



BILL NO. 115

Government Bill

*4th Session, 61st General Assembly
Nova Scotia
61 Elizabeth II, 2012*

**An Act to Amend Chapter 450
of the Revised Statutes, 1989,
the Summary Proceedings Act,
Respecting Interprovincial Investigative Authority**

CHAPTER 46
ACTS OF 2012

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
DECEMBER 6, 2012**

The Honourable Ross Landry
Minister of Justice

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

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**An Act to Amend Chapter 450
of the Revised Statutes, 1989,
the Summary Proceedings Act,
Respecting Interprovincial Investigative Authority**

Be it enacted by the Governor and Assembly as follows:

1 This Act may be cited as the *Interprovincial Investigative Authority Act*.

2 Chapter 450 of the Revised Statutes, 1989, the *Summary Proceedings Act*, is amended by adding immediately after Section 2G the following Sections:

2H (1) In this Section and Section 2J,

(a) “designated enactment” means an enactment of a designated province, which enactment is designated by the regulations;

(b) “designated province” means a province of Canada designated by the regulations.

(2) Where the Attorney General receives a request from a designated province to have a search or a seizure carried out in the Province in respect of an offence against an enactment of the designated province, the Attorney General may apply *ex parte* to a justice for a warrant.

(3) A justice to whom an application is made under subsection (2) and who is satisfied by information upon oath in the form prescribed in the regulations that there are reasonable grounds to believe that there is in a building, receptacle or place

(a) anything on or in respect of which any offence against an enactment of a designated province has been or is suspected to have been committed; or

(b) anything that there are reasonable grounds to believe will afford evidence with respect to the commission of an offence against an enactment of a designated province,

may at any time issue a search warrant under the justice’s hand authorizing a peace officer

(c) to search the building, receptacle or place for any such thing and to seize it; and

(d) to, as soon as practicable, bring the thing seized before, or make a report in respect thereof to, the justice or some other justice in accordance with subsection (1) of Section 2I.

(4) A justice may issue an investigative warrant authorizing a peace officer to, subject to this Section, use any investigative technique or procedure or do any thing described in the warrant that would, where not authorized, constitute an unreasonable search or seizure in respect of a person or a person’s property if

(a) the justice is satisfied by information under oath that there are reasonable grounds to believe that an offence against a designated enactment has been, is being or will be committed and that information or other evidence concerning the offence will be obtained through the use of the technique or procedure or the doing of the thing;

(b) the justice is satisfied that it is in the best interest of the administration of justice to issue the warrant; and

(c) there is no other provision in this or any other Act of the Legislature that would provide for a warrant or order authorizing the technique or procedure to be used or thing to be done.

(5) A justice who issues a warrant under subsection (3) or (4) may order any person to accompany and assist a peace officer in the execution of the warrant, if the Attorney General so requests.

(6) For the purpose of subsections (1B) to (11) and (13) of Section 2B and Sections 2C, 2D and 2G,

(a) a search warrant issued under subsection (3) is deemed to be a warrant issued under subsection (1) of Section 2B; and

(b) an investigative warrant issued under subsection (4) is deemed to be an investigative warrant issued under subsection (1A) of Section 2B.

(7) Where a written report is filed under subsection (11) of Section 2B, the clerk of the court with whom the written report is filed shall, as soon as reasonably possible, cause the report, together with the information on oath and the warrant to which it pertains, to be brought before a justice to be dealt with under Section 2J.

2I (1) Where a person has seized anything under a warrant issued under Section 2H or seized anything under Section 2D while executing a warrant issued under Section 2H, that person shall, as soon as practicable,

(a) where that person is satisfied that

(i) there is no dispute as to who is lawfully entitled to possession of the thing seized, and

(ii) the continued detention of the thing seized is not required for the purposes of any investigation, inquiry, trial or other proceeding,

return the thing seized, on being issued a receipt therefor, to the person lawfully entitled to its possession and report to the justice who issued the warrant or some other justice that the thing has been returned; or

(b) where that person is not satisfied as described in subclauses (i) and (ii) of clause (a),

(i) bring the thing seized before the justice referred to in clause (a), or

(ii) report to the justice that that person has seized the thing and is detaining it or causing it to be detained,

to be dealt with by the justice in accordance with Section 2J.

(2) A report to a justice pursuant to subsection (1) shall be in the form prescribed in the regulations, varied to suit the case.

2J (1) Where, pursuant to clause (b) of subsection (1) of Section 2I, anything that has been seized is brought before a justice or a report in respect of anything seized is made to a justice, the justice

(a) shall hear any representations of the Attorney General, the person from whom the thing was seized in the execution of the warrant and any person who claims to have an interest in the thing that was seized; and

(b) may require that the thing seized in execution of the warrant be brought before the justice.

(2) At the hearing required under subsection (1), the justice shall

(a) where the justice is not satisfied that the warrant was executed according to its terms and conditions or where the justice is satisfied that an order should not be made under clause (b), order that a thing seized in the execution of the warrant be returned to

(i) the person from whom it was seized, if possession of it by that person is lawful, or

(ii) the lawful owner or the person who is lawfully entitled to its possession, if the owner or that person is known and possession of the record or thing by the person from whom it was seized is unlawful; or

(b) in any other case, order that the thing seized in the execution of the warrant be sent to the designated province referred to in subsection (2) of Section 2H and include in the order any terms and conditions that the justice considers necessary or advisable, including terms and conditions

(i) necessary to give effect to the request referred to in subsection (2) of Section 2H,

(ii) with respect to the preservation and return to the Province of any thing seized, and

(iii) with respect to the protection of the interests of third parties.

3 Subsection 19(1) of Chapter 450 is repealed and the following subsection substituted:

(1) The Governor in Council may make regulations

(a) designating enactments of a designated province of Canada for the purpose of clause (a) of subsection (1) of Section 2H;

(b) designating provinces of Canada for the purpose of clause (b) of subsection (1) of Section 2H;

(c) respecting requests by a designated province to have a search or a seizure carried out in the Province in respect of an offence against an enactment of the designated province;

(d) respecting the application for and execution of warrants under Section 2H;

(e) respecting the detention and return of things seized in the execution of a warrant under Section 2H;

(f) respecting the sending of things seized in the execution of a warrant under Section 2H to a designated province;

(g) defining any word or expression used but not defined in this Act.
