

BILL NO. 101

(as passed, with amendments)



*2nd Session, 58th General Assembly
Nova Scotia
51 Elizabeth II, 2002*

Government Bill

Fire Safety Act

CHAPTER 6 OF THE ACTS OF 2002

The Honourable David M. Morse
Minister of Environment and Labour

[First Reading](#): April 2, 2002 (LINK TO BILL AS INTRODUCED)

Second Reading: May 6, 2002

[Third Reading](#): May 28, 2002 (WITH COMMITTEE AMENDMENTS)

Royal Assent: May 30, 2002



An Act to Promote and Encourage Fire Safety

Be it enacted by the Governor and Assembly as follows:

1 This Act may be cited as the *Fire Safety Act*.

2 The purpose of this Act is to educate and encourage persons and communities to apply the principles of fire safety so as to prevent fires, preserve human life and avoid unwarranted property loss due to the destructive forces of fire.

3 In this Act,

- (a) "alteration" means alteration as defined in the regulations made pursuant to the *Building Code Act* and, for greater certainty, includes an addition;
- (b) "appoint" means appoint in writing;
- (c) "Board" means the Fire Safety Appeal Board referred to in Section 40;
- (d) "building" has the same meaning as in the *Building Code Act* and regulations;
- (e) "building inspector" means an inspector as defined in the *Building Code Act* for the municipality in which a building is, or is to be, located;
- (f) "Council" means the Fire Safety Advisory Council established pursuant to this Act;
- (g) "deputy fire marshal" means a person appointed as a deputy fire marshal pursuant to this Act;
- (h) "designate" means designate in writing;
- (i) "division" means a division of the Board as constituted pursuant to the regulations;
- (j) "electrical installation" has the same meaning as in the *Electrical Installation and Inspection Act*;
- (k) "fire" includes an explosion;
- (l) "fire brigade" means an organization that exists to perform fire-suppression and related activities, but does not include a fire department;
- (m) "fire chief" means the senior official within, and in charge of, a fire department;
- (n) "Fire Code" means the fire code adopted pursuant to this Act;
- (o) "fire department" means an organization that provides fire-suppression services and
 - (i) is operated by a municipality,
 - (ii) is registered by a municipality pursuant to Section 294 of the *Municipal Government Act*, or
 - (iii) is designated as a fire department by the regulations;
- (p) "fire hazard" means a situation, process, material or condition that
 - (i) on the basis of applicable data, may cause a fire or provide a ready fuel supply to augment the spread, intensity or impact of a fire, and
 - (ii) poses a threat to property or the health or safety of a person;
- (q) "fire official" means, where authorized,
 - (i) the Fire Marshal,
 - (ii) a deputy fire marshal,
 - (iii) a provincial inspector,
 - (iv) a local assistant, or

(v) a municipal fire inspector,

as the case may be;

(r) "Fire Marshal" means the person appointed as the Fire Marshal pursuant to this Act;

(s) "fire-protection system" means a fire-alarm device, fire-alarm system or fire-extinguishing device or system, or a combination thereof, that is designed and installed for detecting, controlling or extinguishing a fire or alerting occupants, the fire-suppression service, or both, that a fire has occurred;

(t) "fire safety" means fire safety as described in Section 16;

(u) "fire suppression" means an organized emergency response for controlling and extinguishing fires;

(v) "former Act" means Chapter 171 of the Revised Statutes, the *Fire Prevention Act*;

(w) "land and premises" or "land or premises" includes a part thereof and buildings, structures and things situated on, or attached to, the land or premises;

(x) "local assistant" means a person who is a local assistant pursuant to this Act;

(y) "Minister" means the Minister of Environment and Labour;

(z) "municipal fire inspector" means a person appointed by a municipality as a municipal fire inspector pursuant to this Act;

(aa) "municipality" means a regional municipality, incorporated town or municipality of a county or district;

(ab) "owner" includes

(i) a person controlling land or premises or the activity on the land or premises,

(ii) *prima facie* the assessed owner of land or premises whose name appears on the assessment roll prepared in accordance with the *Assessment Act*, and

(iii) where land or premises are owned or leased by Her Majesty in right of the Province, *prima facie* the Department of Transportation and Public Works;

(ac) "provincial inspector" means a person designated as a provincial inspector pursuant to this Act;

(ad) "qualified" means acceptable to the Fire Marshal.

4 (1) This Act binds Her Majesty in right of the Province.

(2) This Act applies to

(a) every agency of the Government of the Province; and

(b) all matters within the legislative jurisdiction of the Province.

(3) To the extent that Her Majesty in right of Canada submits, this Act binds Her Majesty in right of Canada and every agency of the Government of Canada.

5 (1) Subject to subsection (2), nothing in this Act prevents a municipality from making and enforcing by-laws relating to matters dealt with by this Act, the regulations or the Fire Code, including by-laws that impose or prescribe higher or more stringent standards or requirements than those provided for by this Act, the regulations or the Fire Code.

(2) Where a by-law of a municipality conflicts with this Act, the regulations or the Fire Code, this Act, the regulations and the Fire Code prevail to the extent of the conflict.

6 Subject to Section 5, nothing in this Act affects the powers, obligations and duties of persons or bodies

(a) to comply with, carry out or enforce any other law of the Province; or

(b) under any other law of the Province with respect to an investigation or examination into the origin, cause or circumstances of a fire.

7 For greater certainty,

(a) the failure of a fire official to identify or communicate a violation of this Act, the regulations, the Fire Code, or any other Act or regulations that the Fire Marshal has the power and authority to enforce; or

(b) the issuance of a building permit or an occupancy permit pursuant to the *Building Code Act*,

with respect to land or premises, or a part thereof, does not derogate from the application to the land or premises, or part thereof, of this Act, the regulations, the Fire Code, or any other Act or regulations that the Fire Marshal has the power and authority to enforce.

ADMINISTRATION

8 The Minister is responsible for the supervision and management of this Act and the regulations.

9 (1) Such persons as are necessary for the administration and enforcement of this Act and the regulations shall be appointed in accordance with the *Civil Service Act*, except where this Act provides otherwise.

(2) The Minister shall designate from among those persons appointed pursuant to subsection (1), a Fire Marshal and one or more deputy fire marshals to perform the duties and functions, and exercise the powers and authorities, imposed or conferred upon them by this Act, the regulations and the Fire Code.

(3) The Fire Marshal may delegate any or all of the duties and functions of the Fire Marshal to a deputy fire marshal, including any quasi-judicial function of the Fire Marshal.

(4) The Deputy Minister of Environment and Labour may designate one, or more than one, deputy fire marshal to act in the place of the Fire Marshal in the Fire Marshal's absence or incapacity or where the office of the Fire Marshal is vacant.

(5) A deputy fire marshal designated pursuant to subsection (4) shall perform the functions and duties, and has the powers and authorities, of the Fire Marshal, subject to any limitation determined by the Deputy Minister of Environment and Labour.

10 (1) The Fire Marshal may designate, from among those persons appointed pursuant to subsection 9(1), qualified persons as provincial inspectors who may perform the duties and functions, and exercise the powers and authorities, imposed or conferred upon deputy fire marshals by this Act, the regulations and the Fire Code, subject to any limitations determined by the Fire Marshal.

(2) The Fire Marshal may designate certain provincial inspectors designated pursuant to subsection (1) as inspectors or chief inspectors for the purpose of a regulation made pursuant to this Act.

11 While acting under the authority of this Act and the regulations, the Fire Marshal, deputy fire marshals and provincial inspectors have and may exercise, in any part of the Province, all the powers, authorities and immunities of a peace officer under the *Criminal Code* (Canada).

12 (1) There is hereby established a council to be known as the Fire Safety Advisory Council.

(2) The members of the Council shall be appointed by the Minister, in accordance with the regulations, for such terms as the Minister determines.

(3) The Council may advise the Minister regarding

(a) the administration or reform of this Act, the regulations and the Fire Code;

(b) promotion and support of fire safety, the fire-suppression service and fire prevention;

(c) matters arising from the functioning of non-profit organizations with mandates that relate to the purpose of this Act;

(d) any other matter, as determined by the Minister.

(4) The Minister, in consultation with the Council, may

(a) create one or more subcommittees of the Council;

(b) appoint the members to the subcommittee; and

(c) determine the mandate of the subcommittee.

(5) For greater certainty, a person who is not a member of the Council may be a member of a subcommittee of the Council.

(6) The members of the Council and any subcommittees shall be reimbursed for such expenses as the Minister determines.

13 (1) The Fire Marshal may

(a) promote, encourage and co-operate with any body or person interested in developing and promoting the principles and practices of fire prevention and the protection of life and property against fire, including promoting, encouraging and delivering public fire-safety education programs and training and supporting and assisting others to provide public fire-safety education programs and training;

(b) advise persons or organizations interested in developing or promoting the principles and practices of fire suppression, fire prevention, fire-safety education, emergency services and related communication systems, and the delivery of those services and systems;

(c) investigate conditions under which fires occur;

(d) require such reports as the Fire Marshal deems necessary from persons authorized or required to inspect, investigate or examine;

(e) maintain in the Fire Marshal's office a statistical record of all fires reported to the Fire Marshal;

(f) collect and disseminate information with respect to fires in the Province;

(g) study methods of fire safety;

(h) make recommendations, including guidelines, respecting

(i) fire suppression, fire prevention, fire protection and the training of persons involved in the provision of these services as well as rescue and emergency services and the delivery of these services and matters related to any of them,

(ii) the establishment of fire departments and fire brigades,

(iii) the provision of adequate water supply, and

(iv) fire-hose couplings and connections for fire-fighting equipment.

(2) The Fire Marshal shall exercise such other powers and perform such duties as are assigned to the Fire Marshal

(a) pursuant to this Act, the regulations or the Fire Code; or

(b) by the Minister.

(3) The Fire Marshal shall submit, annually to the Minister in each year, a detailed report for the twelve months ending on March 31st, in such form as the Minister may prescribe.

(4) The Fire Marshal has the power and authority to enforce compliance with

(a) this Act, the regulations and the Fire Code; and

(b) all other Acts of the Province relating to the prevention and suppression of fires and all regulations and by-laws made thereunder, including any codes and enactments incorporated by reference therein.

(5) With the approval of the Minister, the Fire Marshal, or a person on the staff of the Fire Marshal, may

(a) sit as a member of a board or committee of a non-profit organization with a mandate that relates to the purpose of this Act; and

(b) represent the interests of the office of the Fire Marshal on such a board or committee.

(6) With the approval of the Minister, the Fire Marshal may assist, including providing administrative support for, the work of a non-profit organization with a primary mandate that relates to

(a) fire prevention or fire safety;

(b) critical incident stress debriefing provided to members of fire-suppression services and emergency personnel;

(c) training or certification of members of fire-suppression services, fire investigators, municipal fire inspectors or local assistants, or accreditation of such training or certification programs; or

(d) any other mandate prescribed by the regulations.

(7) The Fire Marshal may, with the approval of the Minister, contract to provide services to a municipality or other body or person.

(8) The Fire Marshal may charge a fee for the services contracted out pursuant to subsection (7) and the fee is a debt due to Her Majesty in right of the Province and may be recovered in the same manner as any debt due to Her Majesty.

14 (1) The Fire Marshal may appoint as a local assistant to the Fire Marshal a qualified fire chief or, with the consent of the fire chief, another qualified member of the fire chief's fire department.

(2) A fire chief shall notify the Fire Marshal, in writing, of

(a) the fire chief's name, mailing address and telephone number and such other information as the Fire Marshal may request; and

(b) the name and address of the fire department of which the person is the fire chief,

as soon as possible after the person becomes fire chief.

(3) In a municipality or part thereof for which no fire department is established, the mayor or warden, as the case may be, of the municipality is, by virtue of that person's office, deemed to be a local assistant to the Fire Marshal.

(4) Local assistants to the Fire Marshal shall, within their territorial jurisdiction and, subject to the directions of the Fire Marshal, assist in administering this Act, the regulations and the Fire Code.

(5) The Fire Marshal may appoint additional local assistants for a territorial jurisdiction, with or without restrictions, who shall

(a) be qualified persons who

(i) have consented to the appointment, and

(ii) are recommended for the appointment by a local assistant referred to in subsection (1) or (3); and

(b) act on behalf of or, to the extent requested by the Fire Marshal or a local assistant referred to in subsection (1) or (3), assume the responsibility of a local assistant referred to in subsection (1) or (3).

(6) Where a local assistant appointed pursuant to subsection (5)

(a) has been employed by or otherwise associated with a fire department or municipality for the purpose of assuming a role as a local assistant and the employment or association ends;

(b) is, in the opinion of a local assistant referred to in subsection (1) or (3), no longer able to fulfil the role of a local assistant; or

(c) has indicated an intention to resign from the office of local assistant and has not communicated this fact, in writing, to the Fire Marshal,

a local assistant referred to in subsection (1) or (3) for the territorial jurisdiction shall provide the information referred to in clause (a), (b) or (c) to the Fire Marshal, in writing, as soon as practicable.

(7) The Fire Marshal may revoke the appointment of a local assistant appointed pursuant to subsection (1) or (5).

FIRE SAFETY

15 (1) Unless otherwise provided in the regulations, the 1995 edition of the *National Fire Code of Canada* issued by the National Research Council of Canada, as amended from time to time, is adopted as the Fire Code.

(2) Notwithstanding subsection (1), where the regulations so provide,

(a) a later edition of the *National Fire Code of Canada*, published by the National Research Council of Canada;

(b) an edition of another fire code issued by a national or international organization concerned with fire safety or an aspect or it; or

(c) the edition of the fire code adopted in subsection (1),

in whole or in part, with or without such modifications or additions as may be specified in the regulations, as the edition adopted is amended from time to time, may be adopted by regulation as the Fire Code.

(3) Unless otherwise provided in the regulations, a reference in the Fire Code to the *National Building Code of Canada*, issued by the National Research Council of Canada, shall be read as a reference to the Nova Scotia Building Code adopted pursuant to the *Building Code Act* and regulations.

16 Fire safety is achieved when the circumstances at land or premises are such that, through a combination of

(a) compliance with enactments having an impact on the protection of persons and property from the occurrence or consequences of a fire;

(b) behaviour, training and informing of persons in relation to

(i) the prevention of fire, and

(ii) measures to lessen its consequences, including the egress from, or protection of persons at, the land or premises in the event of a fire;

(c) fire-protection systems and measures for confining fire and smoke and delaying the progress of a fire;

(d) physical arrangements for egress or a place of safe refuge for persons to use in the event of a fire; and

(e) emergency preparedness,

a well-informed person, taking into account the nature of the occupancy at the land or premises and the capacity of the fire department and available fire-suppression services to deal with an emergency, would have reasonable grounds to believe that

(f) a fire that would harm a person or cause unwarranted damage to property is not likely to occur;

(g) where a fire does occur, a person threatened by the fire, including a firefighter, will be able to survive the occurrence without physical harm, unless the person is harmed immediately by the initiation of the fire due to the person's proximity to the point of initiation; and

(h) where a fire does occur, it will not cause unwarranted damage to property.

17 Unless this Act or the regulations otherwise prescribe, every owner of land or premises, or a part thereof, and every person shall take every precaution that is reasonable in the circumstances to achieve fire safety and to carry out the provisions of this Act, the regulations and the Fire Code.

18 (1) Where required by the regulations, before the commencement of construction of a building or alterations or repairs to an existing building, an owner of the building shall submit the plans and specifications to the Fire Marshal for review for the purpose set out in subsection (2).

(2) Unless otherwise prescribed by the regulations, the purpose and scope of a review required pursuant to subsection (1) is to provide the Fire Marshal with an opportunity to advise

(a) an owner; and

(b) a building inspector,

of an apparent contravention of this Act, the regulations or the Fire Code, where the Fire Marshal recognizes in the plans or specifications that there would be a contravention if the construction, alterations or repairs were to proceed without a change in the plans or specifications.

19 (1) A municipality shall

(a) establish a system of fire-safety inspections of land and premises situate within its jurisdiction, as required by the regulations, to provide for compliance with this Act, the regulations and the Fire Code;

(b) appoint a municipal fire inspector who shall carry out the inspections; and

(c) ensure that the Fire Marshal is notified, in writing, of the appointment of the municipal fire inspector and the revocation of any such appointment.

(2) A municipality that is required to establish and conduct a system of inspections pursuant to subsection (1) shall ensure that

(a) a record is made of every inspection undertaken by the municipality;

(b) the records are made available, on request, to the Fire Marshal or a deputy fire marshal; and

(c) unless otherwise prescribed by the regulations, the records are kept for at least five years.

20 (1) In this Section,

(a) "Nova Scotia Community College" means the Nova Scotia Community College established pursuant to the *Community Colleges Act*, and "Collège de l'Acadie" means the Collège de l'Acadie established pursuant to that Act;

(b) "private school", "public school" and "school board" have the same meaning as in the *Education Act*;

(c) "university" means a university described in the regulations.

(2) The following persons or bodies shall establish and conduct a system of inspections to provide for fire safety, assess the adequacy of fire-prevention measures and ensure compliance with this Act, the regulations and the Fire Code:

(a) a school board, in respect of the premises of the public schools for which it is responsible;

(b) a person who operates a private school, in respect of the premises of the private school;

(c) the Nova Scotia Community College, in respect of the premises of the Nova Scotia Community College, and the Collège de l'Acadie, in respect of the premises of the Collège de l'Acadie;

(d) a university, in respect of the premises of the university;

(e) a person who owns, operates, manages or controls a plant or equipment used primarily for the production, transmission, delivery or furnishing of electric power or energy for sale, in respect of the plant or equipment; and

(f) where the regulations so prescribe, other persons or bodies, or classes of persons or bodies.

(3) A person who, or body that, is required to establish and conduct a system of inspections pursuant to subsection (2) shall ensure that

(a) a record is made of every inspection undertaken;

(b) the records are immediately

(i) provided to the workplace joint occupational health and safety committee as referred to in the *Occupational Health and Safety Act*,

(ii) provided to a workplace health and safety representative as referred to in the *Occupational Health and Safety Act*, or

(iii) where no committee or representative exists, posted conspicuously in an area where it will come to the attention of the employees, until another such record is posted, and

(iv) in the case of facilities referred to in clauses (2)(a) to (d), provided upon request to a student who attends or is likely to attend the relevant school or university and to the parent or guardian of such a student, and

(v) provided to the insurer of a person or body referred to in subsection (2) in respect of the premises inspected;

(c) the records are made available, on request, to any person who is authorized to conduct an inspection pursuant to this Act; and

(d) unless otherwise prescribed by regulation, the records are kept for at least five years.

(4) The Fire Marshal shall implement a system of on-site inspections by fire officials of the premises referred to in subsection (2) to ensure that the records referred to in subsection (3) reflect the actual conditions at those premises.

21 (1) Where a person or body that is responsible for implementing a system of inspections pursuant to this Act fails to do so, the Fire Marshal may perform the inspections and may recover the expenses reasonably incurred in the performance of the work.

(2) The expenses referred to in subsection (1) are a debt due to Her Majesty in right of the Province and may be recovered in the same manner as any debt due to Her Majesty.

22 With the consent of an owner of land or premises, a member of a fire department authorized by the fire chief may enter upon the land or premises, at a reasonable time, for the purpose of determining whether there is a condition likely to

(a) increase the risk of fire; or

(b) interfere with the escape of the occupants in the event of a fire or other emergency.

23 (1) Subject to subsection (2), for the purpose of assessing fire safety, assessing the adequacy of fire-prevention measures or ensuring compliance with this Act, the regulations, the Fire Code or an order made pursuant to this Act, the regulations or the Fire Code, the Fire Marshal, a deputy fire marshal, a local assistant or a municipal fire inspector may, without a warrant, at any reasonable time, enter upon and inspect land or premises.

(2) A fire official shall not enter a private dwelling for a purpose specified in subsection (1) without a warrant obtained pursuant to Section 24 unless the consent of an owner is obtained.

(3) On the request of an owner or occupant of land or premises that are entered pursuant to this Section, the fire official shall

(a) give to the owner or occupant the fire official's identity; and

(b) explain the purpose of the entry.

- (4)** On an entry pursuant to this Section, the fire official may
- (a) enter with any equipment, machinery, apparatus, vehicle or material that the fire official considers necessary for the purpose of the entry;
 - (b) take anyone who, or thing that, the fire official considers necessary to assist with fulfilling the purpose of the entry.
- (5)** Where the fire official considers it necessary for the purpose of an entry pursuant to this Section, the fire official may, by oral or written order, close the land or premises and prohibit any person from entering or remaining until the purpose of the entry is fulfilled.
- (6)** The fire official may, to the extent that it is relevant to the purpose of an entry pursuant to this Section,
- (a) examine documents or things;
 - (b) use data storage, information processing or retrieval devices or systems that are normally used on the land or premises being inspected to produce a document in readable form;
 - (c) collect and remove data or samples;
 - (d) make an inspection, carry out a study or conduct a test on the land or premises or anything on the land or premises;
 - (e) take photographs or make videotapes or other images, electronic or otherwise;
 - (f) require the production of, or remove, documents or things for examination or copying;
 - (g) require that any machinery, equipment or device be operated, used or set in motion under specified conditions;
 - (h) make any reasonable inquiry of a person, either orally or in writing,
- or cause any of the above to be done.
- (7)** Where a fire official acting pursuant to this Section demands that a document or thing be produced for inspection, the person with custody of the document or thing shall produce it and, in the case of a document, shall, on request, provide any assistance that is reasonably necessary to interpret the document or to produce it in readable form.
- (8)** Anything removed from land or premises by a fire official acting pursuant to this Section
- (a) shall, on request, be made available to the person from whom it was removed
 - (i) subject to any requirements that might be necessary to protect its integrity as evidence in an appeal or prosecution, and
 - (ii) at a time and place that are convenient for the person and for the fire official; and
 - (b) shall, unless it is impossible or unpractical to return it, be returned to the person within a reasonable time unless it
 - (i) has been lawfully seized and retained for use as evidence in a prosecution, or
 - (ii) is required for use in an appeal pursuant to this Act or the regulations.
- (9)** For the purpose of ensuring compliance with this Act, the regulations, the Fire Code or an order made pursuant to this Act, the regulations or the Fire Code, the fire official may summons to give evidence and administer an oath or affirmation to a person.
- (10)** While a fire official is acting pursuant to this Section, no person shall
- (a) fail to comply with a reasonable request of the fire official;
 - (b) knowingly make a false or misleading statement to the fire official;

(c) unless permitted by the fire official, remove, alter or interfere in any way with anything seized, detained or removed by the fire official; or

(d) obstruct or interfere with the fire official.

24 (1) A justice of the peace may

(a) upon application by the Fire Marshal, a deputy fire marshal, a local assistant or a municipal fire inspector; and

(b) without notice to the owner of land or premises,

issue a warrant authorizing the fire official named in the warrant to enter upon the land or premises and exercise any of the powers referred to in Section 23, if the justice of the peace is satisfied on evidence under oath that there are reasonable grounds to believe that the entry is necessary to assess fire safety, assess the adequacy of fire-prevention measures or ensure compliance with this Act, the regulations, the Fire Code or an order made pursuant to this Act, the regulations or the Fire Code and

(c) the fire official has been denied entry to the land or premises or there are grounds to believe that the fire official will be denied entry to the land or premises; or

(d) the fire official has been obstructed in exercising any of the powers the fire official is authorized to exercise pursuant to Section 23 with respect to the lands or premises or there are grounds to believe that the fire official will be obstructed in exercising any of those powers.

(2) A warrant issued pursuant to subsection (1)

(a) shall specify the times, which may be at any time during the day or night, during which the warrant may be carried out;

(b) shall state when the warrant expires; and

(c) may be extended as to its expiry date by a justice of the peace for such additional periods as the justice of the peace considers necessary.

(3) A fire official who acts under the authority of a warrant issued pursuant to subsection (1) may

(a) call upon a police officer; and

(b) use such force as is necessary,

to make the entry or exercise the powers authorized by Section 23.

(4) Where a fire official acts under the authority of a warrant issued pursuant to subsection (1), the obligations and rights of a person described in subsections 23(3), (7), (8) and (10) apply as if the fire official was acting under the authority of Section 23.

25 (1) Where the Fire Marshal, a deputy fire marshal, a local assistant or a municipal fire inspector believes that there is a contravention on land or premises of this Act, the regulations, the Fire Code or an order made pursuant to this Act, the regulations or the Fire Code, the fire official may issue to an owner of the land or premises an order that

(a) is substantially in the form set out in subsections 26(1) and (2);

(b) may direct the owner to do one or more of the following within the time limit set out in the order:

(i) remedy the contravention, including do anything in relation to the land or premises that the fire official considers necessary to remedy the non-compliance,

(ii) carry out repairs or alterations,

(iii) remove or demolish buildings or things on the land or premises, or parts of the land or premises,

(iv) replace materials used in the construction of buildings or things,

(v) remove any combustible or explosive material or anything that poses a fire hazard or compromises fire safety,

(vi) discontinue the manufacturing, production or fabrication of a material, device or thing that creates or poses an undue risk of fire or explosion,

(vii) discontinue a use or occupancy of the land or premises, or an activity or practice that creates or poses a fire hazard or compromises fire safety,

(viii) repair or replace faulty fire-protection systems, or parts thereof, or install fire-protection systems, or parts thereof,

(ix) maintain, inspect or obtain certification for a fire-protection system, or part thereof,

(x) obtain a report or assessment from a person who possesses the expert or professional knowledge or qualifications specified by the fire official in respect of fire safety,

(xi) prepare, communicate and practise an emergency-response plan for the protection of persons in the event of a fire that includes alerting the fire brigade or fire department, as the case may be, orderly evacuation of occupants and protection of those occupants who cannot easily be evacuated,

(xii) do anything respecting arrangements for fire safety, including but not limited to, fire prevention, the containment of a possible fire, egress, the operation of a fire-protection system, containment of, and adequate protection from, hazardous materials in the event of a fire, and the behaviour, training and informing of persons in relation to any of these matters,

(xiii) provide information respecting those matters referred to in subclause (xii).

(2) Where a fire official referred to in subsection (1) determines that there is a significant risk that a fire will occur, or a likelihood that a person will be killed or injured if a fire does occur, the fire official, with the approval of the Fire Marshal, and upon such terms and conditions as the Fire Marshal considers proper, may

(a) order that an owner of the land or premises close the land or premises and prevent persons from entering until the corrective actions ordered pursuant to subsection (1) or (3) are completed; or

(b) where the fire official is of the opinion that it is necessary for the immediate protection of persons and property that the lands or premises be closed immediately,

(i) cause the land or premises to be closed immediately,

(ii) cause persons to be removed from the land or premises, and

(iii) order that the land or premises remain closed and be vacated until the corrective actions ordered pursuant to subsection (1) or (3) are completed.

(3) Where a fire official determines, upon an inspection or investigation pursuant to this Act, that an electrical installation at land or premises may pose a risk of fire because of the inadequacy or want of repair of the electrical installation, the fire official may order that

(a) the electrical installation be inspected by an inspector appointed pursuant to the *Electrical Installation and Inspection Act*; and

(b) the costs of the inspection be paid by the owner of the electrical installation,

and the person to whom the order is directed is not in compliance with the order unless any order made pursuant to the *Electrical Installation and Inspection Act* is complied with in addition to the order made pursuant to this Act, the regulations or the Fire Code.

26 (1) An order pursuant to subsection 25(1), clause 25(2)(a), subclause 25(2)(b)(iii), subsection 25(3) or subsection 30(3) shall

- (a) identify the reasons for the order;
 - (b) explain the action required by the order; and
 - (c) set out the time within which the person is to comply.
- (2)** Where an order is made pursuant to subsection 25(1), clause 25(2)(a), subclause 25(2)(b)(iii) or subsection 30(3) by
- (a) the Fire Marshal, it shall set out the right to appeal the order to the Fire Safety Appeal Board; or
 - (b) a deputy fire marshal, a local assistant or a municipal fire inspector, it shall set out the right to appeal the order to the Fire Marshal or to the Board.
- (3)** A copy of an order
- (a) made pursuant to subsection 25(1), clause 25(2)(a), subclause 25(2)(b)(iii) or subsection 30(3) shall be served on the owner who is named as recipient in the order;
 - (b) made pursuant to subsection 25(1), clauses 25(2)(a) or subclause 25(2)(b)(iii) shall be served on at least one occupant of each unit intended for separate occupancy; and
 - (c) may be served on other interested persons at the discretion of the person making the order.
- (4)** Where a local assistant makes an order, other than an oral order, a copy of the order shall be delivered to the Fire Marshal as soon as possible after the order is made.
- (5)** Where an order is made requiring the closure of land or premises, a copy of the order shall be posted in a conspicuous place on the land or premises.
- (6)** Where an order made pursuant to Section 25 concerns a matter that is also regulated under the *Building Code Act* or the *Nova Scotia Building Code Regulations*, the fire official making the order shall furnish a copy of the order to the building inspector.
- 27 (1)** No order made pursuant to Section 25 shall require that alterations be made to a building that, at the time an occupancy permit was issued for the building, complied with
- (a) the Building Code then established under the *Building Code Act*;
 - (b) a municipal by-law then in force that adopted an edition of the *National Building Code of Canada* issued by the National Research Council of Canada; or
 - (c) where no municipal by-law or *Building Code Act* was then in force, an edition of the *National Building Code of Canada* issued by the National Research Council of Canada that was current at the time of construction,
- and is in compliance with that code, unless the order is necessary to
- (d) respond to a requirement of the Fire Code; or
 - (e) ensure compliance with regulations made pursuant to this or any enactment relating to the retrofitting of existing buildings for fire safety.
- (2)** Notwithstanding subsection (1), where a building, at the time of its construction or occupancy, was constructed or occupied in violation of a regulation made pursuant to this Act or the former Act, an order may be made pursuant to Section 25 requiring alterations to the building.
- (3)** Where an order concerning a matter that is also regulated by the *Building Code Act* or the *Nova Scotia Building Code Regulations* is issued pursuant to Section 25, and a building inspector identifies a likelihood that an unsafe condition will result from an alteration or other work for which a building permit is required to implement the order,
- (a) the building inspector shall promptly contact the fire official who issued the order and those persons shall consult and review the information supplied by the owner describing the specifics of the construction; and

(b) the building inspector and the fire official shall determine whether the order can be implemented so as to address both the potential unsafe condition and fire-safety concerns.

(4) Where

(a) a building inspector and a fire official determine that the order can be implemented so as to address both the potential unsafe condition and fire-safety concerns;

(b) upon consultation by a building inspector and a fire official with the Fire Marshal, the Fire Marshal determines that it is in the interest of safety that the order or an amended version of the order be implemented; or

(c) the Board makes or confirms an order respecting an alteration or other work for which a building permit is required under the *Building Code Act*,

a building inspector shall issue a building permit upon payment of the applicable fee under the *Building Code Act* and regulations and the permit shall indicate on its face that it is issued for the purpose of this Act and is sufficient to meet the requirement under the *Building Code Act* and regulations that a building permit be obtained.

28 (1) Where the Fire Marshal, a deputy fire marshal, a local assistant or a fire chief or other officer of a fire department in charge of directing fire-suppression activities has reasonable grounds to believe that a risk of fire poses an immediate threat to the life of a person, the fire official may, without a warrant and at any time, enter upon and inspect land or premises and may

(a) call upon a police officer;

(b) use such force as is necessary,

to make the entry or exercise the powers authorized by this Section.

(2) On an entry pursuant to subsection (1), a fire official may

(a) remove persons from the land or premises;

(b) order orally, or in writing, that no person, other than a person permitted by the fire official making the entry, shall be permitted to be, or be, present on the land or premises identified in the order until the fire official otherwise orders;

(c) post a fire watch;

(d) remove combustible or explosive material or anything that might constitute the source of the immediate threat;

(e) eliminate ignition sources;

(f) install temporary safeguards, including portable fire extinguishers and smoke alarms;

(g) make minor repairs to existing fire-protection systems;

(h) do anything that the fire official reasonably believes is required to remove or reduce the threat to life.

(3) On an entry pursuant to subsection (1),

(a) subsections 23(3), (7), (8) and (10) apply; and

(b) in addition to the powers authorized by this Section, the fire official may exercise the powers contained in subsections 23(4) and (5) and clauses 23(6)(a), (b), (d), (g) and (h), that the official has reasonable grounds to believe are required to remove or reduce the threat to life,

and the provisions of Section 23 referred to in this subsection shall be read as if they referred to an entry or activity under this Section.

(4) A fire official who exercises any of the powers contained in subsection (2) shall promptly thereafter

- (a) give notice in documented form to an owner, if the owner's whereabouts in the Province are known; and
- (b) post a copy of the notice in a conspicuous place on the land or premises that
 - (i) describes the location of the land or premises,
 - (ii) states the reason for the entry, and
 - (iii) states the things done pursuant to subsection (2) to remove or reduce the threat to life.

29 (1) Where a justice of the peace is satisfied by evidence upon oath that a fire official described in subsection 28(1) has reasonable grounds to believe that entry on lands or premises is necessary to determine whether a risk of fire poses an immediate threat to the life of a person, and

- (a) the fire official has been denied entry to the land or premises or there are grounds to believe that the fire official will be denied entry to the land or premises; or
- (b) the fire official has been obstructed in exercising any of the powers the fire official is authorized to exercise pursuant to Section 28 with respect to the land or premises or there are grounds to believe that the fire official will be obstructed in exercising any of those powers,

the justice of the peace may, without notice to the owner, issue a warrant authorizing the fire official named in the warrant to enter the land or premises and exercise any of the powers authorized by Section 28.

(2) A warrant issued pursuant to subsection (1)

- (a) shall specify the times, which may be at any time during the day or night, during which the warrant may be carried out;
- (b) shall state when the warrant expires; and
- (c) may be extended as to its expiry date by a justice of the peace for such additional periods as the justice of the peace considers necessary.

(3) A fire official who acts under the authority of a warrant issued pursuant to subsection (1) may

- (a) call upon a police officer;
- (b) use such force as is necessary,

to make the entry or exercise the powers authorized by Section 28.

(4) Where a fire official acts under the authority of a warrant issued pursuant to subsection (1), the obligations and rights of a person described in subsections 28(3) and (4) apply, and those provisions shall be read as if the fire official was acting under the authority of Section 28.

30 (1) Subject to subsection (2), where

- (a) an owner fails to comply with an order issued pursuant to Section 25;
- (b) the owner is absent from the Province; or
- (c) the owner cannot be located,

the Fire Marshal or, subject to subsection (2), a deputy fire marshal, a local assistant or a municipal fire inspector may carry out, or cause to be carried out,

- (d) an order involving an expenditure not exceeding one thousand dollars;
- (e) an order involving an expenditure of such amount greater than one thousand dollars as may be prescribed by the regulations;

(f) where there are no regulations made pursuant to clause (e), an order involving an expenditure of such amount greater than one thousand dollars as may be approved by the Minister on a case by case basis, and any further order for compliance approved by the Minister; or

(g) where there are regulations made pursuant to clause (e) prescribing an amount greater than one thousand dollars, an order involving an expenditure of such greater amount as may be approved by the Minister on a case-by-case basis, and any further order for compliance approved by the Minister.

(2) A deputy fire marshal, a local assistant or a municipal fire inspector may carry out, or cause to be carried out, an order referred to in subsection (1) with

(a) in the case of a deputy fire marshal or a local assistant, the approval of the Fire Marshal; and

(b) in the case of a municipal fire inspector, the approval of the Fire Marshal and the mayor or warden of, or the chief administrative officer or, where there is no chief administrative officer, the clerk of, the municipality that appointed the municipal fire inspector.

(3) Where a fire official carries out, or causes to be carried out, an order referred to in subsection (1), or work or action pursuant to clause 25(2)(b), subsection 28(2) or subsection 33(3), the fire official may make an order directing the owner to pay the costs of carrying out the order, work or action, within the limits referred to in subsection (1) to

(a) the Minister if the order, work or action was carried out, or caused to be carried out, by the Fire Marshal or a deputy fire marshal; or

(b) the municipality within which the land or premises that are the subject of the order, work or action are located if the order, work or action was carried out, or caused to be carried out, by a local assistant or municipal fire inspector,

and the order to pay costs shall include

(c) a description of the things done for which the costs were incurred and a statement of the authority for doing the things;

(d) a detailed account of the costs incurred; and

(e) a direction that the person to whom the order is issued pay the costs to the Minister or the municipality, as the case may be.

(4) Where the costs of carrying out an order, work or action pursuant to subsection (1) or pursuant to clause 25(2)(b), subsection 28(2) or subsection 33(3)

(a) are incurred by a local assistant or municipal fire inspector; and

(b) remain unpaid by the owner after all rights of appeal pursuant to this Act are exhausted,

the local assistant or municipal fire inspector, as the case may be, shall certify to the clerk of the municipality within which the land or premises that are the subject of the order are located, the expenses actually and necessarily incurred to carry out the order, but not exceeding the limits set out in subsection (1), and the clerk shall forthwith pay, from the ordinary revenues of the municipality, the amount so certified to the local assistant or municipal fire inspector, as the case may be.

31 (1) Where an order for payment of costs referred to in subsection 30(3) is not complied with, the Fire Marshal, a deputy fire marshal, a local assistant or a municipal fire inspector, as the case may be, may file a copy of the order with the clerk of the municipality within which the land or premises that are the subject of the order are located and the amount of the costs

(a) is subject to interest, calculated at the rate applicable to overdue municipal rates and taxes, from the date of the original order for payment of costs; and

(b) with any interest thereupon, constitutes a lien on the property that is the subject of the order.

(2) The amount of the costs and any interest is, for the purpose of collection and recovery, a first lien on the property collectable by the municipality as municipal taxes pursuant to the *Municipal Government Act*.

(3) Where an order for payment of costs requires payment to the Minister and the amount of the costs, including interest, is collected pursuant to subsection (2), it shall be remitted to the Minister.

(4) An order for payment of costs may, for the purpose of enforcement of the order, be registered with the Supreme Court of Nova Scotia and shall be enforced in the same manner as a judgment of that Court.

(5) To register an order for payment of costs with the Supreme Court of Nova Scotia, the fire official who made the order may make a certified copy of the order, upon which shall be made the following endorsement, signed by the fire official:

Register the within with the Supreme Court of Nova Scotia.

Dated this day of, 20.....

.....

(Name of fire official)

(6) The fire official may forward the certified copy referred to in subsection (5), so endorsed, to a prothonotary of the Supreme Court of Nova Scotia who shall, upon receipt, enter it as a record and it shall thereupon be registered with and enforceable in the same manner as a judgment of that Court.

INVESTIGATION AND REPORTING

32 (1) Subject to subsections (4) and (5), the local assistant shall immediately, and in no case later than twenty-four hours following a fire, investigate, or cause to be investigated, the cause, origin and circumstances of every fire by which property has been destroyed or damaged that occurs within the municipality or part thereof for which the person is a local assistant, unless otherwise directed by the Fire Marshal.

(2) Where

- (a) there has been a loss of human life; or
- (b) the local assistant investigating the fire believes that the fire is incendiary or of suspicious origin,

the local assistant shall notify the police immediately and the Fire Marshal within twenty-four hours following the fire.

(3) Within seven days of completing the investigation of a fire, the local assistant shall furnish to the Fire Marshal, in a form acceptable to the Fire Marshal, a documented statement of the facts relating to the cause, origin and circumstances of the fire and such further information as the Fire Marshal requires.

(4) Where the local assistant

- (a) requires the assistance of the Fire Marshal with an investigation of a fire; or
- (b) determines that the Fire Marshal should carry out the investigation,

the local assistant shall notify the Fire Marshal immediately or in no case later than twenty-four hours following the fire.

(5) Notwithstanding subsection (1), the local assistant is released from the duty to investigate or report pursuant to this Section

- (a) when the Fire Marshal or a deputy fire marshal arrives at the scene; or
- (b) where an appointment of an additional local assistant for the territorial jurisdiction has been made pursuant to subsection 14(5) and the local assistant referred to in subsection 14(1) or (3), or the Fire Marshal, has requested that person to assume the responsibility of the local assistant under this Section with respect to the fire,

unless otherwise directed by the Fire Marshal or deputy fire marshal.

33 (1) Where a fire has occurred upon land or premises, the Fire Marshal, a deputy fire marshal or a local assistant may, at any reasonable time, enter upon, investigate and make an examination of the land or premises or any adjoining or nearby

land or premises without a warrant, for the purpose of ascertaining the cause, origin and circumstances of the fire or to provide for fire-safety or fire-prevention measures.

(2) The fire official referred to in subsection (1) may

(a) enter the land or premises with any equipment, machinery, apparatus, vehicle or material that the fire official considers necessary for the purpose of the investigation;

(b) take anyone who, or thing that, the fire official considers necessary to assist with fulfilling the purpose of the investigation.

(3) Where the fire official referred to in subsection (1) considers it necessary for the purpose of the investigation, the fire official may, by oral or written order, close the land or premises, prohibit any person from entering or remaining until the purpose of the investigation is fulfilled and post a security watch.

(4) The fire official referred to in subsection (1) may, to the extent that it is relevant to the purpose of the investigation,

(a) examine documents or things;

(b) use data storage, information processing or retrieval devices or systems that are normally used on the land or premises being inspected to produce a document in readable form;

(c) collect and remove data or samples;

(d) make an inspection, carry out a study or conduct a test on the land or premises or anything on the land or premises;

(e) take photographs or make videotapes or other images, electronic or otherwise;

(f) remove anything from the land or premises for the purpose of conducting a test;

(g) require the production of, remove from the land or premises, retain, copy or examine anything;

(h) make such excavations on the land or premises as the fire official considers necessary;

(i) require that any machinery, equipment or device be operated, used or set in motion under specified conditions;

(j) make any reasonable inquiry of a person, either orally or in writing,

or cause any of the above to be done.

(5) Where the fire official referred to in subsection (1) demands that a document or thing be produced for inspection, the person with custody of the document or thing shall produce it and, in the case of a document, shall, on request, provide any assistance that is reasonably necessary to interpret the document or to produce it in readable form.

(6) Anything removed from land or premises pursuant to this Section shall

(a) on request, be made available to the person from whom it was removed

(i) subject to any requirements that might be necessary to protect its integrity as evidence in an appeal or prosecution, and

(ii) at a time and place that are convenient for the person and for the fire official; and

(b) unless it is impossible or impracticable to return it, be returned to the person within a reasonable time unless it

(i) has been lawfully seized and retained for use as evidence in a prosecution, or

(ii) is required for use in an appeal pursuant to this Act or the regulations.

(7) Where the fire official referred to in subsection (1) considers it necessary for the purpose of the investigation, the fire official may summons any person to give evidence and administer an oath or affirmation to that person.

(8) While a fire official is acting pursuant to this Section, no person shall

- (a) fail to comply with a reasonable request of the fire official;
- (b) knowingly make a false or misleading statement to the fire official;
- (c) unless the fire official permits, remove, alter or interfere in any way with anything seized, detained or removed by the fire official; or
- (d) obstruct or interfere with the fire official.

34 (1) Where a fire has occurred at land or premises and a justice of the peace is satisfied by evidence upon oath that a fire official described in subsection 33(1) has reasonable grounds to believe that entry on lands or premises is necessary to ascertain the cause, origin and circumstances of the fire or to provide for fire-safety or fire-prevention measures, and

- (a) the fire official has been denied entry to the land or premises or there are grounds to believe that the fire official will be denied entry to the land or premises; or
- (b) the fire official has been obstructed in exercising any of the powers the fire official is authorized to exercise pursuant to Section 33 with respect to the land or premises or there are grounds to believe that the fire official will be obstructed in exercising any of those powers,

the justice of the peace may, without notice to the owner, issue a warrant authorizing the fire official named in the warrant to enter the lands or premises and exercise any of the powers referred to in Section 33.

(2) A warrant issued pursuant to subsection (1)

- (a) shall specify the times, which may be at any time during the day or night, during which the warrant may be carried out;
- (b) shall state when the warrant expires; and
- (c) may be extended as to its expiry date by a justice of the peace for such additional periods as the justice of the peace considers necessary.

(3) A fire official who acts under the authority of a warrant issued pursuant to subsection (1) may

- (a) call upon a police officer;
- (b) use such force as is necessary,

to make the entry, or exercise the powers, authorized by Section 33.

(4) Where a fire official acts under the authority of a warrant issued pursuant to subsection (1), the obligations and rights of a person described in subsections 33(5), (6) and (8) apply as if the fire official was acting under the authority of Section 33.

35 (1) The Fire Marshal, or a person appointed for the purpose by the Minister, may conduct an inquiry into the cause, origin and circumstances of a fire.

(2) A person conducting an inquiry pursuant to subsection (1)

- (a) has all or any of the powers, privileges and immunities conferred on persons appointed as commissioners pursuant to the *Public Inquiries Act*; and
- (b) may employ such legal, technical, scientific, clerical or other assistance as the person deems advisable.

(3) A person appointed by the Minister to conduct an inquiry pursuant to subsection (1) shall, as soon as practicable after the completion of the inquiry,

- (a) send a report to the Fire Marshal stating the opinion of the person as to the cause and origin of the fire and whether it appears to have been incendiary or of suspicious origin; and

(b) transmit with the opinion the evidence taken at the inquiry.

36 (1) Unless otherwise prescribed by the regulations, every fire insurance company licensed to undertake contracts of insurance in the Province shall, within seven days of the end of every month, send a report to the Fire Marshal showing, as required by the regulations, information with respect to every fire occurring in the Province in the previous month and in which the company is interested as insurer.

(2) Unless otherwise prescribed by the regulations, an owner

(a) who sustains a loss by fire upon an uninsured or self-insured property; or

(b) upon whose uninsured or self-insured property a person is killed or injured by fire,

shall, within ten days of the occurrence of the fire and as required by the regulations, send a report to the Fire Marshal.

(3) Unless otherwise prescribed by the regulations, where

(a) an owner sustains or claims to have sustained a loss by fire on property that is insured wholly or partially with an insurance company that is not licensed or registered pursuant to the *Insurance Act*; or

(b) a person is killed or injured by fire at a property that is insured wholly or partially with an insurance company that is not licensed or registered pursuant to the *Insurance Act*,

the insured owner shall, within ten days of complete proofs of loss being furnished to the insurance company with which the insurance is placed, send a report to the Fire Marshal, as required by the regulations.

(4) Unless otherwise prescribed by the regulations, a person who is making adjustments of a loss or damage by fire shall, within seven days of the end of every month, send a report to the Fire Marshal showing, as required by the regulations, the adjustments made by the person in the previous month.

(5) The report referred to in subsection (4) is in addition to, and not in substitution for, any other report that the company or the person adjusting the claim may be required to make by this Act, the regulations or any other enactment.

(6) Where a person who is making adjustments of a loss or damage by fire is investigating a fire and has information that indicates that the fire is or might be incendiary or of suspicious origin, the person shall immediately report that information to the police.

37 The owner of a sprinkler system or a fixed-pipe extinguishing system shall, subject to the regulations, notify the Fire Marshal of the activation of the system within forty-eight hours of the discharge.

APPEALS

38 (1) A person who is affected by an order made by a deputy fire marshal, local assistant or municipal fire inspector pursuant to subsection 25(1), clause 25(2)(a), subclause 25(2)(b)(iii) or subsection 30(3) may, within fifteen days after the order is served, appeal the order to

(a) the Fire Marshal, pursuant to Section 39, by submitting a written request to the Fire Marshal for a review of the order; or

(b) the Board pursuant to Section 41.

(2) Notwithstanding anything in this Act, where the regulations provide for it, matters in addition to those set out in subsection (1) may be the subject of an appeal, and the procedures for the appeal may be established or varied by the regulations.

39 (1) An affected person who appeals an order pursuant to clause 38(1)(a) shall immediately serve a copy of the appeal on the fire official who made the order, unless otherwise authorized in writing by the Fire Marshal.

(2) The Fire Marshal is not required to hold a hearing when conducting an appeal pursuant to clause 38(1)(a).

(3) Subject to subsection (4), where the Fire Marshal has been previously involved in the matter that is the subject of an appeal pursuant to clause 38(1)(a), or has conferred with another fire official or other person in respect of the matter, the Fire

Marshal is not disqualified from dealing with an appeal pursuant to clause 38(1)(a) provided the involvement or conference is disclosed to the appellant before the Fire Marshal proceeds with the appeal.

(4) Where the Fire Marshal discloses to an appellant a previous involvement or conference as described in subsection (3), and the appellant requests, in writing, that the Fire Marshal not decide the appeal, the Fire Marshal shall refuse to decide the appeal and shall refer the matter to the Board for a hearing pursuant to Section 41.

(5) When conducting an appeal pursuant to clause 38(1)(a), the Fire Marshal shall summarily review the information provided by the appellant and, where the Fire Marshal is not then able to determine that the order should be confirmed, may inquire into the matter and may use any information, including information that is gathered or has previously been provided by a deputy fire marshal or other person, that the Fire Marshal deems advisable to assist in determining the appeal.

(6) On an appeal pursuant to clause 38(1)(a), the Fire Marshal may

(a) confirm, vary or revoke the order;

(b) allow additional time for the person to comply with the order and may attach conditions to such compliance;

(c) make any order that the deputy fire marshal, local assistant or municipal fire inspector, as the case may be, could have made; or

(d) refuse to decide the appeal and refer the matter to the Board.

(7) The Fire Marshal

(a) shall notify the affected person who appealed an order pursuant to clause 38(1)(a);

(b) shall notify the fire official who made the order; and

(c) may notify any other persons,

of the decision of the Fire Marshal.

(8) Subject to subsection (9), the submission of a written request to the Fire Marshal for a review of an order pursuant to clause 38(1)(a) acts as a stay of the order until the appeal has been determined, unless the Fire Marshal decides, with or without notice, after considering

(a) primarily, the degree of fire risk and the potential impact of a fire on the safety of persons; and

(b) secondarily, the degree of prejudicial harm to an owner if the appeal of the order does not operate as a stay and whether there is a strong *prima facie* case for a successful appeal of the order,

that the appeal of the order does not operate as a stay pending the outcome of the appeal.

(9) Subsection (8) does not apply to the submission of a written request to the Fire Marshal for a review of an order made pursuant to clause 25(2)(a) or subclause 25(2)(b)(iii), and the order appealed remains in effect pending the outcome of the appeal.

40 Except as otherwise provided by the regulations, the Nova Scotia Utility and Review Board established pursuant to the *Utility and Review Board Act* is the Fire Safety Appeal Board for the purpose of this Act.

41 (1) Subject to the regulations, in this Section, "affected person" means a person who is affected by

(a) an order made pursuant to subsection 25(1), clause 25(2)(a), subclause 25(2)(b)(iii) or subsection 30(3); or

(b) a decision made by the Fire Marshal pursuant to subsection 39(6).

(2) An affected person may

(a) appeal the order or decision referred to in subsection (1), in writing, to the Board within fifteen days after the order is served on, or the decision is received by, the affected person; or

(b) proceed with an appeal referred to the Board pursuant to clause 39(6)(d).

(3) Notwithstanding anything in this Act, where the regulations provide for it, matters in addition to those set out in subsection (1) may be the subject of an appeal, and the procedures for the appeal may be established or varied by the regulations.

(4) An affected person who initiates an appeal to the Board shall immediately serve a copy of the appeal on the fire official who made the order or decision unless otherwise authorized in writing by the Chair of the Board.

(5) Subject to subsections (6) and (7), an appeal made pursuant to subsection (2) acts as a stay of the order until the appeal has been determined.

(6) With or without notice, upon application by the fire official who made the order or decision appealed from, the Board may order, after considering

(a) primarily, the degree of fire risk and the potential impact of a fire on persons; and

(b) secondarily, the degree of prejudicial harm to an owner if the appeal of the order or decision does not operate as a stay and whether there is a strong *prima facie* case for a successful appeal of the order or decision,

that the appeal of the order or decision does not operate as a stay pending the outcome of the appeal.

(7) Subsections (5) and (6) do not apply to an appeal of an order made pursuant to clause 25(2)(a) or subclause 25(2)(b)(iii) and the order remains in effect pending the outcome of the appeal.

(8) On an appeal made pursuant to subsection (2), the Board may

(a) confirm, vary or revoke the order or decision appealed;

(b) allow additional time for the person to whom the order is directed, or who is the subject of the decision, to comply with the order or decision, and may attach conditions to such compliance; or

(c) make any order or decision that the fire official making the original order or decision could have made.

(9) An order of the Board may, for the purpose of enforcement of the order, be registered with the Supreme Court of Nova Scotia and shall be enforced in the same manner as a judgment of that Court.

(10) To register an order of the Board with the Supreme Court of Nova Scotia, the Chair of the Board may make a certified copy of the order or decision, upon which shall be made the following endorsement, signed by the Chair of the Board:

Register the within with the Supreme Court of Nova Scotia.

Dated this day of, 20.....

.....

Chair of the Board

(11) The Chair of the Board may forward the certified copy referred to in subsection (10), so endorsed, to a prothonotary of the Supreme Court of Nova Scotia who shall, on receipt of the certified copy, enter it as a record and it shall thereupon be registered with and enforceable in the same manner as a judgment of that Court.

42 The Board has exclusive jurisdiction to determine all questions of

(a) law respecting this Act, the regulations and the Fire Code;

(b) fact; and

(c) mixed law and fact,

that arise in any matter before it, and an order or decision of the Board is final and binding and not open to review except for an error of law or jurisdiction.

43 (1) The Fire Marshal has standing as a party in an appeal made pursuant to subsection 41(2) of an order made by another fire official.

(2) The fire official who made the order has standing as a party in an appeal made pursuant to subsection 38(1) or 41(2).

(3) Notwithstanding Section 42 or any other provision of this Act, a decision or order may be rescinded or varied by the Board or the fire official that made the order or decision.

GENERAL

44 (1) Every person who

- (a) tampers with a device intended to enable escape by a person from an area in the event of a fire;
- (b) enters, attempts to enter or tampers with land or premises that are closed pursuant to an order made by a fire official pursuant to this Act, the regulations or the Fire Code without the approval of a fire official authorized to make the order;
- (c) removes a copy of an order or notice posted in accordance with this Act, the regulations or the Fire Code without the approval of the fire official who made or required the posting or the Fire Marshal;
- (d) provides a fire official with information on matters relevant to an inspection or investigation that the person knows, or ought reasonably to know, to be false or misleading;
- (e) hinders or obstructs a fire official acting pursuant to this Act, the regulations or the Fire Code;
- (f) refuses or neglects to attend, be sworn or give evidence before a fire official or inquiry when summoned to do so;
- (g) fails to comply with an order made pursuant to this Act, the regulations or the Fire Code; or
- (h) otherwise contravenes this Act, the regulations or the Fire Code,

is guilty of an offence.

(2) An individual convicted of an offence pursuant to subsection (1) is liable, on summary conviction, to a fine not exceeding twenty-five thousand dollars, or to a term of imprisonment not exceeding six months, or to both, except where the individual knowingly commits the offence and the offence results in

(a) loss of human life, injury or damage to the health of a person; or

(b) a catastrophic impact on the community,

in which case the individual is liable, on summary conviction, to a fine not exceeding one hundred and fifty thousand dollars or to a term of imprisonment not exceeding two years, or to both.

(3) In addition to the fine imposed upon an individual pursuant to subsection (2), the court may impose a fine not exceeding five thousand dollars for each additional day during which the offence continues.

(4) A corporation convicted of an offence pursuant to subsection (1) is liable, on summary conviction, to a fine not exceeding fifty thousand dollars, except where the corporation, with the knowledge of an officer, director, manager or agent of the corporation, commits the offence and the offence results in

(a) loss of human life, injury or damage to the health of a person; or

(b) a catastrophic impact on the community,

in which case the corporation is liable, on summary conviction, to a fine not exceeding two hundred and fifty thousand dollars.

(5) In addition to the fine imposed upon a corporation pursuant to subsection (4), the court may impose a fine not exceeding ten thousand dollars for each additional day during which the offence continues.

(6) An officer, director, manager or agent of a corporation who directs, authorizes, assents to, acquiesces or participates in the commission of an offence pursuant to this Act is guilty of the offence and is liable, on summary conviction, to a fine not exceeding twenty-five thousand dollars or to a term of imprisonment not exceeding one year, or to both, except where that person knowingly commits the offence and the offence results in

(a) loss of human life, injury or damage to the health of a person; or

(b) a catastrophic impact on the community,

in which case the offender is liable, on summary conviction, to a fine not exceeding one hundred and fifty thousand dollars or to a term of imprisonment not exceeding two years, or to both.

(7) A conviction for the offence of failing to comply with an order does not relieve the person convicted from complying with the order and the convicting judge may, in addition to a fine imposed, order the person to do any act or work to comply with the order with respect to which the person was convicted, within the time specified in the order.

(8) A person who fails to comply with an order made pursuant to subsection (7) within the time specified by the judge is guilty of an offence and is liable, on summary conviction, in the case of

(a) an individual, to a fine not exceeding five thousand dollars for each day during which the non-compliance continues; or

(b) a corporation, to a fine not exceeding ten thousand dollars for each day during which the non-compliance continues.

(9) The Fire Marshal, a deputy fire marshal, a provincial inspector, a local assistant or a municipal fire inspector may apply to a judge of the Supreme Court of Nova Scotia for an order enjoining a person from carrying out any activity that is contrary to this Act, the regulations, the Fire Code or an order made pursuant to this Act, the regulations or the Fire Code.

(10) On receipt of an application made pursuant to subsection (9), the judge may make any order, including an order for interim relief, that the judge considers appropriate.

(11) Except as otherwise provided in this Act or the regulations, the penalties collected pursuant to this Act shall be paid to the Minister of Finance for the use of Her Majesty in right of the Province.

45 (1) Where a person is convicted of an offence pursuant to this Act, in addition to any other punishment that may be imposed pursuant to this Act, the court may, having regard to the nature of the offence and the circumstances surrounding its commission, make an order directing the offender to pay an amount to the Minister of Finance to be held in trust, in accordance with the regulations, for the purpose of public fire-safety education to be carried out by non-profit organizations, the fire-suppression service, schools or similar educational institutions.

(2) Where the court makes an order directing the offender to pay an amount to the Minister of Finance pursuant to subsection (1), the total of any moneys payable or direct cost incurred by the offender pursuant to subsection (1) and subsection 44(2), (4) or (6), as the case may be, shall not exceed the maximum amount payable pursuant to subsection 44(2), (4) or (6), as the case may be.

(3) Where the court makes an order pursuant to subsection (1), the amount constitutes a debt due to Her Majesty in right of the Province and may be recovered as such in a court of competent jurisdiction.

(4) The Minister, in consultation with the Council, may designate a non-profit organization with a mandate that relates to the purpose of this Act that shall, in accordance with the regulations, direct the disbursement of amounts held in trust pursuant to subsection (1) for the purpose of public fire-safety education carried out as provided in subsection (1).

46 No prosecution for an offence pursuant to this Act, the regulations or the Fire Code shall be commenced after two years from the date of the commission of the alleged offence.

47 No action lies or shall be instituted against Her Majesty in right of the Province or an officer or employee of Her Majesty, the Fire Marshal or any person acting under the Fire Marshal's authority, a deputy fire marshal, a provincial inspector, a local assistant or a delegate or a designate of a local assistant, a fire chief, a fire department or an officer, member or employee of

a fire department, including a member empowered by that department to direct fire-suppression activities, a municipality or an officer or employee of a municipality, a municipal fire inspector, a member of the Council or a member of a committee of the Council, the Board, a division of the Board or a member of the Board, or any person acting under the authority of, or as an agent of, any person or body referred to in this Section, where the person or body is acting pursuant to the authority of this Act, the regulations, the Fire Code or an order made pursuant to this Act, the regulations or the Fire Code for any loss or damage suffered by a person because of an act or omission done in good faith by the person or body

(a) pursuant to, or in the exercise or supposed exercise of, a power conferred by this Act, the regulations or the Fire Code; or

(b) in the carrying out, or supposed carrying out, of a function or duty imposed by this Act, the regulations or the Fire Code.

48 (1) Subject to subsection (3), a document that is served pursuant to this Act, the regulations or the Fire Code shall be served

(a) in the case of an individual,

(i) personally,

(ii) by a form of delivery that allows proof of receipt to the individual's last address known to the person sending the document, or

(iii) by electronic transmission, telephone transmission of a facsimile or by some other method that allows proof of receipt; or

(b) in the case of a corporation,

(i) personally on a director, manager or officer of the corporation,

(ii) by a form of delivery that allows proof of receipt to the registered office of the corporation or, where the corporation is an extra-provincial corporation, to the office of its legal counsel in the Province, or

(iii) by electronic transmission, telephone transmission of a facsimile or by some other method that allows proof of receipt.

(2) Notwithstanding subsection (1), where an order is made with respect to land or premises that contain two or more units intended for separate occupancy, the order is deemed to have been served upon the occupants of the land or premises if a copy of the order is posted in a conspicuous place on the land or premises.

(3) Where the owner cannot be found in the Province, service of any document pursuant to this Act, the regulations or the Fire Code may be accomplished by posting a copy of the document in a conspicuous place on the land or premises.

(4) Any document that is served pursuant to this Act, the regulations or the Fire Code by mail, in the absence of evidence to the contrary, is deemed to have been received by the addressee ten days after the day on which it was mailed, unless the person establishes that the person did not, acting in good faith, through absence, accident, illness or other cause beyond the person's control, receive a copy of the document until a later date than the deemed date of receipt.

(5) Service by electronic transmission or by telephone transmission of a facsimile is deemed to have been received the day after it was sent or, if that day was a Saturday or a holiday, on the next day that is not a Saturday or a holiday, unless the person being served establishes that the person did not, acting in good faith, through absence, accident, illness or other cause beyond the person's control, receive a copy until a later date than the deemed date of receipt.

49 A copy of a document that purports to be certified by the Fire Marshal, a deputy fire marshal, a provincial inspector, a local assistant or a municipal fire inspector as being a true copy of the original is admissible in evidence.

50 (1) For the purpose of this Act and other purposes related to fire safety

(a) every company, whether upon the stock or mutual plan, transacting the business of fire insurance within the Province; and

(b) every person or organization who is a party to, enters or exchanges a reciprocal contract of indemnity or inter-insurance with others through the same legal counsel,

shall pay to the Minister of Finance annually, in addition to taxes and fees now required by law to be paid by the company, such fee as is determined from time to time by the Governor in Council.

(2) The fee referred to in subsection (1) shall be paid on receipts and assessments, less return premiums and cancellations, reckoned on the business as reported to the Superintendent of Insurance for the purpose of the *Insurance Act* during the preceding year.

51 (1) The Governor in Council may make regulations

(a) adopting by reference in whole or in part, with or without modifications, as the edition adopted is amended from time to time, and requiring compliance with,

(i) an edition of the *National Fire Code of Canada*, issued by the National Research Council of Canada, or an edition of a fire code issued by a national or international organization concerned with fire safety or an aspect of it,

(ii) a code or standard respecting materials, equipment or appliances used or installed upon land or premises,

(iii) a code or standard relating to an explosive, flammable or combustible liquid, solid or gas or equipment, apparatus or procedures related to the use, carriage, storage, handling or disposal of any of them;

(b) exempting, including exemptions that are subject to terms or conditions,

(i) land or premises, or a part thereof,

(ii) a class of land or premises or a part thereof, or

(iii) any person or a class of persons,

from complying with all or part of the Fire Code or any code or standard adopted or incorporated by regulation pursuant to this Act;

(c) exempting, including exemptions that are subject to terms or conditions,

(i) land or premises, or a part thereof,

(ii) a class of land or premises or a part thereof, or

(iii) any person or thing, or class of person or thing,

from all or part of this Act or the regulations;

(d) respecting the approval, sale, installation, permitting, servicing, maintenance, testing or repair of fire-protection systems, or parts thereof, and lightning rods;

(e) respecting the manufacture, carriage, storage, handling or disposal of any explosive, flammable or combustible solid, liquid or gas or the carriage, storage, handling or disposal of any gas, whether or not of such a type;

(f) subject to the *Environment Act*, respecting the carriage, storage, handling or disposal of any hazardous material, including gases that are likely to increase the risk of harm to persons in the event of a fire;

(g) respecting the approval, sale, installation, permitting, servicing, maintenance, testing or repair of equipment using flammable or combustible liquid or a gas as fuel, or equipment used in the carriage, storage, handling or disposal of any of these;

(h) respecting the approval, sale, installation, permitting, servicing, maintenance, testing or repair of solid-fuel burning appliances or related equipment, including fireplaces, stoves, furnaces, ducts, flue pipes and chimneys;

(i) respecting the training or qualifications of persons selling, installing, servicing, maintaining, testing or repairing the products, equipment, apparatus or systems mentioned in clauses (d), (g) and (h), requiring those persons to be licensed, registered or certified in a prescribed manner and providing a system, that may include establishing a board of examination, for the issuance, expiry, suspension and revocation of such licences, registrations or certifications;

(j) requiring persons installing, servicing or testing equipment, apparatus or systems mentioned in clauses (d), (g) and (h) to obtain insurance or performance bonds from a financial institution approved by the Minister in any amount the Minister considers necessary to cover damage that might result from such activities;

(k) respecting the dealing in, possession, disposition or giving of fireworks;

(l) prescribing

(i) the classes of buildings,

(ii) the land or premises or classes thereof,

(iii) the structures or occupancies or classes thereof,

for which plans and specifications for construction, repairs or alterations or other information, as the case may be, shall be submitted to the Fire Marshal for review, the procedures that shall be undertaken in reviews and the purpose and scope of reviews;

(m) respecting arrangements by owners to ascertain the attainment of fire safety

(i) upon land or premises, or

(ii) as reflected in plans and specifications submitted for review by the Fire Marshal,

including a requirement for owners to obtain certificates from independent competent persons evidencing compliance with the requirements of this Act, the regulations and the Fire Code;

(n) respecting fire-hose couplings and connections for fire-fighting equipment and fire-protection systems to ensure continued standardization and compatibility of fire-hose connections to the water supply;

(o) respecting any matter that is regulated pursuant to the *Standard Hose Coupling Act* on the date that Act is repealed;

(p) respecting fire prevention or fire safety upon lands or premises, or any part thereof;

(q) respecting elements of a system of inspection and requiring persons or bodies, or classes thereof, to establish and conduct a system of inspections to provide for fire safety, assess the adequacy of fire-prevention measures and ensure compliance with this Act, the regulations and the Fire Code;

(r) changing the period of time for which records of inspections are kept;

(s) respecting the scope, content and record-keeping requirements regarding a system of inspections for which a municipality is responsible, including

(i) the classes of places that require mandatory inspection,

(ii) the minimum frequency for inspections of each class of place,

(iii) the requirement for a municipal council to consider the need for inspection of other classes of places and the adoption and implementation of a policy on inspections for any such classes of places;

(t) respecting the composition, structure, role and functioning of the Council and its subcommittees, if any;

(u) establishing a Fire Safety Appeal Board other than the Nova Scotia Utility and Review Board, constituting the Board into divisions and prescribing the classes of matters to be heard by the divisions of the Board;

(v) where the Board or a division of the Board is established by regulation, prescribing the qualifications for membership on the Board or on a division of the Board and the terms of appointment to the Board;

(w) where the Board or a division of the Board is established by regulation, respecting the quorum of the Board and the powers, privileges and immunities of the Board or a member of the Board;

(x) where the Board or a division of the Board is established by regulation, respecting the appointment by the Governor in Council of the Chair and Vice-chair of the Board and a division of the Board, if any, and respecting the roles of the Chair and Vice-chair;

(y) prescribing non-profit organizations or classes thereof that may be assisted pursuant to this Act;

(z) respecting procedures and affected persons on an appeal to the Fire Marshal or to the Board and prescribing additional matters that may be the subject of an appeal;

(aa) respecting appeals with respect to matters dealt with by the former Act upon the coming into force of this Act;

(ab) respecting the collection or calculation of the fee imposed pursuant to Section 50;

(ac) prescribing that orders involving expenditures of stated amounts greater than one thousand dollars may be carried out or caused to be carried out by a fire official pursuant to this Act, and the amount of such orders;

(ad) prescribing charges to recover the costs of activity contemplated pursuant to this Act or the regulations or fees in relation to reports, appeals, registrations, certifications, examinations, licences, permits, approvals, inspections, training services, submission of documents or review of documents;

(ae) respecting funds held in trust to be used for public fire-safety education carried out pursuant to this Act, including payment, receipt and disbursement of the funds;

(af) respecting reports, including requiring the making of reports, the form and content of reports and procedures regarding reports;

(ag) requiring provision to the Fire Marshal of such information, including statistical information, as the Fire Marshal considers necessary;

(ah) designating as a fire department a fire-suppression organization other than one operated by or registered by a municipality;

(ai) establishing a committee to determine whether a particular material, component, method of construction or design satisfies a performance requirement of the Fire Code;

(aj) prescribing forms;

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

(al) further defining or expanding the meaning of any word or expression defined in this Act;

(am) respecting any matter 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 regulations within the meaning of the *Regulations Act*.

52 (1) Every licence, permit, registration, certificate, approval, appointment or order given, made or issued pursuant to the former Act, or regulations made pursuant to that Act, that is subsisting and in force on the date this Act comes into force, is deemed to have been given, made or issued pursuant to this Act, is enforceable as such and continues in force until it has expired or been varied, rescinded, suspended or revoked in accordance with this Act and the regulations.

(2) Every licence, permit, registration, certificate, approval, appointment or order given, made or issued pursuant to the

(a) *Fireworks Act* or regulations made pursuant to that Act;

(b) *Lightning Rod Act* or regulations made pursuant to that Act; or

(c) *Standard Hose Coupling Act*,

that is subsisting and in force on the date the applicable Act is repealed, is deemed to have been given, made or issued pursuant to this Act, is enforceable as such and continues in force until it has expired or been varied, rescinded, suspended or revoked in accordance with this Act and the regulations.

(3) Where

(a) a right of appeal existed pursuant to the former Act, the appeal period has not expired before this Act comes into force and an appeal has not been initiated pursuant to the former Act on the date this Act comes into force, the appeal provisions in this Act apply and the time for the filing of an appeal shall be measured from the date on which the order or decision was served pursuant to the former Act; or

(b) an appeal has been initiated pursuant to the former Act and has not been completed before the coming into force of this Act, the appeal shall be heard and determined pursuant to the former Act.

(4) The following regulations, and no others, made pursuant to the former Act that are subsisting and in force on the coming into force of this Act continue in force until rescinded by the Governor in Council:

(a) *Automatic Sprinkler System Maintenance Regulations*;

(b) *Fees Payable by Companies Transacting Fire Insurance Business*, as established by Order in Council 1982-334 and amended by Order in Council 1982-699 made by the Governor in Council;

(c) *Property Insurance Fire Prevention Tax Regulation*;

(d) *Fuel Safety Regulations*;

(e) *Portable Fire Extinguisher Control Regulations*.

53 (1) Subsection 6(1) of Chapter 141 of the Revised Statutes, 1989, the *Electrical Installation and Inspection Act*, as amended by Chapter 8 of the Acts of 1992, is further amended by

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

(b) adding the following clauses:

(k) providing for procedures for the inspection of an electrical installation or an alteration or addition to an electrical installation;

(l) providing for the approval by the Chief Inspector of procedures made by public utilities for the inspection of an electrical installation or an alteration or addition to an electrical installation;

(m) exempting a public utility or an inspector from the inspection of an electrical installation, alteration or addition to an electrical installation;

(n) respecting the inspection of electrical installations and alterations or additions to electrical installations.

(2) Subsection 8(1) of Chapter 141 is amended by striking out "Every" in the first line and substituting "Subject to the regulations, every".

(3) Subsection 10(2) of Chapter 141 is amended by striking out "An" in the first line and substituting "Subject to the regulations, an".

54 Chapter 172 of the Revised Statutes, 1989, the *Fireworks Act*, is repealed.

55 Chapter 257 of the Revised Statutes, 1989, the *Lightning Rod Act*, is repealed.

56 Section 298 of Chapter 18 of the Acts of 1998, the *Municipal Government Act*, is repealed.

57 Chapter 439 of the Revised Statutes, 1989, the *Standard Hose Coupling Act*, is repealed.

58 The former Act is repealed.

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



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