Registration of licensed architects

13 An individual shall be registered as a licensed architect of the Association if that individual holds a current licence issued by the Board. 2006, c. 12, s. 13.

Application for other classes of membership

14 An individual applying for a class of membership other than that of a licensed architect shall apply in the manner and in the form provided for in the bylaws and shall provide such evidence of the individual's qualifications, work experience, examinations and other qualifications as may be prescribed by the regulations. 2006, c. 12, s. 14.

Fees

15 An individual applying for a class of membership other than as a licensed architect shall pay such fees as are required by the Association pursuant to the bylaws. 2006, c. 12, s. 15.

Entitlements of licensed architect

- 16 A licensed architect is entitled to
- (a) vote at any meeting of the Association; and
 - (b) use "architect" or any of its abbreviations or derivatives as a descriptive title with respect to that member. 2006, c. 12, s. 16.

Duties of members

- 17 A member in any class of membership shall
- (a) observe the Association's standards of ethical conduct, including all canons of ethics adopted by the bylaws; and
 - (b) give notice, in writing, to the Registrar of any intention to resign from the Association and, only with the approval of the Council, resign from the Association. 2006, c. 12, s. 17.

Striking from register for non-payment

18 One month after the fees of a member of any class become payable, the Council may strike that member's name from the register if the annual fees have not been paid. 2006, c. 12, s. 18.

LICENSING

Application for licence

19 (1) In this Section, “good character” means such character as will enable a person to discharge the fiduciary duties of an architect to that person’s client and to the public for the protection of health, safety and welfare.

(2) Evidence of the inability of a person to discharge the fiduciary duties of an architect includes the commission of an offence justifying discipline under Section 49.

(3) Every individual applying to the Board for a licence shall

(a) submit an application in the form approved by the bylaws;

(b) pay the fee approved by Council;

(c) submit evidence satisfactory to the Board that such individual holds a certificate from a designated architectural certification board or has completed such other education as the Board considers equivalent;

(d) submit evidence satisfactory to the Board that such person has completed practical work experience required by the Board;

(e) provide confirmation of liability insurance as prescribed by the regulations;

(f) have successfully completed examinations as required by Council;

(g) provide evidence satisfactory to the Board to establish the applicant is of such good character as to safely and ethically engage in the practice of architecture; and

(h) complete such other requirements for licensing as set out in the regulations.

(4) No licensed architect, holder of a corporate permit or holder of a temporary licence shall engage in the practice of architecture unless

(a) insured against professional liability in accordance with the regulations; or

(b) exempted by the regulations from the requirement to hold professional liability insurance. 2006, c. 12, s. 19.

Exemption from examination

20 The Board may exempt an applicant from the examination requirements of clause 19(1)(f) if the applicant holds a certification issued by any designated architectural registration board. 2006, c. 12, s. 20.

Register

21 The Council shall cause to be kept by the Registrar a register, to be known as the Register of the Nova Scotia Association of Architects, in which must

be entered the particulars of each member, including the class of membership to which the member belongs. 2006, c. 12, s. 21.

Issuance of licence

22 The Association shall issue a licence to each individual who meets the requirements of Section 19. 2006, c. 12, s. 23.

Prima facie evidence

23 Every licence issued and remaining in force is prima facie evidence in any legal proceeding that the individual named therein is legally registered as an architect for the period for which it is issued, and of all other facts stated therein. 2006, c. 12, s. 24.

Term of licence

24 Every licence is effective upon issuance and continues in effect until the end of the calendar year in which it is issued, unless restricted in time in accordance with Section 27 or suspended or revoked in accordance with this Act. 2006, c. 12, s. 25.

LICENCE RENEWAL**Application for renewal**

25 Before the expiry of a licence, a member shall apply to the Board for the renewal of the licence by submitting

- (a) an application form for renewal as set out in the bylaws;
- (b) the fee approved by Council;
- (c) information that verifies the member is not currently subject to any disciplinary proceeding that would prohibit the practice of architecture;
- (d) information that satisfies the Board that the member continues to be of such character as to safely and ethically engage in the practice of architecture;
- (e) confirmation of liability insurance in the amount prescribed by the regulations;
- (f) proof that the applicant has completed such professional development activities as required by the regulations; and
- (g) such other information as set out in the regulations. 2006, c. 12, s. 26.

Renewal of licence

26 Subject to Section 27, where an applicant for a renewal of a licence has satisfactorily provided the Board with the information set out in Section 25, the Board shall issue a new licence. 2006, c. 12, s. 27.

Renewal for limited time

27 Where an applicant for a renewal of a licence has met all of the requirements of Section 25, except clause (f), the Board may issue a licence for a

limited period of time to allow the applicant to complete the required professional development activities. 2006, c. 12, s. 28.

Failure to renew

28 Any holder of a licence who fails to renew the holder's licence on or before the prescribed date shall, before again engaging in the practice of architecture within the Province,

- (a) meet the requirements of Section 25;
- (b) be required to apply for reinstatement;
- (c) pay the prescribed fee; and
- (d) in circumstances considered appropriate by the Board, be required to be re-examined. 2006, c. 12, s. 29.

DISPLAY OF LICENCE**Display of licence**

29 Every architect having a place of business or employment within the Province shall display that architect's licence in a conspicuous place in such place of business or employment. 2006, c. 12, s. 30.

Replacement licence

30 (1) The Board shall issue a new licence, to replace a lost, destroyed or mutilated licence, upon payment of a fee established by Council.

(2) A licence issued under subsection (1) must be stamped or marked "duplicate". 2006, c. 12, s. 31.

SEAL**Design of seal**

31 Every licensed architect must have a seal of a design authorized by the regulations. 2006, c. 12, s. 32.

Duty to use seal

32 All technical submissions prepared by a licensed architect, or under the architect's responsible control, must be sealed with the seal of the licensed architect and signed by the licensed architect, signifying that the licensed architect was in responsible control of the content of the technical submissions and has applied the required standard of care. 2006, c. 12, s. 33.

Limitation on use of seal

33 No licensed architect may sign or seal technical submissions unless prepared by or under the responsible control of the architect, except that

- (a) the architect may sign or seal those portions of the technical submissions that were prepared by or under the responsible control of persons who are licensed under this Act if the architect has reviewed and

adopted in whole or in part such portions and has either coordinated their preparation or integrated them into the architect's work; and

(b) the architect may sign or seal those portions of the technical submissions that are not required by this Act to be prepared by or under the responsible control of an architect if the architect has reviewed and adopted in whole or in part such submissions and integrated them into the architect's own work. 2006, c. 12, s. 34.

Records respecting technical submissions of others

34 Any licensed architect signing or sealing technical submissions not prepared by that architect, but prepared under that architect's responsible control by persons not regularly employed in the office where the architect is resident, shall maintain and make available to the Board upon request, for at least five years following such signing and sealing, adequate and complete records demonstrating the nature and extent of the architect's control over and detailed knowledge of such technical submissions throughout their preparation. 2006, c. 12, s. 35.

DISCIPLINE

Interpretation of Sections 36 to 56

35 In Sections 36 to 56,

"complaint" means any complaint in writing initiated by the Board, any committee of the Association, any employee of the Association, the Registrar or any other person regarding the conduct, actions, professional competence or character of a member;

"licence" includes a reference to a temporary licence to practise;

"member" includes

- (a) an individual holding any class of membership;
- (b) an individual holding a temporary licence; and
- (c) a partnership or corporation holding a corporate permit,

either currently or at the time of the subject-matter giving rise to a complaint;

"respondent" means the member who is the subject of a complaint. 2006, c. 12, s. 36.

Complaints to be sent

36 All complaints must be sent to the Complaints Committee and the Committee shall mail by registered mail or otherwise cause to be delivered to the respondent, at that person's last known address, a copy of the complaint, inviting a response to the complaint in writing to the Committee within 14 days from receipt of the correspondence. 2006, c. 12, s. 37.

Investigation of complaints

37 (1) The Complaints Committee shall consider and investigate the complaint, including examining or making every reasonable effort to examine all records and documentation relating to the complaint and, as part of its investigation of a complaint, the Committee may require the respondent to undergo such relevant examinations as it may direct.

(2) A member of the Complaints Committee may act as the Association's investigating officer and may carry out an investigation of a complaint.

(3) An investigation conducted pursuant to subsection (2) may include

(a) requests for further and additional written or oral explanations from the respondent, the complainant and, where directed by the chair of the Complaints Committee, third parties; and

(b) requests for an informal interview of the respondent by one or more members of the Complaints Committee.

(4) The Complaints Committee may, during its investigation, where it determines that it may be desirable or in the public interest to do so, suspend the respondent from practice or order conditions or restrictions on the licence of the respondent pending the completion of the investigation and, where the matter is referred to the Discipline Committee, may continue such suspension, conditions or restrictions during the hearing and adjudication of such complaint by the Discipline Committee.

(5) During an investigation, the respondent shall co-operate fully in respect of the investigation with the Complaints Committee or anyone acting on its behalf.

(6) During an investigation, the Complaints Committee may investigate any other matter that may constitute professional misconduct, conduct unbecoming an architect or professional incompetence relating to the respondent that arises in the course of the investigation. 2006, c. 12, s. 38.

Duties of Complaints Committee

38 (1) The Complaints Committee, in accordance with the information it receives, shall

(a) where a determination is made that

(i) the complaint is not within the jurisdiction of the Association,

(ii) the evidence that may reasonably be believed could not support a finding of professional misconduct, conduct unbecoming or professional incompetence, or would not merit a counsel or caution, or

(iii) the complaint is otherwise incapable of substantiation,

dismiss the complaint and, where considered useful by the Complaints Committee, provide guidance to the complainant, the respondent or any other person associated with the complaint; or

(b) provide the complainant, the respondent or other persons, a reasonable opportunity to appear before the Complaints Committee and to submit representations or explanations, and then

(i) dismiss the complaint and, where considered useful by the Complaints Committee, provide guidance to the

complainant, the respondent or any other person associated with the complaint,

- (ii) counsel the respondent,
- (iii) caution the respondent,
- (iv) with the consent of the respondent, order that the respondent receive a reprimand and that the reprimand be communicated to the respondent and the complainant and such other persons as the Complaints Committee considers appropriate,
- (v) where a determination is made that the matter or matters before the Complaints Committee warrant a hearing, refer the matter or matters to the Discipline Committee,
- (vi) informally resolve the complaint; or
- (vii) order any combination of subclauses (i) to (vi).

(2) The Complaints Committee shall send its decision, in writing, by prepaid first-class mail to the complainant and to the respondent. 2006, c. 12, s. 39.

Power to require examination or audit

39 (1) Where the Complaints Committee, in its absolute discretion, at any time after the receipt or institution of a complaint considers it necessary or advisable, it may, without a hearing, require the respondent to undergo such examinations as the Committee may designate in order to determine whether the member has adequate skill and knowledge to practise architecture and, where the member fails to undergo any such examination, the Association may, upon recommendation of the Committee, without further notice, revoke or suspend the member's licence or membership until the member undergoes such examinations.

(2) Where the Complaints Committee, in its absolute discretion, at any time after the receipt or institution of a complaint considers it necessary or advisable, it may, without a hearing, require any member to submit to an audit or other examination of its business, books and records by such person or persons as the Committee may designate and, where the member or holder of a corporate permit fails to submit to such audit or examination, the Committee may, without further notice, revoke or suspend the licence or corporate permit until this Section is complied with. 2006, c. 12, s. 40.

Settlement proposals

40 Where the Association believes that a matter referred to a Discipline Committee may be resolved by settlement, the Association may tender in writing to the respondent a settlement proposal that must include an admission or admissions by the respondent to one or more of the allegations set out in the notice of hearing and the respondent's consent to a specified disposition, conditional upon the acceptance of the settlement proposal by the Complaints Committee and the Discipline Committee. 2006, c. 12, s. 41.

Complaints Committee and settlement proposals

41 (1) Where both parties are in agreement with a settlement proposal tendered pursuant to Section 40, the Association shall forward the settlement proposal to the Complaints Committee for consideration.

(2) In preparing a settlement proposal, the parties, where agreeable, may use a mediator, and the costs of the mediator must be divided equally between the Association and the respondent, unless otherwise agreed by the parties.

(3) The Association may, in its discretion, recommend acceptance of a settlement proposal if satisfied that

- (a) the public is protected;
- (b) the conduct or its causes can be, or have been, successfully remedied; and
- (c) settlement is in the best interests of the public and the profession.

(4) Where the Complaints Committee does not recommend acceptance of a settlement proposal, the Committee shall

- (a) recommend changes to the settlement proposal that
 - (i) where agreed upon by the parties, will result in acceptance by the Committee, or
 - (ii) where not agreed upon by the parties, will result in rejection by the Committee; or
- (b) reject the settlement proposal and forward the matter referred to the Complaints Committee to the Discipline Committee for hearing.

(5) The Complaints Committee retains jurisdiction over a complaint until the commencement of a hearing or the acceptance of a settlement proposal by the Discipline Committee.

(6) Where the Complaints Committee recommends acceptance of a settlement proposal, the Committee shall refer the settlement proposal to the Discipline Committee. 2006, c. 12, s. 41.

Discipline Committee and settlement proposals

42 (1) Where the Discipline Committee accepts a settlement proposal,

- (a) the settlement proposal must form part of the order of the Discipline Committee disposing of the matter; and
- (b) subject to subsection (6), there is no hearing before the Discipline Committee.

(2) Where the Discipline Committee does not accept a settlement proposal, it shall

- (a) suggest amendments to the settlement proposal and return it to the parties for review and

- (i) where both parties do not agree with the amendments to the settlement proposal, the settlement proposal is deemed to be rejected and the matter must be referred to another panel of the Discipline Committee for a hearing, or
- (ii) where both parties agree with the amendments to the settlement proposal, the settlement proposal must be sent back to the Complaints Committee, which may
 - (A) accept the settlement proposal, or
 - (B) reject the settlement proposal and refer the matter to another panel of the Discipline Committee for a hearing; or
- (b) reject the settlement proposal, in which case the matter must be forwarded to another panel of the Discipline Committee for a hearing.

(3) Where a settlement proposal has been rejected, the hearing must proceed without reference to the settlement proposal or any admissions contained in the settlement proposal until such time as the Discipline Committee has determined whether professional misconduct, conduct unbecoming an architect or professional incompetence has been proven.

(4) The persons who sat on the Discipline Committee that reviewed a rejected settlement proposal may not sit on the Discipline Committee that conducts the hearing.

(5) Before reaching a decision to award costs in a hearing, the Discipline Committee may be given a copy of any settlement proposals exchanged between the parties.

(6) Any alleged breach by a respondent of an undertaking given in, or a condition of, a settlement proposal that is accepted by the Discipline Committee, must be referred to a Discipline Committee and may form the subject of a hearing before the Discipline Committee.

(7) A settlement proposal may include any disposition that could be ordered by the Discipline Committee pursuant to Section 49. 2006, c. 12, s. 41.

Duties of Discipline Committee

43 The Discipline Committee shall

- (a) hear and determine matters referred to it by the Complaints Committee in accordance with the regulations; and
 - (b) perform such other duties as are assigned to it by the Council.
- 2006, c. 12, s. 42.

Powers of Discipline Committee

44 The Discipline Committee, in the discharge of its functions,

- (a) has all the powers, privileges and immunities of a commissioner appointed pursuant to the *Public Inquiries Act*; and

(b) may impose a publication ban in circumstances prescribed in the regulations. 2006, c. 12, s. 43.

Parties to proceedings

45 In proceedings before a Discipline Committee, the Association and the respondent are the parties to the proceedings. 2006, c. 12, s. 44.

Rights of respondent

46 The respondent is entitled to

(a) at least 30 days notice of the hearing, which notice must be given by personal service, registered mail or substituted service as determined by the Discipline Committee;

(b) have legal counsel at the hearing at the respondent's expense; and

(c) cross-examine adverse witnesses and to produce evidence and witnesses in the respondent's own defence. 2006, c. 12, s. 45.

Notice of evidence

47 (1) Evidence is not admissible before a Discipline Committee unless the opposing party has been given, at least 10 days before the hearing,

(a) in the case of written documentary evidence, an opportunity to examine the evidence;

(b) in the case of evidence of an expert, a copy of the expert's written report or, where there is no written report, a written summary of the evidence; and

(c) in the case of evidence of a witness, the identity of the witness.

(2) Notwithstanding subsection (1), a Discipline Committee may, in its discretion, allow the introduction of evidence that would be otherwise inadmissible under subsection (1) and may make directions it considers necessary to ensure that a party is not prejudiced. 2006, c. 12, s. 46.

Powers after a hearing

48 (1) A Discipline Committee may, after a hearing, dismiss the complaint or find that the respondent is guilty of

(a) conduct unbecoming an architect;

(b) professional misconduct;

(c) professional incompetence;

(d) a contravention of this Act, the regulations or the bylaws; or

(e) obtaining membership or a licence by fraud, deceit or misrepresentation.

(2) A Discipline Committee is entitled, but not bound, to find a member guilty of professional misconduct if the member is found to have breached

any canon of ethics or rule of ethical conduct approved or adopted by the Association pursuant to any bylaw. 2006, c. 12, s. 47.

Imposition of sanctions, penalties or remedial measures

49 (1) Where the Discipline Committee makes a finding of guilt under Section 48, it may, by order, impose any sanction, penalty or remedial measures it considers appropriate, including any one or more of the following:

- (a) revoke the membership or the licence of the respondent, or both;
- (b) suspend the respondent or the licence of the respondent, or both, for a stated period;
- (c) reprimand the respondent and direct that the fact of the reprimand be recorded on the Register;
- (d) impose conditions or restrictions on the licence of the respondent;
- (e) fine the respondent such amount as it may decide being not greater than \$10,000;
- (f) require the respondent to pay all or a portion of the Association's costs with regard to the discipline process, including, solicitor and client costs, disbursements incurred by the Discipline Committee and the Complaints Committee, costs of the investigation and any and all costs associated with the investigation and resolution of the complaint.

(2) Subject to any publication bans imposed by the Discipline Committee, where the Discipline Committee makes a finding of guilt pursuant to Section 48 and imposes a sanction pursuant to this Section, the Committee shall cause to be published in an official publication of the Association a summary of the decision, and may publish in such other publications as the Committee may direct the full decision or a summary of the decision.

(3) Where the Discipline Committee makes a finding of guilt pursuant to Section 48 and imposes a sanction pursuant to this Section, the Committee shall determine whether a copy of the decision or a summary of the decision shall be forwarded to individuals who may be affected by the decision, subject to such publications bans as the Committee considers appropriate. 2006, c. 12, s. 48.

Publication of Discipline Committee's determination

50 (1) Where the Discipline Committee imposes a suspension or revocation of a licence and in other circumstances that may be prescribed by the Governor in Council from time to time, the Committee shall cause to be published in a newspaper or newspapers distributed throughout the Province, notification to the public of the suspension, revocation or other sanction.

(2) Where the Discipline Committee imposes a suspension or revocation of a licence and in other circumstances that may be prescribed by the Governor in Council from time to time, the Committee shall cause notices of the suspension, revocation or other sanction to those individuals specified in the regulations.

(3) The Discipline Committee shall cause to be published a determination by the Committee that allegations against a respondent were unfounded in an official publication of the Association upon the request of the respondent and may publish such order in detail or in summary in any other publication as the Committee may direct. 2006, c. 12, s. 48.

Fine ordered is a debt due to Association

51 A fine or costs ordered to be paid pursuant to subsection 49(1) is a debt due to the Association recoverable by civil action for debt in addition to any other remedy available to the Association for non-payment of a fine or costs. 2006, c. 12, s. 48.

Jurisdiction not affected

52 The jurisdiction of the Complaints Committee and the Discipline Committee is not affected by the fact that a person who is the subject of a complaint or proceeding pursuant to this Act ceases to be registered as a member of the Association or ceases to hold or be named on a licence. 2006, c. 12, s. 48.

Reinstatement Committee

53 (1) Where a licence has been revoked by a Discipline Committee, the member may apply to a Reinstatement Committee appointed by the Council for the reinstatement of the licence, in the manner prescribed by the regulations.

(2) For the purpose of subsection (1), Council shall appoint a Reinstatement Committee, composed of not fewer than three and not more than five members of the Council, at least one of whom must be a public representative.

(3) The Council shall appoint the chair of the Reinstatement Committee.

(4) The Reinstatement Committee has all the powers conferred by this Act and the regulations in the discharge of its functions as well as the powers, privileges and immunities of commissioners appointed under the *Public Inquiries Act*. 2006, c. 12, s. 48.

Regulations

54 (1) The Governor in Council may make regulations considered necessary or advisable to carry out effectively the intent and purpose of this Section.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2006, c. 12, s. 48.

Written decision

55 Within 60 days of the findings of the Discipline Committee pursuant to Section 49, the Committee shall provide its decision in writing with reasons respecting findings made pursuant to both Sections 48 and 49. 2006, c. 12, s. 49.

Appeal

56 (1) A party may appeal on any point of law or mixed law and fact from the decision of the Discipline Committee to the Nova Scotia Court of Appeal.

(2) The notice of appeal must be filed at the Nova Scotia Court of Appeal and served upon the other party not later than 30 days after service of the decision of the Discipline Committee pursuant to Section 55.

(3) The record on appeal from the findings of the Discipline Committee consists of a copy of the transcript of the proceedings, the decision of the Committee, the evidence before the Committee certified by the chair of the Committee and such other materials as the court determines are required for a fair hearing of the appeal.

(4) The *Civil Procedure Rules*, governing appeals from the Supreme Court of Nova Scotia to the Nova Scotia Court of Appeal, that are not inconsistent with this Act, apply with necessary changes to appeals to the Court of Appeal pursuant to this Section.

(5) Where a matter is appealed to the Nova Scotia Court of Appeal pursuant to this Section, the decision of the Discipline Committee takes effect immediately unless the Court of Appeal, upon application, grants a stay. 2006, c. 12, s. 50.

PRACTICE**Prohibitions**

57 Except as set forth in Section 62, no person shall directly or indirectly engage in the practice of architecture in the Province or use the title “Architect”, “Registered Architect”, “Architectural Designer”, or display or use any words, letters, figures, titles, sign, card, advertisement or other symbol or device indicating or tending to indicate that such person is an architect or is practising architecture, unless the person is licensed under this Act, except that a person licensed in another jurisdiction may use the title “Architect” when identifying the person’s profession in circumstances that would not lead a reasonable person to believe that the person using the title “Architect” is offering to perform any of the services that the practice of architecture comprises. 2006, c. 12, s. 51.

Plans must be prepared or designed by an architect

58 (1) No person shall build, erect, alter, enlarge or cause to be built, erected, altered or enlarged a building if the preparation or design of plans for the building, erection, alteration or enlargement falls within the practice of architecture, unless the plans for such building, erection, alteration or enlargement are prepared or designed by a licensed architect.

(2) Notwithstanding subsection (1), plans prepared or designed by a licensed architect are not required if one or more of the exceptions set forth in Section 60 or 62 applies. 2006, c. 12, s. 52.

Act does not prevent prime design consultancy

59 Nothing in this Act shall be construed as preventing either an architect or a professional engineer from being the prime design consultant in respect of the building, erection, alteration or enlargement of a building. 2006, c. 12, s. 53.

Exceptions from application of Act

60 Notwithstanding anything contained in this Act, nothing in this Act

(a) applies to or limits or restricts a professional engineer or a partnership, association of persons or a body corporate authorized under the *Engineering Profession Act* to engage in the practice of professional engineering, in the performance of any act of planning, designing or advising on the design of the erection, construction, alteration of or addition to a building, the preparation of plans, drawings, detailed drawings or specifications or graphic representations with respect thereto or reviewing work or assessing the performance of work in respect thereof, if the professional engineer responsible has relevant experience and is competent in the services provided;

(b) otherwise prevents a professional engineer or a partnership, association of persons or a body corporate authorized under the *Engineering Profession Act* from engaging in the practice of professional engineering; or

(c) applies to or limits or restricts a person authorized to practise interior design under the *Interior Designers Act* in the practice of interior design in accordance with the *Interior Designers Act* or a person in carrying out interior design work under the supervision of such a person in accordance with the *Interior Designers Act*. 2006, c. 12, s. 54.

Joint practice boards

61 The Association may establish one or more joint practice boards with any other professional association or associations including, without limiting the generality of the foregoing, an association of professional engineers with the power to review and make recommendations to the Council and any council of such other professional association or associations on professional practice issues of mutual concern. 2006, c. 12, s. 55.

Further exceptions

62 (1) In this Section, unless the context otherwise requires, the expression

“assembly occupancy” means the occupancy or the use of a building, or part thereof, by a gathering of persons for civic, political, travel, religious, social, educational, recreational or like purposes, or for the consumption of food or drink;

“building area” means the greatest horizontal area of a building above grade within the outside surface of exterior walls or within the outside surface of exterior walls and the centre line of firewalls;

“building height”, in storeys, means the number of storeys contained between the roof and the floor of the first storey;

“business and personal services occupancy” means the occupancy or use of a building, or part thereof, for the transaction of business or the rendering or receiving of professional or personal services;

“emergency” means an earthquake, eruption, flood, storm, hurricane or other catastrophe that has been designated as a major disaster or emergency by the Prime Minister of Canada or the Premier or other duly authorized official of the Province;

“high hazard industrial occupancy” means an industrial occupancy containing sufficient quantities of highly combustible and flammable or explosive materials that, because of their inherent characteristics, constitute a special fire hazard;

“low hazard industrial occupancy” means an industrial occupancy in which the combustible content is not more than 50 kilograms per square metre or 1,200 megajoules per square metre of floor area;

“medium hazard industrial occupancy” means an industrial occupancy in which the combustible content is more than 50 kilograms per square metre or 1,200 megajoules per square metre of floor area and not classified as high hazard industrial occupancy;

“mercantile occupancy” means the occupancy or use of a building, or part thereof, for the displaying or selling of retail goods, wares or merchandise;

“residential occupancy” means the occupancy or use of a building, or part thereof, by persons for whom sleeping accommodation is provided but who are not harboured or detained to receive medical care or treatment or are not involuntarily detained.

(2) Nothing in this Act prevents

(a) the practice of architecture by persons other than licensed architects in connection with a building as constructed, enlarged or altered, and used for one or more of the following occupancies, unless a licensed architect is otherwise required by law or by the building authority having jurisdiction over the project:

- (i) a one-dwelling or two-dwelling unit,
- (ii) of three storeys or less in building height, having a building area not exceeding 450 square metres classified as
 - (A) residential occupancy,
 - (B) business and personal services occupancy,
 - (C) mercantile occupancy, or
 - (D) low and medium hazard industrial occupancy,
- (iii) an assembly occupancy of not more than one storey in building height, having a building area of not more than 200 square metres, or

- (iv) a high hazard industrial occupancy of not more than one storey in building height, having a building area of not more than 200 square metres;
- (b) the preparation of submissions to architects by the manufacturer, supplier or installer of any materials, assemblies, components or equipment incidental to the design of the entire project that describes or illustrates the use of such items;
- (c) the preparation of any details or shop drawings required of a contractor by the terms of the construction documents;
- (d) the management of construction contracts by persons customarily engaged in contracting work;
- (e) the preparation of design and technical documents or the administration of construction contracts by persons acting under the responsible control of a licensed architect;
- (f) for greater certainty, officers and employees of the Government of Canada from engaging in the practice of architecture as employees of the Government of Canada;
- (g) for greater certainty, officers and employees of the Crown in right of the Province from engaging in the practice of architecture as employees of the Crown in right of the Province;
- (h) a partnership, including a limited liability partnership that meets the requirements of the *Partnership Act*, or any other type of partnership or company, including a professional corporation, a limited liability company or any other form of corporate entity from performing or holding itself out as able to perform any of the services involved in the practice of architecture if
 - (i) the partnership or company meets the criteria for and holds a current corporate permit issued in accordance with the regulations,
 - (ii) any agreement to perform such services is executed on behalf of the partnership or company by the partner or partners or by the director or directors who hold a licence issued pursuant to this Act and who will exercise responsible control over the particular services contracted for by the partnership or company, and
 - (iii) the partnership, company or corporation furnishes the Board with such information about its organization and activities as the Board requires by regulation;
- (i) a non-resident who holds the equivalent from another jurisdiction of a licence to practise architecture issued by any designated architectural registration board, from offering to render professional services involved in the practice of architecture in the Province, if that person does not perform any of the professional services involved in the practice of architecture until issued a licence pursuant to this Act, and if that person provides a letter to the Board, copied to every potential client to whom the applicant offers to render architectural services,

(i) enclosing a copy of the licensing document from the other jurisdiction,

(ii) confirming the person is not licensed to practise architecture in the Province,

(iii) confirming the person will be present in the Province to offer architectural services, and

(iv) confirming the person will apply to the Board for a licence if selected as the architect for the project;

(j) a non-resident who holds the equivalent from another jurisdiction of a licence to practise architecture issued by any designated architectural registration board, from seeking an architectural commission by participating in an architectural design competition for a project in the Province, if that person provides a letter to the Board, copied to every person conducting an architectural design competition in which the applicant participates,

(i) enclosing a copy of the licensing document from the other jurisdiction,

(ii) confirming the person is not licensed to practise architecture in the Province,

(iii) confirming the person will be present in the Province to offer architectural services, and

(iv) confirming the person will apply to the Board for a licence if selected as the architect for the project;

(k) a person who is not currently licensed in the Province but who is currently licensed, certified or registered to practise architecture in a province of Canada or a state of the United States of America, from providing uncompensated, other than reimbursement of expenses, professional services at the scene of an emergency at the request of a public officer, public safety officer or municipal or county building inspector acting in an official capacity;

(l) a person currently employed under the responsible control of a licensed architect, and who maintains in good standing a record with a designated architectural certification board, from using the title “intern architect” in conjunction with the person’s current employment if such person complies with all the regulations applicable to intern architects and such person does not engage in the practice of architecture except to the extent permitted by this Act or the regulations;

(m) a person holding a temporary licence issued in accordance with the regulations from engaging in the practice of architecture to the extent provided in the temporary licence; or

(n) a prescribed activity by a prescribed person.

(3) The Governor in Council may prescribe activities and persons for the purpose of clause (2)(n).

(4) The exercise by the Governor in Council of the authority contained in subsection (3) is a regulation within the meaning of the *Regulations Act*. 2006, c. 12, s. 56.

ENFORCEMENT

Order restraining construction

63 (1) Where any building is being erected, altered or enlarged contrary to this Act, in addition to any other remedy or penalty provided by this Act, any person may apply to a judge by way of originating notice for an order restraining construction or any other order, and the judge may grant such order restraining construction or any other order that, in the opinion of the judge, the justice of the case requires.

(2) A copy of every order restraining construction granted by the Supreme Court of Nova Scotia must be served upon the defendant and such other persons as the judge may direct and when so served remains in force until varied or revoked by the Court.

(3) An order restraining construction granted by the Supreme Court of Nova Scotia may be varied or revoked by the Court upon being satisfied that the building will be proceeded with without the commission of any further violation of this Act and that all fines and costs levied have been paid. 2006, c. 12, s. 57.

Offence and penalties

64 (1) A person who violates this Act is guilty of an offence and liable upon summary conviction to a fine

- (a) for a first offence, not exceeding \$5,000;
- (b) for a second offence, not exceeding \$10,000; or
- (c) for a third or subsequent offence, not exceeding \$15,000,

or to imprisonment for a term not exceeding six months, or to both fine and imprisonment.

(2) The *Summary Proceedings Act* applies in addition to any penalty provided for in this Act or the regulations.

(3) Any information to be laid pursuant to this Act or the *Summary Proceedings Act* may be laid by the Registrar or any person authorized by the Registrar.

(4) For the purpose of this Act or the regulations, proof of the performance by a non-member of one act in the practice of architecture is sufficient to establish that the person has engaged in the practice of architecture. 2006, c. 12, s. 58.

False statement constitutes offence

65 Every person who knowingly makes any false statement, verbal or written, with intent to obtain membership in the Association or a licence, is guilty of an offence. 2006, c. 12, s. 59.

False entry constitutes offence

66 Every officer of the Association who knowingly makes any false entry in the records of the Association or issues any false certificate is guilty of an offence. 2006, c. 12, s. 60.

Prima facie proof

67 A certificate purporting to be under the hand of the Registrar and the seal of the Association that the person named therein on the date or within the period therein stated was or was not a member or the holder of a licence or was or was not suspended from the Association or that membership of the person named therein was or was not cancelled on the date specified in the certificate shall be received in any court as prima facie proof of the facts therein stated. 2006, c. 12, s. 61.

GENERAL**Application of Act**

68 (1) The relationship of a member to a partnership or company that is engaged in the practice of architecture, whether as a shareholder, director, officer, partner or employee, does not affect, modify or diminish the application to the member of this Act, the regulations and the bylaws.

(2) The liability of an individual arising from that individual or any other individual engaging in the practice of architecture, or any other practices authorized under this Act, is not affected by reason only that the services are provided by a partnership or company.

(3) Nothing in this Act affects, modifies or limits any law, standard of practice or the Code of Ethics applicable to or required of members. 2006, c. 12, s. 63.

No action lies

69 No action lies against the Association, the Board, the Council, persons on the Council, committees of the Association, persons on such committees, the Registrar or any other officers, agents or employees of the Association for

(a) any act or failure to act or any proceeding initiated or undertaken in good faith under this Act or in carrying out duties and obligations under this Act; or

(b) a decision, order or resolution made or enforced in good faith under this Act. 2006, c. 12, s. 64.

CHAPTER A-32

An Act to Create and Constitute the Art Gallery of Nova Scotia

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Short title

1 This Act may be cited as the *Art Gallery of Nova Scotia Act*. R.S., c. 22, s. 1.

Interpretation

2 In this Act,
“Board” means the Board of Directors of the Gallery;
“director” means a member of the Board;
“Gallery” means the Art Gallery of Nova Scotia;
“membership” means members of the Gallery in good standing;
“Minister” means the Minister of Communities, Culture, Tourism and Heritage. R.S., c. 22, s. 2; 2012, c. 54, s. 1; 2022, c. 42, s. 1.

Supervision of Act

3 The Minister has the general supervision and management of this Act. R.S., c. 22, s. 3.

Art Gallery of Nova Scotia

4 (1) The Art Gallery of Nova Scotia, a body corporate, is continued.

(2) The Gallery is an agency of the Province acting as a custodian for the people of the Province with respect to their collection of visual art and, as such, it shall

- (a) provide access to;
- (b) collect;
- (c) preserve;
- (d) exhibit; and
- (e) interpret,

works of visual art in a regional, national and international context relevant to the communities of and in the Province. 2022, c. 42, s. 2.

Board of Directors

5 (1) The management and control of the affairs of the Gallery are vested in a Board of Directors and the Board may, subject to this Act, exercise the powers of the Gallery.

(2) Where there is a conflict between the Board and the membership attending an annual meeting or a special meeting of the Gallery, relating to the exercise of the powers of the Gallery, the exercise of the powers by the Board prevails.

(3) The Board is composed of

- (a) not fewer than seven and not more than 13 persons appointed by the Governor in Council; and
- (b) honorary directors as provided in subsection 14(3), as non-voting members.

(4) A director is appointed by the Governor in Council for such term not exceeding three years as the Governor in Council determines.

(5) A director whose term has expired is eligible for reappointment for an additional term but is not eligible for further reappointment upon the expiry of said additional term until at least one year has elapsed between terms.

(6) Notwithstanding subsection (4), the Governor in Council may extend the term of a director appointed pursuant to subsection (4) for one year if necessary for continuity.

(7) A majority of the voting members of the Board constitutes a quorum. R.S., c. 22, s. 5; 2012, c. 54, s. 3; 2016, c. 5, s. 1; 2022, c. 42, s. 3.

Recruitment committee

6 (1) The Board shall appoint a committee to assist in the recruitment, screening and recommendation of new members of the Board as requested by the Minister.

(2) When making recommendations under subsection (1), the committee shall endeavour to recommend candidates who reflect the diversity of Nova Scotian society. 2022, c. 42, s. 4.

Remuneration and allowance

7 (1) Subject to subsection (2), no director may receive any payment or remuneration for services as a director, but is entitled to actual or reasonable travelling and living allowances while attending meetings or travelling in the interests of the Board.

(2) The Board may engage and pay for the professional services of a director to carry out specific tasks on behalf of the Gallery. R.S., c. 22, s. 6; 2022, c. 42, s. 5.

Chief Executive Officer

8 (1) Subject to subsection (2), the Board shall appoint a person who is not a member of the Board to be the Chief Executive Officer of the Gallery.

(2) The appointment of the Chief Executive Officer is subject to the approval of the Minister.

(3) The Board may revoke the appointment of the Chief Executive Officer, subject to the approval of the Minister.

(4) The Board may assign to the Chief Executive Officer such duties as the Board determines. 2022, c. 42, s. 6.

Designated persons

9 (1) In this Section and Sections 10 to 13, “designated person” means an employee of the Province who was appointed in accordance with the *Civil Service Act* and is determined to become an employee of the Gallery.

(2) The Minister shall determine who becomes a designated person.

(3) Every designated person is an employee of the Gallery and ceases to be a person appointed in accordance with the *Civil Service Act*.

(4) The *Civil Service Act* and the regulations made pursuant to that Act and the *Civil Service Collective Bargaining Act* do not apply to a designated person.

(5) The continuity of employment of a designated person is not broken by the effect of this Section.

(6) For greater certainty, the operation of this Section is deemed not to

- (a) constitute a termination, constructive dismissal or lay off of any employee;
- (b) constitute a breach, termination, repudiation or frustration of any contract;
- (c) constitute an event of default or *force majeure* under any contract;
- (d) give rise to a breach, termination, repudiation or frustration of any licence, permit or other right, or to any right to terminate or repudiate a contract, licence, permit or other right, or to any estoppel. 2022, c. 42, s. 7.

Employment of designated persons

10 (1) Every designated person is employed by the Gallery on the same or equal terms and conditions of employment as those under which the employee was employed as an employee by the Crown in right of the Province, until changed by collective agreement or contract of employment.

(2) Every person on becoming a designated person is deemed to have been employed with the Gallery for the same period of employment that the employee was credited with as an employee of the Province.

(3) The Gallery is bound by a collective agreement concluded pursuant to the *Civil Service Collective Bargaining Act* in relation to a designated person as if it were a party to the collective agreement as the employer and as if the collective agreement were concluded pursuant to the *Trade Union Act*.

(4) For greater certainty, the Gallery is a transferee for the purpose of Section 38 of the *Trade Union Act*.

(5) A designated person is entitled as an employee of the Gallery to all vacation leave accumulated, less any vacation arrears that accrued, while the designated person was an employee of the Province.

(6) Subject to any applicable collective agreement or contract of employment, each designated person who, before being designated, was covered by the Nova Scotia Public Service Long Term Disability Plan or was included in a bargaining unit whose collective agreement provided for long-term disability benefits under the Nova Scotia Public Service Long Term Disability Plan is deemed to continue to be a person to whom the Nova Scotia Public Service Long Term Disability Plan applies.

(7) The obligations and liabilities of the Crown in right of the Province with respect to designated persons are the obligations and liabilities of the Gallery, including all employee benefits and entitlements. 2022, c. 42, s. 7.

Public service award

11 Where, at retirement from the Gallery, a designated person would have been eligible for a public service award pursuant to the *General Civil Service Regulations* made pursuant to the *Civil Service Act* if the person had remained as an employee of the Province, the Crown in right of the Province shall pay to the person upon retirement an amount equivalent to the amount of the public service award that

it would have paid to the person for the person's years of employment as an employee of the Province. 2022, c. 42, s. 7.

Public Service Superannuation Act, designated persons

12 Each designated person who, before being designated, was an employee within the meaning of the *Public Service Superannuation Act* or was included in a bargaining unit whose collective agreement provided for participation in the Public Service Superannuation Plan is deemed to continue to be an employee for the purpose of the *Public Service Superannuation Act*, and service in the employment of the Gallery is deemed to be employment for the purpose of that Act. 2022, c. 42, s. 7.

Public Service Superannuation Act, employees

13 Except where otherwise provided by a collective agreement or contract of employment, any person who becomes an employee of the Gallery on or after November 9, 2022, is deemed to be an employee for the purpose of the *Public Service Superannuation Act*, and

- (a) that person's employment with the Gallery is deemed to be employment for the purpose of that Act; and
- (b) the Gallery is deemed to be an employer for the purpose of that Act with respect to that person. 2022, c. 42, s. 7.

Chair, Executive Committee and other officers

14 (1) The Board shall elect annually from the directors a Chair and such other officers as the Board considers advisable.

(2) The Board may appoint such standing and special committees as the Board considers advisable and the persons who are members of any committee need not be directors.

(3) Honorary governors appointed pursuant to this Act before January 1, 2022, continue as honorary directors for such period as is described in the order in council setting out their appointment. R.S., c. 22, s. 9; 2022, c. 42, s. 8.

Powers of Gallery

15 The Gallery, with the approval of the Governor in Council, may

- (a) operate such galleries, art museums, branches or other institutions for the preservation, exhibition and interpretation of works of art;
- (b) make bylaws it considers necessary for the effective attainment of its objects and the exercise of its powers and for the internal control, management and administration of the Gallery;
- (c) borrow money for the purpose of the Gallery and secure the repayment of the same by any form of debenture, bond, mortgage, hypothecation, promissory note or other security. R.S., c. 22, s. 11; 2012, c. 54, s. 5; 2016, c. 5, s. 3; 2022, c. 42, s. 9.

Additional powers of Gallery

16 The Gallery may

- (a) collect, classify, preserve and display objects relevant to its purpose;
- (b) administer programs and projects for art galleries, museums or organizations for promoting the purpose of this Act;
- (c) publish or cause to be published such information relating to the Gallery as it considers advisable;
- (d) determine the classifications of membership in the Gallery, including qualifications for membership, procedures for becoming a member, fees to be paid by members and all other matters respecting membership;
- (e) carry on the operation of a shop and buy and accept on consignment articles for sale;
- (f) hold competitions to increase the knowledge and capabilities of persons interested in the visual arts;
- (g) make, execute, issue and endorse bills of exchange, cheques, promissory notes, hypothecation forms and other such instrument as may be necessary or convenient;
- (h) enter into agreements with any persons, organizations, corporations or governments to advance the purpose of this Act;
- (i) acquire by purchase, donation, deed, devise, bequest, lease, gift, grant or otherwise, real and personal property of any description and sell, exchange, lease, mortgage, hypothecate or invest the same;
- (j) carry out activities that generate contributed or earned funds to be used for the purpose of the Gallery;
- (k) subject to the approval of the Minister, do such matters and things as may be necessary or incidental for the attainment of its objects and the exercise of its powers. 2012, c. 54, s. 6; 2016, c. 5, s. 4; 2022, c. 42, s. 10.

Grant or gift to Museum or Gallery

17 (1) Subject to subsection (3), any grant, gift, devise, bequest or trust to or for the benefit of the Nova Scotia Museum of Fine Arts or the Board of Directors of the Nova Scotia Museum of Fine Arts or the Gallery or the Board, subject to its provisions, enures to the benefit of the Gallery and must be held and applied for the purpose of this Act and no grant, gift, deed or devise lapses or fails by reason of any defect in the designation of the Museum or the Gallery.

(2) Any grant, gift, devise, bequest or trust coming within subsection (1) is deemed to be a grant, gift, devise, bequest or trust to the Crown in right of the Province and is exempt from tax under any Act of the Legislature.

(3) Subsection (1) does not apply to any grant, gift, devise, bequest or trust to or for the benefit of any registered charity, within the meaning of the *Income Tax Act* (Canada), created or established on or after December 6, 2012.

(4) A registered charity, within the meaning of the *Income Tax Act* (Canada), that is established to raise funds for the benefit of the Gallery shall annually provide the Gallery with copies of its year-end financial statements. R.S., c. 22, s. 12; 2012, c. 54, s. 7; 2022, c. 42, s. 11.

Property subject to trust or condition

18 The Gallery shall hold, upon any trusts, terms or conditions, any real or personal property that is subject to any trusts, terms or conditions imposed in the acquisition thereof. R.S., c. 22, s. 13.

Vesting of Museum property

19 All property of every kind whether owned by or held in trust in any manner for or on behalf of the Nova Scotia Museum of Fine Arts, incorporated by Chapter 108 of the Acts of 1968, is vested in the Gallery. R.S., c. 22, s. 14.

Further tax exemption

20 All real and personal property of the Gallery is exempt from taxation. R.S., c. 22, s. 15.

Annual report

21 Annually as required by the Minister, the Gallery shall submit to the Minister for approval

- (a) an accountability report for the previous fiscal year;
- (b) a detailed business plan for the following year; and
- (c) such other reports as the Minister directs. 2022, c. 42, s. 12.

CHAPTER A-33

An Act to Exempt Artists from Commercial Property Tax

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Short title

1 This Act may be cited as the *Artists Municipal Tax Exemption Act*.
1990, c. 2, s. 1.

Interpretation

2 In this Act,
“artist” means a person who produces an artistic work;
“artistic work” means an artistic work within the meaning of the
Copyright Act (Canada), and includes the creation or furtherance of art, or
the pleasure, recreation or education of an artist in relation to that artist’s
artistic work generally;
“council” means the council of a municipality;
“earnings” include income, benefits and grants;
“municipality” means a regional municipality, town or municipality
of a county or district. 1990, c. 2, s. 2.

Application of Act

3 This Act applies in a municipality that has in effect a resolution of its
council that provides that this Act applies in that municipality. 1990, c. 2, s. 3.

Exemption from taxes

4 Notwithstanding the *Assessment Act*, an artist whose net earnings for
the year previous to the municipal taxation year from artistic works do not exceed
\$5,000, or such greater amount as is determined by council by resolution, is exempt
from commercial property tax in respect of commercial property, as defined in the
Assessment Act, that the artist occupies or uses in respect of that artistic work, if the
artist is directly liable for the tax. 1990, c. 2, s. 4.

Application for exemption

5 A council, by resolution, may determine the manner of calculating net earnings and the manner and form of an application for the exemption. 1990, c. 2, s. 5.

Appeals

6 For greater certainty, the provisions of the *Assessment Act* respecting appeals from assessment apply to an exemption pursuant to this Act. 1990, c. 2, s. 6.

CHAPTER A-34

An Act to Establish Arts Nova Scotia – Arts Nouvelle-Écosse

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Short title

- 1** This Act may be cited as the *Arts Nova Scotia Act*. 2011, c. 31, s. 1.

Interpretation

- 2** In this Act,
- “arts” includes theatre, music, dance, literature, visual arts, crafts, film, electronic media and other similar creative and interpretive activities, and combinations thereof;
- “Board” means the board known as Arts Nova Scotia – Arts Nouvelle-Écosse established by this Act;
- “bylaw” means a resolution of the Board passed by a majority of at least two thirds of the members of the Board;
- “Chair” means the Chair of the Board;
- “member” means a member of the Board;
- “Minister” means the Minister of Communities, Culture, Tourism and Heritage. 2011, c. 31, s. 2.

Supervision of Act

3 The Minister has the general supervision and management of this Act. 2011, c. 31, s. 3.

Arts Nova Scotia – Arts Nouvelle-Écosse

4 A board to be known as Arts Nova Scotia – Arts Nouvelle-Écosse is established. 2011, c. 31, s. 4.

Status of Board

5 (1) The Board is a department for the purpose of the definition of “department” in the *Conflict of Interest Act* and, for greater certainty, Section 22 of that Act applies to the members of the Board.

(2) The Board is a public body as defined in the *Freedom of Information and Protection of Privacy Act* and, for greater certainty, that Act applies to the Board. 2011, c. 31, s. 5.

Objects

- 6** The objects of the Board are to
- (a) strive to make the arts integral to the lives of all Nova Scotians;
 - (b) advance the arts by investing in creativity, fostering innovation and promoting the value of the arts;
 - (c) foster artistic excellence throughout the Province;
 - (d) encourage creative expression by funding activity in the arts;
 - (e) invest in the creativity of all artistic disciplines;
 - (f) design and administer programs to support professional artists and arts organizations;
 - (g) utilize peer assessment processes to determine artistic merit and the allocation of funding;
 - (h) communicate to the community at large the cultural, social and economic importance of the arts;
 - (i) conduct research on matters relating to the arts; and
 - (j) advise the Minister on the development of programs in support of the arts. 2011, c. 31, s. 6.

Nominating committee

7 The Board shall establish a nominating committee consisting of the Chair and at least three members. 2011, c. 31, s. 7; 2012, c. 8, s. 2.

Composition of Board

8 (1) The Board consists of at least nine and no more than 11 members and is composed of the following:

- (a) no more than three members appointed by the Governor in Council upon recommendation of the Minister; and

(b) no more than eight members appointed by the Minister upon recommendation of the nominating committee established pursuant to Section 7.

(2) The Minister may seek the advice of the nominating committee when making recommendations to the Governor in Council pursuant to clause (1)(a).

(3) The membership of the Board must

(a) reflect the diversity found within the Province's art community; and

(b) where possible, include representation from differing art disciplines, generations and the Province's cultural mosaic, including representation from the African Nova Scotian, Mi'kmaq and Acadian communities, and balanced representation between women and men. 2012, c. 8, s. 3.

Term of appointment

9 (1) Appointments made to the Board pursuant to Section 8 must be for terms of no more than three years and, subject to subsection (2), members may be reappointed.

(2) Members who serve for six consecutive years are eligible for reappointment after a one-year absence from the Board. 2012, c. 8, s. 4.

Officers

10 (1) The Board shall, by a two-thirds majority vote of the members, annually elect at its first meeting from among its members a Chair and Vice-chair.

(2) The Board may, by a two-thirds majority vote of the members, appoint such other officers as the Board considers necessary or advisable for the effective attainment of the objects of the Board and the exercise of its powers. 2011, c. 31, s. 10.

Quorum

11 A majority of the members constitutes a quorum. 2011, c. 31, s. 12.

Effect of vacancy

12 A vacancy on the Board does not impair the right of the remaining members to act. 2011, c. 31, s. 13.

Meetings

13 The Board shall meet at least four times a year, on such dates and at such times and places as are determined by a two-thirds majority of members. 2011, c. 31, s. 14.

Attendance

14 Where a member fails to attend three consecutive regular meetings of the Board without an excuse acceptable to the Chair, the Chair may recommend that the member's appointment be revoked. 2011, c. 31, s. 15.

Expenses

15 A member or a person serving on a committee of the Board is entitled to be reimbursed for reasonable expenses necessarily incurred in the performance of the member's or the person's duties. 2011, c. 31, s. 16.

Director

16 (1) The Minister shall, upon the recommendation of the Board and in accordance with the *Civil Service Act*, appoint a person to be Director of the Board.

(2) The Director shall perform such functions and duties as are assigned to the Director by the Board. 2011, c. 31, s. 17.

Personnel

17 The persons required for the administration of this Act and the regulations must be appointed in accordance with the *Civil Service Act*. 2011, c. 31, s. 18.

Bylaws

18 The Board may, with the approval of the Minister, make bylaws for the conduct of its business and for the control and direction of the work of the Board and, without restricting the generality of the foregoing, the Board may make bylaws

(a) regulating its proceedings and providing for the conduct and management of its activities;

(b) establishing such committees as it considers necessary to assist it in carrying out its objects;

(c) respecting the approval or rejection of applications submitted to the Board in respect of programs governed or administered by the Board;

(d) respecting the award of grants and the rendering of financial or other assistance to persons in the Province for study or research in the arts;

(e) respecting awards to persons in the Province in recognition of outstanding achievements in the arts. 2011, c. 31, s. 19.

Duties

19 The Board shall

(a) establish guidelines for the appointment, terms of reference and procedures of peer assessment juries;

(b) establish policies and programs through which its objects may be attained; and

(c) perform the functions and duties conferred or imposed on the Board by this Act or the regulations. 2011, c. 31, s. 20.

Fiscal year

20 The fiscal year of the Board is the same as the fiscal year of the Province. 2011, c. 31, s. 21.

Annual report

21 The Chair shall submit to the Minister, no later than July 31st in each year, a report concerning the work of the Board during the previous year, and such report must be tabled by the Minister at the next sitting of the House of Assembly. 2011, c. 31, s. 22.

Regulations

- 22** (1) The Governor in Council may make regulations
- (a) respecting the functions and duties of the Board;
 - (b) defining any word or expression used in this Act but not defined in this Act;
 - (c) respecting any matter or thing the Governor in Council considers necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) Regulations made pursuant to subsection (1) may be of general or specific application.

(3) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2011, c. 31, s. 23.

CHAPTER A-35

An Act Respecting the Assessment and Taxation of Property

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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 *Assessment Act*. R.S., c. 23, s. 1.

Interpretation

- 2 (1) In this Act,
“aquaculture property” means the land, land covered by water and complementary buildings used for aquaculture purposes, but does not include any residential property or the land used in connection with residential property;

“assessable property” means

- (a) land and land covered by water;
- (b) trees, bushes, shrubs and things growing upon land;
- (c) mines, excavations, underground improvements and quarries;
- (d) minerals, gas, oil, gems, salt, gypsum, commercially extractable stone or rock, precious or rare earth, moss or fossils in or under land;
- (e) buildings and structures erected or placed upon, in, over, under or affixed to land, including buildings and structures under construction or partially constructed;
- (f) all pipeline for the transportation, transmission or distribution of petroleum, petroleum products, natural gas, hydrocarbons or any other thing, including all fixtures and attachments necessary to operate the pipeline, and
 - (i) all valves, couplings, cathodic protection apparatus, protective coatings, casings, cleanouts, fastenings and appurtenances,
 - (ii) any section, part or branch of any pipeline,
 - (iii) any easement or right-of-way used by a pipeline company,
 - (iv) any interest of the owner of the pipeline in real property on, in, under, along or across which pipe is located;
- (g) mobile homes used for residential or commercial purposes; and
- (h) rafts, floats, houseboats and any other devices of a like nature or kind that are anchored or secured to property and used for residential or commercial purposes, whether or not they are owned by the owner of the property to which they are secured,

but does not include

- (i) machinery, equipment, appliances and storage and working tanks, including the supporting foundations and footings, to the extent that the machinery, equipment, appliances, storage and working tanks, foundations and footings are not part of a building or structure as described in clause (e), that form an integral part of an operational unit designed for or used in processing or manufacturing except that, where different lines of production equipment are used in a food processing operation for processing perishable crops at different times in the year, then only the machinery, equipment, appliances and storage and working tanks used in the line or lines that are in use for the greatest part of the production;

- (j) land used as public streets, roads or highways;
- (k) growing or unharvested agricultural crops in or on land; or

(l) the buildings, pump stations, deep well pumps, main transmission lines, distribution lines, meters and associated plant and equipment of a municipal water utility located outside the boundaries of the municipality that owns, operates or manages the utility;

“assessor” includes the Director;

“camping establishment” means any premises operated for profit or gain for the accommodation of the travelling or vacationing public comprising

- (a) land maintained as grounds for camping or for overnight parking of recreational vehicles; or
- (b) a separate building or buildings containing a rental unit of one room used as an alternative form of accommodation in a campground,

but does not include any part of premises licensed under the *Liquor Control Act* as a cabaret, tavern, beverage room or lounge;

“clerk” means the clerk of a municipality;

“commercial property” means all property or part thereof except residential property and resource property, and includes the forest property owned by a person who owns 50,000 acres or more of forest property in the Province;

“conservation property” means any lot of land that is

- (a) subject to a conservation easement that is primarily dedicated to the protection of native biodiversity and natural processes, prohibits industrial or commercial uses of the land, including forestry, agriculture and quarrying, and is entered into in perpetuity within the meaning of the *Conservation Easements Act*;
- (b) owned or held primarily for the protection of native biodiversity and natural processes by an eligible body within the meaning of the *Conservation Easements Act*;
- (c) designated as an ecological site pursuant to the *Special Places Protection Act*; or
- (d) designated permanently as a wilderness area pursuant to the *Wilderness Areas Protection Act*,

but does not include any buildings or structures on the land and any of the land used in connection with those buildings or structures, and does not include any lands used or permitted to be used primarily for purposes other than the protection of native biodiversity and natural processes;

“Corporation” means the Property Valuation Services Corporation;

“Director” means the Director of Assessment;

“farm property” means the land and complementary buildings used for agricultural purposes but does not include any residential property and the land used in connection therewith;

“forest property” means any lot of land not used or intended to be used for residential or commercial or industrial purposes or any combination of such purposes, but does not include any buildings or structures thereon;

“intended to be used” means a present intent supported by some substantial act to carry out the intent;

“Minister” means the Minister of Municipal Affairs and Housing;

“municipality” means a regional municipality, a town or a municipality of a county or district;

“occupant” includes the resident occupier of the land or, where there is no resident occupier, the person entitled to the possession thereof, a leaseholder and a person having or enjoying in any way for any purpose the use of land otherwise than as owner, and includes a landlord if the average period of occupancy by individual tenants is less than three months;

“person” includes a firm, company, association and corporation;

“property” means assessable property;

“ratepayer” means a person liable to taxation under this Act;

“recorder” means the recorder of the Tribunal appointed pursuant to subsection 53(5);

“residential property” means property or part thereof used or intended to be used for residential purposes, but does not include the portion of a hotel or motel used for the purpose of lodging for the public or an apartment hotel;

“resource property” means

- (a) farm property;
- (b) aquaculture property;
- (c) conservation property;
- (d) forest property owned by a person who owns less than 50,000 acres of forest property in the Province;
- (e) land of a municipal water utility, but does not include any building or structure thereon; and
- (f) community fish harvesters’ service buildings, occupied and used by boat owners who are licensed commercial fish harvesters, and the land used in connection therewith;

“respondent” means a person in respect of whom or in respect of whose property an appeal has been asserted under subsection 59(2) or (3);

“restaurant” does not include any part of premises licensed under the *Liquor Control Act* as a cabaret, tavern, beverage room or lounge;

“roofed accommodation” has the same meaning as in the *Tourist Accommodations Registration Act*, but does not include any part of premises licensed under the *Liquor Control Act* as a cabaret, tavern, beverage room or lounge;

“seasonal tourist business” means a business that is open during some part of the taxation year but that is closed for at least four months in the taxation year and is

- (a) a restaurant;
- (b) a roofed accommodation; or
- (c) a camping establishment;

“structure” means an improvement consisting of one or more component parts that are affixed to or permanently resting upon land or buildings and that enhance the value of the land or buildings or improve their usefulness for the purposes for which they are used and, without limiting the generality of the foregoing, includes all fixtures and attachments necessary to operate the improvement, all haulage, labour, engineering and overheads and any pipeline, gas plant, fractionation plant, slugcatcher, oil refinery, petroleum industrial plant, natural gas industrial plant, hydrocarbon plant and related petrochemical industrial plant and all fixtures and attachments necessary to operate the foregoing but, for greater certainty, does not include property, including vehicles or any machinery, equipment, appliances, storage and working tanks or thing, including their foundations and footings, that is portable or attached to the structure or a building only for safety or security;

“taxation year” means the fiscal year of a municipality as established by the *Municipal Fiscal Year Act*;

“Tribunal” means the Nova Scotia Assessment Appeal Tribunal. R.S., c. 23, s. 2; 1990, c. 19, s. 7; 1998, c. 18, s. 547; 2000, c. 9, s. 2; 2002, c. 15, s. 1; 2005, c. 9, s. 2; 2006, c. 19, s. 53; 2007, c. 9, s. 2; 2008, c. 36, s. 2; 2012, c. 16, s. 1; 2019, c. 9, s. 7.

Forest property

3 (1) In calculating the acreage of forest property, the assessor shall include, as forest property owned by a person, any forest property owned by that person either in the person’s own name or in the name of another, be it by trust, a corporation in which the person owns a majority of the voting shares, a subsidiary wholly owned corporation, a subsidiary controlled corporation or otherwise.

(2) Except for the term “forest property”, terms used in subsection (1) have the same meaning as like terms defined by the *Income Tax Act* (Canada). R.S., c. 23, s. 3.

PROPERTY LIABLE TO TAXATION

Taxable property

4 Subject to the exemptions in Section 5, all assessable property and business and residential occupancy assessments are liable to taxation for all purposes for which municipal taxes and rates are levied by authority of law. R.S., c. 23, s. 4; 2022, c. 4, Sch., s. 28; 2023, c. 2, s. 27.

PROPERTY EXEMPT FROM TAXATION

Exempt property

5 The following property is exempt from taxation under this Act:

(a) all property vested in the Crown or vested in any person for Imperial, Dominion or Provincial purposes, and either unoccupied or occupied by some person in an official capacity, except that, where any such property is occupied by any person otherwise than in an official capacity, the occupant is assessed and rated in respect thereof, but the property itself is not liable;

(b) every church and place of worship and the land used in connection therewith, every churchyard and church burial ground and every church hall used for religious or congregational purposes exclusively, except for occasions specially authorized by church authorities and for which no revenue in excess of \$100 per year is received, but in computing revenue for the purpose of this clause there must be excluded any contribution paid towards the reasonable additional costs of upkeep imposed by the use;

(c) the property of a non-profit community cemetery, as cemetery is defined by the *Cemetery and Funeral Services Act*;

(d) the property of every college, academy or other public institution of learning, except property mainly used for commercial, industrial, business, rental or other non-educational purposes;

(e) every public schoolhouse, city or town hall, jail, lockup house and temperance hall, and the land used in connection therewith;

(f) all school lands;

(g) all public landings, public breakwaters and public wharves;

(h) the property of every municipality if occupied or used for the purposes of such municipality or unoccupied, excepting nevertheless that property owned, operated or managed by a municipality either directly or through the medium of a board or commission, for the purpose of producing, transmitting, delivering or furnishing electricity, natural gas, water or power directly or indirectly to or for the public, must be assessed and taxed by that municipality;

(i) the building or part thereof in which equipment not owned by a municipality, used or to be used exclusively for fighting fires, is kept and the land in connection with such building, if

- (i) the equipment will be used for the fighting of any fires within a radius of five miles from the building in which it is kept, and
- (ii) a written undertaking by the owners is in force and is on file in the office of the clerk of the municipality, undertaking that it will be so used, which undertaking may be subject to cancellation on six months notice in writing;
- (j) the property of a fire department or an emergency services provider, registered pursuant to the *Municipal Government Act*, used directly and solely for community purposes or fund-raising activities of the department or provider;
- (k) the property of every agency, board or commission in which two or more municipalities participate if occupied or used for the purposes of the municipalities;
- (l) property belonging at the time the assessment roll is filed with the clerk by the assessor to infant children and occupied by them, to the extent and under the conditions contained in Section 48;
- (m) the property of an agricultural society organized under Section 12 of the *Agriculture and Marketing Act* except property used mainly for commercial or industrial purposes;
- (n) the property of The Royal Canadian Legion and the property of the Army, Navy and Air Force Veterans in Canada that is used exclusively for the purpose of The Royal Canadian Legion or the Army, Navy and Air Force Veterans in Canada, respectively;
- (o) the property of any pack, troop, group, committee or district council, regional council or provincial council that is used exclusively for the purposes of the Boy Scouts;
- (p) the property of any pack, company, district, division, area, local or provincial association that is used exclusively for the purposes of the Girl Guides;
- (q) the property of a hospital that is a hospital as defined in the *Hospitals Act*;
- (r) the property of village commissioners incorporated under the *Municipal Government Act* and used exclusively for the purposes of the commissioners;
- (s) property specially exempted from municipal taxation by any Act of the Legislature to the extent that it is so exempt. R.S., c. 23, s. 5; 1998, c. 18, s. 547; 2000, c. 9, s. 3; 2001, c. 14, s. 1; 2004, c. 24, s. 15; 2004, c. 27, s. 12; 2009, c. 8, s. 1.

Railways

6 (1) In this Section, “main railway operating right-of-way” means any strip of land, including the bed, road, trestles, bridges, switches and rail track necessary for the operation of a rail track line, used exclusively for the transportation of people or goods by rail in the Province.

(2) A main railway operating right-of-way is exempt from taxation under this Act.

(3) The width of a main railway operating right-of-way may exceed 100 feet if additional land is required for drainage purposes, embankments or berms.

(4) Adjoining land owned by a railway that is vacant, does not have street frontage or cannot be considered a stand-alone parcel is part of the main railway operating right-of-way.

(5) Where a main railway operating right-of-way goes through a railway yard, the area of the main railway operating right-of-way must be calculated using a width of 33 feet.

(6) A spur line servicing an industrial park is not, for the purpose of this Section, part of the main railway operating right-of-way.

(7) A siding servicing a main railway operating right-of-way is not, for the purpose of this Section, part of the main railway operating right-of-way.

(8) Notwithstanding anything contained in this Section, other buildings, structures, erections and improvements that are situated on a main railway operating right-of-way that are not owned by a railway company or are not used exclusively for the purpose of transportation of people or goods by rail in the Province are not part of the main railway operating right-of-way.

(9) Where a notice of assessment was issued in a previous assessment year, the notice is deemed to have been issued on July 1, 2000, and this Act applies with necessary changes as if the notice of assessment was issued in the assessment year to which it applies.

(10) Where a notice of assessment has not been issued, the Director shall issue a notice of assessment and this Act applies with necessary changes as if the notice of assessment was issued in the assessment year to which it applies. 2000, c. 9, s. 4.

Veterans' Land Act (Canada) property

7 Where real property is held under an agreement of sale with The Director, The *Veterans' Land Act* (Canada), it must be assessed to the purchaser under the agreement. 1998, c. 18, s. 547.

Resident of defence establishment base

8 Notwithstanding clause 5(a), no person in the Canadian Armed Forces who resides on a defence establishment base may be taxed in respect of the person's ownership or occupation of property, whether property of the Crown or not, located on the base. R.S., c. 23, s. 8.

Taxation when exemption ceases

9 (1) Where any property exempt from taxation ceases to be so exempt on or before March 1st in any year, the owner or occupant of the property after it ceases to be exempt shall be taxed in respect of that property for the portion of the taxation year during which it is not exempt.

(2) Where property ceases to be exempt from taxation, the Director shall give written notice to the person liable for taxation of the assessment of the property and of any occupancy assessment.

(3) The property referred to in subsection (2) must be classified according to the use made of it after it has ceased to be exempt.

(4) An assessment pursuant to this Section may be appealed in accordance with Sections 59 and 60. R.S., c. 23, s. 9; 1990, c. 19, s. 9.

SEASONAL TOURIST BUSINESS

Seasonal tourist business

10 (1) In this Section, “relative” means a parent, sibling, child, grandchild or spouse.

(2) Subject to subsection (3), every person who is the assessed owner of commercial property that contains a seasonal tourist business shall, by September 1st in each year, give notice in writing to the Director in accordance with subsection (4).

(3) The assessed owner, or the assessed owner’s relative, must

- (a) own at least 50% of the seasonal tourist business or, in the case of a corporation, hold at least 50% of the voting shares; and
- (b) operate the seasonal tourist business.

(4) The notice must

- (a) request that the property or a portion of the property be identified as being occupied by a seasonal tourist business;
- (b) set out the dates in the taxation year that the seasonal tourist business intends to open and close; and
- (c) provide the civic address of the seasonal tourist business and the square footage of the property that is occupied by the seasonal tourist business.

(5) Subject to subsection (6), the Director shall decide

- (a) whether the seasonal tourist business is owned and operated by a person referred to in subsection (3);
- (b) whether the property or a portion of the property is to be identified on the assessment roll as being occupied by a seasonal tourist business; and
- (c) the proportion of the total square footage of the property that is occupied by the seasonal tourist business.

(6) Where the assessed owner of property that contains a seasonal tourist business operates, or the assessed owner’s relative operates, more than one business on the same premises as the seasonal tourist business, the property that contains the seasonal tourist business must be identified as though the premises are occupied or used by the kind of business that is the main business, but that property

may not be identified as though the premises are occupied or used by a seasonal tourist business unless all of the businesses on the premises are closed for at least four months in the taxation year.

(7) The Director shall provide notice, in writing, to the assessed owner of the property of the Director's decision under subsection (5).

(8) Notice in subsection (7) may be provided to the assessed property owner by personal service or by mailing it with prepaid postage.

(9) A decision of the Director made under this Section may be appealed in accordance with Sections 59 and 60. 2005, c. 9, s. 4; 2007, c. 9, s. 3.

APPOINTMENT OF ASSESSORS

Corporation responsible for assessment and may employ assessors

11 (1) The Corporation is responsible for the assessment of all properties that are required by this Act to be assessed and such other duties as are prescribed by this Act or any other Act of the Legislature.

(2) The Corporation may employ assessors and other persons as it may from time to time require for the purpose of carrying out its duties under this Act and any other Act of the Legislature.

(3) Assessors and other persons employed by the Corporation are not subject to the *Real Estate Appraisers Act*. 2006, c. 19, s. 53.

Restrictions on actions of assessors

12 (1) No assessor shall assess any property in which the assessor has an interest.

(2) No assessor shall conduct an appraisal or assessment except as authorized by the Director.

(3) No assessor shall purchase any property sold for arrears of rates and taxes or be interested directly or indirectly in the purchase of property so sold.

(4) Any person who violates this Section forfeits the person's office or employment and is liable upon summary conviction to a penalty not exceeding \$1,000 and in default of payment to imprisonment to a term not exceeding six months.

(5) Notwithstanding Section 100, a prosecution for breach of this Section may be commenced at any time within two years of the date of the offence. R.S., c. 23, s. 17.

POWERS AND DUTIES OF ASSESSORS

Duties of Director

13 The Director shall ascertain by diligent inquiry and examination the names of all persons liable to be rated within the municipality for which they are

appointed, their property within the municipality and the extent, amount and nature of the same, and for such purpose shall examine each property from time to time in such detail as the Director considers necessary. R.S., c. 23, s. 18.

Right to enter and inspect

14 Every assessor has the right at all reasonable times to enter upon any lands or premises and to inspect the same, or any property thereon, for the purpose of making an assessment. R.S., c. 23, s. 19.

Duty to inform assessor

15 (1) Every person shall give to the assessor all necessary information requested by the assessor for the purpose of enabling the assessor properly to assess the property of that person.

(2) The Director may cause to be delivered to any person a request for relevant information required by the person in order to make a proper assessment of the property or occupancy assessment of the person to whom the request is delivered.

(3) Any request is sufficiently delivered if mailed by registered mail, postage prepaid, addressed to the person at the last address known to the assessor or if sent via an internet-based procedure prescribed by the Director addressed to the person at the last electronic address known to the assessor. R.S., c. 23, s. 20; 2006, c. 15, s. 2.

Request for information

16 (1) Every person to whom a request referred to in Section 15 is delivered shall provide the information requested.

(2) Where a form has been delivered to a person, the person shall answer and complete it with a true statement of the particulars thereby required and sign the same and shall, within 30 days after receipt thereof, return it to the assessor so answered and completed. R.S., c. 23, s. 21.

Effect

17 A statement referred to in subsection 16(2) does not bind the assessor nor excuse the assessor from making due inquiry to ascertain its correctness, and notwithstanding such statement the assessor may assess the person for such property and at such assessment as the assessor believes to be just and correct or the assessor may omit from the assessment roll the person's name or any property that the person claims to own if the assessor believes the person is not liable to be placed on the roll or to be assessed for such property. R.S., c. 23, s. 22.

Penalty

18 Every person who

(a) knowingly provides an assessor with false information in response to a request for information whether delivered under Section 15 or otherwise; or

(b) neglects, refuses or fails to

- (i) give to an assessor information reasonably required by the assessor,
- (ii) furnish any particulars required by this Act or by a form authorized thereby, or
- (iii) provide information in response to a request under Section 15 or to answer, complete and return the form referred to in Section 15,

is guilty of an offence under this Act and, whether or not the person has been prosecuted or paid any fine or served any imprisonment to which the person has been sentenced, the person is not entitled to appeal from the assessment of the person's property for the year in respect of which the information, particulars or form were requested. R.S., c. 23, s. 23.

ASSESSMENT ROLL

Form of assessment roll

19 (1) The assessment roll may be in such form as the Director determines and may be a book or books or may consist of looseleaves, so-called, held together in a binder or may consist of a system of sheets, cards or other records capable of use by mechanical or electronic devices.

(2) Entries in the roll may be either typewritten or in ink or done by any duplicating device or mechanical equipment. R.S., c. 23, s. 24.

Preparation and content

20 The Director, with the assistance of the assessors having ascertained as nearly as the Director can the particulars of the property to be assessed, shall prepare the assessment roll in which must be set down

- (a) the location and a concise description of each separate piece of assessable property, with the name and address of the owner thereof;
- (b) the assessed value and classification of each lot or piece of assessable property in such detail as the assessor may determine;
- (c) the assessed value of any part of the property that is identified as being occupied by a seasonal tourist business in accordance with Section 10;
- (d) where Section 41 applies to a lot or piece of assessable property, its taxable assessed value determined in accordance with that Section;
- (e) the amount of any exemption for each property; and
- (f) such other particulars as the assessor considers necessary or as the Minister directs. R.S., c. 23, s. 25; 2004, c. 10, s. 1; 2005, c. 9, s. 5.

Classification of property

21 (1) All assessments must be designated as being residential property, commercial property or resource property, or partly one and partly another.

(2) Where a property is in part one of, and in part another one or more of, residential property, commercial property or resource property, the value of each such part must be entered on the roll.

(3) Assessments shall be arranged on the roll in such order as the Director may determine. R.S., c. 23, s. 26.

Tax exemption

22 (1) All land in excess of three acres of any non-profit community, charitable, fraternal, educational, recreational, religious, cultural or sporting organization or institution, excluding any buildings or structures thereon, that is subject to taxation and that is used directly and solely for the purposes of the non-profit community, charitable, fraternal, educational, recreational, religious, cultural or sporting organization or institution is exempt from taxation under this Act or any other general or special Act of the Legislature authorizing a tax on the assessed value of property except as provided in the *Municipal Government Act*, unless the proper officers of the organization or the institution prior to December 1, 1977, informed the Director in writing that they do not wish this Section to apply to their property.

(2) Where this Section applies to a property, or part thereof, the property must be assessed as commercial property partly exempt from taxation pursuant to Section 34, but must be separately identified and the number of acres to which this Section applies must be set out on the roll.

(3) A determination that land has ceased to be used for a purpose set out in subsection (1) and a determination of acreage under subsection (2) may be appealed in accordance with Sections 59 and 60.

(4) Where this Section applies to part of a property, the part of the property to which this Section does not apply must be assessed and taxed in the manner provided by this Act. R.S., c. 23, s. 29; 1990, c. 19, s. 13; 1998, c. 18, s. 547.

Place of assessment

23 (1) Property must be assessed in the municipality in which it is located on the day of forwarding the assessment roll to the clerk.

(2) Where property is situated partly in one municipality and partly in another, the assessor shall show the value of that part thereof situated in the assessor's municipality and in making the assessment the assessor shall compute it as a portion of the value of the property as a whole. R.S., c. 23, s. 30.

Property in more than one ward or district

24 Where property is situated in more than one ward or polling district in a municipality, it must be assessed as a whole and the assessment roll may indicate the wards or polling districts in which the property is situated. R.S., c. 23, s. 31.

Assessment to owner

25 Except as otherwise provided in this Act, property must be assessed as property of its owner. R.S., c. 23, s. 32.

Assessment of pipeline

26 (1) Notwithstanding clause 20(a) and Section 25, a pipeline must be assessed to the pipeline owner in the municipality in which it is located and the notice of assessment of the value of the pipeline must be served in accordance with Section 50.

(2) Notwithstanding that a pipeline is located on, in, under, along or across lands exempt from taxation or lands that are non-assessable, the pipeline is liable to assessment.

(3) Notwithstanding Section 36, a pipeline market value for assessment purposes may be calculated as follows:

(a) the assessed value of a pipeline is the base cost for each pipe or class of pipe in the pipeline prescribed by the regulations less depreciation in the pipeline determined in accordance with the depreciation rate prescribed by the regulations; and

(b) the depreciation of a pipeline that is relocated continues as if the pipeline were not relocated. 2000, c. 9, s. 5.

Co-operative housing

27 Where real property is held by a company incorporated for co-operative housing purposes and is subject to a mortgage held by the Minister, each shareholder of the company who is shown on the records of the Minister as the person entitled to possession must be assessed for the real property to which the shareholder is entitled to possession as if the shareholder were the owner thereof. R.S., c. 23, s. 33; 1998, c. 18, s. 547.

Condominiums

28 (1) In this Section, “common elements”, “common interest”, “corporation” and “unit” have the same meaning as in the *Condominium Act*.

(2) In a condominium corporation, each unit and the common interest pertaining thereto constitute a parcel for assessment purposes and the common elements do not constitute a separate parcel and must not be separately assessed. R.S., c. 23, s. 34.

Non-resident owner

29 Where a person owns property in a municipality and does not reside in that municipality, the property must be shown as property of a non-resident either by entering beside it the words “non-resident”, or the initials “NR”, or by placing it in the roll separately from the property of residents. R.S., c. 23, s. 35.

Unknown owner

30 (1) Where the owner or person liable to be assessed in respect of any property is unknown to the assessor, the property must be assessed as property of a non-resident and must be duly assessed if entered on the roll in the name of “owner unknown”, or it may be entered in the non-resident section of the roll.

(2) Where any land has been assessed in the name of “owner unknown”, the Director shall provide the Minister of Natural Resources and Renewables with a general description of the land so assessed and any information in the Director’s possession concerning possible owners of the land. R.S., c. 23, s. 36.

Joint owner

31 Where two or more persons are, either as business partners, joint tenants, tenants in common or by any other kind of joint interest, the owners of any

property, the names of each of them, or of so many of them as can be ascertained by diligent inquiry, must be entered on the assessment roll and the assessment may be apportioned among them to the best of the assessor's judgement or the property may be assessed as a unit to all of the owners known to the assessor. R.S., c. 23, s. 37.

Determination of name of person to be assessed

32 (1) Real property may be assessed to the person appearing from a search of the records at the registry of deeds and at the registry of probate to be the latest owner thereof and neither an assessor nor the Tribunal or a court of appeal may be required to transfer the ownership of real property on the assessment roll from that person to another unless and until the deed or other document that is evidence of an alleged ownership has been recorded at the registry of deeds or at the registry of probate.

(2) Where the assessor believes that the owner formerly assessed is deceased, the assessor may assess property in the name of the "Estate of [*name of deceased former owner*], deceased".

(3) Where real property has been registered pursuant to the *Land Registration Act*, the real property must be assessed to the person shown in the register as the owner of the fee simple. R.S., c. 23, s. 38; 2001, c. 6, s. 98; 2012, c. 16, s. 2.

Assessment in name of executor or agent

33 (1) Property under the control of a person as executor, administrator, trustee, guardian or agent may be assessed in the person's name in the person's representative capacity and the assessment and any subsequent proceedings must be kept separate and distinct from those based on assessment of the property held by that person in the person's own right.

(2) Where there is more than one person exercising control, it is not necessary to serve all of them with notice of assessment or of any other notice required to be given by this Act, but notice given to any one of them is deemed to be notice given to all of them. R.S., c. 23, s. 39; 1998, c. 18, s. 547.

Tax reduction or partial exemption

34 Property partly exempt from taxation, or in respect of which assessment is fixed by law at an amount less than the amount of the assessment determined by the assessor, must be valued and entered on the assessment roll in the same manner as taxable property is valued and entered, and the amount of exemption or reduction applicable to the property must also be shown. R.S., c. 23, s. 40.

Wholly exempt property

35 Assessable property wholly exempt from taxation must be valued and entered on the assessment roll in the same manner as taxable property is valued and entered. R.S., c. 23, s. 41.

Valuation

36 (1) All property must be assessed at its market value, such value being the amount that in the opinion of the assessor would be paid if it were sold on a date prescribed by the Director in the open market by a willing seller to a willing buyer, but in forming an opinion the assessor shall have regard to the assessment of

other properties in the municipality so as to ensure that, subject to Section 41, taxation falls in a uniform manner upon all residential and resource property and in a uniform manner upon all commercial property in the municipality.

(2) The Director may prescribe a past date as a base for the determination of the market value of a property for the purpose of subsection (1).

(3) Notwithstanding subsections (1) and (2), the assessment of a property must reflect its state as of the date referred to in subsection 47(2).

(4) Notwithstanding subsection (1), property referred to in clause (g) of the definition of “assessable property” in subsection 2(1) must be assessed at 50% of the actual purchase price of the property.

(5) In subsection (4), “purchase price” means the entire consideration for the purchase, delivery and installation of a property and, without restricting the generality of the foregoing, includes the value of property given in exchange or trade and outstanding obligations or liabilities cancelled, assumed or satisfied.

(6) Where in determining the value of a hotel or motel pursuant to subsection (1) it is necessary to determine the value of the personal property used in respect of the operation of the hotel or motel, the personal property is deemed to have a value equal to 15% of the value of the hotel or motel.

(7) For greater certainty, nothing in subsection (6) is to be construed to mean that personal property used in respect of the operation of a hotel or motel is assessable property. R.S., c. 23, s. 42; 2004, c. 10, s. 2.

Property subject to charge

37 (1) Except as provided in this Act, property must be valued by the assessor as if the person assessed were the owner of the title in fee simple and no reduction in value may be made merely because the property is subject to any lien, mortgage, lease, claim, licence or other encumbrance on the title.

(2) Where there is an easement or right-of-way appurtenant to any land, the assessment of the dominant tenement must be increased by the added value that in the opinion of the assessor it receives from the easement or right-of-way and the assessment of the servient tenement must be reduced by the amount that in the opinion of the assessor the value has lost because of the easement or right-of-way. R.S., c. 23, s. 44; 1998, c. 18, s. 547.

To whom life estate assessed

38 Property in which there exists any life or similar tenancy or estate, arising otherwise than by a lease, must be assessed to the life tenant or person entitled to possession thereof as if that person were the owner in fee simple, but if the person entitled to the remainder, or all such persons if there is more than one, request the assessor in writing to do so, the property may thereafter be assessed to the person or persons entitled to the remainder as if that person or persons were the owner in fee simple. R.S., c. 23, s. 45.

RESIDENTIAL AND RESOURCE PROPERTY TAXATION

Taxable assessed value**39 (1)** In this Section,

“base year” means the prescribed municipal taxation year with respect to property to which this Section first applies in a municipal taxation year subsequent to 2005-06 or, where a property, or a partial interest in a property, is acquired in a later municipal taxation year, the immediately following municipal taxation year;

“owner” means a beneficial owner;

“prescribed” means, subject to the definition of “prescribed percentage”, prescribed by the regulations;

“prescribed percentage” for one or more successive municipal taxation years means, for the purpose of calculating the taxable assessed value of property for a municipal taxation year, the percentage increase as of December 1st in the immediately preceding municipal taxation year in the Consumer Price Index for the Province published by Statistics Canada relative to that Index as of the later of

(a) December 1st in the year immediately preceding the base year or in the municipal taxation year of first assessment of new construction, as the case may be; and

(b) December 1, 2006.

(2) This Section applies to

(a) residential property having no more than one dwelling unit on a single lot;

(b) residential property of a prescribed class; and

(c) taxable resource property of a prescribed class,

of which at least a half interest is owned by

(d) an individual or individuals ordinarily resident in the Province; or

(e) a member or members of a prescribed class of persons, or a combination thereof.

(3) Effective with respect to the 2009-10 and subsequent municipal taxation years, this Section applies to a housing co-operative that is occupied by individuals the majority of whom are ordinarily resident in the Province.

(4) For the purpose of the *Municipal Government Act*, the *Halifax Regional Municipality Charter* or any other enactment designated by the regulations, “assessed value”, “value of all assessable property” or any term of like meaning refers to the taxable assessed value determined pursuant to this Section.

(5) The taxable assessed value of property for any municipal taxation year is the lesser of

(a) the assessed value; and

- (b) the total of
 - (i) the assessed value of any part of the property to which this Section does not apply,
 - (ii) the assessed value in the base year of any part of the property to which this Section applies plus the prescribed percentage of that assessed value for each successive municipal taxation year following the base year, and
 - (iii) the increase in assessed value resulting from construction not included in the base-year assessment plus the prescribed percentage of that assessed value for each successive municipal taxation year following the municipal taxation year of first assessment of the new construction.

(6) Notwithstanding subsection (1), the base year for property does not change upon transfer or devolution of the property or a partial interest in the property to, and only to, a spouse, child, grandchild, great-grandchild, parent or grandparent of an owner of the property, or a member of such other prescribed class of persons, if notice is given to the Director in the prescribed form.

(7) Property of a class not described in or prescribed for the purpose of subsection (2) that is converted to property of a class described in or prescribed for the purpose of subsection (2) is deemed, for the purpose of this Section, to have been acquired in the municipal taxation year during which it was converted, if notice is given to the Director in the prescribed form.

(8) Where an owner of a property becomes ordinarily resident in the Province and as a result this Section applies to the property, the property is deemed, for the purpose of this Section, to have been acquired in the municipal taxation year during which the owner became ordinarily resident in the Province, if notice is given to the Director in the prescribed form.

- (9) Where an owner of a property to which this Section applies
 - (a) ceases to be ordinarily resident in the Province; or
 - (b) converts the property to a class not described in or prescribed for the purpose of subsection (2),

the owner shall give notice to the Director in the prescribed form.

(10) An owner of property claiming to be ordinarily resident in the Province shall, where required by the regulations or when requested by the Director, provide to the Director or the clerk such evidence of such residence as and in such form and within such time as the regulations or the Director, as the case may be, may require.

(11) Where an owner of property fails to comply with subsection (10) in any municipal taxation year, the owner is deemed not to be ordinarily resident in the Province in that year for the purpose of applying this Section in that year.

(12) Notwithstanding clause (5)(b), the Director may, when determining the taxable assessed value of a property for a particular municipal taxation year for the purpose of that clause, correct an error in the assessed value or in the increase in assessed value for that and subsequent municipal taxation years but, for

greater certainty, nothing in this subsection affects the taxable assessed value of the property in previous municipal taxation years.

(13) The Minister shall for each municipal taxation year table before December 31st in the immediately preceding municipal taxation year 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 report setting out the prescribed percentage referred to in subsection (5). 2004, c. 10, s. 3; 2006, c. 24, s. 1; 2008, c. 11, s. 1.

CONSERVATION PROPERTY

Conservation property

40 (1) Subject to subsections (2), (3), and (5), conservation property is exempt from taxation under this Act or any other public or private Act of the Legislature authorizing a tax on the assessed value of property.

(2) Subject to subsection (4), only those lands that are determined by the Minister of Environment and Climate Change to have been conservation properties on September 30th in the preceding municipal taxation year are exempt from taxation.

(3) Conservation property to which this Section applies must be assessed as resource property and for the purpose of Section 35 must be valued and entered on the roll as such, but the number of acres to which this Section applies must be set out on the roll.

(4) Notwithstanding anything in this Act, for the purpose of determining whether a property is conservation property, the Minister of Environment and Climate Change may prescribe procedures by which such a determination is to be made and may delegate authority to make such a determination to a person or a department or agency of government on such terms and subject to such restrictions as the Minister of Environment and Climate Change considers advisable.

(5) Notwithstanding anything in this Act, a decision of the Minister of Environment and Climate Change made pursuant to subsection (2) is final. 2008, c. 36, s. 3.

FARM PROPERTY TAXATION

Farm property

41 (1) All land, excluding any buildings or structures thereon, classified as farm property is exempt from taxation under this Act or any other public or private Act of the Legislature authorizing a tax on the assessed value of property.

(2) Farm property must be assessed as resource property partly exempt from taxation pursuant to Section 34, but must be separately identified and the number of acres to which this Section applies must be set out on the roll.

(3) A determination that land has ceased to be used for agricultural purposes and a determination of acreage under subsection (2) may be appealed in accordance with Sections 57 and 58. R.S., c. 23, s. 46; 1990, c. 19, s. 14; 1996, c. 5, s. 3; 1998, c. 13, s. 2; 1998, c. 18, s. 547.

FOREST PROPERTY TAXATION

Forest property

42 (1) All forest property bona fide used or intended to be used for forestry purposes is exempt from taxation under this Act or any other public or private Act of the Legislature authorizing a tax on the assessed value of property, except as provided in the *Municipal Government Act* or the *Halifax Regional Municipality Charter*.

(2) Forest property to which this Section applies must be assessed as property exempt from taxation pursuant to Section 35, but must be separately identified and the number of acres to which this Section applies must be set out on the roll.

(3) A determination that land has ceased to be bona fide used or intended to be used for forestry purposes and a determination of acreage under subsection (2) may be appealed in accordance with Sections 57 and 58. R.S., c. 23, s. 47; 1990, c. 19, s. 15; 1998, c. 18, s. 547.

SMALL-SCALE RESIDENTIAL TOURIST ACCOMMODATION ESTABLISHMENT

Residential property

43 (1) In this Section, “small-scale residential tourist accommodation establishment” means a residential tourist accommodation establishment on the assessable property that is not a hotel, motel or apartment hotel, but includes a primary residence, cottage, cabin, bed and breakfast, inn or other similar type lodging, as defined in the regulations, that is fully or partially rented to provide accommodation to the travelling or vacationing public.

(2) Notwithstanding any other provision of this Act, a small-scale residential tourist accommodation establishment is residential property. 2019, c. 10, s. 1.

ENERGY CONSERVATION

Energy conserving device

44 The assessment of a residential property must not be increased during the period between an assessment and a general reassessment in respect of the increase in value to the residential property resulting from the installation of insulation or additional insulation or of the addition of or conversion to active energy conserving, power or heat devices. R.S., c. 23, s. 48.

GENERAL

Assessment in name of deceased or infant

45 An assessment is not invalid merely because the property is assessed in the name of a person who is deceased, or in the name of an infant, person of unsound mind or *cestui que trust*. R.S., c. 23, s. 50.

Widow or widower and infant children

46 (1) Where part or all of the title of property vests in a child or children under the age of 19 years and it is occupied as their home by some or all of these children and a widow or widower who is their parent or guardian, then the assessor shall assess to the widow or widower, in addition to any undivided part or interest that the widow or widower may have in the property, the undivided part or interest of any such child as long as the child is under the age of 19 years and is unmarried and had in the year preceding the year for which the assessment is made an income of less than \$2,000.

(2) Before making an assessment under this Section, the assessor may require that the assessor be provided with an affidavit of a person having knowledge of the facts as to any facts material to the operation of this Section.

(3) For the purpose of this Act, the assessment of property or an interest in property to a widow or widower under the authority of this Section has the same consequences and effect as if the widow or widower were in fact the owner. R.S., c. 23, s. 51.

COMPLETING ROLL — MISCELLANEOUS PROVISIONS**Director to complete and forward roll**

47 (1) On or before December 31st in each year, the Director shall complete the roll and

- (a) complete and sign a certificate in the form prescribed by the regulations and attach it to the roll; and
- (b) forward the roll and certificate to the clerk.

(2) The assessment shown on the roll must be the assessment that reflects the state of the property as it existed on December 1st immediately preceding the filing of the roll.

(3) Notwithstanding subsection (1), the Minister may, before or after December 31st in any year, extend the time for filing the roll to a date not later than March 31st immediately following that December 31st, and the roll is as valid as if it had been filed pursuant to subsection (1).

(4) Where the Minister extends the time for filing the roll, all dates relating to appeals from assessment must be extended by the period of the extension granted by the Minister.

(5) The roll as completed by December 31st in any taxation year or such later date as the Minister may prescribe pursuant to subsection (3) is the roll of the next ensuing taxation year.

(6) The exercise by the Minister of the authority contained in subsection (3) is a regulation within the meaning of the *Regulations Act*. R.S., c. 23, s. 52; 1990, c. 19, s. 16.

Notice of assessment

48 (1) The Director shall, on completion of the assessment roll, give notice of the assessment by serving each person liable to be rated with a notice which may be in the form prescribed by the regulations or to the like effect bearing the name of the Director or of a person acting for the Director, showing the amount at which the property of the person has been assessed and the classification of the property with the same detail as appears on the roll.

(2) The notice of assessment must also include the amount at which the property of the person was assessed for each of the preceding five years.

(3) The notice may be served either personally or by leaving it at the residence or place of business of the person assessed or by posting it in a conspicuous place on the property assessed or by mailing it, postage prepaid, addressed to the person's last or usual place of residence or business, if known to the assessor, but where such place of residence or business is not known to the assessor, failure to serve the notice does not render invalid the assessment or any subsequent proceedings based on the assessment. R.S., c. 23, s. 53; 2008, c. 48, s. 1.

Notice to executor

49 (1) Where a person who is assessed in the assessment roll dies either before or after the Director forwards the roll to the clerk, the notice required by this Act to be given to the person assessed may be given to the person's executors or administrators or one of them and they have a right of appeal in the same manner as if they were assessed as such executors or administrators in respect of the property assessed to the deceased.

(2) Where no executor or administrator has been appointed, or where they are not known to the assessor, the notice may be served on a person whom the assessor believes to have an interest in the property, or it may be served by being posted on the property assessed.

(3) Any person having an interest in the property may appeal from the assessment. R.S., c. 23, s. 54.

Omission from roll

50 (1) Where in any taxation year the Director after the assessment roll has been filed with the clerk discovers that property or occupancy assessment of any person to an amount of not less than \$100, and which is liable to taxation, has been omitted from the assessment roll, the Director shall at any time before the end of the taxation year in respect of which the assessment roll has been filed assess the person for the property or occupancy assessment, and the rates thereon, at the rate fixed for the current taxation year, must be levied and collected in the same manner as if the property or occupancy assessment had been on the roll when it was filed.

(2) Notice of such assessment must be given either by personal service or by mailing it to the person assessed by registered mail addressed to the last address known to the assessor.

(3) An assessment pursuant to this Section may be appealed in accordance with Sections 57 and 58. R.S., c. 23, s. 55; 1990, c. 19, s. 17.

Improper classification of commercial property

51 (1) Where in any taxation year after the assessment roll has been filed the Director discovers that property of any person that is liable to taxation has been improperly classified as other than commercial property, the Director shall at any time before the end of the taxation year in respect of which the assessment roll has been filed issue an amended notice of assessment classifying the property as commercial, and the rates thereon must be levied and collected in the same manner as if the property had been properly classified on the roll when it was filed.

(2) Where in any taxation year after the assessment roll has been filed the Director discovers the property of any person that is liable to taxation has been improperly classified as commercial property, the Director shall at any time before the end of the taxation year in respect of which the assessment roll has been filed issue an amendment notice of assessment classifying the property as residential or resource, as the case may be, and the rates thereon must be levied and collected in the same manner as if the property had been properly classified on the roll when it was filed.

(3) The amended notice of assessment, setting out clearly the change in classification, the right of the person to appeal the amended assessment and the time within which that right may be exercised, must be served either by personal service or by mailing it to the person assessed by registered mail addressed to the last address known to the Director, and the Director must also serve a copy of the notice on the clerk.

(4) Any amended assessment made under this Section may be appealed in accordance with Sections 57 and 58. R.S., c. 23, s. 56; 1990, c. 19, s. 18.

Error in assessment

52 (1) Where in any year after the assessment roll has been filed the Director determines that

- (a) property has been assessed in the name of someone other than the owner;
- (b) property has been left off the roll;
- (c) property has been entered on the roll in error;
- (d) property has been improperly classified;
- (e) property has been improperly assessed as taxable or exempt; or
- (f) a gross and manifest error has occurred in the assessment,

the Director may, at any time before the end of the taxation year in respect of which the roll has been filed, issue an amended notice of assessment with the changes required to correct the error.

(2) The amended notice of assessment, setting out clearly the change in assessment, the right of the person to appeal the amended assessment and the time within which the right to appeal may be exercised, must be served by mailing it to the person assessed by postage prepaid addressed to the last address known to the Director, and the Director shall also send a copy of the notice to the clerk.

(3) Any amended assessment made under this Section may be appealed in accordance with Sections 57 and 58. R.S., c. 23, s. 57; 1990, c. 19, s. 19; 2000, c. 9, s. 8.

NOVA SCOTIA ASSESSMENT APPEAL TRIBUNAL

Appointment and powers

53 (1) The Minister shall appoint members of the Nova Scotia Assessment Appeal Tribunal for such terms as the Minister determines.

(2) The Minister may

(a) designate one of the members of the Tribunal to be its Chair and one to be its Vice-chair; and

(b) assign additional duties to the Chair and Vice-chair.

(3) The Tribunal and each member may require such disclosure and production of documents as is necessary to hear an appeal.

(4) The Minister may prescribe the remuneration and an allowance for travel and other expenses payable to members of the Tribunal, and these amounts must be paid from the General Revenue Fund.

(5) The Director shall appoint a recorder who shall perform the duties of clerk of the Tribunal, and may appoint such necessary administrative staff as the Minister may approve.

(6) The exercise by the Minister of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. R.S., c. 23, s. 58; 2006, c. 19, s. 53; 2010, c. 2, s. 84; 2012, c. 16, ss. 3, 44.

Members may sit as sole decision-makers

54 The members of the Tribunal may sit separately at the same time as sole decision-makers to hear appeals. 2012, c. 16, s. 4.

Hearing

55 (1) The Tribunal shall meet for the hearing of appeals in such place, on such day and at such hour as it determines.

(2) When hearing an appeal from the assessment of property located in a regional municipality or town, the Tribunal shall sit within that regional municipality or town and when hearing an appeal from the assessment of property located in a municipality of a county or district, the Tribunal shall sit within the municipality of the county or district or within a town that before it was incorporated formed part of that county or district.

(3) Notwithstanding subsection (2), the Tribunal may sit at a place determined by the Minister or a place agreed to by all parties to the appeal.

(4) The Tribunal shall cause notice of the date, hour and place of its sittings to be given to the Director and to the clerk of the municipality whose

assessments are being appealed not later than 12 days before the date of the sitting. R.S., c. 23, s. 60; 2000, c. 9, s. 9; 2012, c. 16, s. 5.

Assistance to court

56 The Director or a person appointed by the Director shall assist the Tribunal in its duties. R.S., c. 23, s. 61; 2012, c. 16, s. 6.

APPEALS FROM ASSESSMENT

Notice of appeal by complainant

57 (1) Any person complaining that that person has been wrongfully inserted in or omitted from the assessment roll or that person's property has been undervalued or overvalued by the assessor or that that person's property has been wrongfully classified may give notice in writing to the recorder that the person appeals from the insertion, omission, valuation or classification and shall give a name and address where notices may be served upon the person by the recorder.

(2) Any ratepayer or the clerk of any municipality complaining that a person has been wrongfully inserted in or omitted from the roll or that property of a person has been undervalued or overvalued by the assessor or that property of a person has been wrongfully classified may give notice in writing to that person and to the recorder that the ratepayer or the clerk, as the case may be, appeals from such insertion, omission, valuation or classification and shall give a name and address where notices may be served upon the ratepayer or the clerk by the recorder or the respondent.

(3) Any person having an interest in a property complaining that the property has been overvalued by the assessor or that the property has been wrongfully classified may give notice in writing to the person assessed for the property and to the recorder that the person appeals from such valuation or classification and shall give a name and address where notices may be served upon the person by the recorder or the respondent.

(4) Where a person complains that a property has been undervalued, or has been wrongly classified, and where the property is occupied by a person who is assessed an occupancy assessment, then the person complaining shall give notice in writing to the occupier that the person appeals from the valuation or classification and shall give a name and address where notices may be served upon the person by the occupier, in addition to any other notices required by this Section. R.S., c. 23, s. 62; 2022, c. 4, Sch., s. 29; 2023, c. 2, s. 28.

Notice of appeal

58 (1) The notice of appeal must state with particularity the grounds of objection to the assessment and must be given not later than 31 days after the notices of assessment are served as provided in Section 48.

(2) The notice may be in the form prescribed by the regulations with such variations as circumstances require. R.S., c. 23, s. 63; 2012, c. 16, s. 7.

Appeal body

59 (1) The appeal body for the hearing and determination of appeals is the Tribunal.

(2) Notwithstanding subsection (1), the Director may direct that an appeal of a residential property consisting of four or more units or of a commercial property proceed directly to the Nova Scotia Utility and Review Board. 2000, c. 9, s. 10; 2012, c. 16, s. 8.

Witnesses

60 The Tribunal may examine witnesses on oath or affirmation, to be administered by the member of the Tribunal then presiding, and the appellant, the respondent, the assessor or any person interested in the appeal may call and examine witnesses before the Tribunal. R.S., c. 23, s. 66; 2012, c. 16, s. 10.

Subpoenas and witnesses

61 (1) Subpoenas may be issued for the attendance of witnesses before the Tribunal and must be in the form prescribed by the regulations and may be signed by the clerk of any municipal unit the assessment of which is under appeal or by any member of the Tribunal or the recorder.

(2) Any person served with a subpoena who, having been paid or tendered the person's fees, disobeys the subpoena is liable on summary conviction to a penalty of not more than \$50, and in default of payment to imprisonment for a period not exceeding 30 days.

(3) The fees for witnesses are the same as those paid to witnesses for attending and for travel in civil actions in the Supreme Court of Nova Scotia. R.S., c. 23, s. 67; 2012, c. 16, s. 11.

Duties and powers of Director on appeals

62 (1) The recorder shall send a copy of every notice of appeal taken with respect to property in a municipality to the Director within seven days after the receipt thereof.

(2) The Director shall forthwith review the assessment complained of and for that purpose the Director may, at the Director's discretion, confer with the appellant and the respondent.

(3) After having reviewed the assessment, the Director may alter the assessment complained of and must forthwith notify the clerk and recorder of the change.

(4) Where the Director amends the roll under the authority of this Section, the Director shall immediately serve an amended notice of assessment upon the appellant and upon the person assessed, either by personal service or by mailing it by registered mail addressed to the appellant at the address given by the appellant for service and to the respondent, if any, at the last address known to the assessor.

(5) When an amendment has been made under this Section, the appellant and the respondent shall, where either of them is dissatisfied, serve notice in the form prescribed by the regulations on the recorder and on the opposite party within 14 days after service under subsection (4) and, where no notice is so served, the appeal is deemed to have been abandoned.

(6) When notice in the form referred to in subsection (5) has been given, the appeal must proceed in the manner provided by this Act. R.S., c. 23, s. 68; 2000, c. 9, s. 11; 2012, c. 16, s. 12.

Notice of confirmation

63 (1) Where the Director determines that no change in the assessment is required, the Director shall immediately serve a notice of confirmation of assessment upon the appellant and upon the person assessed, either by personal service or by mailing it by registered mail addressed to the appellant at the address given by the appellant for service and to the person assessed at the last address known to the assessor.

(2) A copy of the notice of confirmation must be sent to the clerk.

(3) Where the assessment is confirmed pursuant to this Section, the appellant, the person assessed and the clerk may serve notice of continued appeal on the recorder within 14 days after service and, where no notice is so served, the appeal is deemed to have been abandoned. 2000, c. 9, s. 12; 2006, c. 15, s. 3; 2012, c. 16, s. 13.

Regulations establishing alternative dispute-resolution process

64 (1) Notwithstanding any enactment, the Minister may make regulations to establish an alternative dispute-resolution process for the hearing and determination of appeals pursuant to this Act.

(2) Without limiting the generality of subsection (1), the Minister may make regulations

(a) prescribing an alternative dispute-resolution process in substitution for some or all of the rights of appeal and the appeal process established pursuant to this Act;

(b) determining the procedure for the alternative dispute-resolution process and the rights and obligations of persons and municipalities in the process;

(c) prescribing that the alternative dispute-resolution process include mediation and arbitration and limiting further appeals to the Nova Scotia Court of Appeal on questions of law only;

(d) respecting the provision of facilities for mediation and arbitration and, subject to the approval of the Minister, payment of the costs of the facilities out of the General Revenue Fund;

(e) determining that the alternative dispute-resolution process be implemented in designated assessment appeal regions of the Province on a trial basis and subsequently, where considered appropriate, on a permanent basis in all assessment appeal regions of the Province;

(f) determining the costs of the alternative dispute-resolution process and who bears those costs;

(g) respecting the form, content and manner of use of notices under this Act;

(h) prescribing the powers, duties and qualifications of mediators and arbitrators;

(i) prescribing the remuneration and allowance for travel and other expenses payable to mediators and arbitrators from the General Revenue Fund;

(j) respecting the appointment of mediators and arbitrators by the Minister and the method of selecting a mediator or arbitrator for a particular mediation or arbitration;

(k) defining any word or expression used but not defined in this Section;

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

(3) Notwithstanding any enactment, the Director may, upon receipt of a notice of appeal given pursuant to this Act, direct, in writing, that the appeal proceed in accordance with the alternative dispute-resolution process established pursuant to the regulations.

(4) The exercise by the Minister of the authority contained in this Section is a regulation within the meaning of the *Regulations Act*. 2000, c. 9, s. 13; 2006, c. 19, s. 53; 2010, c. 2, s. 84.

Notice of hearing

65 (1) The recorder shall serve the appellant, the respondent, the clerk and any occupier of the property assessed an occupancy assessment with notice of the time and place at which appeals will be heard.

(2) The notice must be served at least 14 days previous to the day upon which appeals are to be heard by being mailed, postpaid and registered, addressed to the appellant at the address for service given on the notice of appeal and to the respondent at the usual or last place of residence or business known to the recorder or, where such address is not known, by posting the same in a conspicuous place on the property assessed.

(3) Where the occupier is to be served and the occupier is not the appellant or the respondent, the occupier must be served at least six days before the hearing of the appeal by hand delivery or prepaid mail addressed to the occupier. R.S., c. 23, s. 70; 2012, c. 16, s. 14.

Hearing

66 (1) The Tribunal shall proceed with the appeals in the order as nearly as may be in which they are entered, but may hear them in some other order and may grant an adjournment of the hearing of any appeal.

(2) In case of an adjournment, it is not necessary to serve notice of the adjournment on any of the parties to the appeal, but the Tribunal member presiding shall, while the Tribunal is sitting, announce the day the Tribunal will hear the appeal. R.S., c. 23, s. 71; 2012, c. 16, s. 15.

Duty of determination by Tribunal

67 (1) The Tribunal, after hearing the appellant and any witnesses the appellant produces, and the respondent and any witnesses the respondent produces, and the assessors, if necessary, shall determine the matter.

(2) The clerk or solicitor of the municipality may appear and represent the municipality on any appeal, but if the clerk or solicitor does not do so, then the Director or an assessor may do so. R.S., c. 23, s. 72; 2012, c. 16, s. 16.

Interest by Tribunal member

68 (1) No member of the Tribunal may sit during the hearing or participate in the decision of an appeal with respect to any property in which the member has any interest, either direct or indirect.

(2) When any member of the Tribunal discovers that the member is disqualified on grounds of interest from hearing any appeal and that the disqualification will mean that an appeal cannot be heard for want of a quorum, the member shall so advise the Minister in writing forthwith.

(3) Where a disqualification on grounds of interest results in the lack of a quorum to hear any appeal, the Minister shall appoint temporarily sufficient persons to the Tribunal to constitute a quorum to hear and decide the appeal. R.S., c. 23, s. 73; 2012, c. 16, s. 17.

Powers of Tribunal

69 (1) On any appeal, the Tribunal may

(a) confirm, reduce or increase the valuation of the property that is the subject of the appeal, and confirm, reduce or increase an occupancy assessment notwithstanding that the occupancy assessment was not appealed;

(b) dismiss the appeal;

(c) add to the roll the name and assessment of any person left off the roll;

(d) strike off the roll the name of any person wrongfully entered thereon;

(e) transfer the assessment to the proper person when any property has been assessed in the name of a person who is not legally liable to be assessed therefor;

(f) where any property has been assessed more than once, strike out the assessment that is improper or illegal;

(g) change the classification of all or part of the property that is the subject of the appeal; and

(h) correct any clerical errors made by the assessor in the assessment roll.

(2) The decision of the Tribunal must be provided to the recorder within 60 days after the appeal is heard unless otherwise agreed to by the parties to the appeal.

(3) Failure of the Tribunal to provide the decision as required by subsection (2) does not invalidate the decision of the Tribunal, but the Minister may refuse compensation or reduce compensation to the Tribunal in respect of that particular appeal. R.S., c. 23, s. 74; 2012, c. 16, s. 18.

Notice of decision

70 Within five days after receipt of a decision by the Tribunal, the recorder shall give written notice to the clerk, the appellant, the respondent and any occupier of the property assessed an occupancy assessment by personal service or registered mail to the appellant at the address for service given on the notice of appeal and to the respondent and any occupier of the property assessed an occupancy assessment at the respondent's or occupier's usual or last place of residence or business or, where no such address is known to the recorder, by posting it in a conspicuous place on the property. R.S., c. 23, s. 75; 2012, c. 16, s. 19.

Further powers

- 71 (1) The Tribunal may, of its own motion,
- (a) add to the roll any property that has been omitted therefrom with the value thereof as determined by it and the name of the person to whom it should be assessed; and
 - (b) increase the amount of the valuation of any property.

(2) In either such case, notice must within three days thereafter be given by the recorder to the clerk and the person whose name is added or whose assessment is increased, in the manner provided by Section 70. R.S., c. 23, s. 76; 2012, c. 16, s. 20.

Appeal from Section 71 order

72 (1) A person whose name or property or both have been added or whose valuation has been increased by the Tribunal under Section 71 may give notice of appeal as provided by Section 58 and the Tribunal shall sit at such time and place as it determines, within 14 days thereafter, to hear and determine the person's appeal.

(2) The recorder shall give the appellant and the clerk 10 days notice of the sitting in the manner provided by Section 65. R.S., c. 23, s. 77; 2012, c. 16, s. 21.

Record of change of assessment

73 All increases or reductions in assessment, transfers of assessment and other changes, corrections, alterations, confirmations of assessment, dismissals of appeal or additions made by the Tribunal or the Director must be recorded by the clerk and the record forms part of the official roll. R.S., c. 23, s. 79; 2012, c. 16, s. 23.

Failure to appear

74 Where the appellant or the representative of the appellant fails to appear in person or in writing, the Tribunal shall dismiss the appeal. 2000, c. 9, s. 14; 2012, c. 16, s. 24.

When party required to be heard

75 It is not necessary to hear the appellant or the respondent or the assessor except if the Tribunal considers it necessary or proper or if evidence is tendered by or on behalf of either party. R.S., c. 23, s. 81; 2012, c. 16, s. 25.

Costs

76 The Tribunal is not authorized to award costs against any party to an appeal or to any other person. R.S., c. 23, s. 82; 2012, c. 16, s. 26.

Order in the Tribunal

77 The Tribunal member presiding has the same power and authority to preserve order in the Tribunal during the sittings thereof and by the same ways and means as are exercised and used in civil cases by the Supreme Court of Nova Scotia. R.S., c. 23, s. 83; 2012, c. 16, s. 27.

Special hearings and time extensions

78 (1) Where any person shows, within 60 days from service of the notice of assessment by oath or affidavit on *ex parte* application, to the satisfaction of the Tribunal, that the person has been prevented by absence, illness or other sufficient cause from appealing from the assessment or from duly prosecuting the person's appeal, the Tribunal may grant such person a hearing and arrange a sitting of the Tribunal to hear the appeal, and the Tribunal may impose such terms as to notice and service of documents as it considers proper.

(2) The Tribunal may sit at such time and place as it determines to hear and determine appeals authorized under this Section. R.S., c. 23, s. 84; 2012, c. 16, s. 28.

Appeal from Tribunal

79 (1) Any person aggrieved by a decision of the Tribunal, including the clerk on behalf of the municipality and the Director, may appeal therefrom to the Nova Scotia Utility and Review Board.

(2) Notwithstanding subsection (1), where an appellant or the representative of the appellant fails to appear before the Tribunal either in person or in writing, no appeal of the decision of the Tribunal may be made to the Nova Scotia Utility and Review Board. R.S., c. 23, s. 85; 1992, c. 11, s. 35; 2000, c. 9, s. 15; 2012, c. 16, s. 29.

Notice of appeal

80 (1) Notwithstanding any enactment, any person entitled to appeal a decision of the Tribunal may appeal by filing a notice of appeal with the clerk of the Nova Scotia Utility and Review Board within 30 days from the date the decision was mailed by the recorder and not otherwise.

(2) A notice of appeal referred to in subsection (1) must set out specifically

(a) the assessment or failure to assess complained of and the affected property by civic address, property identification number or assessment account number;

(b) the specific matters that are the subject of the appeal;

(c) which component of the assessment is being appealed;
and

(d) the specific reason for the appeal,

and must give a name and address where notices may be served upon the appellant.

(3) The Board shall serve a copy of the notice of appeal within 30 days of the filing of the notice on the following, except if that person is the appellant:

- (a) the person in whose name the property is assessed;
- (b) the person who appealed the assessment to the Tribunal if that person is not the person assessed;
- (c) the clerk of the municipality in which the property is situate;
- (d) the Director; and
- (e) any other person the Board considers necessary. 2000, c. 9, s. 16; 2012, c. 16, s. 30.

Duties of Utility and Review Board upon appeal

81 (1) The Nova Scotia Utility and Review Board shall inquire into the matter *de novo* and shall examine such witnesses and take all such proceedings as are requisite for a full investigation of the matter.

(2) On the appeal the Board has all the powers of the Tribunal. R.S., c. 23, s. 87; 1992, c. 11, s. 35; 2012, c. 16, s. 31.

Access to personal information

82 A party to an assessment appeal is not entitled to information held by the Director, an assessor or another person authorized or required to assist the Director, if that information is personal information within the meaning of the *Freedom of Information and Protection of Privacy Act*, unless the person to whom the information relates consents, or the information was directly used by the Director, assessor or any person or is relevant to determine the assessment of the property to which the appeal relates. 2000, c. 9, s. 17.

MISCELLANEOUS PROVISIONS RESPECTING APPEALS

Certiorari

83 (1) No *certiorari* to remove any assessment, rate or order, or any proceedings of the council or Tribunal touching any assessment, rate or order, may be granted, except upon motion in the first week of the next sittings of the Supreme Court of Nova Scotia in the county after the time for appealing to the Nova Scotia Utility and Review Board has expired, and unless it is made to appear by affidavit that the merits of the assessment, rate, order or proceeding will by such removal come properly in judgment.

(2) No assessment, rate, order or proceeding may be quashed for a matter of form only.

(3) The assessment roll, the rate roll or any general assessment or rate may not be quashed for any illegality in the assessment or rate of any person except as to such person. R.S., c. 23, s. 89; 2012, c. 16, s. 32.

Final roll

84 The assessment roll, as finally passed by the Tribunal, must be certified by the clerk as passed and, subject to the provisions of this Act as to appeals to the Nova Scotia Utility and Review Board, binds all persons assessed in the roll notwithstanding any defect or error therein, or any irregularity on the part of the assessors, or in respect of the making up of the roll, or in the proceedings of the Tribunal, or any error or irregularity in the notices required to be given, or the neglect or omission to deliver or transmit such notices. R.S., c. 23, s. 91; 1992, c. 11, s. 35; 2012, c. 16, s. 33.

Report to council

85 When the assessment roll has been passed by the Tribunal and certified by the clerk, the clerk shall report these facts to the council at its next regular meeting. R.S., c. 23, s. 92; 2012, c. 16, s. 34.

Certified copy of roll as prima facie evidence

86 A copy of any assessment roll or of a portion of any assessment roll certified by the clerk under the seal of the municipality to be a true copy must be received as prima facie evidence by the Tribunal or in any court without proof of the seal or of the signature or official character of the clerk and without the production of the original assessment roll of which, or of part of which, such certified copy purports to be a copy. R.S., c. 23, s. 93; 2012, c. 16, s. 35.

OTHER PROCEEDINGS

Application to Supreme Court of Nova Scotia

87 (1) The municipality, the Director or any person assessed may apply on originating notice (application *inter partes*) to the Supreme Court of Nova Scotia for the determination of any question relating to the assessment, except a question as to persons alleged to be wrongfully placed upon or omitted from the roll or assessed at too high or too low a sum or whose property is wrongly classified.

(2) A copy of the originating notice (application *inter partes*) must be served upon the Director, the clerk and the persons assessed in respect of the property.

(3) No originating notice (application *inter partes*) may be issued except within the times for commencing an action or other proceedings set forth in Section 90.

(4) An appeal lies in the usual manner from the judgment of the Supreme Court of Nova Scotia.

(5) The issue of any originating notice (application *inter partes*) or an appeal from any judgment given on an originating notice may not delay the final passing and certification of the roll under Section 86 or the report to the council under Section 87, but, where by the judgment it appears that any alteration

should be made in the assessment roll, the clerk of the municipality shall cause the proper entries to be made therein to give effect to the judgment and shall initial and date the same.

(6) The judgment given on any originating notice under this Section is binding upon and must be given effect by the Tribunal or any court on appeal therefrom. R.S., c. 23, s. 94; 2006, c. 15, s. 4; 2012, c. 16, s. 36.

Limitation period

88 No action or other proceeding, except an action or other proceeding brought by a municipality for the collection of rates and taxes, may be brought in the Tribunal or any court with respect to an assessment or to rates based on an assessment except

(a) within six months after the date upon which the roll is required by Section 47 to be forwarded to the clerk, or within six months after the forwarding of the roll in case the roll is not forwarded within the time fixed for that purpose;

(b) where an appeal has been taken to the Tribunal, within six months from the time limited for appealing therefrom to the Nova Scotia Utility and Review Board; or

(c) where an appeal has been taken to the Board, within 30 days after the date of the decision of the Board,

but, where an appeal has been taken to the Nova Scotia Court of Appeal, no action or proceeding may be brought in the Tribunal or any other court with respect to the assessment, except an action or other proceeding brought by a municipality for the collection of rates. R.S., c. 23, s. 95; 1992, c. 11, s. 35; 2012, c. 16, s. 37.

Partially invalid assessment

89 Where any part of an assessment is declared invalid or in error by the Supreme Court of Nova Scotia, the whole assessment is not thereby invalidated, and the court may direct that the assessment roll be altered in accordance with its judgment and the clerk shall so alter the roll and shall place the clerk's initials and the date opposite every alteration. R.S., c. 23, s. 96; 2006, c. 15, s. 5.

LIEN ON REAL PROPERTY

Owner assessed for more than one lot

90 The assessor shall in the annual assessment roll indicate each person who is assessed for more than one lot of land giving a general description of each lot sufficient to identify it together with the valuation placed thereon by the assessor in making up the total amount assessed to the person in respect to real property. R.S., c. 23, s. 133.

Assessment where there is a tax sale

91 (1) When land has been sold under this Act for arrears of rates and taxes and it has not been redeemed at the time of assessment, it must be assessed to the purchaser or the purchaser's heirs or assigns.

(2) Where the municipality was the purchaser, the land must be assessed to the municipality notwithstanding Section 5. R.S., c. 23, s. 153.

MISCELLANEOUS

Error in notice

92 (1) No error, informality or irregularity on the part of the council, the assessor, the Tribunal, the recorder, the clerk or any other officer, and no error or omission in giving any notice required by this Act to be given, affects or prejudices the validity of any general or individual assessment made or of any rate rated, distrained for or collected.

(2) The invalidity, irregularity or illegality of any individual assessment or rate does not extend to or affect the validity of any general assessment or of any other assessment or rate. R.S., c. 23, s. 167; 2012, c. 16, s. 38.

Error in name

93 (1) Where there is an error in the name of any person in any assessment roll, rate book, notice issued by the assessor or by a clerk or treasurer, warrant of distraint or warrant for the sale of land the rates or taxes assessed to such person may be collected from the person intended to be rated or taxed if the person is rateable or taxable and can be identified by the assessor or the clerk or treasurer.

(2) The assessor, clerk or treasurer shall make a notation of the correction in the margin opposite the error and shall date and sign it. R.S., c. 23, s. 168.

Service on Director

94 Any notice required by this Act to be served on the Director is sufficiently served if served on a regional director of assessment or delivered to an assessment office maintained by the Director. R.S., c. 23, s. 169.

Penalty

- 95** (1) Every assessor or other person who
- (a) makes any unjust or fraudulent assessment;
 - (b) wilfully or fraudulently inserts in the assessment roll the name of any person who should not be entered;
 - (c) wilfully or fraudulently omits from such roll the name of any person who should be entered; or
 - (d) wilfully neglects to perform any duty required of the assessor or person by this Act,

is for each such offence liable to a penalty not exceeding \$500 and in default of payment to imprisonment for a term not exceeding one year.

(2) Any assessment of property at an amount greater or less than the value at which it should have been assessed by 25% thereof is prima facie unjust and fraudulent.

(3) Notwithstanding Section 100, a prosecution for breach of this Section may be commenced at any time within two years of the date of the offence. R.S., c. 23, s. 170.

Prohibited defacement or alteration

96 (1) No person shall, except as authorized or required by this Act, erase from, deface, alter, amend, change or destroy any assessment roll, rate book, warrant or other book, document or paper prepared under the authority of this Act.

(2) Notwithstanding subsection (1), the Director, or the Director's successors or assigns, may destroy any assessment roll, rate book, warrant or other book, document or paper prepared under the authority of this Act pursuant to the *Government Records Act* or the *Public Archives Act*. R.S., c. 23, s. 171; 2006, c. 15, s. 6.

Penalty

97 Any person who violates or fails to comply with this Act is liable on conviction to a penalty not exceeding \$500 and in default of payment to imprisonment for a period not exceeding one year. R.S., c. 23, s. 172.

Right to commence proceeding

98 (1) The clerk shall, or any person may, cause proceedings to be instituted to enforce the provisions of this Act.

(2) Where the clerk neglects to cause such proceedings to be instituted within 10 days after the clerk has been so required by the council, the clerk is guilty of an offence.

(3) Where the recorder or the clerk neglects to fulfill any of the other duties imposed upon them by this Act, or where the treasurer neglects to fulfill any duties similarly imposed upon the treasurer, the recorder, clerk or treasurer, as the case may be, is guilty of an offence. R.S., c. 23, s. 173.

Disposition of penalty

99 Except as in this Act is otherwise provided, all penalties imposed under this Act must, when collected, be paid to the treasurer of the municipality for the general purposes thereof. R.S., c. 23, s. 174.

Limitation period

100 No action may be commenced for any thing done in pursuance of any provision of this Act after six months from the date of the act or omission complained of unless at such date the plaintiff was absent from the Province, in which case the action may be brought at any time after the return of the plaintiff to the Province, if the same is brought within two years from the date of the act or omission complained of, and the place or trial of every such action must be in the county where the cause of action arose. R.S., c. 23, s. 175.

Oath of office

101 Every member of the Tribunal, the recorder, the Director and every assessor, collector or other officer under this Act shall, before entering upon the duties of office, be sworn to the faithful discharge of the same, before a judge of the

provincial court, justice of the peace or person authorized to take affidavits in the form prescribed by the regulations and shall file same with the clerk. R.S., c. 23, s. 176; 2012, c. 16, s. 39.

Affidavit of service of notice

102 (1) Where any notice is required by this Act to be served or given, the assessor, clerk, recorder, treasurer or other person required to serve or give the same may within one month after the serving or giving of the notice make an affidavit setting out that the assessor, clerk, recorder, treasurer or other person, as the case may be, has served or given it or caused it to be served or given in compliance with this Act and setting out how such notice was given.

(2) The affidavit may be sworn before any commissioner, judge of the provincial court, justice of the peace or other person authorized to take affidavits and must be received by the Tribunal or in any court as prima facie evidence that each of the notices therein referred to was served or given in the manner required by this Act, without proof of the signature or official character of the person making the same. R.S., c. 23, s. 177; 2012, c. 16, s. 40.

Vesting of and access to assessment records

103 (1) All assessment rolls and all assessment plans, maps, drawings and charts and all assessment books, sheets, pages, cards and other assessment records belonging to or in the possession of a municipality or a regional assessment committee are vested in the Crown in right of the Province.

(2) Any officer of a municipality or the Tribunal must, upon reasonable demand, be given access to any assessment rolls, plans, maps, drawings, charts and records reasonably required for purposes of the municipality and is entitled to make copies thereof.

(3) Any assessor or other person employed to assist the Director or a recorder must, upon reasonable demand, be given access to any maps, charts, plans, drawings and records of a municipality reasonably required for assessment purposes and is entitled to make copies thereof.

(4) Effective April 1, 2007, all assessment rolls, assessment plans, maps, drawings and charts, and all assessment books, sheets, pages, cards and all other assessment records, including electronic records, belonging to or in the possession of the Crown in right of the Province are vested in the Corporation. R.S., c. 23, s. 178; 2006, c. 19, s. 53; 2012, c. 16, s. 41.

Governor in Council Regulations

104 (1) The Governor in Council may make regulations

(a) for the management, administration and conduct of the Director and assessors and those assisting the Director in the carrying out of the Director's duties pursuant to this Act;

(b) regarding any matter or thing that is necessary to assist, enable or require the classification of property for purpose of assessment as provided in this Act;

(c) prescribing a municipal taxation year as a base year for the purpose of Section 39;

- (d) prescribing classes of residential property and prescribing classes of taxable resource property to which Section 39 applies;
 - (e) prescribing additional classes of persons to whom Section 39 applies and prescribing additional rules for the operation of Section 39 with respect to those classes of persons;
 - (f) designating an enactment for the purpose of Section 39;
 - (g) prescribing a percentage for each municipal taxation year for the purpose of calculating the taxable assessed value of a property pursuant to Section 39;
 - (h) prescribing additional classes of persons to whom property may be transferred without effecting a change in the base year for the purpose of Section 39;
 - (i) respecting proof of ordinary residence in the Province;
 - (j) prescribing forms of notice for the purpose of Section 39;
 - (k) prescribing the number of rooms and other criteria for the purpose of defining a small-scale residential tourist accommodation establishment pursuant to Section 43;
 - (l) prescribing the forms to be used pursuant to this Act;
 - (m) providing for cost recovery for assessment services;
 - (n) establishing an agency for the delivery of assessment services and providing for the management of that agency by a board appointed by or on behalf of the Government or the municipalities of the Province, or both;
 - (o) respecting the powers, structure, administration and procedures of the Tribunal;
 - (p) defining any expression used but not defined in this Act;
 - (q) respecting any other matter or thing that is necessary to effectively carry out the intent and purpose of this Act.
- (2) In prescribing a class of property to which Section 39 applies, Section 39 may be made to apply to
- (a) all of the property of that class except that part that is assessable property of a kind specified in the regulations; or
 - (b) that part of the property of that class that is assessable property of a kind specified in the regulations.
- (3) Where additional classes of property to which or additional classes of persons to whom Section 39 applies are prescribed after the first municipal taxation year to which Section 39 applies, the regulations prescribing such additional classes must prescribe a base year for such classes.

(4) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. R.S., c. 23, ss. 179, 180; 2001, c. 3, s. 3; 2004, c. 10, s. 4; 2012, c. 16, s. 42; 2019, c. 10, s. 2.

Ministerial Regulations

105 (1) The Minister may make regulations prescribing the base cost and depreciation rate for the purpose of Section 26.

(2) Regulations made pursuant to subsection (1) may be made retroactive to January 1, 2000, or such later date as those regulations specify.

(3) The exercise by the Minister of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2000, c. 9, ss. 18, 19; 2002, c. 15, s. 3.

CHAPTER A-36

An Act Respecting Provincial Assets Management and Disposition

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Short title

1 This Act may be cited as the *Assets Management and Disposition Act*. 2007, c. 26, s. 1.

Manager of Assets

2 (1) The Minister of Justice shall appoint a person to be the Manager of Assets, who is responsible for

(a) taking control of and managing or otherwise dealing with property that is subject to a management order obtained by the Attorney General under section 83.13, 462.331 or 490.81 of the *Criminal Code* (Canada);

(b) administering and managing property that is the subject of a restraining order obtained by the Attorney General under section 462.33 or 490.8 of the *Criminal Code* (Canada) or an interim preservation order, protection order or other order made under the *Civil Forfeiture Act*;

(c) preserving, managing, selling or otherwise disposing of or dealing with property forfeited to the Crown in right of the Province under section 83.14, 199, 462.37, 462.38, 462.43, 490, 490.01, 490.1, 490.2 or 490.1 of the *Criminal Code* (Canada) or the *Civil Forfeiture Act*; and

(d) taking control of, preserving, managing, selling or otherwise disposing of or dealing with any other property that is forfeited to the Crown in right of the Province under a prescribed provision of the *Criminal Code* (Canada) or the *Civil Forfeiture Act*.

(2) The Manager of Assets may preserve, manage, sell or otherwise dispose of or deal with any property described in clause (1)(c) or (d) that is not money in any manner that the Manager considers proper.

(3) Without limiting the generality of subsection (2), the Manager of Assets may

- (a) take possession of and preserve or manage the property for the length of time and on the terms that the Manager considers proper;
- (b) convert the property to money at the price and on the terms that the Manager considers proper;
- (c) sell, assign, dispose of, use, give or transfer the property, or any interest in the property, at the price and upon the terms that the Manager considers proper. 2007, c. 26, s. 2.

Forfeiture Account established

3 A special account called the Forfeiture Account is established, which consists of money paid into the account under Section 4 and which is not part of the General Revenue Fund. 2007, c. 26, s. 3.

Payments into Forfeiture Account

4 The Manager of Assets shall pay into the Forfeiture Account

- (a) cash forfeited to the Crown in right of the Province under the *Criminal Code* (Canada) or *Civil Forfeiture Act*; and
- (b) proceeds resulting from the disposition of property or the whole or a portion of an interest in property forfeited to the Crown in right of the Province under the *Criminal Code* (Canada) or *Civil Forfeiture Act*. 2007, c. 26, s. 4.

Payments out of Forfeiture Account

5 (1) Subject to this Act and the regulations, the Manager of Assets may make payments out of the Forfeiture Account for one or more of the following purposes:

- (a) expenses and costs incurred in administering the *Civil Forfeiture Act* and this Act;
- (b) compensation of eligible victims;
- (c) targeted crime prevention initiatives.

(2) The Manager of Assets shall, within 30 days of the end of each fiscal year of the Province, present a report to the Minister of Justice concerning the amounts paid into the Forfeiture Account during the year under Section 4 and the amounts and purposes of payments out of the Forfeiture Account during the year under subsection 5(1), and the Minister of Justice shall cause the report to be laid before the House of Assembly within 30 sitting days after the receipt thereof, or, if the House of Assembly is not then sitting, on any of the first 30 days next thereafter that the House is sitting. 2007, c. 26, s. 5.

Regulations

6 (1) The Governor in Council may make regulations

- (a) prescribing provisions of the *Criminal Code* (Canada) for the purpose of clause 2(1)(d);

- (b) defining “eligible victims” for the purpose of clause 5(1)(b);
- (c) determining the eligibility criteria for compensation of eligible victims;
- (d) respecting applications for payment out of the Forfeiture Account;
- (e) respecting payments out of the Forfeiture Account;
- (f) defining any word or expression used but not defined in this Act;
- (g) respecting any matter or thing the Governor in Council considers 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 a regulation within the meaning of the *Regulations Act*. 2007, c. 26, s. 6.

CHAPTER A-37

An Act Respecting Assignments of and Preferences by Insolvent Persons

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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 *Assignments and Preferences Act*. R.S., c. 25, s. 1.

Interpretation

2 In this Act,

“insolvent person” means any person who is in insolvent circumstances, is unable to pay the person’s debts in full or knows the person is about to become insolvent;

“judge” means a judge of the Supreme Court of Nova Scotia;

“property” means goods, chattels or effects, bills, notes, securities, shares, dividends, premiums or bonus in any bank, company or corporation, and every other description of property, real and personal;

“transfer” includes gift, conveyance, assignment, delivery over or payment of property. R.S., c. 25, s. 2.

CONFESSION OF JUDGMENT, ASSIGNMENT, ETC.,
IN FRAUD OF CREDITORS**Void confession of judgment**

3 Where an insolvent person, voluntarily or by collusion with a creditor or creditors, gives a confession of judgment, *cognovit actionem* or warrant of attorney to confess judgment with intent in giving the same to

(a) defeat or delay the insolvent person's creditors wholly or in part; or

(b) thereby give one or more of the insolvent person's creditors a preference over the person's other creditors, or over any one or more of such creditors,

every such confession, *cognovit actionem* or warrant of attorney to confess judgment is deemed and taken to be void as against the creditors of the person giving the same, and is invalid and ineffective to support any judgment or writ of execution. R.S., c. 25, s. 3.

Void property transfer

4 (1) Every transfer of property made by an insolvent person

(a) with intent to defeat, hinder, delay or prejudice the insolvent person's creditors, or any one or more of them; or

(b) to or for a creditor with intent to give such creditor an unjust preference over other creditors of such insolvent person, or over any one or more of such creditors,

is void as against the creditor or creditors injured, delayed, prejudiced or postponed.

(2) Where a transfer to or for a creditor has the effect of giving such creditor a preference over the other creditors of such insolvent person, or over any one or more of them, the transfer

(a) in and with respect to any action or proceeding which is brought, had or taken to impeach or set aside such transfer within 60 days after the giving of the same; or

(b) where such insolvent person makes an assignment for the benefit of the insolvent person's creditors within 60 days from the giving of such transfer,

is presumed to have been made with intent to give such creditor an unjust preference as aforesaid, and to be an unjust preference, whether such transfer was made voluntarily or under pressure.

(3) Where the word "creditor" in this Section indicates the creditor to whom a preference is given over the other creditors of the insolvent person, such word is deemed to include any surety, and the indorser of any promissory note or bill of exchange, who would upon payment by the indorser of the debt, promissory note or bill of exchange, in respect to which such suretyship was entered into or such indorsement given, become a creditor of the person giving the preference within the meaning of this Section. R.S., c. 25, s. 4.

ASSIGNMENTS FOR GENERAL BENEFIT OF CREDITORS
AND BONA FIDE TRANSACTIONS PRESERVED

Section 4 does not apply

5 Nothing in Section 4 applies to

(a) any assignment made to an official assignee for the county in which the debtor resides or carries on business for the purpose of paying rateably and proportionately, and without preference or priority, all the creditors of the debtor their just debts;

(b) any bona fide sale or payment made in the ordinary course of trade or calling to innocent purchasers or parties;

(c) any payment of money to a creditor; or

(d) to any bona fide gift, conveyance, assignment, transfer or delivery over of any property which is made in consideration of any present actual bona fide payment in money, or by way of security for any present actual bona fide advance of money, or which is made in consideration of any present actual bona fide sale or delivery of property, provided that the money paid, or the property sold or delivered, bears a fair and reasonable relative value to the consideration therefor. R.S., c. 25, s. 5.

Void assignment

6 Every assignment for the general benefit of creditors not made to the official assignee is void. R.S., c. 25, s. 6.

Invalid sale

7 In case of a valid sale of goods, securities or property, and payment or transfer of the consideration or part thereof, by the purchaser to a creditor of the vendor under circumstances which would render void such a payment or transfer by the debtor personally and directly, the payment or transfer even though valid as respect to the purchaser, is void as respect to the creditor to whom the same is made. R.S., c. 25, s. 7.

Return of void payment

8 Where a payment has been made that is void under this Act, and any valuable security was given up in consideration of such payment, the creditor is entitled to have the security restored, or its value made good to the creditor before, or as a condition of, the return of the payment. R.S., c. 25, s. 8.

Exemption

9 Nothing in the preceding provisions affects

(a) any payment of money to a creditor, where such creditor, by reason or on account of such payment, has lost or been deprived of, or has in good faith given up, any valid security which the creditor held for the payment of the debt so paid, unless the value of the security is restored to the creditor; or

(b) any substitution in good faith of one security for another for the same debt as far as the debtor's estate is not thereby lessened in value to the other creditors. R.S., c. 25, s. 9.

WHAT CONSTITUTES SUFFICIENT ASSIGNMENT

Valid assignment

10 Every assignment made under this Act for the general benefit of creditors is valid and sufficient if it is made to an official assignee and is in the following words—all my personal property which may be seized and sold under execution, and all my real property, credits and effects—or if it is in words to like effect, and an assignment so expressed vests in the assignee all the real and personal property, rights, credits and effects, whether vested or contingent, belonging at the time of the assignment to the assignor, except such as are by law exempt from seizure or sale under execution, subject, however, as regard to land under the *Registry of Deeds Act*. R.S., c. 25, s. 10.

Mistake or defect

11 No advantage may be taken or gained by any creditor of any mistake, defect or imperfection in any assignment under this Act for the general benefit of creditors if the same can be amended or corrected, and if there is any mistake, defect or imperfection therein, the same must be amended by a judge on any application of the assignee, or of any creditor of the assignor, on such notice being given to other parties concerned as the judge thinks reasonable, and the amendment, when made, relates back to the date of such assignment. R.S., c. 25, s. 11.

PUBLICATION AND REGISTRATION OF ASSIGNMENT

Publication of assignment

12 A notice of any assignment made for the general benefit of creditors under this Act must, as soon as convenient after the execution thereof, be published at least twice in the Royal Gazette, and not fewer than twice in one newspaper having at least a general circulation in the county in which the property assigned is situated. R.S., c. 25, s. 12.

Registration of notice of claim

13 A notice of claim in relation to an assignment for the general benefit of creditors must be registered in the Personal Property Registry pursuant to Section 3 of the *Creditors Relief Act*. 1995-96, c. 13, s. 77.

Order for publication or registration

14 Where the assignment is not registered and notice thereof published, an application may be made by anyone interested in the assignment to a judge to compel the publication and registration thereof, and the judge shall make an order in that behalf, with or without costs, or upon payment of costs by such person as in the judge's discretion the judge directs to pay the same. R.S., c. 25, s. 15.

Omission or irregularity

15 The omission to publish or register as aforesaid, or any irregularity in the publication or registration, does not invalidate the assignment. R.S., c. 25, s. 16.

DISPOSITION OF ESTATE

Removal of property and deposit of sale proceeds

16 (1) No property or assets of an estate assigned under this Act may be removed out of the Province without the order of a judge.

(2) The proceeds of the sales of such estate and any part thereof, and all money received on account thereof must be deposited by the assignee in an incorporated bank within the Province, and may not be withdrawn or removed therefrom without the order of a judge, except in payment of dividends and charges incidental to the winding up of the estate.

(3) Any assignee or other person acting in the assignee's stead or on the assignee's behalf who violates this Section is liable to a penalty of \$400 and one half of the penalty shall go to the person suing therefor and the other half belongs to the estate of the assignor, and in default of payment of the penalty and all costs which are incurred in any action or proceedings for the recovery thereof, such assignee or other person may be imprisoned for any period not exceeding 30 days, and is liable to forfeit the assignee's office of official assignee. R.S., c. 25, s. 17.

CHANGE OF ASSIGNEE

Substitution or addition of assignee

17 (1) A majority in number and value of the creditors who have proved claims to the amount of \$100 or upwards, may at their discretion substitute for the official assignee a person residing in the county in which the debtor resided or carried on business at the time of the assignment.

(2) An assignee may also be removed and another assignee may be substituted, or an additional assignee may be appointed by a judge. R.S., c. 25, s. 18.

Vesting in new assignee

18 Where a new assignee is appointed, the estate forthwith vests in the new assignee without a conveyance or transfer, and the new assignee shall register an affidavit of the assignee's appointment in the registry of deeds for the registration district in which the original assignment was filed, and the registration of such affidavit has the same effect as the execution and registration of a conveyance from the original assignee. R.S., c. 25, s. 19.

RECOVERY OF ESTATE

Right to sue

19 (1) Except as otherwise provided in this Section, the assignee has the exclusive right to sue for the rescission of agreements, deeds and instruments or other transactions made or entered into in fraud of creditors or made or entered into in violation of this Act.

(2) Where at any time any creditor desires to cause any proceedings to be taken which, in the creditor's opinion, would be for the benefit of the estate, and the assignee under the authority of the creditor refuses or neglects to take such proceeding, after being duly required to do so, the creditor has the right to

obtain an order of a judge authorizing the creditor to take the proceeding in the name of the assignee, but at the creditor's own expense and risk, upon such terms and conditions as to indemnify the assignee as the judge prescribes, and thereupon any benefit derived from the proceeding belongs exclusively to the creditor instituting the same for the creditor's benefit, provided that if, before such order is granted, the assignee signifies to the judge the assignee's readiness to institute such proceeding for the benefit of the creditors, the order must prescribe the time within which the assignee shall do so, and in that case the advantage derived from the proceeding, if instituted within such time, appertains to the estate.

(3) After an assignment under this Act has been made, the assignee has the right to be substituted for any party who has commenced proceedings under this Act for the rescission of agreements, deeds, instruments or other transactions made and entered into in fraud of creditors or in violation of this Act, upon such terms as the court or a judge orders. R.S., c. 25, s. 20.

Recovery of sale proceeds

20 (1) In the case of a transfer of any property that in law is invalid against creditors, where the person to whom the transfer was made has sold or disposed of, realized or collected the property or any part thereof, the money or other proceeds may be seized or recovered in any action by a person who would be entitled to seize and recover the property if it had remained in the possession or control of the debtor or of the person to whom the transfer was made, and such right to seize and recover belongs, not only to an assignee for the general benefit of the creditors of the debtor, but in case there is no such assignment, exists in favour of all creditors of such debtor.

(2) Where there has been no assignment for the benefit of creditors, and the proceeds are of a character to be seizable under execution, they may be seized under the execution of any creditor and are distributable amongst the creditors under the *Creditors Relief Act* or otherwise.

(3) Where there has been no assignment for the benefit of creditors, and whether the proceeds realized as aforesaid are or are not of a character to be seized under execution, an action may be brought therefor by a creditor, whether an execution creditor or not, on behalf of that creditor and all other creditors, or such other proceedings may be taken as may be necessary to render the proceeds available for the general benefit of the creditors.

(4) This Section does not apply as against innocent purchasers of the property. R.S., c. 25, s. 21.

WAGES AND SALARIES

Priority of payment

21 Whenever an assignment is made of any real or personal property for the general benefit of creditors under this Act, the assignee shall pay in priority to the claims of the ordinary or general creditors of the person making the same, the wages or salaries of all persons in the employment of such person at the time of making the assignment or within one month before the making thereof, not exceeding three months wages or salary and such persons are entitled to rank as ordinary or general creditors for the residue, if any, of their claims. R.S., c. 25, s. 22.

MEETINGS OF CREDITORS

Creditors' meeting called by assignee

22 It is the duty of the assignee immediately upon the execution of the assignment to become informed, by reference to the assignor and the assignor's records of account, of the names and residences of the assignor's creditors and, within five days from the date of assignment to convene a meeting of the creditors for the giving of directions with reference to the disposal of the estate, by mailing prepaid and registered to every creditor known to the assignee a circular calling a meeting of creditors to be held at a convenient place to be named in the notice, not later than 12 days after the mailing of such notice, and by advertisement in the Royal Gazette, and all other meetings to be held must be called in like manner. R.S., c. 25, s. 23.

Direction as to disposal of estate

23 Where a sufficient number of creditors do not attend such meeting, or fail to give directions with reference to the disposal of the estate, the disposal of the same is in the discretion of the assignee. R.S., c. 25, s. 24.

Creditors' request for meeting

24 (1) Where a request in writing, signed by a majority of the creditors having claims duly proved of \$100 and upwards, computed in the manner hereinafter directed, is made upon the assignee, the assignee shall within two days after receiving such request call a meeting of the creditors at a time not later than 12 days after the receipt by the assignee of such request.

(2) Where the assignee fails to call such meeting when so requested, the assignee is liable to a penalty of \$25 for every day after the expiration of the time limited for the calling of the meeting until the meeting is called. R.S., c. 25, s. 25.

VOTING AT MEETINGS

Voting

25 At any meeting of creditors, any creditor may vote in person, or by proxy authorized in writing, but no creditor whose vote is disputed is entitled to vote until the creditor has filed with the assignee an affidavit in proof of the creditor's claim, stating the nature and amount thereof. R.S., c. 25, s. 26.

Voting tally and entitlement to vote

26 (1) Except for the purpose of making a change of assignee, all questions discussed at meetings of creditors must be decided by the majority of votes, and for such purpose the votes of creditors shall be calculated as follows:

(a) for every claim of or over \$100, and not exceeding \$200, one vote;

(b) for every claim of or over \$200, and not exceeding \$500, two votes;

(c) for every claim of or over \$500, and not exceeding \$1,000, three votes;

(d) for every additional \$1,000, or fraction thereof, one vote.

(2) No person is entitled to vote on a claim which the person acquired after the assignment unless the entire claim is acquired, but this does not apply to persons acquiring notes, bills or other securities upon which they are liable.

(3) In case of a tie, the assignee, or if there are two assignees, then the assignee appointed by the creditors, or by the judge if none has been appointed by the creditors, shall have a casting vote. R.S., c. 25, s. 27.

RANKING AND PROOF OF CLAIMS

If individual and partnership debts

27 Where any assignor executing an assignment for the general benefit of the assignor's creditors under this Act owes debts both individually and as a member of a partnership or as a member of two different partnerships, the claims shall rank first upon the estate by which the debts they represent were contracted, and shall only rank upon the other after all the creditors of that other have been paid in full. R.S., c. 25, s. 28.

Secured claim

28 (1) Every creditor in the creditor's proof of claim shall state whether the creditor holds any security for the creditor's claim or any part thereof.

(2) Where such security is on the estate of the debtor, or on the estate of a third party for whom such debtor is only secondarily liable, the creditor shall put a specified value thereon, and the assignee under the authority of the creditors may either consent to the right of the creditor to rank for the claim after deducting such valuation, or the assignee may require from the creditor an assignment of the security at an advance of 10% upon the specified value, to be paid out of the estate as soon as the assignee has realized such security.

(3) In such case, the difference between the value at which the security is retained and the amount of the gross claim of the creditor is the amount for which the creditor ranks and votes with respect to the estate. R.S., c. 25, s. 29.

Claim based on negotiable instrument

29 (1) Where a creditor holds a claim based upon a negotiable instrument, upon which the insolvent is only secondarily liable, and that has not matured at the time of proving the claim, such creditor in the creditor's proof of claim shall set a value upon the liability of the person primarily liable thereon and, the difference between such value and the amount of the claim must, until the instrument matures, be the amount at which the claim is calculated for the purpose of voting at meetings and other purposes, except the payment of dividends thereon, or collocation in the dividend sheets.

(2) After the maturity of such instrument, the claim must be calculated for all purposes at the full amount, less any sum paid on account thereof by the person primarily liable on such negotiable instrument. R.S., c. 25, s. 30.

Failure to value security

30 (1) In case a person claiming to be entitled to rank on the estate assigned holds security for the person's claim or any part thereof of such a nature that the person is required by this Act to value the same, and where the person fails to value such security, a judge may, upon summary application by the assignee or by any other person interested in the debtor's estate, of which application 10 days notice must be given to such claimant, order that unless a specified value is placed on such security, and notified in writing to the assignee within a time to be limited by the order, such claimant is, in respect of the claim, or the part thereof for which the security is held, in case the security is held for part only of the claim, wholly barred of any right to share in the proceeds of such estate.

(2) Where a specified value is not placed on such security and notified in writing to the assignee according to the exigency of the order, or within such further time as the judge may by subsequent order allow, the claim, or the part, as the case may be, is wholly barred as against such estate, but without prejudice to the liability of the debtor therefor. R.S., c. 25, s. 31.

Set-off

31 The law of set-off applies to all claims made against the estate, and also to all actions instituted by the assignee, for the recovery of debts due to the assignor, in the same manner and to the same extent as if the assignor were plaintiff or defendant, as the case may be, except in so far as any claim is affected by this Act or any other enactment respecting frauds or unjust preferences. R.S., c. 25, s. 32.

Proof of claim

32 (1) Every person claiming to be entitled to rank on the estate assigned shall furnish to the assignee particulars of the person's claim, proved by affidavit, and such vouchers as the nature of the case admits of.

(2) Where any person claiming to be entitled to rank on the estate assigned does not within a reasonable time after receiving notice of the assignment, and of the name and address of the assignee, furnish to the assignee particulars and proofs of the person's claim as provided by this Act, the assignee may issue a final notice by registered letter mailed to such person requiring the person within a time stated in the notice to furnish such particulars and proofs of the person's claim on penalty of being debarred from participation in the proceeds of the estate, and where the particulars and proofs of the claim are not furnished within the time stated in such notice, the same is wholly barred and the assignee is at liberty to distribute the proceeds of the estate as if no such claim existed, but without prejudice to the liability of the debtor therefor.

(3) The time stated in such notice must in the case of creditors resident within the Province be not less than 30 days and of those resident outside the Province not less than 60 days. R.S., c. 25, s. 33.

Claim not accrued due

33 A person whose claim has not accrued due is nevertheless entitled to prove under the assignment and vote at meetings of creditors, but in ascertaining the amount of any such claim, a deduction for interest must be made for the time which has to run until the claim becomes due. R.S., c. 25, s. 34.

CONTESTATION OF CLAIMS

Contestation of claim

34 (1) At any time after the assignee receives from any person claiming to be entitled to rank on the estate proof of the person's claim, notice of contestation of the claim may, at the request of any creditor, be served by the assignee upon the claimant, and 30 days after the receipt of the notice, or such further time as a judge on application allows,

(a) an action must be brought by the claimant against the assignee to establish the claim; and

(b) a copy of the originating notice in the action must be served on the assignee,

and in default of such action being brought and the originating notice served within the time aforesaid, the claim to rank on the estate is forever barred.

(2) The notice by the assignee must contain the name and place of business of one of the solicitors of the Supreme Court of Nova Scotia, upon whom service of the originating notice may be made, and service upon such solicitor is deemed sufficient service of the originating notice.

(3) In any case where the assignee is unable to obtain personal service of the notice upon the claimant, the service of the same or of notice in lieu of service may be effected upon such other person or in such other manner as a judge on the application of the assignee directs. R.S., c. 25, s. 35.

DIVIDENDS

Accounts of assignee

35 Upon the expiration of one month from the first meeting of creditors, or as soon as may be after the expiration of such period, but not more than three months thereafter, and afterwards from time to time at intervals of not more than three months, the assignee shall prepare and keep constantly accessible to the creditors, accounts and statements of the assignee's doings as assignee, and of the position of the estate. R.S., c. 25, s. 36.

Payment of dividend

36 As large a dividend as can with safety be paid must be paid by every assignee under this Act within 12 months from the date of any assignment made thereunder, and earlier if required by vote of the creditors, and thereafter a further dividend must be paid every six months, and more frequently if required by the creditors, until the estate is wound up and disposed of. R.S., c. 25, s. 37.

Notice and payment to creditor

37 As soon as a dividend sheet is prepared, notice thereof must be given by letter mailed, postage prepaid, to each creditor, enclosing an abstract of receipts and disbursements, showing what interest has been received by the assignee for money in the assignee's hands, together with a copy of the dividend sheet, noting thereon the claims objected to, and stating whether any reservation has or has not been made therefor, and after the expiry of eight days from the date of mailing the

notice, abstract and dividend sheet as aforesaid, dividends on all claims not objected to within that period must be paid. R.S., c. 25, s. 38.

FINAL SETTLEMENT

Final distribution

38 (1) At the expiration of 18 months from the date of the assignment, and earlier if required by the creditors, the assignee shall prepare a final dividend sheet and abstract of receipts and disbursements, and take proceedings to finally wind up and dispose of the estate.

(2) Where the assignee does not take such proceedings for final distribution before the expiration of said period of 18 months, any creditor of the estate may, by originating notice, apply to a judge for an order fixing a time within which such final winding up and distribution must be made, and an assignee on the return of such originating notice is required to show cause why such final winding up and distribution was not made within the period of 18 months, and if good cause is not shown, the assignee is personally liable for the costs of such summons and the proceedings consequent thereon. R.S., c. 25, s. 39.

OFFICIAL ASSIGNEES

Official assignee

39 (1) The Governor in Council may in each county appoint one or more persons to be official assignees, who shall perform the duties and exercise the powers imposed by this Act.

(2) Every person so appointed shall before entering upon any duties or exercising any powers as an official assignee, file in the office of the Attorney General a bond to the Crown in such sum and with such sureties as is directed and approved by the Governor in Council, conditioned for the faithful performance of the person's duties as such official assignee. R.S., c. 25, s. 40.

Remuneration

40 (1) The assignee must receive such remuneration as is voted by the creditors at any meeting, subject to the review of a judge, if complained of by the assignee or any creditor.

(2) Where no remuneration is voted to the assignee by the creditors, the amount thereof must be fixed by a judge, not exceeding five per cent on the gross proceeds of the estate. R.S., c. 25, s. 41.

Examination of assignor

41 (1) Where there has been an assignment for the benefit of creditors, the assignee or assignees, upon resolution passed by a majority vote of the creditors present, or represented at a meeting of the creditors of the assignor regularly called, may without an order examine the assignor or any person who is or has been an agent, clerk, servant, officer or employee of any kind of the assignor, upon oath before a judge or before an official referee, or may by the order of the court or of the judge examine the assignor on oath before any other person to be specially named in the order, touching the estate and effects of the assignor, and as to the

property and means the assignor had when the earliest of the debts or liabilities of the assignor existing at the date of the assignment was incurred, and as to the property and means the assignor still has of discharging the assignor's debts and liabilities and as to the disposal the assignor has made of any property since contracting the debt or incurring the liability, and as to any and what debts are owing to the assignor.

(2) The rules and procedure from time to time in force in the Supreme Court of Nova Scotia for the examination of judgment debtors, as far as may be, apply to an examination under this Act of an assignor in all respects as if the assignor were a judgment debtor.

(3) In case such assignor does not attend as required by the said appointment or appointment and order, as the case may be, and does not allege a sufficient excuse for not attending, or if attending refuses to disclose the assignor's property or the assignor's transactions respecting the same, or does not make satisfactory answers respecting the same, or if it appears from such examination that such assignor, has concealed or made away with the assignor's property in order to defeat or defraud the assignor's creditors, or any of them, the court or a judge may order the assignor to be committed to the common jail of the county in which the assignor resides for any term not exceeding 12 months. R.S., c. 25, s. 42.

Service of appointment and conduct of examination

42 (1) Any person liable to be examined under Section 41 may be served with an appointment signed by the judge or officer, or a copy thereof, and where the examination is to take place under an order also with a copy of the order, such service is to be made at least 48 hours before the time appointed for the examination, and the person to be examined is to be paid the same fees as a witness is paid in cases in the Supreme Court of Nova Scotia.

(2) The examination must be conducted in the same manner as in the case of an oral examination of an opposite party. R.S., c. 25, s. 43.

Compelling attendance and production

43 Any person liable to be examined under Section 41 may be compelled to attend and testify and to produce books and documents in the same manner and subject to the same rules of examination and the same consequences of neglecting to attend or refusing to disclose the matters in respect to which the person may be examined as in the case of a witness in an action in the Supreme Court of Nova Scotia. R.S., c. 25, s. 44.

Attendance and production of documents

44 (1) Where any person has or is believed or suspected to have in the person's possession or power any book, document or paper of any kind relating in whole or in part to the debtor, the debtor's dealings or property, such person may upon resolution passed by a majority vote of the creditors present or represented at a regularly called meeting of the creditors of the assignor, exclusive of such person (if the person is a creditor) be required by the assignee to produce such statement or statements for the information of such assignee.

(2) Where the person fails to produce the book, document or other paper within four days of the person being served with a copy of the resolution, and

a request of the assignee in that behalf, or in case the assignee is not satisfied that full production has been made, the assignee may without an order examine the person before any of the officers mentioned in Section 41, touching any book, document or other paper which the assignee is supposed to have received.

(3) Any such person may be compelled to attend and testify and to produce upon the person's examination any book, document or other paper which under this Section the person is liable to produce, in the same manner and subject to the same rules of examination, and the same consequences of neglecting to attend or refusing to disclose the matters in respect of which the person may be examined, as in the case of a witness in an action in the Supreme Court of Nova Scotia. R.S., c. 25, s. 45.

Precedence of assignment

45 An assignment for the general benefit of creditors under this Act takes precedence of all attachments and of all executions not completely executed by payment, provided, however, that this Section does not apply to lands. R.S., c. 25, s. 46.

Death or removal of official assignee

46 (1) Where an assignment has been made to an official assignee, under provisions of this Act, all the estates, rights, duties and liabilities of such official assignee, upon the death, resignation or removal from office of such official assignee for the time being, devolve upon and become vested and continue in the succeeding official assignee, by virtue of the official assignee's appointment, and so in succession without any further assignment or transfer.

(2) All actions and other proceedings by or against such official assignee for the time being, as such official assignee, at the time of the official assignee's death, resignation or removal, must continue and be proceeded with by, in favour of and against the succeeding official assignee, saving to every court having jurisdiction in this behalf all such right and authority as the court would have or exercise if there had been no change in the holder of the office of the official assignee. R.S., c. 25, s. 47.

Inspectors

47 (1) At a meeting of the creditors held under Section 22 or at any other meeting of the creditors, inspectors may be appointed, and the assignee is subject at all times to the directions, orders and instructions the assignee may receive from time to time from such inspectors with regard to the modes, terms or conditions on which the assignee may dispose of the whole or any part of the estate.

(2) All books, accounts and correspondence of the assignee in respect to the estate must be constantly accessible to the inspectors.

(3) The creditors shall determine what compensation, if any, is allowed the inspectors, but no such payment or allowance to an inspector in any estate may exceed the sum of \$50. R.S., c. 25, s. 48.

CHAPTER A-38

An Act Respecting the Atlantic Provinces Harness Racing Commission

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Short title

1 This Act may be cited as the *Atlantic Provinces Harness Racing Commission Act*. 1993, c. 8, s. 1; 2014, c. 52, s. 2.

Purpose of Act

2 The purpose of this Act is to establish a harness-racing authority with jurisdiction to govern, regulate and ensure the integrity of harness racing in the Atlantic Provinces. 1993, c. 8, s. 2; 2002, c. 35, s. 1; 2014, c. 52, s. 3.

Interpretation

3 (1) In this Act,

“account” means an account under a telephone account betting system or under an on-track account betting system, as the case may be;

“Atlantic Provinces” means the Province of Nova Scotia, the Province of New Brunswick, the Province of Prince Edward Island and the Province of Newfoundland and Labrador;

“betting theatre” means an enclosed structure that is used for theatre betting, that is affixed to land and that contains seating for at least 75% of the number of persons permitted by the appropriate municipal authority to occupy the structure;

“Board” means the Provincial Board established or designated pursuant to Section 14;

“Commission” means the Atlantic Provinces Harness Racing Commission established pursuant to Section 4;

“conduct detrimental to harness racing” means any one or more of the following:

- (a) the fraudulent or corrupt influencing of the outcome of any harness race;
- (b) the making of a false registration; or
- (c) the doing of any other act injurious to the reputation of the sport of harness racing;

“Council” means the Council of Atlantic Premiers established by a memorandum of understanding dated May 15, 2000;

“Director of Racing” means the person appointed pursuant to Section 7;

“foreign-race inter-track betting” means pari-mutuel betting at one or more satellite tracks on a foreign race, where the money bet on each pool at each satellite track is combined with the money bet on the corresponding pool that is operated by the organization holding the foreign race to form one pool, from which the payout price is calculated and distributed;

“foreign-race separate-pool betting” means separate-pool betting in Canada on a foreign race;

“harness racing” means racing in which horses participate and on which pari-mutuel wagering is conducted;

“home-market area” means a geographical area that is assigned to an association in respect of a race-course within which the association is authorized to conduct telephone-account betting or theatre betting, as the case may be;

“inter-track betting” means pari-mutuel betting at one or more satellite tracks or in one or more places in one or more foreign countries on a race that is held at a host track, where the money bet on each pool at each satellite track or place is combined with the money bet on the corresponding pool at the host track to form one pool from which the pay-out price is calculated and distributed;

“Minister” means the member of the Executive Council charged with the administration of this Act;

“pari-mutuel betting” means a system of betting in which the winners divide the total amount of the bet, after deducting management expenses, in proportion to the sums individually wagered;

“person” includes a partnership or association;

“race track” means any place where harness racing is carried on, and includes the track, grounds, stables, grandstands, parking areas, offices and adjacent places used in connection with harness racing;

“revenue” includes financial assistance received and fees, fines, penalties and other charges received or collected;

“rules” means rules for the conduct of harness racing made, adopted or incorporated by reference pursuant to Section 10;

“separate-pool betting” means pari-mutuel betting at one or more satellite tracks or in one or more places in one or more foreign countries on a race that is held at a host track, where the money bet on each pool at each satellite track is retained at that satellite track or is combined with the money bet on the corresponding pool at another satellite track or tracks or at a place or places to form one pool from which the payout price is calculated and distributed;

“telephone-account betting” means pari-mutuel betting conducted by means of a telephone call by an account holder to an association;

“theatre betting” means pari-mutuel betting that is conducted in a betting theatre in accordance with the *Pari-Mutuel Betting Supervision Regulations* made pursuant to the *Criminal Code* (Canada);

“track operator” means a person who operates a race track.

(2) The Governor in Council may, by order, amend any of the definitions in subsection (1) to the extent that it is necessary to make the definition consistent with the *Pari-Mutuel Betting Supervision Regulations* made pursuant to the *Criminal Code* (Canada). 1993, c. 8, s. 3; 1994, c. 40, s. 1; 2002, c. 35, s. 2; 2014, c. 52, s. 4.

Commission

4 The Maritime Provinces Harness Racing Commission, established by the Council of Maritime Premiers, is continued as the Atlantic Provinces Harness Racing Commission with jurisdiction throughout the Atlantic Provinces and the Council of Atlantic Premiers shall appoint its members. 1993, c. 8, s. 4.; 2014, c. 52, s. 5.

Composition, appointment, term of office and vacancies

5 (1) The Commission consists of eight members, of whom two are nominated by the Governor in Council on the recommendation of the Minister.

(2) The Council shall

(a) appoint a Chair from among the members of the Commission and, subject to subsection (4), determine the term of office as Chair;

(b) determine the remuneration and expense allowance payable to members, the Chair and the Director of Racing; and

(c) determine the location of the head office of the Commission.

(3) The Council may delegate any of its functions pursuant to this Act to a committee composed of the ministers of the Crown for the time being responsible for harness racing in each of the Atlantic Provinces.

(4) The members of the Commission hold office for such term, not exceeding three years, as is determined at the time of appointment.

(5) A member is eligible for reappointment but no member shall serve for a continuous period exceeding nine years.

(6) Notwithstanding subsection (4), a member remains in office until the member resigns or is replaced.

(7) Where a vacancy occurs during the term of office of a member, the Council may appoint a person for the remainder of the term of that member.

(8) A member may be removed from office by the Council.

(9) A vacancy does not impair the right of the remaining members to act.

(10) The members shall appoint a Vice-chair from among the members who shall perform the duties of the Chair if the Chair is unable to act by reason of illness, absence or other cause. 1993, c. 8, s. 5; 2014, c. 52, s. 6.

Meetings, quorum and voting

6 (1) The Commission shall meet as required at the call of the Chair, at times and places designated by the Chair.

(2) Five members of the Commission constitute a quorum if at least one member from each of the Atlantic Provinces is present.

(3) Subject to subsection (4), at any meeting of the Commission each member of the Commission present at the meeting, other than the Chair, has one vote and a majority vote determines any question.

(4) The Chair shall vote only for the purpose of breaking a tie. 1993, c. 8, s. 6; 2014, c. 52, s. 7.

Director of Racing and other personnel

7 (1) The Commission shall appoint a Director of Racing, who is the chief administrative officer of the Commission.

(2) The Commission may employ such other persons as are required for the proper conduct of its business.

(3) Persons employed by the Commission pursuant to subsections (1) and (2) shall be employed on the same terms and conditions of service as are applicable to employees of the Council. 1993, c. 8, s. 7.

Remuneration, expenses, fiscal year, budget and financial assistance

8 (1) The remuneration and expenses of the members of the Commission and of the persons employed by the Commission, and generally all costs, charges and expenses incurred and payable in respect of the conduct of the business of the Commission, must be paid out of the revenue of the Commission.

(2) The fiscal year of the Commission ends on March 31st of each year.

(3) The Commission shall prepare an annual budget, which must be submitted to the Council and included in the budget of the Council submitted to the Governor in Council.

(4) The Council may, from time to time, provide to the Commission such financial assistance as is considered appropriate by the Council. 1993, c. 8, s. 8; 2014, c. 52, s. 8.

Banking, accounts and audit

9 (1) The Commission shall maintain in its own name one or more accounts in any chartered bank, credit union or trust company.

(2) Notwithstanding the *Finance Act*, all revenue realized by the Commission through the conduct of the business of the Commission or otherwise must be deposited to the credit of the accounts established pursuant to subsection (1) and may be used by the Commission in carrying out its objects and exercising its powers.

(3) The accounts of the Commission must be audited annually by an independent auditor appointed by the Council. 1993, c. 8, s. 9; 1994, c. 40, s. 2; 2010, c. 2, s. 116.

Powers of Commission

10 The Commission may

(a) govern, regulate and supervise harness racing in all of its forms relevant and related to pari-mutuel betting;

(b) govern and regulate inter-track betting, separate-pool betting, foreign-race inter-track betting and foreign-race separate-pool betting in accordance with the *Pari-Mutuel Betting Supervision Regulations* made pursuant to the *Criminal Code* (Canada);

(c) govern and regulate the operation of betting theatres authorized by the Governor in Council in accordance with the *Pari-Mutuel Betting Supervision Regulations* made pursuant to the *Criminal Code* (Canada);

(d) govern, regulate and supervise the operation of race tracks;

(e) recommend home-market areas to the Canadian Pari-Mutuel Agency for the purpose of telephone-account betting and theatre betting in accordance with the *Pari-Mutuel Betting Supervision Regulations* made pursuant to the *Criminal Code* (Canada);

(f) establish uniform rules for the conduct of harness racing;

(g) license track operators and impose such terms and conditions on a licence as the Commission considers appropriate;

(h) license betting theatres in accordance with the *Pari-Mutuel Betting Supervision Regulations* made pursuant to the *Criminal Code* (Canada) and impose such terms and conditions on a licence as the Commission considers appropriate;

- (i) license owners, trainers, drivers, grooms and such other persons in or about race tracks and impose such terms and conditions on a licence as the Commission considers appropriate;
- (j) on written application to the Commission by the person affected, revoke, suspend or vary a term or condition imposed on a licence by the Commission;
- (k) fix and collect fees or other charges for licences and prescribe the form of licences and the conditions under which licences may be issued;
- (l) refuse the granting of any licence;
- (m) make, adopt or incorporate by reference rules for the conduct of harness racing;
- (n) fix, impose and collect fines, not exceeding \$5,000, and other penalties for the violation
 - (i) of any term or condition imposed by the Commission,
 - (ii) of any rule made, adopted or incorporated by reference by the Commission, and
 - (iii) of an order of the Commission, or of a harness-racing judge or Board to which the Commission has delegated powers pursuant to this Act;
- (o) recruit, train, evaluate, license and employ harness-racing judges and such other officials and staff as the Commission considers appropriate to attend at harness-racing meets on behalf of the Commission;
- (p) approve the appointment of race-track officials and employees whose duties relate to the actual running of harness races;
- (q) require licensed track operators to keep books of account in a manner satisfactory to the Commission;
- (r) inspect at any reasonable time books of account referred to in clause (q);
- (s) investigate any action by a person licensed or required to be licensed by the Commission that allegedly constitutes conduct detrimental to harness racing and, for that purpose, engage the services of a licensed private investigator;
- (t) hold hearings relating to the carrying out of the powers of the Commission;
- (u) without limiting the generality of the power to hold hearings pursuant to clause (t), hold a hearing in respect of a person who is licensed or required to be licensed by the Commission or who participates in harness racing at any track when
 - (i) a written and signed complaint is made to the Commission concerning any action of the person that may indicate conduct detrimental to harness racing, or
 - (ii) the Commission has reasonable and probable grounds to believe that the person has engaged in conduct detrimental to harness racing;
- (v) at the conclusion of a hearing, suspend or revoke any licence;

(w) on written application to the Commission by the person affected, reinstate a licence that has been suspended or revoked and impose such terms and conditions on the reinstated licence as the Commission considers appropriate;

(x) where it delegates to a harness-racing judge or to the Board the power to hold a hearing, delegate to the judge or the Board any of its powers and duties in relation to hearings;

(y) intervene as a facilitator or mediator for the purpose of convening parties to attempt to bring resolution to matters in dispute where it considers it necessary for the governance, regulation and integrity of harness racing and delegate this power to any person;

(z) make bylaws for the conduct of the business of the Commission and for the control and direction of the work of the Commission, including for the conduct of hearings;

(aa) do such other things relating to harness racing or to the operation of race tracks as are authorized or directed by the Governor in Council. 1994, c. 40, s. 3; 2002, c. 35, s. 3.

Delegation of powers by Commission

11 The Commission may delegate to harness-racing judges such of the following powers as the Commission considers appropriate:

(a) the power to enforce the carrying out and observance of the rules, terms and conditions established by the Commission;

(b) the power to impose and collect fines and other penalties for the contravention of any rule, term or condition established by the Commission;

(c) the power to hold hearings in respect of the contravention of any rule, term or condition established by the Commission. 1993, c. 8, s. 13.

Powers of Commission respecting hearing

12 (1) In relation to any hearing pursuant to this Act, the Commission may summon any person, by summons to witness signed by the Chair of the Commission and require such person to give evidence on oath or affirmation and to produce such documents and things as the Commission considers necessary for the hearing.

(2) The Commission shall give any person in respect of whom a hearing is held an opportunity to give evidence on oath or affirmation, to cross-examine witnesses and to call witnesses to give evidence on oath or affirmation. 1994, c. 40, s. 5.

Review of decision

13 Any person who is aggrieved by a decision made by a person pursuant to a delegation made pursuant to Section 11 may, within 48 hours after being notified of the decision, request in writing a hearing by the Commission, in which case the Commission shall, as soon as practicable, hold a hearing and may exercise the powers of the Commission pursuant to Section 10 at that hearing as if those powers had not been delegated. 1994, c. 40, s. 6.

Provincial Boards

14 The Commission may establish in each of the Atlantic Provinces a Provincial Board or may designate an existing board to act as a Provincial Board and may delegate any of its functions pursuant to clause 10(u) and Section 13 to that Board. 1993, c. 8, s. 17; 1994, c. 40, s. 7; 2014, c. 52, s. 9.

Annual report to and requests for information by Council

15 (1) The Commission shall, on or before June 30th in each year, submit to the Council an annual report containing

(a) a review of the Commission's activities during the preceding fiscal year;

(b) recommendations with respect to the operation, governance and regulation of harness racing in the Atlantic Provinces; and

(c) the audited financial statements of the Commission for the preceding fiscal year.

(2) Notwithstanding subsection (1), the Council may, from time to time, request information respecting harness racing in the Atlantic Provinces and the Commission shall provide the information.

(3) The Minister shall table the annual report in the House of Assembly within 15 days after the Minister receives it or, if the House is not then sitting, within 15 days after the commencement of the next sitting thereof. 1993, c. 8, s. 19; 2002, c. 35, s. 4; 2014, c. 52, s. 10.

Exemption from Regulations Act

16 The *Regulations Act* does not apply to

(a) a term or condition imposed pursuant to this Act;

(b) a rule made, adopted or incorporated by reference pursuant to this Act;

(c) a form or condition prescribed pursuant to this Act; or

(d) a bylaw or order made pursuant to this Act. 1994, c. 40, s. 9.

CHAPTER A-39

An Act Respecting the Atlantic Provinces Special Education Authority

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Short title

1 This Act may be cited as the *Atlantic Provinces Special Education Authority Act*. R.S., c. 194, s. 1; 2010, c. 53, s. 2.

Purpose of Act

2 The purpose of this Act is to provide through the co-operative efforts of the Provinces of Nova Scotia, New Brunswick, Prince Edward Island and Newfoundland and Labrador educational services, programs and opportunities for persons with a low-incidence sensory impairment in the said Provinces and for facilities and personnel for the operation and administration of the same and for the financing thereof. R.S., c. 194, s. 2; 2010, c. 53, s. 3.

Interpretation

3 In this Act,

“Atlantic Provinces” means the Provinces of Nova Scotia, New Brunswick, Prince Edward Island and Newfoundland and Labrador;

“Authority” means the Atlantic Provinces Special Education Authority;

“Board” means the Board of Directors of the Atlantic Provinces Special Education Authority;

“centre” means a centre established for the purpose of this Act;

“Government” means the Government of Nova Scotia;

“Minister” means the Minister of Education and Early Childhood Development;

“person with a low-incidence sensory impairment” means a person who is deaf, deaf-blind, hard of hearing, blind or visually impaired and, except in subsection 10(3), under the age of 21;

“twenty-one years” means 21 years and, for the purpose of this Act, Section 3 of the *Age of Majority Act* does not apply. R.S., c. 194, s. 3; 1990, c. 29, s. 1; 2010, c. 53, s. 4; 2011, c. 51, s. 1.

References to school board, superintendent and chair

4 In this Act, as the circumstances require,

(a) a reference to a school board is to be read as a reference to an education entity, as defined in the *Education Act*;

(b) a reference to a superintendent is to be read as a reference to a regional executive director of education, as defined in the *Education Act*; and

(c) a reference to a chair of a school board is to be read as a reference to the Minister. 2018, c. 1, Sch. A, s. 102.

SPECIAL EDUCATION AUTHORITY

Atlantic Provinces Special Education Authority

5 (1) A body corporate to be known as the Atlantic Provinces Special Education Authority is established with perpetual succession.

(2) The persons who are appointed to be directors of the Authority must be members of the corporation. R.S., c. 194, s. 4.

Board of Directors

6 (1) The administration, management, general direction and control of the affairs of the Authority is vested in a Board of Directors consisting of 12 members.

(2) The members of the Board are

(a) the Deputy Minister of Education for each of the Atlantic Provinces; and

(b) two persons appointed by each of the governors in council of the Atlantic Provinces.

(3) The term of office of each member appointed by a governor in council is as set out in the appointment of the member and is for a period not in excess of two years and no member may be appointed for more than two consecutive terms.

(4) The Deputy Ministers of Education for the four Atlantic Provinces are constituted the Executive Committee of the Board.

(5) The terms of reference for the Executive Committee are to consider and present recommendations to the Board on major matters having an overall impact on the management and operation of the Authority.

(6) The Board shall appoint advisory committees as may be required to carry out the work of the Authority. R.S., c. 194, s. 5; 1990, c. 29, s. 2.

BUILDINGS AND EQUIPMENT

Powers of Governor in Council and Authority

7 (1) The Governor in Council may purchase, lease or otherwise acquire, hold and improve land and buildings, and may construct, alter, improve and equip buildings for the purpose of the Authority.

(2) With the approval of the governors in council of the Atlantic Provinces, the Authority may purchase, lease or otherwise acquire real and personal property and enter into contracts for the establishment, maintenance or operation of centres.

(3) All sums required for the acquisition and improvement of land and buildings for the Authority and for the establishment, maintenance and operation of centres must be paid out of such sums as are appropriated by the Legislature for these purposes. R.S., c. 194, s. 6; 2011, c. 51, s. 2.

CENTRES

Establishment of centres

8 (1) The facility for persons with low-incidence sensory impairments located at 5940 South Street in Halifax in the Halifax Regional Municipality is a centre under this Act.

(2) The Authority may establish in the Atlantic Provinces such further centres as are considered necessary by the Authority and approved by the governors in council of the Atlantic Provinces.

(3) All plans and specifications for each centre must be submitted by the province establishing the same to each of the other Atlantic Provinces for approval before entering into any construction agreement or undertaking. R.S., c. 194, s. 7; 2011, c. 51, s. 4.

OPERATION OF CENTRES

Personnel and their remuneration

9 (1) The Board shall

(a) appoint a person with the title of Superintendent who shall be responsible to the Board for the operation of all centres;

(b) appoint for each centre a director and such other officers, teachers, employees and specialists as, in the opinion of the Board, are necessary for the efficient conduct and operation of the centre; and

(c) appoint such other officers, teachers, employees and specialists as, in the opinion of the Board, are necessary to carry out the intent and purpose of this Act.

(2) The Superintendent, directors, officers, employees and specialists must have such qualifications as may be required by regulation and shall receive such remuneration as may be provided by regulation.

(3) For all purposes of the *Public Service Superannuation Act*, every person employed in the Province by the Board, except a person who is eligible to make a contribution to the Nova Scotia Teachers' Pension Fund, is deemed to be a person employed in the public service of the Province and service by such a person in the employment of the Board is deemed to be public service.

(4) The Board shall deduct from the salary of every person employed by the Board to whom the *Public Service Superannuation Act* applies, other than a person who is eligible to make contribution to the Nova Scotia Teachers' Pension Fund, for each pay period such amount as is required by or under that Act to be deducted from the salary of an employee in the public service of the Province and shall pay over the sums so deducted to the Minister of Finance and Treasury Board, which sums when so received must be paid into and form part of the Superannuation Fund under the *Public Service Superannuation Act*.

(5) Where, by the *Public Service Superannuation Act* or the *Teachers Pension Act*, any payment is directed to be made into the Public Service Superannuation Fund or the Nova Scotia Teachers' Pension Fund by the Govern-

ment or by the Minister of Finance and Treasury Board or by a board under the *Teachers Pension Act* in respect of any person employed by the Board, such payment must be made by the Board.

(6) The Authority is a “board” as defined in the *Teachers Pension Act* and the provisions of that Act apply to the Authority in respect of all its personnel who are teachers within the meaning of the *Teachers Pension Act*. R.S., c. 194, s. 9; 2011, c. 51, s. 6.

Education of persons with a low-incidence sensory impairment

10 (1) The Board shall admit to its centres or enroll in its programs or make other suitable educational provision for any person with a low-incidence sensory impairment and resident in the Atlantic Provinces who has been recommended by the school board responsible for providing educational services for that person if a request for admission or enrolment has been made by the chair of the school board of the municipal unit in which the person resides.

(2) The Board may admit to its centres or enroll in its programs or make other suitable educational provision for any person with a low-incidence sensory impairment from other provinces or territories of Canada, provided that the Authority receives annually in advance the full cost of such admission, enrolment or educational provision and care of such person.

(3) The Board may admit to its centres or enroll in its programs or make other suitable educational provision for any person with a low-incidence sensory impairment who is over the age of 21 years provided that the Authority receives the full cost thereof and the cost of care for the person.

(4) The Board is not required to admit to a centre nor enroll in a program nor make other suitable educational provision for a person with a low-incidence sensory impairment where suitable educational provision is available to that person in the school district where the person resides.

(5) Application for admission pursuant to subsections (2) and (3) may be made to the Board. R.S., c. 194, s. 11; 2010, c. 53, s. 6; 2011, c. 51, s. 7.

PARENTS, GUARDIANS AND SUPERINTENDENT OF SCHOOLS

Duties

11 (1) The parent or guardian of every person considered to be a person with a low-incidence sensory impairment shall notify the superintendent of schools serving the area in which the person resides of the name, address and age of such person.

(2) The superintendent of schools upon receipt of a notice under subsection (1) shall

(a) immediately arrange for an educational assessment of the person with a low-incidence sensory impairment;

(b) notify the Authority of the name, address and age of such person;

(c) recommend placement of such person in a suitable educational program in the school district in which the person resides if it is available and notify the parent or guardian of the person of such placement; and

(d) where no suitable educational program is available in the school district in which the person with a low-incidence sensory impairment resides, have the circumstances of the person brought to the attention of the chair of the school board for the municipal unit in which the person resides so that a request may be made to the Board for admission to a centre or enrolment in a program of the Board or some other suitable educational provision can be made by the Board.

(3) The Board shall notify the parent or guardian of a person with a low-incidence sensory impairment and the superintendent of schools in which the person resides of the admission of such person to its centre or the enrolment in its program or the educational provision made and, where transportation is required to effect the same, the school board for the municipal unit in which the person resides shall make such arrangements as are necessary to provide for such transportation and pay the cost thereof. R.S., c. 194, s. 12; 2010, c. 53, s. 7; 2011, c. 51, s. 8.

INTERPROVINCIAL SCHOOL FOR THE EDUCATION OF THE DEAF AND THE HALIFAX SCHOOL FOR THE BLIND

Vesting of property

12 (1) Notwithstanding Part VII of the *Corporations Miscellaneous Provisions Act* or any other enactment, all property, real and personal, within the Province belonging to or held by the Interprovincial School for the Education of the Deaf, at Amherst, and The Halifax School for the Blind, at Halifax, or belonging to or held by any corporation, board, committee or other body, whether incorporated or unincorporated, created in connection with the Interprovincial School for the Education of the Deaf, at Amherst, and The Halifax School for the Blind, at Halifax, is, on January 21, 1975, vested in the Crown in right of the Province, to be used, held and administered subject to this Act for the purpose of the Authority.

(2) Any property, real or personal, held on January 21, 1975, or thereafter acquired by any person in trust for or to the use of the Interprovincial School for the Education of the Deaf, at Amherst, and The Halifax School for the Blind, at Halifax, or any corporation, board, committee or other body created in connection with the Interprovincial School for the Education of the Deaf, at Amherst, and The Halifax School for the Blind, at Halifax, must be held in trust for or to the use of the Governor in Council.

(3) No action lies against any person by reason of anything done by such person with respect to the delivery or transfer of any property, real or personal, under subsection (2). R.S., c. 194, s. 13.

Powers of Governor in Council

13 (1) Subject to subsection (3), the Governor in Council may, for the purpose of the Authority, hold, deal with, use, sell or dispose of in such manner as the Governor in Council may consider advisable all or any of the property vested

in the Crown in accordance with subsection 12(1), and may invest, reinvest or otherwise administer all or any of the property or proceeds from any sale.

(2) The Governor in Council shall, for the purpose of the Authority, hold, use, administer and apply any income or benefit accruing by virtue of any trust received pursuant to subsection 12(2) in accordance with the provisions of the instrument creating the trust.

(3) Notwithstanding subsection (2), the Attorney General may make an application to the Supreme Court of Nova Scotia under the *Variation of Trusts Act* in respect of any trusts received pursuant to subsection 12(2) and the Supreme Court, upon hearing such application and such evidence as it considers fit, may vary or revoke all or any of the said trusts or expand the powers of the Governor in Council as trustee in the management or administration of any of the property of the said trusts so long as the proceeds thereof are used or applied for the benefit of the Authority. R.S., c. 194, s. 14.

Administration of sum

14 (1) The sum not exceeding \$50,000 authorized by subsection 16(3) of the former *Interprovincial School for the Deaf Act* to be reserved and held out of the property so vested pursuant to subsection 15(1) of that Act to be used for the purpose of providing for retired teachers of the Interprovincial School for the Education of the Deaf, at Amherst, and The School for the Deaf, formerly at Halifax, children and other persons attending the Interprovincial School for the Education of the Deaf who are both blind and deaf or blind and deaf mute and such other purpose as the Board of Directors of the Interprovincial School for the Education of the Deaf had considered advisable immediately before January 21, 1975, is preserved.

(2) The Governor in Council may by order reserve and hold out of the property of The Halifax School for the Blind so vested pursuant to subsection 12(1) such sum as the Governor in Council considers fit for the purpose of providing for retired teachers of the Authority and The Halifax School for the Blind, at Halifax, children and other persons attending centres of the Authority and such other purposes as the Governor in Council may consider advisable.

(3) Any sum reserved and held pursuant to subsection (2) must be administered by the Minister of Finance and Treasury Board in accordance with the directions of the Governor in Council.

(4) Notwithstanding subsections (1) to (3), the Governor in Council may by order consolidate any sum preserved by subsection (1) or reserved and held out pursuant to subsection (2) into one fund or pay over to any other fund the sums so preserved or reserved and held out so long as the purpose for which the said sums are preserved or reserved and held out is effected. R.S., c. 194, s. 15; 2011, c. 51, s. 9.

Transfer of liabilities

15 On January 21, 1975, the Crown in right of the Province shall assume and become liable for all debts, obligations and liabilities of the Interprovincial School for the Education of the Deaf, at Amherst, and The Halifax School for the Blind, at Halifax, and any board, corporation, committee or other body, whether incorporated or unincorporated, created in connection with the Interprovincial

School for the Education of the Deaf, at Amherst, and The Halifax School for the Blind, at Halifax. R.S., c. 194, s. 16.

FINANCES

Capital financing

16 (1) The capital cost of the land, buildings and equipment, and without restricting the ordinary meaning of such words, including all expenses of whatever nature incurred by the Province in connection with or for land, buildings and equipment acquired for the purposes of the Authority must be paid by the Atlantic Provinces to the Province in the following proportions:

- (a) by the Province of Nova Scotia, 37%;
- (b) by the Province of New Brunswick, 30%;
- (c) by the Province of Newfoundland and Labrador, 28%;
- and
- (d) by the Province of Prince Edward Island, five per cent.

(2) In calculating the amount payable by the Atlantic Provinces pursuant to subsection (1), there must first be deducted from the total capital cost of the land, buildings and equipment, the market value of any assets received by the Province from the Interprovincial School for the Education of the Deaf, at Amherst, and The Halifax School for the Blind, at Halifax, provided that the value of any real property included among the assets is determined by the Minister for all purposes of this Act and such determination is final and binding on the Atlantic Provinces, except that the sums referred to in subsections 14(1) and (2) must be reserved out of the assets in accordance with and for the purposes set forth in the said Section 14.

(3) Payments in respect of the capital cost referred to in subsection (1) must be made by way of the Provinces of New Brunswick, Newfoundland and Labrador and Prince Edward Island paying to the Minister of Public Works for the Province of Nova Scotia, their respective share of such capital cost from month to month as the Province of Nova Scotia makes such capital expenditures. R.S., c. 194, s. 17; 2010, c. 53, s. 8.

Operating and maintenance costs

17 (1) The annual cost incurred by the Authority for its operation and maintenance, after deducting from such cost any revenue received by the Authority on account of operating expenses from any source other than the Atlantic Provinces, must be paid by the Atlantic Provinces.

(2) The share of each of the Atlantic Provinces payable pursuant to subsection (1) must be in accordance with the formula agreed to from time to time by the Atlantic Provinces on the recommendation of the Authority and contained in an agreement entered into pursuant to Section 21.

(3) For the purpose of this Act, operating and maintenance costs extend to all expenses of whatever nature that the Authority incurs for or in connection with its centres, its programs and educational provisions and equipment subsequent to the outlay of capital cost referred to in subsection 16(1).

(4) A payment made to the Authority by a municipality in the Atlantic Provinces pursuant to the laws of the province of which the municipality is a part is treated as a payment from the province of which the municipality is a part for the purpose of this Section.

(5) Payments in respect of annual operating and maintenance costs pursuant to this Section must be made monthly by each of the Atlantic Provinces on presentation to each of the Atlantic Provinces by the Authority of accounts showing such operating and maintenance costs and expenditures and the share of each of the Atlantic Provinces in respect thereof. R.S., c. 194, s. 18; 2011, c. 51, s. 10.

Title to property

18 The title to the land, buildings and equipment acquired for the purpose of the Authority is vested and remains in the Crown in right of the Province, provided that when the Provinces of New Brunswick, Newfoundland and Labrador and Prince Edward Island pay to the Province of Nova Scotia their share of capital expenditures for the land, buildings and equipment, the title to the land, buildings and equipment is thereafter held by the Crown in right of the Province in trust for the Atlantic Provinces, the interest of the respective provinces being in proportion to their contributions to the capital cost for the land, buildings and equipment. R.S., c. 194, s. 19; 2010, c. 53, s. 9.

REGULATIONS

Regulations

19 (1) Subject to the approval of the Governor in Council, the Board may make regulations

- (a) for the management, administration and conduct of the Authority;
- (b) prescribing the duties of the Superintendent, the directors, the officers, teachers, employees and specialists of the Authority;
- (c) generally respecting the conduct and management of the Authority and the care and custody of the person with a low-incidence sensory impairment admitted to its centres or enrolled in its programs or for whom other suitable educational provision is made;
- (d) defining any expression used in this Act and not herein defined;
- (e) respecting any other matter or thing that is necessary to effectively carry out the intent and purpose of this Act.

(2) The exercise by the Board of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. R.S., c. 194, ss. 20, 21; 2010, c. 53, s. 10; 2011, c. 51, s. 11.

AGREEMENTS

Agreements

20 (1) The Minister, with the approval of the Governor in Council, may enter into and amend agreements with the ministers of education of the Provinces of New Brunswick, Newfoundland and Labrador and Prince Edward Island to carry out the intent and purpose of this Act.

(2) In addition to the authority contained in subsection (1), the Minister, with the approval of the Governor in Council, may enter into and amend agreements with

- (a) the Government of Canada;
- (b) the government or governments of any other province;
- (c) any municipality or municipalities;
- (d) any person or persons,

to carry out the intent and purpose of this Act and may by such an arrangement establish intergovernmental or other committees to co-ordinate or implement programs relating to the objectives of this Act and to maintain continuing consultation and advice on policies and programs relating to the objectives of this Act. R.S., c. 194, s. 22; 2010, c. 53, s. 11.

GOVERNOR IN COUNCIL

Powers of Governor in Council

21 The Governor in Council is empowered to

- (a) do every act and exercise every power and expend every sum of money necessary or proper for the purpose of implementing in every respect every obligation assumed by the Province under this Act;
 - (b) do and perform the acts, matters or things in this Act provided to be done or performed by the Province in the manner and with the effect and under the conditions stipulated and provided in this Act; and
 - (c) authorize the Minister to make any request, to give any notice or direction, to grant or withhold any approval or consent or to do any other act or thing required or permitted to be done by the Province under this Act. R.S., c. 194, s. 23.
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CHAPTER A-40

An Act Respecting the Practice of Audiology and Speech-language Pathology

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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 *Audiologists and Speech-language Pathologists Act*. 2015, c. 3, s. 1.

Interpretation

2 In this Act,

“approved education program” means a degree program in the profession for which a licence is sought, that is approved by the Board;

“Association” means the Speech and Hearing Association of Nova Scotia;

“audiologist” means a person who holds a licence to practise audiology and, for greater certainty, includes an audiologist who is practising audiology in a healthcare or education setting, private practice or another setting;

“Board” means the Board of the College;

“bylaw” means a bylaw of the College;

“Cerumen Management Committee” means the Cerumen Management Committee established pursuant to Section 70;

“client” means an individual, student, patient, group, community or population that is the recipient of audiology or speech-language pathology services and, where the context requires, includes a substitute decision-maker for the recipient of any such services;

“College” means the Nova Scotia College of Audiologists and Speech-Language Pathologists;

“competence” means the ability to integrate and apply the knowledge, skills and judgement required to practise safely and ethically in a designated role and practice setting;

“complaint” means a notice in writing indicating possible professional misconduct, conduct unbecoming the profession, incompetence or incapacity of a member;

“conduct unbecoming the profession” means conduct in a member’s personal or private capacity that tends to bring discredit upon the profession;

“electronic means” means the use of telephone, facsimile, television, video conferencing, cable, internet, intranet or any other form of electronic or computerized communication;

“hearing”, when not used to describe the human facility or sense by which sound is perceived, means a process, before a professional conduct panel following the issuance of a notice of hearing, in which the parties lead evidence and make submissions to a professional conduct panel, but does not include the consideration by a professional conduct panel of a settlement proposal, an application for a consented-to revocation or any hearing or proceeding before an investigative panel;

“incapacity” means the status whereby a member has or had a medical, physical, mental or emotional condition, disorder or addiction that renders or rendered the member unable to practise with competence or that may endanger or has endangered the health or safety of individuals;

“incompetence”, in relation to a respondent, means the display of lack of knowledge, skill or judgement in the respondent’s care of a client or delivery of professional services that, having regard to all the circumstances, rendered it unsafe for the respondent to practise at the time of such care of the client or delivery of professional services or renders it unsafe for the respondent to continue in practice without remedial assistance;

“individual scope of practice” means the roles, functions and accountabilities that an individual is educated in and competent and authorized to perform;

“Investigative Committee” means the Investigative Committee established by this Act;

“investigative panel” means an investigative panel established by this Act;

“investigator” means a person designated by the Registrar to conduct or supervise an investigation into a complaint;

“judge” means a judge of the Supreme Court of Nova Scotia;

“legal proceeding” means any civil proceeding, discovery, inquiry, proceeding before any tribunal, board or commission or arbitration, in which evidence is or may be given, and includes an action or proceeding for the imposition of punishment by fine, penalty or imprisonment for the contravention of a Provincial enactment, but does not include any proceeding or hearing conducted pursuant to this Act or the regulations;

“licence” means a licence issued in accordance with this Act and the regulations that authorizes the holder of it to practise audiology or speech-language pathology, as the case may be;

“licensing sanction” means

(a) the imposition of conditions or restrictions on a licence by an investigative panel or a professional conduct panel or an equivalent body from another jurisdiction;

(b) a consensual reprimand ordered by an investigative panel or an equivalent body from another jurisdiction;

(c) a reprimand issued by a professional conduct panel or an equivalent body from another jurisdiction;

(d) a suspension of a licence by an investigative panel, a professional conduct panel or an equivalent body from another jurisdiction; or

(e) a revocation of registration by a professional conduct panel or an equivalent body from another jurisdiction;

“member” means a person whose name is entered in a register and, for the purpose of the provisions respecting professional conduct and the related regulations, includes a person who holds a temporary licence or temporary licence (graduate) at the time of an incident giving rise to a complaint;

“party” means the College or a respondent, as the context requires;

“practice” means the practice of audiology or the practice of speech-language pathology, as the context requires;

“practice of audiology” is the application of specialized knowledge, taught in an approved education program, of

(a) hearing and the peripheral and central auditory system, normal vestibular processes and disorders of the vestibular system; and

(b) audiologic procedures, including behavioural audiological tests, electrophysiological tests and amplification and other rehabilitation practices,

in order to

(c) assess hearing, vestibular function and tinnitus across the life span of a person, which may involve screening, identification, evaluation and diagnosis;

(d) plan, implement and evaluate behavioural interventions for hearing and vestibular disorders and tinnitus;

(e) plan, implement, dispense and evaluate the use of technical devices for managing hearing loss, including hearing aids and surgically implanted devices;

(f) provide cerumen management, if the individual has successfully completed a cerumen-management training program approved by the Cerumen Management Committee;

(g) provide counselling to clients about hearing health, hearing and vestibular disorders and tinnitus;

(h) conduct prevention, education and advocacy activities related to hearing health, hearing and vestibular disorders and tinnitus;

(i) collaborate with others, including caregivers, educators and healthcare providers, regarding management, teaching and rehabilitative strategies for children and adults who have hearing or vestibular disorders or tinnitus;

(j) develop and evaluate policies and systems related to hearing health, hearing and vestibular disorders and tinnitus; and

(k) conduct research and provide education, consultation, management, administration and regulation in relation to the matters described in clauses (a) through (j);

“practice of speech-language pathology” is the application of specialized knowledge, taught in an approved education program, of

(a) normal processes of human communication and swallowing;

(b) differences, atypical development and disorders of communication involving speech sound production, resonance, voice, fluency, cognition and language, including oral and written comprehension and expression; and

(c) disorders of swallowing and the mechanics of feeding,

in order to

(d) assess communication and swallowing disorders across the life span of a person, which may involve screening, identification, evaluation and diagnosis;

(e) plan, implement and evaluate behavioural interventions for disorders of communication and swallowing;

(f) plan, implement and evaluate the use of prosthetic and adaptive devices for communication and swallowing, including tracheoesophageal prostheses, speaking valves, electrolarynges, and augmentative and alternative communication systems;

(g) provide education, consultation and counselling about communication and swallowing disorders to clients, families, colleagues, healthcare providers, schools and government;

(h) conduct prevention, promotion and advocacy activities related to swallowing disorders and communication;

(i) collaborate with others, including caregivers, educators and healthcare providers, regarding speech and language facilitation, communication strategies and teaching strategies for children and adults who have communication disorders, and regarding management and rehabilitative strategies for children and adults who have swallowing disorders;

(j) develop and evaluate policies and systems related to communication and swallowing disorders; and

(k) conduct research and provide education, consultation, management, administration and regulation in relation to the matters referred to in clauses (d) to (j);

“profession” means the practice of audiology or speech-language pathology, or both, as the context requires;

“Professional Conduct Committee” means the Professional Conduct Committee appointed pursuant to this Act;

“professional conduct panel” means a professional conduct panel appointed pursuant to this Act;

“professional conduct process” means the process set out in the professional-conduct provisions of this Act and any related regulations;

“professional misconduct” includes such conduct or acts relevant to a profession that, having regard to all the circumstances, would reasonably be regarded as disgraceful, dishonourable or unprofessional, and, without limiting the generality of the foregoing, may include

- (a) failing to maintain the standards of practice;
- (b) failing to uphold any codes of ethics adopted by the College;
- (c) abusing a person verbally, physically, emotionally or sexually;
- (d) misappropriating personal property, drugs or other property belonging to a client or a member’s employer;
- (e) wrongfully abandoning a client;
- (f) neglecting to provide care to a client;
- (g) failing to exercise appropriate discretion in respect of the disclosure of confidential information;
- (h) falsifying records;
- (i) inappropriately using professional status for personal gain;
- (j) promoting for personal gain any drug, device, treatment, procedure, product or service that is unnecessary, ineffective or unsafe;
- (k) publishing, or causing to be published, any advertisement that is false, fraudulent, deceptive or misleading;
- (l) engaging or assisting in fraud, misrepresentation, deception or concealment of a material fact when applying for or

securing registration or a licence or taking any examination provided for in this Act, including using fraudulently procured credentials; and

(m) taking or using a protected title or describing the person's activities as a profession in any advertisement or publication, including business cards, websites or signage, unless the referenced activity falls within the definition of the relevant profession;

"professional services" means audiology or speech-language pathology services, as the context requires;

"protected title" means any of the titles or designations set out in subsections 19(2) and (3);

"register" means a register established pursuant to this Act;

"Registrar" means the Registrar of the College appointed pursuant to this Act;

"Registration Appeal Committee" means the Registration Appeal Committee appointed pursuant to this Act;

"Registration Committee" means the Registration Committee appointed pursuant to this Act;

"Reinstatement Committee" means the Reinstatement Committee appointed pursuant to this Act;

"respondent" means the person who is the subject of a complaint or an appeal pursuant to this Act or the regulations;

"roster" means the record of a category of licence established pursuant to this Act or the regulations;

"settlement proposal" means a proposal for the settlement of a complaint as prescribed by the regulations;

"speech-language pathologist" means a person who holds a licence to practise speech-language pathology and, for greater certainty, includes a speech-language pathologist who is practising speech-language pathology in a healthcare or education setting, private practice or another setting;

"standards of practice" means the entry-level professional practice expectations for any member in any setting or role, approved by the Board or otherwise inherent in the profession;

"witness" includes every person who, in the course of a legal proceeding, is examined for discovery, is cross-examined upon an affidavit made by that person, answers any interrogatories, makes an affidavit as to documents or is called upon to answer any question or produce any document, whether under oath or not, and includes the College or any representative of the College. 2015, c. 3, s. 2.

COLLEGE

Body corporate

3 (1) The Speech and Hearing Association of Nova Scotia is continued as a body corporate under the name of the Nova Scotia College of Audiology and Speech-Language Pathology and composed of the Association's members.

(2) All assets, property and liabilities held by the Association are vested in the College.

(3) The College has perpetual succession and a common seal, with the power to acquire, hold, lease, mortgage and otherwise dispose of real and personal property and to sue and be sued. 2015, c. 3, s. 3.

Duties of College

4 In order to

- (a) serve and protect the public interest in the practice of the professions;
- (b) subject to clause (a), preserve the integrity of the professions;
- and
- (c) maintain public confidence in the ability of the professions to regulate themselves,

the College shall

- (d) regulate the practices of audiology and speech-language pathology and govern its members through
 - (i) the registration, licensing, professional conduct and other processes set out in this Act and the regulations,
 - (ii) the establishment and promotion of standards of practice among its members,
 - (iii) the establishment and promotion of a code of ethics for its members, and
 - (iv) subject to clauses (a) to (c) and in the public interest, the advancement and promotion of the practice of the professions;
- and
- (e) do such other lawful acts and things as are incidental to the attainment of the purposes and objects set out in this Section. 2015, c. 3, s. 4.

Powers of College

5 In addition to any other power conferred by this or any other enactment, the College may do such things as it considers appropriate to advance the objects of the College and, without limiting the generality of the foregoing, may

- (a) purchase, take in, lease, exchange, hire, construct and otherwise acquire and hold, sell, mortgage, hypothecate, lease out and deal with any real or personal property;
- (b) draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange, warrants and other negotiable and transferable instruments;
- (c) engage such agents and employees as it, from time to time, considers expedient;
- (d) expend the money of the College in the advancement of its objects in such manner as it considers expedient;

- (e) establish and maintain such offices and agencies as it considers expedient;
- (f) invest and deal with any money and funds of the College that are not immediately required, in such manner as it considers expedient;
- (g) improve, manage, develop, exchange, dispose of, turn to account or otherwise deal with the real or personal property of the College;
- (h) borrow money for the use of the College on its credit, limit or increase the amount to be borrowed, issue bonds, debentures, debenture stock and other securities on the credit of the College and pledge or sell such securities for such sums or at such prices as it considers expedient;
- (i) secure the repayment of money borrowed, in such manner and upon such terms and conditions as it considers fit, and, in particular, by the execution and delivery of mortgages of all or any part of the real or personal property of the College, both present and future; and
- (j) do such things as are incidental or necessary to the exercise of the powers referred to in clauses (a) to (i). 2015, c. 3, s. 5.

Annual general meeting

6 There must be an annual general meeting of the College at such time and place as the Board prescribes. 2015, c. 3, s. 6.

Board

7 **(1)** There is a Board of the College constituted as provided by Section 8.

(2) The Board shall govern the College and manage its affairs and may take any action consistent with this Act and the regulations that it considers necessary for the promotion, protection, interest or welfare of the College, including

- (a) the setting of fees payable by applicants and members;
- (b) approving the processes for establishing, revising and monitoring the annual budget;
- (c) submitting to each annual general meeting of the College an audited financial statement of the College's operations for the past fiscal year;
- (d) appointing an auditor for the College;
- (e) proposing changes to this Act and the regulations; and
- (f) approving changes to the bylaws.

(3) The Board may take any action consistent with this Act by resolution passed by the Board. 2015, c. 3, s. 7.

Composition of Board

- 8** **(1)** The Board is composed of a minimum of six persons,
- (a) of whom at least two are members who are audiologists and at least two are members who are speech-language pathologists;

(b) including such additional number of members as is prescribed by the bylaws; and

(c) of whom at least one third are persons appointed by the Governor in Council who

(i) are not, at present or formerly, members, and

(ii) are able and willing to serve impartially, in the public interest.

(2) Notwithstanding subsection (1), the persons referred to in clauses (1)(a) and (b) must include at least two members who are practising in an education setting and at least two members who are practising in a healthcare setting.

(3) The criteria for the election or appointment of persons referred to in clause (1)(a) or (b) to the Board shall be prescribed in the bylaws.

(4) Persons referred to in clause (1)(a) or (b) must be elected or appointed or succeed to office on the Board in the manner prescribed by the bylaws and hold office for such terms as prescribed in the bylaws.

(5) Persons appointed pursuant to clause (1)(c) hold office for a two-year term.

(6) Notwithstanding subsection (5), persons appointed pursuant to clause (1)(c) continue to hold office until their successors are appointed or until they are reappointed. 2015, c. 3, s. 8.

Quorum

9 (1) A majority of the members of the Board constitutes a quorum.

(2) Notwithstanding subsection (1), where there is a vacancy in a position referred to in clause 8(1)(c), such vacancy does not count in determining a quorum. 2015, c. 3, s. 9.

Registrar of College

10 (1) The Board shall appoint a Registrar of the College and determine the term of office and the duties of the Registrar.

(2) The Registrar may delegate any functions assigned to the Registrar by this Act, the regulations or the bylaws.

(3) The Registrar is a non-voting member of the Board and does not form part of the quorum. 2015, c. 3, s. 10.

bylaws

11 The Board may make bylaws not inconsistent with this Act or the regulations

(a) respecting the holding of the annual general meeting and special meetings of the College, including the notice for such meetings, the con-

tent of such meetings, the quorum, the procedures to be followed and the manner of voting;

(b) respecting fees and expenses payable to persons sitting on the Board and any other committees established for the purpose of attending to the business of the College;

(c) establishing a nominations committee, including its composition and duties;

(d) establishing the composition and number of the Board members referred to in clause 8(1)(a) or (b), and the eligibility for election or appointment to the Board pursuant to that clause;

(e) establishing the timing and manner of the elections or appointments to the Board pursuant to clauses 8(1)(a) and (b);

(f) respecting the terms of office of the persons sitting on the Board pursuant to clause 8(1)(a) or (b), the manner in which vacancies on the Board may be filled and the manner of removing Board members;

(g) prescribing the manner in which resolutions are forwarded to the Board;

(h) prescribing the powers, duties and qualifications of the officers of the College;

(i) respecting the holding of Board meetings, including required meetings, the notice for such meetings, the procedure to be followed and the manner of voting;

(j) respecting the establishment of, quorum for, and powers and duties of such committees as may be appointed by the Board and providing for the holding and conduct of meetings of such committees;

(k) respecting the maintenance of a list of individuals authorized to provide cerumen management as approved by the Cerumen Management Committee;

(l) respecting the seal of the College;

(m) respecting the location of the head office of the College;

(n) respecting the approval of forms required for the conduct of the business of the College;

(o) approving a code of ethics and standards of practice for the professions;

(p) creating categories of affiliation with the College, including honorary and student categories, and prescribing the rights, privileges, qualifications and obligations of the persons so affiliated and the conditions for the entry and maintenance of such persons' names in these categories; and

(q) respecting all other things necessary for the administration of the affairs of the College. 2015, c. 3, s. 11.

Regulations

12 (1) With the approval of the Governor in Council, the Board may make regulations

- (a) respecting the registration and licensing of members and applicants for registration and licences, and regulating the professional conduct and reinstatement of members, including the educational preparation and training and other criteria required for registration and licensing, the titles and designations authorized for use by audiologists and speech-language pathologists and the investigative and hearing processes of the College;
- (b) respecting the powers, authority and processes of the Registrar, the Registration Committee and the Registration Appeal Committee relevant to registration and licensing matters;
- (c) respecting the membership of the Registration Committee and the Registration Appeal Committee;
- (d) prescribing categories of licences, the criteria for each category and the designations authorized for use by each category;
- (e) respecting the renewal of licences;
- (f) respecting the imposition of terms or conditions on a member's registration or licence;
- (g) creating one or more registers and rosters and prescribing the rights, privileges, qualifications and obligations of the members included in each register and roster and the conditions for the entry and maintenance of members' names in each register and roster;
- (h) respecting the information to be included in a register;
- (i) prescribing tasks authorized to be performed under supervision, and the degree of supervision required;
- (j) prescribing additional educational, experiential or other prerequisites necessary for a member to engage in practice;
- (k) respecting the powers, authority and processes of the College, the Registrar, the Investigative Committee, the Professional Conduct Committee and panels of those committees, as the case may be, relevant to complaints, professional conduct matters and settlement proposals;
- (l) respecting the appointment of non-members to committees;
- (m) respecting the investigation of complaints;
- (n) respecting the resolution of complaints;
- (o) respecting the holding of hearings concerning complaints;
- (p) respecting the revocation or suspension of licences and the reinstatement of such licences and allowing for conditions, limitations or restrictions to be attached to a reinstated licence;
- (q) allowing for an award of costs on a solicitor-client or other basis;
- (r) authorizing the establishment of a Fitness to Practice Program, including the creation of a Fitness to Practice Committee,

with such powers, authorities and duties as set out in the regulations to deal with issues of incapacity;

(s) providing that the licence of a member be suspended without notice or investigation upon contravention of any regulation that requires the member to pay a fee, file a document or do any other act by a specified or ascertainable date and providing for the reinstatement of a licence so suspended upon payment of such fee as the Board determines;

(t) respecting the ability of the Registrar, an investigative panel and a professional conduct panel to impose a fine if a member has engaged in practice while not holding a current licence;

(u) respecting the reporting and publication of decisions in disciplinary matters;

(v) providing for the audit of any person who holds a licence and of the person's practice environment;

(w) prescribing legislation, the contravention of which may, pursuant to Section 41, require a member to attend a hearing;

(x) prescribing the requirements, processes and obligations regarding incorporation of a practice;

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

(z) further defining any word or expression defined in this Act;

(aa) governing such other matters as the Board considers necessary or advisable for the effective discharge of its functions or the exercise of its powers.

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

(3) All regulations and bylaws of the Board must be available for inspection by any person, free of charge, at the head office of the College at all reasonable times during business hours. 2015, c. 3, s. 12.

REGISTRATION AND LICENSING

Board duties

13 (1) The Board shall keep such registers as are required by the regulations, in which the names of those persons who qualify for registration according to this Act and the regulations are recorded.

(2) The registers must include such other information required by the regulations.

(3) The Board shall keep a record available to the public showing such information required by the regulations.

(4) The Board shall appoint a Registration Committee and a Registration Appeal Committee, the membership of each of which must be as set out in the regulations.

(5) The Board shall appoint the Chair of the Registration Committee and the Chair of the Registration Appeal Committee.

(6) The Registrar, the Registration Committee and the Registration Appeal Committee shall perform such registration and licensing functions as are set out in this Act, the regulations and the bylaws.

(7) Subject to subsections (8) and (9), the Registrar, the Registration Committee and the Registration Appeal Committee have all the rights, powers and privileges of a commissioner appointed pursuant to the *Public Inquiries Act*, with the exception of the powers of contempt, arrest and imprisonment.

(8) The Registrar and each member of the Registration Committee is authorized to sign documents on behalf of the Registration Committee issued under the authority of the *Public Inquiries Act*, if the Chair of the Registration Committee has authorized the issuing of such documents.

(9) The Registrar and each person on the Registration Appeal Committee is authorized to sign documents on behalf of the Registration Appeal Committee issued pursuant to the authority of the *Public Inquiries Act*, if the Chair of the Registration Appeal Committee has authorized the issuing of such documents. 2015, c. 3, s. 13.

Categories of licence

14 (1) The categories of licences to be issued under each register are as set out in the regulations.

(2) The Board shall maintain a roster for each category of licence as provided by the regulations. 2015, c. 3, s. 14.

Conditions or restrictions on licence

15 (1) The Registrar shall register and issue a licence to every person who meets the criteria for registration and a licence as set out in the regulations.

(2) The Registrar may impose conditions or restrictions on the licence of a member with the consent of the member, if the Registrar considers such conditions or restrictions to be necessary in the interest of the public.

(3) Where the Registrar imposes conditions or restrictions with the consent of the member pursuant to subsection (2), the conditions or restrictions are not licensing sanctions.

(4) Conditions or restrictions may be imposed on the licence of a member without the consent of the member in such manner as is set out in the regulations. 2015, c. 3, s. 15.

Renewal of licences

16 The Registrar shall renew a licence when the holder of the licence meets the criteria for renewal as set out in the regulations. 2015, c. 3, s. 16.

Registration or licence review

17 Where an applicant

- (a) has been refused registration;
- (b) has been refused a licence; or
- (c) has had terms or conditions imposed on a licence without the consent of the applicant,

the Registrar shall advise the applicant of the review processes set out in the regulations. 2015, c. 3, s. 17.

Notice to surrender licence

18 The licence of an audiologist or speech-language pathologist may be surrendered by the audiologist or speech-language pathologist only after notice in writing to the Registrar and with the Registrar's consent. 2015, c. 3, s. 18.

PROTECTED TITLES AND PRACTICES**Protected titles and practices**

19 (1) No person shall engage in the practice of audiology or speech-language pathology unless the person

- (a) holds a licence endorsing the person as eligible to practise in that profession;
- (b) is a student in an approved education program in that profession, and is engaging in training authorized by that program; or
- (c) is otherwise authorized to engage in the practice of that profession as set out in this Act or the regulations.

(2) No person shall describe the person's activities as the "practice of audiology" or take or use the designation "Audiologist", "Hearing Aid Audiologist" or "Audiology Specialist", or any derivation, translation or abbreviation thereof, either alone or in combination with other words, unless that person

- (a) holds a current licence in the profession of audiology; or
- (b) is otherwise authorized to use such description or designation as set out in this Act or the regulations.

(3) No person shall describe the person's activities as the "practice of speech-language pathology" or take or use the designation "Speech-Language Pathologist", "Speech (language) Therapist", "Speech and Language Therapist" or "Speech and Language Clinician", or any derivation, translation or abbreviation thereof, either alone or in combination with other words, unless that person

- (a) holds a current licence in the profession of speech-language pathology; or

(b) is otherwise authorized to use such description or designation as set out in this Act or the regulations.

(4) In any advertisement or publication, including business cards, websites or signage, no person shall describe the person's activity as "audiology" or take or use the designation "Audiologist", "Hearing Aid Audiologist" or "Audiology Specialist", or any derivation, translation or abbreviation thereof, either alone or in combination with other words, unless the person's activity falls within the definition of the "practice of audiology".

(5) In any advertisement or publication, including business cards, websites or signage, no person shall describe the person's activity as "speech-language pathology" or take or use the designation "Speech-Language Pathologist", "Speech (language) Therapist", "Speech and Language Therapist" or "Speech and Language Clinician", or any derivation, translation or abbreviation thereof, either alone or in combination with other words, unless the person's activity falls within the definition of the "practice of speech-language pathology". 2015, c. 3, s. 19.

Scope of practice

20 No member shall engage in practice that falls outside that member's individual scope of practice. 2015, c. 3, s. 20.

Practice in and outside the Province

21 For the purpose of this Act and the regulations,

(a) a member in the Province who is engaged in practice by electronic means with clients outside of the Province is deemed to be in practice in the Province;

(b) a person, other than a member, who resides in a jurisdiction outside of the Province and who engages in practice by electronic means with clients within the Province is not in practice in the Province if the person is licensed pursuant to an enactment of the other jurisdiction;

(c) a person, other than a member, who resides in a jurisdiction outside of the Province and who engages in practice by electronic means with clients within the Province, while not holding a licence in the other jurisdiction, is deemed to be in practice in the Province; and

(d) nothing in this Act prohibits the practice of a profession in the Province or the recovery of fees or compensation for professional services rendered by a person registered in another jurisdiction and whose engagement requires that person to accompany and temporarily care for a client during the period of the engagement, if that person does not represent or purport to be a person registered pursuant to this Act. 2015, c. 3, s. 21.

Action to collect fees

22 Subject to clause 21(d), no person may bring an action in any court to collect fees, compensation or other remuneration for professional services, unless that person was the holder of the licence required pursuant to this Act at the time the professional services were performed. 2015, c. 3, s. 22.

Certified statement of membership

23 A statement certified under the hand of the Registrar respecting the membership and entry in the appropriate roster of a person's name is admissible in evidence as prima facie proof of that person's entry on such roster. 2015, c. 3, s. 23.

Public notice of conditions or restrictions

24 Where the right of a person to practise has been limited by the imposition of conditions or restrictions pursuant to this Act or the regulations, particulars of the conditions or restrictions imposed on that person must be noted in the records of the College and may be disclosed to the public in accordance with this Act. 2015, c. 3, s. 24.

Changes to member's registration

- 25** (1) The Registrar shall change a member's entry in a register if
- (a) information has been entered incorrectly;
 - (b) notification is received of the member's death;
 - (c) the registration of the member has been revoked;
 - (d) an investigative panel, as part of an informal resolution of a complaint, or a professional conduct panel authorizes the resignation of the member from a register; or
 - (e) the Registrar, as part of an informal resolution of a complaint or otherwise, has, at the request of the member, authorized the resignation of the member.

(2) Where a change has been made to a register pursuant to clause (1)(b),(c), (d) or (e) to remove a member's name from the register, the person ceases to be a member. 2015, c. 3, s. 25.

Removal and restoration of name on roster

- 26** (1) The Registrar shall remove the name of a member from a roster
- (a) if information has been entered incorrectly requiring the removal of the member's name;
 - (b) if the member no longer meets the criteria for entry on the roster;
 - (c) at the request of the member, if approved by the Registrar;
 - (d) for non-payment of fees or other assessments levied pursuant to this Act or the regulations;
 - (e) if the member has been suspended, for the term of the suspension;
 - (f) if the registration of the member has been revoked;
 - (g) if an investigative panel, a professional conduct panel or the Registrar authorizes the resignation of the member from a register; or

(h) upon the member's death.

(2) The name of a person removed from the appropriate roster pursuant to clause (1)(a), (b), (c), (d) or (e) must be restored upon

(a) payment of the prescribed fee; and

(b) compliance by the person with this Act and the regulations. 2015, c. 3, s. 26.

Procedure to restore name on register

27 (1) Where a person's name has been removed from a register pursuant to clause 25(1)(d) or (e) or from a roster pursuant to clause 26(1)(g), the person may apply to have the person's name restored to the register and the roster only if the panel or Registrar, as the case may be, when authorizing the person's resignation also authorized the person to reapply for membership.

(2) Where a person's name has been removed from a register pursuant to clause 25(1)(c) or from a roster pursuant to clause 26(1)(f), the person's name may be restored to the register only if the Reinstatement Committee determines that it may, and subject to any conditions or restrictions that the Reinstatement Committee directs. 2015, c. 3, s. 27.

Employer to ensure licences to practise current

28 (1) Every person, other than a client, who employs a person in the practice of a profession and every agency that procures employment for a person in the practice of a profession shall

(a) ensure that the person, at the time of employment and for each year employed thereafter, holds a current licence to practise in the profession as set out in the regulations; and

(b) where the person's employment is terminated or the person resigns because of allegations of professional misconduct, conduct unbecoming the profession, incompetence or incapacity, report the matter to the Registrar forthwith and provide a copy of the report to the person whose employment is terminated.

(2) Every person, other than a client, who employs a body corporate engaged in the practice of a profession and every agency that procures employment for a body corporate engaged in the practice of a profession shall comply with subsection (1) with respect to each person engaged in practice who is in the employ of the body corporate. 2015, c. 3, s. 28.

Disciplinary findings for practice outside Province

29 (1) A member who engages in practice outside the Province and who was subject to any disciplinary findings while outside the Province or has outstanding complaints from outside the Province shall not engage in practice upon returning to the Province before providing the Registrar with notice of such disciplinary findings or complaints and receiving from the Registrar a notice authorizing the member to resume practice in the Province.

(2) Where the Registrar receives a notice pursuant to subsection (1), the Registrar may file a complaint. 2015, c. 3, s. 29.

PROFESSIONAL CONDUCT

Purpose and procedure

30 (1) In accordance with the objects of the College, the purpose of the professional conduct process followed by the College is to inhibit professional misconduct, conduct unbecoming the profession, incompetence and incapacity.

(2) The College shall investigate, on its own initiative or on the complaints of others, alleged instances of professional misconduct, conduct unbecoming the profession, incompetence or incapacity and, when appropriate, dispose of the matter in accordance with the regulations.

(3) Except where considered prejudicial to the attainment of the objects of the College, the professional conduct process must take into account the potential for the rehabilitation of the member.

(4) A member shall co-operate with the College in the conduct of its professional conduct process. 2015, c. 3, s. 30.

Jurisdiction of College

31 Where a member ceases to be registered or licensed for any reason, such person remains subject to the jurisdiction of the College for the purpose of the professional conduct process, if the subject-matter of the professional conduct process arose out of the person's conduct while registered or licensed. 2015, c. 3, s. 31.

Investigative Committee

32 (1) The Board shall appoint an Investigative Committee composed of such number of members and non-members as the Board determines.

(2) The Board shall appoint a Chair and a Vice-chair of the Investigative Committee.

(3) The Vice-chair shall act as chair in the absence of the Chair.

(4) Where, for any reason, neither the Chair nor the Vice-chair is available for the purpose of Section 33, the Board may, for such purpose, appoint a member of the Investigative Committee as interim chair of the Investigative Committee. 2015, c. 3, s. 32.

Investigative panel

33 (1) The Chair of the Investigative Committee shall appoint an investigative panel of three persons from the Investigative Committee, one of whom must be a non-member and one of whom must be a member from the same profession as the respondent, to act as the Investigative Committee for purpose of the professional conduct process.

(2) The Chair of the Investigative Committee may sit on the panel and shall act as the chair of the panel in this event.

(3) Where the Chair of the Investigative Committee is not appointed to the panel, the Chair shall appoint a chair for an investigative panel.

(4) A quorum of an investigative panel consists of two persons, at least one of whom must be a member from the same profession as the respondent.

(5) Failure of one or more panel members to receive any notice of a meeting does not invalidate the proceedings at the meeting, and nothing herein precludes the panel members from waiving notice of meetings.

(6) All investigative panel decisions require the vote of a majority of the panel members.

(7) Where a proceeding is commenced before an investigative panel and the term of office of any person sitting on the investigative panel expires, that person may remain part of the panel until the proceeding is concluded. 2015, c. 3, s. 33.

Complaint

- 34 (1) A complaint may be initiated by
- (a) the Registrar;
 - (b) a committee of the College; or
 - (c) any other person.

(2) Where the College and the complainant agree, a complaint may be withdrawn. 2015, c. 3, s. 34.

Public Inquiries Act

35 An investigative panel and each of its members have the rights, powers, privileges and immunities of a commissioner appointed pursuant to the *Public Inquiries Act*, with the exception of the powers of contempt, arrest and imprisonment. 2015, c. 3, s. 35.

Investigative panel procedure

- 36 (1) An investigative panel may set its own procedure for meetings.

(2) An investigative panel retains jurisdiction over a matter until such time as a hearing commences before a professional conduct panel or the matter is otherwise resolved by a professional conduct panel or in accordance with this Act or the regulations. 2015, c. 3, s. 36.

Complaint procedure

37 Subject to subsection 34(2), upon receipt of a complaint, the complaint must be processed in accordance with the regulations. 2015, c. 3, s. 37.

Publication ban on decision

38 With respect to any decision issued by an investigative panel that is available to the public pursuant to this Act or the regulations, the panel may impose a publication ban on such portions of its decision as considered necessary by the panel. 2015, c. 3, s. 38.

Written decision and rights of respondent

39 (1) Where a complaint is forwarded to an investigative panel for disposition, the panel shall give its decision in writing, shall send a copy of the written decision, by registered mail or personal service, to the respondent and the complainant and may send some or all of the written decision to such other persons as the panel determines.

(2) In a proceeding before an investigative panel, a respondent has the right to

- (a) be represented by legal counsel or a union representative;
- (b) disclosure of the complaint;
- (c) notice of any other matters under investigation;
- (d) such other information as natural justice requires;
- (e) such other information as may be determined by the Registrar; and
- (f) a reasonable opportunity to present a response and make submissions. 2015, c. 3, s. 39.

Procedure following a finding that intervention required

40 (1) Where an investigative panel finds that there are reasonable and probable grounds to believe that

- (a) a member is exposing or likely to expose the public, clients, the profession or the member to harm or injury; and
- (b) intervention is required prior to the disposition of the matter by the investigative panel or a professional conduct panel,

the investigative panel may, at its discretion, direct the Registrar

- (c) to suspend a licence;
- (d) to impose restrictions or conditions on a respondent's licence; or
- (e) where the person does not hold a current licence, to suspend the ability of the person to obtain a licence,

pending or following the completion of an investigation and lasting until the suspension, restrictions or conditions are lifted, superseded or annulled by an investigative panel or a professional conduct panel, as the case may be.

(2) The member must receive, forthwith, in writing, notice with reasons for a decision made pursuant to subsection (1).

(3) Within 30 days of receiving written notice pursuant to subsection (2), the member may request, in writing, an opportunity to meet with the investigative panel.

(4) Where a request is received pursuant to subsection (3), the investigative panel

(a) shall provide an opportunity for the member to meet with the panel within 10 days of receiving the written request; and

(b) after meeting with the member, may confirm, vary or terminate the suspension or imposition of restrictions or conditions made pursuant to subsection (1).

(5) Where a meeting is held pursuant to subsection (4), the member has the right to

(a) be represented by legal counsel or a union representative;

(b) disclosure of the complaint, any written report of an investigator provided to the panel and any other document produced or received by the panel; and

(c) a reasonable opportunity to present a response and make submissions.

(6) Where an investigative panel makes a decision pursuant to subsection (1), the panel shall provide a copy of the decision to the complainant and the respondent and determine whether any portion of the panel's decision is to be provided to other affected individuals, other regulatory bodies in other jurisdictions, any past, present or intended employer of the respondent or the public. 2015, c. 3, s. 40.

Hearing for a person convicted of offence

41 (1) Notwithstanding anything contained in this Act or the regulations, where a person

(a) has been charged with, has pleaded guilty to or has been found to be guilty of any offence inside or outside of Canada that is inconsistent with the proper professional behaviour of a member, including a conviction pursuant to

(i) the *Criminal Code* (Canada),

(ii) the *Controlled Drugs and Substances Act* (Canada), or

(iii) such other legislation as is prescribed by the regulations,

unless a pardon has been issued or a record suspension has been ordered;

(b) has been found guilty of a disciplinary finding in another jurisdiction;

(c) has had a licensing sanction imposed by another jurisdiction; or

(d) is the subject of an investigation or disciplinary process in any jurisdiction,

and such person is a member or applies for registration or a licence or the renewal of a licence, the Registrar may, by such notice as the Registrar prescribes, require the person to attend a hearing before an investigative panel to fully disclose the facts and circumstances of any of the matters referred to in clauses (a) to (d).

(2) For the purpose of a hearing pursuant to subsection (1), the investigative panel may take any of the actions authorized to be taken by an investigative panel pursuant to this Act or the regulations.

(3) For the purpose of subsection (1), a certificate of conviction of a member is conclusive evidence that the member has committed the offence stated therein, unless it is proven that the conviction has been quashed or set aside.

(4) Where any of the criteria set out in clauses (1)(a) to (d) apply to a person holding a licence, the person shall report the matter to the Registrar immediately. 2015, c. 3, s. 41.

Confidential information, proceedings and decisions

42 (1) All complaints received or under investigation, all information gathered in the course of the professional conduct process and all proceedings and decisions of an investigative panel and a professional conduct panel that are not open to or available to the public in accordance with this Act or the regulations must be kept confidential by the person who possesses such information.

(2) Notwithstanding subsection (1), where it is consistent with the objects of the College,

(a) where an investigative panel or professional conduct panel has reasonable grounds to believe that a member has committed, is committing or is about to commit a criminal offence, the panel may direct the Registrar to disclose to law enforcement authorities such limited information as is necessary to alert the authorities to the suspected activity;

(b) the Registrar, an investigative panel or a professional conduct panel may authorize the release of specific information to a specific person;

(c) the Registrar may disclose information with respect to the complaint or a matter before a committee or panel to a regulatory body of another jurisdiction if it is relevant and concerns the fitness of the member for membership in the regulatory body; and

(d) the Registrar may disclose information with respect to the complaint for the purpose of the administration of this Act or to comply with the objects of the College.

(3) A witness in any legal proceeding, whether a party thereto or not, shall not answer any question as to any proceedings of an investigative panel, a professional conduct panel or the Reinstatement Committee, and shall not produce any report, statement, memorandum, recommendation, document or information prepared for the purpose of the professional conduct process, including any information gathered in the course of an investigation or produced for an investigative panel, a professional conduct panel or the Reinstatement Committee.

(4) Subsection (3) does not apply to documents or records that have been made available to the public by the College.

(5) Unless otherwise determined by a court of competent jurisdiction, a decision of an investigative panel or a professional conduct panel is not

admissible in a legal proceeding other than an appeal or review pursuant to this Act. 2015, c. 3, s. 42.

Professional Conduct Committee

43 (1) The Board shall appoint a Professional Conduct Committee composed of such number of members and non-members as the Board determines.

(2) The Board shall appoint a Chair and a Vice-chair of the Professional Conduct Committee.

(3) The Vice-chair shall act as chair in absence of the Chair.

(4) Where, for any reason, neither the Chair nor the Vice-chair is available for the purpose of Section 44, the Board may, for such purpose, appoint a member of the Professional Conduct Committee as interim chair of the Committee. 2015, c. 3, s. 43.

Professional conduct panel

44 (1) Where an investigative panel refers a complaint to the Professional Conduct Committee, the Chair of the Professional Conduct Committee shall appoint a professional conduct panel consisting of at least three persons from the Committee, at least one of whom must be a non-member and at least one of whom must be a member of the same profession as the respondent, to act as the Professional Conduct Committee for the purpose of the professional conduct process.

(2) The Chair of the Professional Conduct Committee may sit on the professional conduct panel and shall act as the chair of the panel in this event.

(3) Where the Chair of the Professional Conduct Committee is not appointed to the professional conduct panel, the Chair shall appoint a chair for such panel.

(4) A quorum of the Professional Conduct Committee consists of three persons, at least one of whom must be a member from the same profession as the respondent.

(5) Failure of one or more panel members to receive any notice of a meeting does not invalidate the proceedings at the meeting, and nothing precludes the panel members from waiving notice of meetings.

(6) All professional conduct panel decisions require the vote of a majority of the panel members appointed pursuant to subsection (1) or of a majority of those panel members present and constituting a quorum of such panel if the full panel is not sitting.

(7) Where a proceeding is commenced before a professional conduct panel and the term of office of any person sitting on the Professional Conduct Committee expires, that person may remain part of the professional conduct panel until the proceeding is concluded. 2015, c. 3, s. 44.

Hearing before professional conduct panel

45 (1) Where the investigative panel refers a matter to a professional conduct panel the Registrar shall, within 30 days after the date of the referral, fix a date, time and place for holding a hearing, which must commence not later than 90 days from the date of the referral by the investigative panel, or such later date as the respondent and the College may agree upon or the professional conduct panel may order following an opportunity for submissions from both parties as to such date.

(2) A notice of hearing, containing such information as required by the regulations, must be forwarded by the Registrar to the respondent and the complainant at least 30 days prior to the hearing. 2015, c. 3, s. 45.

Service

46 At any stage of the professional conduct process, any document required to be served on, or provided to, a respondent or any other person is deemed to be served or provided if

- (a) the intended recipient or the person's counsel acknowledges receipt of the document;
- (b) a registered mail receipt is provided from Canada Post;
- (c) an affidavit of service on the person is provided; or
- (d) the College provides evidence satisfactory to a professional conduct panel that all reasonable efforts to effect service have been exhausted. 2015, c. 3, s. 46.

Settlement proposal

47 Where the investigative panel refers a matter to the Professional Conduct Committee, the College, before the commencement of a hearing by a professional conduct panel, may agree on a settlement proposal with the respondent, which proposal must be dealt with in accordance with the regulations. 2015, c. 3, s. 47.

Public Inquiries Act

48 Each person on the Professional Conduct Committee has all the rights, powers, privileges and immunities of a commissioner appointed pursuant to the *Public Inquiries Act*, with the exception of the powers of contempt, arrest and imprisonment. 2015, c. 3, s. 48.

Professional conduct panel procedure

49 (1) A proceeding held by a professional conduct panel must be conducted in accordance with the regulations.

(2) In a proceeding before a professional conduct panel, the parties have the right to

- (a) natural justice;
- (b) be represented by legal counsel or a union representative;
- (c) present evidence and make submissions, including the right to cross-examine witnesses;

- (d) know all the evidence considered by the panel; and
- (e) receive written reasons for a decision within a reasonable time.

(3) Evidence is not admissible before a professional conduct panel unless the opposing party has been given, at least 10 days before a hearing,

- (a) in the case of written or documentary evidence, an opportunity to examine the evidence;
- (b) in the case of evidence of an expert, a copy of the expert's written report or, where there is no written report, a written summary of the evidence; or
- (c) the identity of any other witness.

(4) Notwithstanding subsection (3), a professional conduct panel may, in its discretion, allow the introduction of evidence that would be otherwise inadmissible pursuant to subsection (3) and may make directions it considers necessary to ensure that a party is not prejudiced. 2015, c. 3, s. 49.

Powers of professional conduct panel

50 (1) Where a professional conduct panel finds professional misconduct, conduct unbecoming the relevant profession, incompetence or incapacity, the panel shall dispose of the matter in accordance with the regulations.

(2) Where a professional conduct panel has revoked the registration of a member, the panel shall determine whether the member is entitled to apply for reinstatement of registration or whether the revocation is final.

(3) Where a professional conduct panel determines that a member whose registration has been revoked may apply for reinstatement, the panel shall determine the time when the member may apply for reinstatement, which may not be earlier than two years after the date of the panel's decision. 2015, c. 3, s. 50.

Reinstatement Committee

51 (1) The Board shall appoint a Reinstatement Committee, composed of not fewer than three and not more than five members of the Board, at least one of whom must be a public representative.

(2) The Board shall appoint the Chair of the Reinstatement Committee. 2015, c. 3, s. 51.

Procedure

52 (1) The Reinstatement Committee shall, in the circumstances set out in this Act and the regulations, review applications for reinstatement of registrations and licences, and shall perform such other duties as set out in this Act and the regulations.

(2) A quorum of the Reinstatement Committee consists of any three members of the Committee, regardless of whether such members are members or non-members.

(3) Applications for reinstatement must proceed in accordance with the regulations.

(4) Where a member's licence has been reinstated pursuant to this Section, the Reinstatement Committee, in its discretion, shall determine whether publication of the reinstatement is required in the interest of the public.

(5) The Reinstatement Committee has the powers, privileges and immunities of a commissioner appointed pursuant to the *Public Inquiries Act*, with the exception of the powers of contempt, arrest and imprisonment.

(6) In a proceeding before the Reinstatement Committee, a member has the right to

(a) be represented by legal counsel, a union representative or another representative, at the member's expense;

(b) disclosure of any information to be provided to the Committee; and

(c) a reasonable opportunity to present a response and make submissions.

(7) Evidence adduced by a party is not admissible before the Reinstatement Committee unless, at least 10 days before the hearing, the opposing party has been given

(a) in the case of written or documentary evidence, an opportunity to examine the evidence;

(b) in the case of evidence of an expert, a copy of the expert's written report or, where there is no written report, a written summary of the evidence; and

(c) the identity of any other witness.

(8) Notwithstanding subsection (7), the Reinstatement Committee may, in its discretion, allow the introduction of evidence that is otherwise inadmissible pursuant to subsection (7) and may make directions it considers necessary to ensure that a party is not prejudiced. 2015, c. 3, s. 52.

Publication of licensing sanction or dismissal of matter

53 (1) Subject to any publication bans in existence, where a licensing sanction has been issued by the investigative panel or a professional conduct panel, the Registrar shall

(a) make such entries on the records of the College and on the licence of the member as set out in the regulations;

(b) publish such information on the website of the College and in official publications of the College as set out in the regulations;

(c) notify other affected licensing bodies as set out in the regulations; and

(d) provide such information to individuals or the public as set out in the regulations.

(2) Where a professional conduct panel dismisses a matter, it shall disclose its decision in such manner as it determines. 2015, c. 3, s. 53.

Restoration and renewal of licence

54 (1) Where the period of suspension of a member has expired, the conditions imposed on the member have been satisfied or the restrictions imposed on the member have been removed, the Registrar shall restore the licence to the member in the form it existed prior to the imposition of the suspension, conditions or restrictions, if the member otherwise meets the criteria for the issuing of a licence, but where the licence has expired, the member shall pay the prescribed fee for renewal of the licence before it is reissued.

(2) Where action has been taken pursuant to subsection (1), the Registrar shall

(a) make the appropriate entries in the records of the college;

(b) where registering bodies in other jurisdictions had previously been informed of the suspension, conditions or restrictions, notify such registering bodies of the lifting of such suspension, conditions or restrictions; and

(c) notify such other persons as directed by the committee that initially imposed the suspension, conditions or restrictions. 2015, c. 3, s. 54.

Legal assistance

55 (1) For the purpose of the execution of their duties pursuant to this Act, the College and any committee of the College may retain such legal or other assistance as the College or the committee considers necessary or proper.

(2) Where authorized by this Act or the regulations, the costs of such legal or other assistance may be included, in whole or in part, as costs ordered by the committee. 2015, c. 3, s. 55.

Appeal to Nova Scotia Court of Appeal

56 (1) A party may appeal on any question of law from the findings of a professional conduct panel to the Nova Scotia Court of Appeal.

(2) The notice of appeal must be filed at the Nova Scotia Court of Appeal and served upon the other party not later than 30 days after service of the decision of the professional conduct panel.

(3) The record on appeal from the findings of a professional conduct panel consists of a copy of the transcript of the proceedings, the decision of the panel and the evidence before the panel, certified by the chair of the panel.

(4) The *Civil Procedure Rules* governing appeals from the Supreme Court of Nova Scotia to the Nova Scotia Court of Appeal that are not inconsistent with this Act apply with necessary changes to appeals to the Court of Appeal pursuant to this Section.

(5) Where a matter is appealed to the Nova Scotia Court of Appeal pursuant to this Section, the decision of a professional conduct panel takes effect immediately unless the Court of Appeal grants a stay of any order made pursuant to this Act. 2015, c. 3, s. 56.

PROFESSIONAL CORPORATIONS

Incorporation of practice

57 Subject to any regulations made pursuant to subsection 12(1), nothing in this Act prevents the incorporation of a practice, but every member continues to be personally responsible for compliance with this Act and the regulations notwithstanding any such incorporation. 2015, c. 3, s. 57.

Liability

58 Any person who carries on practice as, by, through or on behalf of a body corporate is liable in respect of acts done or omitted to be done by the person in the course of the person's practice to the same extent and in the same manner as if such practice were carried on by the person as an individual or partnership carrying on the practice of the relevant profession. 2015, c. 3, s. 58.

Relationship between member and client not affected

59 Where a member is engaged in practice as a body corporate, the existence of the body corporate does not affect, modify or limit any law or standard applicable to the confidential or ethical relationship between the member and a client. 2015, c. 3, s. 59.

Compellable witnesses

60 All shareholders, directors, officers and employees of a body corporate engaged in practice are compellable witnesses in any proceedings pursuant to this Act. 2015, c. 3, s. 60.

Power of inspection, investigation and inquiry

61 Where the conduct of a member is the subject of a complaint, investigation or inquiry and the member was an officer, director, shareholder or employee of a body corporate at the time the conduct occurred, any power of inspection, investigation or inquiry that may be exercised in respect of the member or the member's records may be exercised in respect of the body corporate or its records. 2015, c. 3, s. 61.

OFFENCES

Offence

- 62 (1) Every person who
- (a) knowingly furnishes false information in any application pursuant to this Act or in any statement required to be furnished pursuant to this Act or the regulations;
 - (b) contravenes Section 19;

(c) contravenes any condition or restriction on the person's licence; or

(d) otherwise contravenes this Act or the regulations,

is guilty of an offence and liable on summary conviction to a fine of not more than \$2,000 or, where the person is an individual, to imprisonment for a term of not more than six months, or to both.

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

(3) All fines and penalties payable as a result of a prosecution by or on behalf of the College belong to the College.

(4) For greater certainty, an information may be laid by the Registrar or any other person.

(5) In a prosecution of an offence pursuant to this Act or the regulations, the onus to prove that a person accused of the offence has the right to practise, or that a person comes within any of the exemptions provided by this Act, is on the accused person.

(6) Where an offence pursuant to this Act or the regulations is committed or continued on more than one day, the person who committed the offence is liable to be convicted for a separate offence for each day that the offence is committed or continued.

(7) For the purpose of this Act and the regulations, proof of the performance by a person who is not a member of a single act in the practice of audiology or speech-language pathology is sufficient to establish that the person has engaged in practice. 2015, c. 3, s. 62.

Injunction

63 (1) In the event of a threatened or continuing contravention of this Act or the regulations, the College may apply to a judge for an injunction to restrain the person from committing or continuing the contravention and the judge, where the judge considers it to be just, may grant such an injunction.

(2) A judge may, on application, grant an interim injunction pending the hearing of an application for an injunction pursuant to subsection (1) if the judge is satisfied that there is reason to believe that a person is likely to commit or is continuing to commit a contravention of this Act or the regulations.

(3) A judge may make such order as to costs as the judge considers appropriate in any proceeding pursuant to this Section. 2015, c. 3, s. 63.

GENERAL

Duty to report

64 (1) A member has a duty to report to the Registrar if the member has reasonable grounds to believe that another member of the College

- (a) has engaged in professional misconduct, incompetence or conduct unbecoming the profession;
- (b) is incapacitated; or
- (c) is practising in a manner that otherwise constitutes a danger to the public.

(2) No action for damages or other relief lies against a member for any report made pursuant to subsection (1) if the report was made in good faith. 2015, c. 3, s. 64.

Fine payable to College

65 Any fine payable as a result of a prosecution by or on behalf of the College and any costs ordered to be paid pursuant to this Act or the regulations are debts due to the College recoverable by civil action, in addition to any other remedy available to the College for non-payment of a fine or cost. 2015, c. 3, s. 65.

No action lies

66 (1) No action for damages or other relief lies against the College, the Board, the persons on the Board, the committees or subcommittees of the College or the Board, the persons on such committees or subcommittees or the Registrar, officers, agents or employees of the College,

- (a) for any act or failure to act or any proceeding initiated or taken in good faith pursuant to this Act, or in carrying out the duties or obligations pursuant to this Act; or
- (b) for any decision, order or resolution made or enforced in good faith pursuant to this Act.

(2) No action for damages or other relief lies against any person for the disclosure of any information or any document or anything therein pursuant to this Act if such disclosure was made in good faith.

(3) No member, officer, agent or employee of the College and no person on the Board or a committee or subcommittee of the College or the Board is personally liable for any of the debts or liabilities of the College unless such person expressly agrees to be liable. 2015, c. 3, s. 66.

Additional members for quorum

67 Where, for any reason, a quorum of members of any committee may not be available for a meeting or hearing, the Board may, for the purpose of such meeting or hearing, appoint to the committee such additional members as are needed for a quorum. 2015, c. 3, s. 68.

Permitted activities

68 (1) In this Section,

“hearing screening” means the administration of testing to determine the possibility of a hearing loss, but does not include the identification or diagnosis of the cause of the hearing loss; and

“threshold” means the intensity at which a sound is detectable.

- (2) Subject to subsection (3), nothing in this Act prohibits
- (a) the private care of a person without remuneration;
 - (b) the furnishing of first aid or emergency assistance in the case of emergency, if such aid or assistance is given without hire, gain or hope of reward;
 - (c) employees from engaging in a lawful strike;
 - (d) the practice of any profession authorized pursuant to an enactment of the Province by a professional licensed pursuant to such enactment, practising within the scope of practice of that profession, if such a person does not describe the person’s practice as “audiology”, “speech-language pathology” or words of similar meaning, or call the person’s own self any of the protected titles;
 - (e) the carrying out of specific tasks constituting part of the practice of audiology by a person under the supervision and control of an audiologist; or
 - (f) the carrying out of specific tasks constituting part of the practice of speech-language pathology by a person under the supervision and control of a speech-language pathologist; or
 - (g) a person authorized to fit or sell hearing aids pursuant to the *Direct Sellers Regulation Act* from
 - (i) prescribing, dispensing, fitting and verifying hearing aids for clients, other than hearing aids that are surgically implanted under the skin, for the purpose of addressing
 - (A) sensory hearing loss, with or without tinnitus,
 - (B) conductive hearing loss, with or without tinnitus, following clearance by a medical practitioner, or
 - (C) retrocochlear hearing loss, with or without tinnitus, if the client is concurrently managed by an audiologist or an otolaryngologist,
 and assessing hearing in clients for those purposes,
 - (ii) conducting hearing screenings for clients,
 - (iii) assessing hearing of clients to establish hearing thresholds,
 - (iv) providing cerumen management, if the person has successfully completed a cerumen-management training program approved by the Cerumen Management Committee,

(v) providing hearing aid maintenance, counselling and aural rehabilitation to the person's clients respecting the services listed in subclauses (i) to (iv), or

(vi) providing prevention, education and advocacy activities regarding hearing loss.

(3) Nothing in clause (2)(g) is to be construed to allow a person with authority to fit or sell hearing aids pursuant to the *Direct Sellers Regulation Act* to assess hearing or prescribe, dispense, fit or verify hearing aids for persons under the age of 18 years. 2015, c. 3, s. 69.

Cerumen Management Committee

69 (1) The College shall establish a Cerumen Management Committee composed of

(a) one hearing instrument practitioner appointed by the Hearing Aid Society of Nova Scotia;

(b) one audiologist appointed by the College; and

(c) one otolaryngologist appointed by the College.

(2) The Cerumen Management Committee shall approve a cerumen-management training program for the purpose of subclause 68(2)(g)(iv). 2015, c. 3, s. 70.

CHAPTER A-41

An Act Respecting the Office of the Auditor General

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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 *Auditor General Act*. 2010, c. 33, s. 1.

Interpretation

- 2** In this Act,
- “audit” means any examination of records, reports, activities or operations conducted in accordance with generally accepted auditing standards and with other professional standards as may apply;
- “auditable entity” means
- (a) any office of, and the administration of, the House of Assembly;
 - (b) any government agency;
 - (c) any government trust;

(d) notwithstanding clause (b), any corporation or other organization

(i) of which the majority of outstanding voting shares are vested in the Crown in right of the Province,

(ii) of which the majority of the members of the board of directors or other governing body

(A) are appointed by order of the Governor in Council, or

(B) are or may be appointed, under legislation or otherwise, by the Government or any government agency,

(iii) whose board reports to the Crown in right of the Province or is accountable, directly or indirectly, to the Crown in right of the Province in the discharge of its duties,

(iv) whose accounts or operations are or may be audited by the Auditor General under this Act or any other enactment or whose accounts or operations the Auditor General is appointed by the Governor in Council to audit, or

(v) that is a not-for-profit organization that delivers programs or services on behalf of the Government under legislation or pursuant to an order in council, contract or agreement and receives substantially all its revenues from Government funding or from funding and service fees to the Government or program clients that is allowed under the legislation, order in council, contract or agreement, or

(e) any entity designated as an auditable entity under the regulations;

“funding recipient” means a corporation or non-government organization that receives Government funding;

“generally accepted auditing standards” means the Canadian generally accepted auditing standards issued from time to time by the Chartered Professional Accountants of Canada;

“government agency” means any Government department, crown corporation, board or other entity forming the Government Reporting Entity under the *Finance Act* for the purpose of the preparation of the consolidated financial statements of the Province;

“government funding” refers to any form of payment or financial assistance, whether recurring or one-time, made directly or indirectly by government or any government agency, to any person or entity, under the terms of any agreement, contract, policy or legislation, in any form, including transfer payments, grants, subsidies, loans, guarantees and payments in lieu of taxes;

“government trust” means any trust under administration reported in the public accounts of the Government and any other fund held in trust by or on behalf of the Government or any government agency but, for greater certainty, does not include trust funds under a joint trustee relationship;

“investigation” means any examination that results in observations but does not lead to an opinion;

“Office” means the Office of the Auditor General, and includes the Auditor General, the Deputy Auditor General and such other employees as the Auditor General may appoint pursuant to this Act;

“privileged records” are records that are subject to solicitor-client privilege, litigation privilege, settlement privilege or public interest immunity;

“Public Accounts Committee” means the Public Accounts Committee of the House of Assembly;

“public contractor” means a non-government not-for-profit organization that delivers programs or services on behalf of the Government under legislation or pursuant to an order in council, contract or agreement and receives Government funding to do so or is empowered by the Government to collect fees for its services from the Government or program clients;

“records” means information or data that are recorded and stored by graphic photographic, electronic, mechanical or other means, and includes books, accounts, financial records, operational data, reports, minutes, files, correspondence, drawings, photographs and electronic mail;

“Supreme Court” means the Supreme Court of Nova Scotia. 2010, c. 33, s. 2; 2015, c. 30, s. 139.

Auditor General

3 (1) Subject to the approval of the House of Assembly by majority vote, the Governor in Council shall appoint a person to be the Auditor General.

(2) The Auditor General, by virtue of the Auditor General’s position, is an officer of the House of Assembly.

(3) The Auditor General must be an individual qualified to be a licensed public accountant in a province of Canada.

(4) Subject to subsection (5), the Auditor General holds office for a term not exceeding 10 years and may not be reappointed.

(5) The Governor in Council may only remove the Auditor General for cause or incapacity on the passing by the House of Assembly of a resolution carried by a vote of two thirds of the members voting thereon.

(6) Upon written advice of the President of the Executive Council and the Leader of the Opposition, the Governor in Council may, at any time the Legislature is not sitting, suspend the Auditor General for cause or incapacity, but the suspension does not continue in force beyond the end of the next ensuing sitting of the Legislature. 2010, c. 33, s. 3.

Remuneration

4 (1) Subject to subsection (2), the Auditor General must be paid remuneration within, but at or above the midpoint of, the annual salary rates for deputy ministers set out in the pay plan for deputy ministers together with any other remuneration payable to deputy ministers, which remuneration must be adjusted

yearly by a percentage equal to the average increase for the remuneration of the deputy ministers.

(2) Notwithstanding subsection (1), the salary of the Auditor General must not be reduced except on the passing by the House of Assembly of a resolution carried by a vote of two thirds of the members voting thereon.

(3) The Auditor General is entitled to all rights, privileges and benefits, including pension benefits, to which deputy ministers are entitled.

(4) The Auditor General is an employee within the meaning of the *Public Service Superannuation Act*. 2010, c. 33, s. 4.

Responsibilities

5 (1) The Auditor General shall supervise and is responsible for all matters relating to the work, conduct and administration of the Office and of those employed in the Office.

(2) The Auditor General shall direct and supervise the activities of the Deputy Auditor General.

(3) The Auditor General may delegate to any employee of the Office any duty or power conferred upon the Auditor General by this or any other enactment or by the Governor in Council, other than reporting to the House of Assembly. 2010, c. 33, s. 5.

Deputy Auditor General

6 (1) On the advice of the Auditor General, the Governor in Council may appoint a Deputy Auditor General who holds office during pleasure.

(2) The Deputy Auditor General must be an individual qualified to be a licensed public accountant in a jurisdiction in Canada.

(3) The Deputy Auditor General must be paid a salary determined by the Auditor General in accordance with the annual salary rates for associate deputy ministers set out in the pay plan for associate deputy ministers together with any other remuneration payable to associate deputy ministers.

(4) The Deputy Auditor General is entitled to all the benefits and privileges provided to employees of the civil service under the *Civil Service Act* and the *Public Service Superannuation Act*.

(5) The Deputy Auditor General, during any vacancy in the position of the Auditor General, or during the illness or absence of the Auditor General, has and shall exercise all the powers and duties of the Auditor General.

(6) In the absence of a Deputy Auditor General, the Auditor General may temporarily appoint an Acting Deputy Auditor General or may temporarily delegate the powers and duties of the Deputy Auditor General to an assistant auditor general. 2010, c. 33, s. 6.

Acting Auditor General

7 In the absence or incapacity of the Auditor General, upon written advice of the President of the Executive Council and the Leader of the Opposition, the Governor in Council may temporarily appoint an Acting Auditor General who has all the powers and performs all the duties of the Auditor General. 2010, c. 33, s. 7.

Civil servants

8 All employees of the Office, other than the Deputy Auditor General, are civil service employees in accordance with the *Civil Service Act* and the *Public Service Superannuation Act* and are entitled to all the benefits and privileges provided for in those Acts. 2010, c. 33, s. 8.

Employees

9 Notwithstanding the *Civil Service Act* or the *General Civil Service Regulations*, the Auditor General shall

- (a) appoint such persons as employees in the Office as the Auditor General considers necessary to perform the Auditor General's duties; and
- (b) place them in such positions as the Auditor General considers appropriate under such classification ratings and at such rates of remuneration within those classification ratings established by the Public Service Commission as the Auditor General considers appropriate. 2010, c. 33, s. 9.

Experts and support

10 (1) Notwithstanding any Government procurement rules or policies, the Auditor General may engage the services of such counsel, accountants or other professionals or experts to advise or assist the Auditor General in respect of matters as the Auditor General considers necessary to carry out the Auditor General's duties under this Act.

(2) Payments made to experts under this Section may be determined by the Auditor General and must be within the limits of the appropriations, including any additional appropriations, for the Office.

(3) The Office may engage in such activities within and outside the Province as the Auditor General considers appropriate to support the audit and accounting professions and to support effective audit or accountability in government. 2010, c. 33, s. 10.

Powers and immunities

11 (1) The Auditor General has all the powers, authorities, rights, privileges and immunities vested in the Auditor General by this Act, any other enactment, or the Governor in Council.

(2) The Auditor General has all the powers, authorities, rights, privileges and immunities exercisable by deputy ministers under the *Civil Service Act*, the *Public Service Act* or any other enactment, except for any specific powers, authorities or rights related to the management of particular departments or programs.

(3) In conducting an audit or performing any other duty or function under this Act or any other enactment or authority, the Auditor General has the same power to enforce the attendance of persons as witnesses and to compel them to give evidence and produce documents, and the same privileges and immunities as a judge of the Supreme Court.

(4) Except as otherwise provided in this Act, the Office shall follow Government policies but any approvals required by those policies are to be read as requiring the approval of the Auditor General. 2010, c. 33, s. 11.

Required evidence, testimony or information

12 (1) In the performance of duties under this Act or any other enactment or authority, the Auditor General may require any person to provide evidence, testimony or information under oath or provide documents respecting the matter under question and may issue a notice requiring such attendance or evidence.

(2) Where a person fails or refuses to comply with a notice under subsection (1), the Supreme Court, on the application of the Auditor General, may issue a warrant requiring the person to attend before the Auditor General in compliance with the notice.

(3) Where a witness refuses to give evidence as required, to answer questions by the Auditor General or to produce documents as required, the Supreme Court, on the application of the Auditor General, may commit the witness for contempt.

(4) A person who is given a notice under this Section may not be excused from giving evidence or from producing records on the grounds that the evidence might tend to incriminate the person. 2010, c. 33, s. 12.

Not compellable or required to produce

13 (1) Notwithstanding any other legislation, neither the Auditor General or previous Auditors General, nor persons who are or were part of the Office or employees of the Office or persons under contract to the Office may be compelled to give testimony relating to any information obtained or derived in the performance of their duties under this Act or any other enactment or authority or to produce any documents containing such information, except as required in the administration of this Act or any proceedings under this Act or under the *Criminal Code* (Canada).

(2) All information contained in the files, audit records and other records of the Office is exempt from the *Freedom of Information and Protection of Privacy Act* and disclosure under any other legislation.

(3) Neither the Auditor General or previous Auditors General nor any persons who are or were employees of the Office or persons under contract to the Office may be sued or be found liable by reason of any action they have done or failed to do, or anything said, in good faith in the performance of their duties.

(4) No civil action may be instituted by reason of the publication of a report of the Auditor General under this Act or any other enactment or authority or of the publication in good faith of an extract or summary of such a report or comments made in connection with such a report.

(5) In the case of any legal action against or involving them, related to the performance of their duties in good faith, the Auditor General or previous Auditors General and current or past employees of the Office must be indemnified and provided with legal counsel by the Office.

(6) Audit working papers of the Office must not be tabled in the House of Assembly or be produced to any committee of the House of Assembly. 2010, c. 33, s. 13.

Auditable entity

14 (1) Notwithstanding the *Freedom of Information and Protection of Privacy Act* or any other legislation, and notwithstanding any other rights of privacy, confidentiality or privilege, including solicitor-client privilege, litigation privilege, settlement privilege and public interest immunity, the Auditor General has the right of unrestricted access, at all times, to all records of any auditable entity, including the right to copy such records and to any things or property belonging to or used by any auditable entity, and every officer, employee and agent of any auditable entity shall forthwith provide the Auditor General any such information or explanations, or information concerning its duties, activities, organization and methods of operation, that the Auditor General believes to be necessary to perform the Auditor General's duties under this Act.

(2) For the purpose of performing the Auditor General's duties under this Act or any other enactment or authority, the Auditor General may station one or more members of the Office in any auditable entity and the auditable entity shall provide reasonable accommodation.

(3) The Auditor General has unrestricted access to the records of any funding recipient or public contractor directly related to the Government funding of any program of the Government or an agency of government.

(4) No person shall obstruct the Auditor General or any member of the Office or any person under contract with the Office in the conduct of any audit under this Act or any other enactment or authority or conceal or destroy any records that the Auditor General has requested in an audit.

(5) A disclosure to the Auditor General under this Section does not constitute a waiver of privilege or immunity, including solicitor-client privilege, litigation privilege, settlement privilege or public interest immunity.

(6) Where the Auditor General and the auditable entity are unable to agree as to what records are privileged records, either party may make an application to the Supreme Court to determine the matter.

(7) Where an application has been made in accordance with subsection (6), the Auditor General shall not disclose the record in question until a determination has been made by the Supreme Court authorizing such disclosure. 2010, c. 33, s. 14.

Security and oath

15 (1) The Auditor General shall require every person employed in or engaged for a limited time by the Office, who is to examine the records of any

auditable entity under this Act, to comply with any security requirements applicable to persons employed by that auditable entity.

(2) Subject to subsection (3), the Auditor General, the Deputy Auditor General and each other person employed in or engaged for a limited time by the Office shall preserve secrecy with respect to all matters not considered to be of general public knowledge, that come to their knowledge in the course of their duties under this Act, and may not communicate such matters to any person, except as required in the administration of this Act, the conduct of any joint audits under this Act, or any proceedings under this Act or under the *Criminal Code* (Canada) or as required for professional responsibilities and licensing.

(3) Notwithstanding any other provisions of this Act, the Auditor General, the Deputy Auditor General and each other person employed in or engaged for a limited time by the Office may not disclose any information disclosed to the Office, that is subject to solicitor-client privilege, litigation privilege, settlement privilege or public interest immunity, without the consent of the holder of the privilege or immunity.

(4) The Auditor General, Deputy Auditor General and each other person employed in the Office, before commencing their duties, shall take the following oath:

I, , solemnly and sincerely swear that I will faithfully fulfill the duties of my position in the Office of the Auditor General and that I will comply with all confidentiality and other requirements of the Office of the Auditor General as stipulated in the Auditor General Act.

(5) The Office may not retain personal information obtained under the application of this Act unless the personal information is reasonably necessary for the proper administration of this Act or any proceeding under it.

(6) Subject to subsection (3), nothing in this Section limits the authority of the Auditor General to report in accordance with any other provision of this Act or to comment on such reports or to participate in professional reviews required in order to maintain standing as a professional audit office or to meet national standards with respect to quality assurance of audit and other engagements. 2010, c. 33, s. 15.

Annual budget

16 The Auditor General shall present annually to a committee of the House of Assembly, designated for that purpose by the House, estimates of the sums of money that will be required by the Auditor General to conduct the activities required under this Act and any other enactment or authority, together with any estimated recoveries, and

(a) the Committee shall review and may alter as it considers proper the estimates presented by the Auditor General;

(b) notice of meetings by the Committee to review or alter the estimates presented by the Auditor General must be given to the Chair of the Public Accounts Committee and the Chair may attend those meetings; and

(c) the Chair of the Committee shall recommend the estimates as altered by the Committee to the Treasury Board for inclusion in the Government's estimates. 2010, c. 33, s. 16.

House of Assembly

17 (1) The Office is an office of the House of Assembly.

(2) At the request of the Public Accounts Committee, the Auditor General and any employee of the Office designated by the Auditor General shall attend meetings of the Committee or its subcommittees in order to

- (a) assist the Committee in planning its agenda for review of the reports of the Auditor General;
- (b) assist the Committee in its review of the reports of the Auditor General;
- (c) advise the Committee with respect to any Committee activities; and
- (d) discuss the plans and performance of the Office.

(3) The Auditor General shall consider any resolutions by the Public Accounts Committee requesting the Auditor General to examine and report on any matter.

(4) The Auditor General shall provide the Public Accounts Committee with annual business plans and performance reports of the Office and they are public documents.

(5) Notwithstanding any other enactment, the Auditor General is not required to report on plans, activities or performance of the Office to any auditable entity.

(6) A person, not employed by the Crown in right of the Province or the House of Assembly, licensed as a public accountant under the *Chartered Professional Accountants Act* and appointed by the Speaker of the House of Assembly, shall audit the financial statements of the Office and shall report annually thereon to the Speaker of the House of Assembly and to the Public Accounts Committee. 2010, c. 33, s. 17.

Audit or investigation

18 (1) The Auditor General may at any time conduct any audit or investigation that the Auditor General considers appropriate under the terms of this Act with respect to

- (a) any auditable entity;
- (b) activities of a public contractor relating to its provision of programs or services on behalf of the Government; or
- (c) activities of a funding recipient relating to the receipt and expenditure of Government funding,

and may report on the audit to the House of Assembly.

(2) The Auditor General shall report at least annually to the House of Assembly on the audit work of the Office under this Act.

(3) The reports referred to in subsection (2) must be submitted to the Speaker of the House or, where the House is not sitting, to the Clerk of the House.

(4) The Speaker shall lay the reports referred to in subsection (3) before the House immediately or, where the House is not sitting, within 10 days of its next sitting.

(5) The Auditor General may, in the reports under this Section, provide information, findings, conclusions and recommendations with respect to or resulting from audits or investigations conducted under this Act.

(6) Notwithstanding any other Section of this Act, the Auditor General is not required to report to the House of Assembly on any matter that the Auditor General considers immaterial or insignificant.

(7) Nothing in this Act is to be interpreted as entitling the Auditor General to question the merits of policy objectives of the Government. 2010, c. 33, s. 18.

Review of and opinion on annual consolidated financial statements

19 (1) The Auditor General shall audit the annual consolidated financial statements of the Government that are included in the public accounts required under the *Finance Act*.

(2) The Auditor General shall submit a report to the House of Assembly, which must be included in the public accounts and which must provide an opinion, prepared in accordance with generally accepted auditing standards, as to the fair presentation of the consolidated financial statements. 2010, c. 33, s. 19.

Review of and opinion on revenue estimates

20 (1) The Auditor General shall conduct a review, in accordance with the assurance standards for review engagements of the Chartered Professional Accountants of Canada, of the estimates of revenue used in the preparation of each budget address of the Minister of Finance and Treasury Board to the House of Assembly.

(2) The Auditor General shall submit a report to the House of Assembly, which must be tabled with the budget address and which must provide an opinion as to whether the revenue estimates are reasonable and presented fairly. 2010, c. 33, s. 20; 2015, c. 30, s. 140.

Performance audits initiated by Auditor General

21 (1) The Auditor General may audit the performance of an auditable entity or any activity, program, process or function of an auditable entity.

(2) A performance audit may include, but is not limited to, examination of

(a) the governance, economy, efficiency and effectiveness of the auditable entity or any activity, program, process or function of the auditable entity;

- (b) performance monitoring and reporting;
- (c) internal control and systems;
- (d) compliance with policy, legislation or appropriations;
- (e) stewardship over and appropriate use of public funds and other resources and property; and
- (f) maintenance of essential financial and other records.

(3) The Auditor General shall report to the House of Assembly at least annually on the results of performance audits carried out under this Section. 2010, c. 33, s. 21.

Audits requested by Public Accounts Committee

22 The Auditor General, at the request of the Public Accounts Committee, may, and where directed by the Executive Council shall, conduct an audit or investigation of any auditable entity, funding recipient or public contractor if

- (a) the Auditor General has been provided with the funding the Auditor General considers necessary and sufficient to undertake the audit or investigation;
- (b) in the opinion of the Auditor General, the audit or investigation will not unduly interfere with the other duties of the Office pursuant to this Act; and
- (c) the audit or investigation is permitted by this Act,

and the Auditor General shall report the results of the audit or investigation to the House of Assembly. 2010, c. 33, s. 22.

Audits of government agency or government trust

23 (1) Notwithstanding any other enactment, where the financial statements and accounts of a government agency or government trust are not audited by an auditor appointed by the government agency or government trust or the Governor in Council, or where other legislation has provided the Auditor General the authority to conduct the audit, the Auditor General may, or where appointed by legislation or the Governor in Council the Auditor General shall, perform the audit or appoint an auditor to perform the audit, either

- (a) reporting directly to the management or the board of the government agency or government trust; or
- (b) under the direction of and reporting directly to the Auditor General.

(2) Where the Auditor General elects to audit a government agency or government trust under subsection (1), the decision takes effect upon the Auditor General giving written notice of the audit to the board of directors or head of the government agency or government trust and after expiry of any existing contract with another auditor.

(3) Where an auditor of a government agency or government trust is appointed by the Auditor General under clause (1)(a), that auditor shall charge reasonable fees directly to, and the fees must be paid by, the government agency or government trust.

(4) Where the Auditor General performs the audit of a government agency or government trust directly under subsection (1), or appoints an auditor under the direction of the Auditor General under clause (1)(b), the Auditor General may charge fees directly to the government agency or government trust for the cost of the audit or cause the auditor to charge fees approved by the Auditor General directly to the government agency or government trust and the fees must be paid by the government agency or government trust.

(5) Where the Auditor General charges fees under subsection (4), those fees must be attributed to the Office as a recovery.

(6) Where the financial statements and accounts of any government agency or government trust referred to in subsection (1) are audited by an auditor other than the Auditor General, the auditor performing the audit shall

(a) deliver to the Auditor General immediately upon completion of the audit a copy of the audit report and audited financial statements of the government agency or government trust and a copy of the report to management or the board of findings and recommendations;

(b) make available to the Auditor General, upon request and upon reasonable notice, all records, including any working papers, schedules, reports and other documentation, relating to the audit; and

(c) provide a full explanation to the Auditor General, when so requested, of work performed, tests and examinations made and the results obtained, and any information within the knowledge of such auditor.

(7) Where an audit is conducted by an external auditor under this Section, the Auditor General may conduct or cause to be conducted any other audit or investigation of the records and operations of the government agency or government trust that the Auditor General considers necessary. 2010, c. 33, s. 23.

Joint audits

24 (1) The Auditor General may undertake a joint audit, with other auditors general, of any auditable entity or other entity or program that is administered or funded by the Government and any other government.

(2) A report of a joint audit carried out pursuant to subsection (1) must be submitted to the Speaker of the House of Assembly in the manner provided for in Section 18. 2010, c. 33, s. 24.

Report to auditable entities

25 (1) The Auditor General shall report to appropriate officials of auditable entities

(a) any instances of fraud or possible fraud or other illegal activity identified in the course of any audit;

(b) any significant instances of inappropriate behaviour by any public official, including conflicts of interest or misuse of public property;

(c) any instances in which any audit was obstructed or information otherwise withheld; and

(d) any instances in which a significant amount of public funds was used inappropriately or for purposes other than those intended,

and the Auditor General may report such instances to the House of Assembly.

(2) Where any instances referred to in subsection (1) relate to a member of the House, the Auditor General shall report the instances to the Speaker of the House, the Attorney General and the leader of the political party, if any, with which the member is associated. 2010, c. 33, s. 25.

Regulations

26 (1) The Governor in Council may make regulations

(a) designating an entity as an auditable entity for the purpose of this Act;

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

(c) the Governor in Council considers 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 a regulation within the meaning of the *Regulations Act*. 2010, c. 33, s. 26.
