



BILL NO. 40

Government Bill

*3rd Session, 61st General Assembly
Nova Scotia
60 Elizabeth II, 2011*

An Act to Amend Chapter 260 of the Revised Statutes, 1989, the Liquor Control Act

CHAPTER 21
ACTS OF 2011

**AS ASSENTED TO BY THE ADMINISTRATOR OF THE PROVINCE
MAY 19, 2011**

The Honourable John MacDonell
Minister of Service Nova Scotia and Municipal Relations

*Halifax, Nova Scotia
Printed by Authority of the Speaker of the House of Assembly*

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**An Act to Amend Chapter 260
of the Revised Statutes, 1989,
the Liquor Control Act**

Be it enacted by the Governor and Assembly as follows:

1 Section 2 of Chapter 260 of the Revised Statutes, 1989, the *Liquor Control Act*, as amended by Chapter 28 of the Acts of 2000, Chapter 4 of the Acts of 2001 and Chapter 30 of the Acts of 2002, is further amended by

(a) striking out “the Department of Environment and Labour” in the first and second lines of clause (da) and substituting “Service Nova Scotia and Municipal Relations”; and

(b) adding immediately after clause (da) the following clause:

(db) “Executive Director” means the Executive Director appointed pursuant to this Act;

2 (1) Subsection 14(1) of Chapter 260, as enacted by Chapter 28 of the Acts of 2000, is amended by

(a) striking out “Environment and Labour” in the first and second lines and substituting “Service Nova Scotia and Municipal Relations”;

(b) striking out clause (a) and substituting the following clause:

(a) have general supervision and management over

(i) licensing premises for the sale of liquor for consumption on the premises, and

(ii) inspecting licensed premises;

and

(c) striking out “Environment and Labour” in the second and third lines of clause (d) and substituting “Service Nova Scotia and Municipal Relations”.

(2) Subsection 14(2) of Chapter 260, as enacted by Chapter 28 of the Acts of 2000, is amended by striking out “Environment and Labour” in the first and second and in the fourth lines and substituting in each case “Service Nova Scotia and Municipal Relations”.

3 Chapter 260 is further amended by adding immediately after Section 31 the following Section:

31A (1) No action or other proceeding for damages lies or may be instituted against any inspector or employee appointed pursuant to Section 31, or against the Executive Director or a delegate of the Minister, for an act or omission done in good faith in the execution or intended execution of any power or duty pursuant to this Act or the regulations.

(2) Subsection (1) does not relieve Her Majesty in right of the Province of liability in respect of a wrongful act committed by an inspector or employee, the

Executive Director or a delegate of the Minister to which it otherwise would be subject.

4 Section 40 of Chapter 260, as amended by Chapter 28 of the Acts of 2000, is further amended by striking out “Environment and Labour” in the second and in the fourth lines and substituting in each case “Service Nova Scotia and Municipal Relations”.

5 Section 46A of Chapter 260 is repealed and the following Section substituted:

46A (1) The Minister of Service Nova Scotia and Municipal Relations shall appoint an Executive Director to perform the duties and functions and exercise the powers and authorities imposed or conferred upon the Executive Director by this Act or the regulations or as otherwise prescribed by the Minister.

(2) The Minister of Service Nova Scotia and Municipal Relations may designate a person to act in the place of the Executive Director due to the absence or to the incapacity of the Executive Director.

(3) The Executive Director may delegate in writing to any person or class of persons any of the powers, duties and functions of the Executive Director pursuant to this Act and shall, when so delegating, specify the powers, duties and functions to be exercised by the person or class of persons and any conditions imposed on the exercise of the powers or performance of the duties or functions.

6 (1) Subsection 47(1) of Chapter 260 is repealed and the following subsection substituted:

47 (1) Subject to this Act, but otherwise in the Executive Director’s discretion, the Executive Director may

(a) grant, renew and transfer licenses to sell liquor in accordance with the terms and conditions of the licenses and of this Act and the regulations;

(b) impose terms and conditions on any license or rescind or amend existing terms and conditions on a license in accordance with this Act and the regulations;

(c) suspend all or any part of a license for such time that the Executive Director considers appropriate;

(d) cancel all or any part of a license.

(2) Subsection 47(3) of Chapter 260 is repealed and the following subsection substituted:

(3) The Executive Director may refer any matter respecting licensing pursuant to subsection (1) to the Review Board for determination and for the purpose of this subsection, all references to the Executive Director in subsection (1) shall be read as references to the Review Board.

(3) Subsection 47(4) of Chapter 260 is repealed.

7 Chapter 260 is further amended by adding immediately after Section 47 the following Sections:

47A A licensee or applicant who is dissatisfied with a decision of the Executive Director made pursuant to this Act or the regulations, respecting the granting, refusal, suspension or cancelling of or the imposition of conditions on a license, may appeal the decision to the Review Board in accordance with the appeal process prescribed in the regulations.

47B (1) Where a licensee fails to comply with the terms and conditions of a license, has contravened this Act or the regulations or is convicted of an offence under the *Criminal Code* or a quasi-criminal statute, the Executive Director may, in accordance with the process prescribed in the regulations,

- (a) take any action set out in clauses 47(1)(b), (c) and (d); or
- (b) refer the matter to the Review Board.

(2) A licensee may appeal a decision made pursuant to clause (1)(a) to the Review Board in accordance with the appeal process prescribed in the regulations.

(3) Where the Executive Director has, in the course of performing the powers, duties or functions conferred upon the Executive Director pursuant to this Act, received information regarding the licensee or communicates with the licensee or with another person concerning the license, the Executive Director is not disqualified from taking any action pursuant to clause (1)(a).

47C The Executive Director may, pursuant to the process prescribed in the regulations, rescind a decision that would otherwise be appealable pursuant to Section 47A or subsection 47B(2).

47D The Review Board may hold a hearing to determine a matter, in accordance with the process prescribed in the regulations upon receipt of

- (a) an appeal pursuant to Section 47A or subsection 47B(2); or
- (b) a referral made by the Executive Director pursuant to subsection 47(3) or clause 47B(1)(b).

47E (1) On an appeal the Review Board may confirm, vary or revoke a decision of the Executive Director.

(2) The Review Board may vary the decision of the Executive Director by

- (a) imposing conditions on a license;
- (b) rescinding or amending existing conditions on a license;
- (c) suspending all or any part of a license for such time that the Review Board deems appropriate;
- (d) cancelling all or any part of a license; or
- (e) ordering in accordance with this Act and the regulations such other remedy as the Review Board considers appropriate.

(3) Where the Executive Director refers a matter to the Review Board pursuant to clause 47B(1)(b), the Review Board may apply any remedy available pursuant to subsection (2).

8 (1) Clause 48(1)(a) of Chapter 260, is amended by adding “, sell” immediately after “have” in the second line.

(2) Clause 48(3)(a) of Chapter 260, as amended by Chapter 28 of the Acts of 2000, is further amended by

(a) striking out “, a permanent resident of Canada or a Canadian citizen by birth or naturalization” in the second and third lines; and

(b) striking out “Review Board” in the last line and substituting “Executive Director”.

(3) Section 48 of Chapter 260, as amended by Chapter 28 of the Acts of 2000, is further amended by adding immediately after subsection (3) the following subsection:

(3A) The Executive Director may make inquiries or request documentation for the purpose of assessing the good character and reputation of an applicant pursuant to clause (3)(a).

(4) Subsection 48(4) of Chapter 260, as amended by Chapter 28 of the Acts of 2000, is further amended by striking out “Review Board” in the first line and substituting “Minister of Service Nova Scotia and Municipal Relations”.

(5) Subsection 48(9) of Chapter 260 is repealed.

9 (1) Subsection 49(1) of Chapter 260, as amended by Chapter 28 of the Acts of 2000, is further amended by striking out “Environment and Labour” in the first, in the sixth and in the seventh lines and substituting in each case “Service Nova Scotia and Municipal Relations”.

(2) Subsection 49(2) of Chapter 260, as amended by Chapter 28 of the Acts of 2000, is further amended by

(a) striking out “Environment and Labour” in the second and in the fourth lines and substituting in each case “Service Nova Scotia and Municipal Relations”;

(b) striking out “Review Board” in the fifth and sixth lines of clause (a) and substituting “Executive Director”; and

(c) striking out “Review Board” in the second line of clause (b) and substituting “Executive Director”.

(3) Subsection 49(3) of Chapter 260, as amended by Chapter 28 of the Acts of 2000, is further amended by striking out “Environment and Labour” each time it appears in the second line and in the fifth, in the ninth and in the tenth lines and substituting in each case “Service Nova Scotia and Municipal Relations”.

(4) Subsection 49(4) of Chapter 260, as amended by Chapter 28 of the Acts of 2000, is further amended by striking out “Review Board” in the fifth line and substituting “Executive Director”.

(5) Subsection 49(5) of Chapter 260, as amended by Chapter 28 of the Acts of 2000, is further amended by striking out “Review Board” in the fifth line and substituting “Executive Director”.

(6) Subsection 49(6) of Chapter 260, as amended by Chapter 28 of the Acts of 2000, is further amended by striking out “Minister of Environment and Labour” in the ninth line and substituting “Executive Director”.

(7) Subsection 49(7) of Chapter 260, as amended by Chapter 28 of the Acts of 2000, is further amended by striking out “Environment and Labour” in the first and in the third lines and substituting in each case “Service Nova Scotia and Municipal Relations”.

(8) Subsection 49(8) of Chapter 260, as amended by Chapter 28 of the Acts of 2000, is further amended by

(a) striking out “Review Board” in the first line and substituting “Executive Director”; and

(b) striking out everything after “unless” in the third line and substituting “public consultation has taken place in the form and manner prescribed by the regulations.”.

(9) Subsection 49(9) of Chapter 260, as amended by Chapter 28 of the Acts of 2000, is further amended by

(a) striking out “Review Board” in the second line and substituting “Executive Director”; and

(b) striking out everything after “without” in the third line and substituting “further public consultation.”.

(10) Subsection 49(10) of Chapter 260, as amended by Chapter 28 of the Acts of 2000, is further amended by striking out “Review Board” in the fourth line and substituting “Minister of Service Nova Scotia and Municipal Relations”.

(11) Subsection 49(11) of Chapter 260, as amended by Chapter 28 of the Acts of 2000, is further amended by striking out “Review Board” in the first line and substituting “Minister of Service Nova Scotia and Municipal Relations”.

(12) Clause 49(11)(b) of Chapter 260, as amended by Chapter 28 of the Acts of 2000, is further amended by striking out “Review Board” in the fifth line and substituting “Minister of Service Nova Scotia and Municipal Relations”.

(13) Subsection 49(12) of Chapter 260, as amended by Chapter 28 of the Acts of 2000, is further amended by

(a) striking out “Review Board” in the first line and substituting “Executive Director”; and

(b) **striking out everything after “unless” in the fourth line and substituting “public consultation has taken place in the form and manner prescribed by the regulations.”.**

(14) Subsection 49(13) of Chapter 260, as amended by Chapter 28 of the Acts of 2000, is further amended by

(a) **striking out “Minister of Environment and Labour” in the first line and substituting “Executive Director”; and**

(b) **striking out “with the approval of the Review Board” in the fourth and fifth lines.**

(15) Subsection 49(14) of Chapter 260, as amended by Chapter 28 of the Acts of 2000, is further amended by striking out “Review Board” in the first line and substituting “Executive Director”.

10 Section 50 of Chapter 260, as amended by Chapter 28 of the Acts of 2000 and Chapter 42 of the Acts of 2007, is further amended by

(a) **adding immediately after clause (e) the following clause:**

(ea) authorizing the Executive Director to make inquiries and request documentation or other information in assessing good character and reputation of applicants;

(b) **adding immediately after clause (g) the following clauses:**

(ga) prescribing the form and manner of application for a license;

(gb) prescribing the form, manner and duration of posting a notice respecting an application for a license;

(gc) prescribing the form of a notice of appeal;

(gd) prescribing the form and manner for the holding of a public consultation by the Executive Director for the granting of certain types of licenses;

(c) **striking out “Minister of Environment and Labour” in the second line of clause (i) and substituting “Executive Director”;**

(d) **striking out “Environment and Labour” in the third line of clause (k) and substituting “Service Nova Scotia and Municipal Relations”;**

(e) **adding immediately after clause (l) the following clauses:**

(la) prescribing a process for the Executive Director to rescind a decision;

(lb) prescribing a process or processes for appeal, or referral, of a matter to the Review Board;

(lc) prescribing a process for action taken against a licensee by the Executive Director;

(ld) authorizing certain persons or class of persons to act on behalf of the Executive Director as may be necessary for the administration of this Act or the regulations;

(le) respecting the service of documents;

(f) adding “the Executive Director,” immediately before “the Minister” in the fourth line of clause (m).

(g) striking out “Environment and Labour” in the last line of clause (m) and substituting “Service Nova Scotia and Municipal Relations”;

(h) striking out the semicolon at the end of clause (m) and substituting a period; and

(i) striking out clause (n).

11 (1) Subsection 61(2) of Chapter 260, as amended by Chapter 28 of the Acts of 2000, is further amended by

(a) striking out “Review Board in the second line and substituting “Executive Director”; and

(b) striking out “its” in the second line and substituting “the Executive Director’s”.

(2) Subsection 61(3) of Chapter 260, as amended by Chapter 28 of the Acts of 2000, is further amended by

(a) striking out “Review Board” in the first line and substituting “Executive Director”; and

(b) striking out “it” the first time it appears in the second line and substituting “the Executive Director”.

(3) Subsection 61(4) of Chapter 260, as amended by Chapter 28 of the Acts of 2000, is further amended by striking out “Review Board” in the first line and substituting “Executive Director”.

(4) Subsection 61(5) of Chapter 260, as amended by Chapter 28 of the Acts of 2000, is further amended by

(a) striking out “Review Board” in the first line and substituting “Executive Director”; and

(b) striking out “its” in the first line and substituting “the Executive Director’s”.

12 This Act comes into force on such day as the Governor in Council orders and declares by proclamation.
