



BILL NO. 26

Government Bill

*1st Session, 59th General Assembly
Nova Scotia
52 Elizabeth II, 2003*

An Act to Provide for the Protection of Health

CHAPTER 4
ACTS OF 2004

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
MAY 20, 2004**

The Honourable Angus MacIsaac
Minister of Health

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

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An Act to Provide for the Protection of Health

Be it enacted by the Governor and Assembly as follows:

1 This Act may be cited as the *Health Protection Act*.

2 Restrictions on private rights and freedoms arising as a result of the exercise of any power under this Act shall be no greater than are reasonably required, considering all of the circumstances, to respond to a health hazard, notifiable disease or condition, communicable disease or public health emergency.

3 In this Act,

(a) “dwelling” means a building or a portion of a building that is occupied and used as a residence and includes a house, condominium, apartment, cottage, mobile home, trailer or boat that is occupied and used as a residence;

(b) “health hazard” means

(i) a condition of premises,

(ii) a substance, thing, plant, animal or organism other than a human,

(iii) a solid, liquid or gas,

(iv) radiation, noise, vibration or heat, or

(v) an activity,

or combination of any of them, that presents or may present a threat to the public health;

(c) “justice of the peace” does not include a staff justice of the peace or administrative justice of the peace appointed pursuant to the *Justices of the Peace Act*.

(d) “medical officer” means a medical officer of health appointed pursuant to this Act and includes the Chief Medical Officer and the Deputy Chief Medical Officer;

(e) “occupier” means an occupier at common law and includes

(i) a person who is in physical possession of premises, or

(ii) a person who has responsibility for, and control over, the condition of premises, the activities conducted on the premises or the persons allowed to enter the premises,

and, for the purpose of this Act, there may be more than one occupier of the same premises;

(f) “premises” means lands and structures, or either of them, and any adjacent yards and associated buildings and structures, whether of a portable, temporary or permanent nature, and includes

(i) a body of water,

(ii) a motor vehicle or trailer,

(iii) a train or railway car,

- (iv) a boat, ship or similar vessel, and
- (v) an aircraft;
- (g) “public health inspector” means a public health inspector designated pursuant to this Act.

PART I

DISEASES AND HEALTH HAZARDS

4 In this Part,

- (a) “Chief Medical Officer” means the Chief Medical Officer of Health appointed pursuant to this Part;
- (b) “communicable disease” means a disease, due to a specific infectious agent or its toxic products, that arises through the transmission of that agent or its toxic products
 - (i) directly or indirectly from an infected person or animal, or
 - (ii) directly or indirectly through the agency of a disease vector, an inanimate object or the environment;
- (c) “dangerous disease” means Ebola, Lassa fever, plague, smallpox, severe acute respiratory syndrome or tuberculosis or any other communicable disease designated as a dangerous disease in the regulations;
- (d) “Deputy Chief Medical Officer” means the Deputy Chief Medical Officer of Health appointed pursuant to this Part;
- (e) “disease vector” means a plant or animal that is a carrier of a communicable disease or a notifiable disease or condition;
- (f) “district health authority” means a district health authority within the meaning of the *Health Authorities Act* and includes the Izaak Walton Killam Health Centre;
- (g) “examination” includes the taking of a medical history, a physical inspection, palpation, percussion, auscultation of the human body, ancillary laboratory tests and other investigations such as x-rays;
- (h) “hospital” means a hospital within the meaning of the *Hospitals Act*;
- (i) “institution” means
 - (i) a child-caring facility within the meaning of the *Children and Family Services Act*,
 - (ii) a facility within the meaning of the *Day Care Act*,
 - (iii) any place licensed pursuant to the *Homes for Special Care Act*,
 - (iv) a hospital,
 - (v) a correctional facility within the meaning of the *Corrections Act*,
 - (vi) a place or facility designated as a youth custody facility under subsection 85(2) of the *Youth Criminal Justice Act* (Canada),

(vii) a place or facility designated as a place of temporary detention under subsection 30(1) of the *Youth Criminal Justice Act* (Canada),

(viii) any place that for compensation provides supervisory or personal care to individuals, and

(ix) any other place prescribed in the regulations;

(j) “isolation” means the requirement of any person who has a communicable disease or is infected with an agent of a communicable disease to remain separate from others in such places and under such conditions so as to prevent or limit the direct or indirect transmission of the communicable disease or infectious agent to those who are susceptible to the agent or who may spread the agent to others;

(k) “isolation facility” means a hospital or other place designated by the Minister for the purpose of isolation;

(l) “Minister” means the Minister of Health;

(m) “notifiable disease or condition” means a disease or condition designated as a notifiable disease or condition in the regulations;

(n) “personal services facility” means the place of business of a tattooist, esthetician, pedicurist, hairdresser, cosmetologist, barber or person who performs body piercing, or any other place of business of a type prescribed in the regulations as a personal services facility;

(o) “physician” means a duly qualified medical practitioner;

(p) “public health emergency” means an imminent and serious threat to the public health that is posed by a dangerous disease or a health hazard;

(q) “public health laboratory” means a laboratory established or designated by the Minister to carry out laboratory functions required for public health work in the Province;

(r) “public health nurse” means

(i) a public health nurse employed by a district health authority, or

(ii) any other individual designated as a public health nurse by the Minister;

(s) “quarantine” means the requirement of any person who has been exposed or may have been exposed to a communicable disease during its period of communicability to restrict that person’s activities in order to prevent disease transmission during the incubation period for that disease;

(t) “quarantine facility” means a dwelling or a place designated by the Minister for the purpose of quarantine;

(u) “sanitary facilities” means a room or rooms containing one or more toilets and one or more washbasins.

ADMINISTRATION

5 The Minister has the general supervision and management of this Part and the regulations.

6 (1) The Minister shall

- (a) appoint a Chief Medical Officer of Health, a Deputy Chief Medical Officer of Health and medical officers of health;
- (b) establish the qualifications, skills and standards that individuals must have to be appointed pursuant to clause (a);
- (c) designate public health inspectors and public health nurses for the purpose of this Part from among employees in the public service of the Province or employees of the Government of Canada or the government of another province of Canada;
- (d) establish the qualifications, skills and standards required for a public health inspector to carry out duties and functions under this Part;
- (e) establish the qualifications, skills and standards required for a public health nurse to carry out duties and functions under this Part;
- (f) publish guidelines, standards and targets for the provision of health-protection programs and services under this Part;
- (g) require a district health authority or an institution to comply with any guideline, standard or target published pursuant to clause (f);
- (h) provide a report to the House of Assembly on an annual basis outlining the progress of the Department of Health with respect to the surveillance of and response to health hazards, notifiable diseases or conditions and communicable diseases;
- (i) after a public health emergency has ended, direct that a review be conducted and, within one year, report to the House of Assembly on the cause and duration of the emergency and on the measures implemented in response to the emergency.

(2) The Minister may

- (a) give directions to the Chief Medical Officer;
- (b) direct a district health authority or an institution to take action to prevent, eliminate or decrease a risk of a communicable disease, a notifiable disease, a dangerous disease or a health hazard;
- (c) subject to the *Public Service Act*, enter into agreements with
 - (i) the government of Canada or the government of a province of Canada, or a department, agency or body under the jurisdiction of one of those governments,
 - (ii) the government of the United States of America or the government of a state of the United States of America, or a department, agency or body under the jurisdiction of any of those governments,
 - (iii) a municipality within the meaning of the *Municipal Government Act*,
 - (iv) a band council as defined in the *Indian Act* (Canada), or

(v) any other person, organization or other government department in the Province,

in order to carry out the provisions of this Part;

(d) establish and maintain such public health laboratories and other laboratory services as the Minister considers necessary or advisable for properly carrying on public health work in the Province with appropriate equipment and staff;

(e) designate an existing laboratory operated by a district health authority as a public health laboratory;

(f) direct a public health laboratory as to its operation and the nature and extent of its work.

(3) No person may be appointed pursuant to clause (1)(a) who is not a physician.

(4) No person may be designated as a public health nurse pursuant to clause (1)(c) who is not a duly qualified registered nurse.

7 Medical officers are accountable to the Minister.

8 (1) Medical officers may take such reasonable actions as they consider necessary in the circumstances to protect the public health including the issuance of public health advisories and bulletins.

(2) A medical officer shall inform the Minister and the Deputy Minister of Health of any action carried out pursuant to the authority in subsection (1) either before taking it or as soon as practicable after taking it.

(3) A medical officer may investigate any situation and take such actions as the medical officer considers appropriate to prevent, eliminate or decrease a risk to the public health if the medical officer is of the opinion that a situation exists anywhere in the Province that constitutes or may constitute a risk to the public health.

9 (1) The Chief Medical Officer may delegate any of the Chief Medical Officer's powers, duties or functions to the Deputy Chief Medical Officer, a medical officer, a public health nurse or a public health inspector and the person to whom the power, duty or function has been delegated has authority to the same extent as if the power, duty or function was being exercised by the Chief Medical Officer.

(2) The Chief Medical Officer may give directions to the Deputy Chief Medical Officer or a medical officer for the purpose of enforcing this Act and the regulations.

(3) The Deputy Chief Medical Officer has all the powers and authority of the Chief Medical Officer in the absence of the Chief Medical Officer, or when the Chief Medical Officer is unable to act.

10 The Chief Medical Officer is responsible for directing and monitoring the work of the medical officers.

11 A medical officer may direct a public health inspector or a public health nurse to assist the medical officer in enforcing this Act and the regulations.

12 The Chief Medical Officer, the Deputy Chief Medical Officer, a medical officer, a public health inspector or a public health nurse has immunity for performance of any duty or any power exercised under this Act that has been exercised in good faith.

13 Subject to the *Fatality Investigations Act*, the Chief Medical Officer may carry out epidemiological studies that may include an investigation as to the cause of any communicable disease, notifiable disease, health hazard or illness related to a health hazard, or any death, accident or injury.

14 (1) The Chief Medical Officer shall

(a) develop plans for ongoing surveillance of communicable diseases, notifiable diseases and dangerous diseases; and

(b) develop a communications plan and protocol designed to ensure that information necessary for proper response to the presence of a health hazard, notifiable disease or condition, communicable disease or public health emergency is promptly provided to all necessary and appropriate persons while ensuring that appropriate privacy protections are adhered to.

(2) The Chief Medical Officer may

(a) afford such medical relief to and among persons in need in the Province as in the opinion of the Chief Medical Officer is required for the protection of the public health;

(b) order any person who owns or occupies premises or any organization, corporation or municipality to control disease vectors in the manner prescribed in the regulations.

15 (1) A medical officer may access or order data or records from all possible sources of information, including municipalities, Canadian Blood Services and other government departments, for the purpose of carrying out the duties of the medical officer under this Act and the regulations.

(2) The Chief Medical Officer may share with other jurisdictions or parties any information the Chief Medical Officer considers necessary to carry out the functions and duties of the Chief Medical Officer.

(3) A medical officer may communicate to the public the identity of a person who has a communicable disease if the medical officer reasonably believes that such action is required to protect the public health and that such protection cannot be achieved by any less intrusive means.

16 (1) For the purpose of clause 71(5)(d) of the *Hospitals Act*, a medical officer is authorized to access such hospital records as the medical officer reasonably believes are necessary for the fulfilment of the medical officer's duties.

(2) Any hospital shall, upon request from a medical officer, immediately make full disclosure to the medical officer of all information, records, particulars and documents of whatever description, including x-rays, photographs and laboratory or blood samples, that relate in any way to any matter about which the medical officer has inquired.

17 (1) The information, records of interviews, reports, statements, notes, memoranda or other data or material prepared by or supplied to or received by a medical officer, public health inspector or public health nurse, in connection with research, studies or evaluations relating to morbidity, mortality or the cause, prevention, treatment or incidence of disease, or prepared by, supplied to or received by any person engaged in such research or study with the approval of the Minister, are privileged and are not admissible in evidence in any court or before any tribunal, board or agency except as and to the extent that the Minister directs.

(2) Nothing in this Section prevents the publication of reports or statistical compilations relating to research or studies that do not identify individual cases or sources of information or religious affiliations.

(3) A medical officer, a public health nurse or a public health inspector shall not be compelled to give evidence in court or in proceedings of a judicial nature concerning knowledge of any of the matters referred to in subsection (1) gained in the exercise of a power or duty under this Act except as and to the extent that the Minister directs.

(4) Notwithstanding subsections (1) and (3), where a judge of the Supreme Court of Nova Scotia is satisfied, upon application, that it is in the public interest to do so, the judge may order the disclosure of any information or the giving of any evidence for the purpose of an inquiry authorized by the Governor in Council pursuant to the *Public Inquiries Act*.

HEALTH HAZARDS

18 (1) A medical officer may conduct risk assessments in relation to existing or potential health hazards.

(2) A medical officer may monitor or audit potential or existing health hazards.

19 (1) Every person who is

(a) required by the regulations to report a prescribed health hazard; or

(b) a member of a class of persons that is required by the regulations to report a prescribed health hazard,

shall, where that person has reasonable and probable grounds to believe that a prescribed health hazard exists, forthwith report that belief to a medical officer.

(2) In subsection (1), “prescribed health hazard” means a health hazard of a type prescribed in the regulations.

20 (1) Where a medical officer reasonably believes that

(a) a health hazard exists or may exist; and

(b) an order is necessary to prevent, remedy, mitigate or otherwise deal with the health hazard,

the medical officer may make any order that the medical officer considers necessary to prevent, remedy, mitigate or otherwise deal with the health hazard.

(2) A medical officer may make an order orally if a delay is likely to increase substantially the hazard to the public health.

(3) Where an order is made orally pursuant to subsection (2), the contents and reasons for the order shall be put into writing and served on each person to whom the order was directed within seventy-two hours after the making of the oral order, but a failure to comply with this subsection does not invalidate the order.

(4) A public health inspector has the same power as a medical officer to make an order under subsections (1) to (3) if the public health inspector reasonably believes that

(a) a health hazard exists or may exist and an order is necessary to prevent, remedy, mitigate or otherwise deal with the health hazard; and

(b) in the time necessary for a medical officer to make an order, a health hazard could arise that presents or may present a serious and imminent threat to the public health or an existing health hazard could worsen and pose a serious and imminent threat to the public health.

(5) Any action taken pursuant to subsection (4) must be the minimum action that the public health inspector reasonably believes necessary to deal with the health hazard and protect the public health.

(6) A public health inspector who takes action under subsection (4) must notify a medical officer about the action taken as soon as practicable.

21 (1) A medical officer may make an order under subsection 20(1) against any person that

(a) owns or occupies premises;

(b) is or appears to be responsible for any

(i) condition of premises,

(ii) substance, thing, plant, animal or organism other than a human on the premises,

(iii) solid, liquid or gas on or emanating from the premises, or

(iv) radiation, noise, vibration or heat on or emanating from premises;

(c) is engaged in or administers an activity in or on any premises; or

(d) is a person or class of persons specified in the regulations.

(2) Without limiting the generality of subsection 20(1), an order made under subsection (1) may

(a) require the vacating of premises;

(b) require the owner or occupier of premises to close the premises or a part of the premises or restrict access to the premises;

(c) require the displaying of signage on premises to give notice of an order requiring the closing of the premises;

(d) require the doing of work specified in the order in, on or about premises specified in the order;

(e) require the removal of anything that the order states is a health hazard from the premises or the environs of the premises specified in the order;

(f) require the cleaning or disinfecting, or both, of the premises or the thing specified in the order;

(g) require the destruction of a matter or thing specified in the order;

(h) prohibit or regulate the manufacturing, processing, preparation, storage, handling, display, transportation, sale, offering for sale or distribution of any thing;

(i) prohibit or regulate the use of any premises or thing;

(j) require a person who is the subject of an order made pursuant to subsection 20(1) to investigate the situation, or undertake tests, examination, analysis, monitoring or recording, and provide the medical officer with any information the medical officer requires;

(k) require a person to whom an order made pursuant to subsection 20(1) is directed to isolate, hold or contain a substance, thing, solid, liquid, gas, plant, animal or other organism specified in the order.

22 (1) Actions specified in an order must be necessary to achieve a decrease in the effect of or to eliminate the health hazard.

(2) Actions included in an order shall be framed as clear directions or requirements to terminate or mitigate the health hazard and a medical officer must give reasons for the order in the order.

(3) A medical officer shall give the person or organization to whom an order is directed every reasonable opportunity to comply with the order.

(4) An order may be hand delivered or sent by registered mail to a person or organization to whom the order is directed.

(5) Where an order is served on a person to whom it is directed, that person shall comply with the order forthwith or, where a period of compliance is specified in the order, within the time period specified.

(6) It is sufficient in an order made under Section 20 or 21 to direct the order to a person or class of persons described in the order, and an order under Section 20 or 21 is not invalid by reason only of the fact that a person to whom the order is directed is not named in the order.

(7) A medical officer who makes an order under Section 20 or 21 may require the person to whom the order is directed to communicate the contents of the order to other persons as specified by the medical officer.

(8) An order shall specify the time within which or the date by which the person or persons to whom it is directed must comply with the order.

23 A medical officer may

(a) extend an order made under subsection 20(1) for any additional period the medical officer reasonably believes is necessary; or

(b) revoke or amend an order made under subsection 20(1), to the extent that it has not yet been carried out.

24 (1) Where a medical officer has reasonable and probable grounds to believe that a health hazard exists and the person to whom an order is or would be directed

(a) has refused to comply with or is not complying with the order;

(b) is not likely to comply promptly with the order;

(c) cannot be readily identified or located and as a result the order would not be carried out promptly; or

(d) has requested the assistance of the medical officer in complying with the order,

the medical officer may take whatever action the medical officer considers necessary, including providing authority for such persons, materials and equipment to enter upon premises and to use such force as the medical officer considers necessary to carry out the terms of the order, and the Chief Medical Officer may order the person who failed to comply to pay the costs of taking that action.

(2) Where a person requests assistance from a medical officer in complying with an order made by a medical officer, the officer to whom the request is made shall render such reasonable assistance as is practicable in the circumstances.

(3) Where a medical officer authorizes persons to enter upon premises pursuant to subsection (1), those persons have the authority to act to the same extent as if the act was carried out by the medical officer.

(4) Without limiting the generality of subsection (1), actions under that subsection may include

(a) the displaying of signage on premises to give notice of the existence of a health hazard or of an order made under this Part;

(b) doing any work the medical officer considers necessary in, on or about any premises;

(c) removing any thing from premises or the environs of the premises;

(d) detaining any thing removed from any premises or the environs of any premises;

- (e) the delivery of notice to the public through any media a medical officer considers appropriate indicating the risk of the health hazard;
- (f) closing premises or a part of premises or restricting access to premises;
- (g) cleaning or disinfecting, or both, of any premises or thing; and
- (h) destroying any thing found on premises or the environs of premises.

(5) No person shall conceal, alter, deface or remove signage that has been placed or posted pursuant to clause 21(2)(c) or clause (3)(a).

25 (1) Notwithstanding any other provision of this Part, a medical officer may take any action under subsection 24(1) if the medical officer reasonably believes that in the time necessary to make an order under Section 20, or allow for compliance, a health hazard could arise that would pose a serious and imminent threat to the public health or that an existing health hazard could worsen and pose a serious and imminent threat to the public health.

(2) A public health inspector has the same power as a medical officer under subsection (1) if the public health inspector reasonably believes that, in the time necessary for a medical officer to take action, a health hazard could arise or an existing health hazard could worsen.

(3) Any action taken under this Section must be the minimum action that the person taking it reasonably believes necessary to deal with the health hazard and protect the public health.

(4) A public health inspector who takes action pursuant to subsection (2) shall notify a medical officer about the action taken as soon as practicable.

(5) After any action is taken under Section 24, the Chief Medical Officer may order any person to whom an order was directed or would have been directed under subsection 21(1) by either a medical officer or a public health inspector to pay the costs of taking the action.

26 (1) Reasonable costs, expenses or charges incurred by a medical officer or public health inspector pursuant to Section 24 or 25 are recoverable by order of the Chief Medical Officer and are payable to the Minister by

- (a) the person to whom an order was directed; or
- (b) any person who has purchased real property from the person to whom an order was directed from any money that is still owed to the vendor, where the person who purchased the property is directed by the Minister to pay a sum not to exceed the amount owing in respect of the costs, expenses or charges.

(2) A purchaser who pays an amount to the Minister pursuant to clause (1)(b) is discharged from any obligation to pay that amount to the vendor.

(3) In any claim or action under this Section, a certificate purporting to be signed by the Minister setting out the amount of the cost, expense or charge is admissible in evidence and is, in the absence of evidence to the contrary, proof

- (a) of the amount of the cost, expense or charge set out in the certificate; and

(b) that the cost, expense or charge was made necessary or caused by the termination or mitigation of the health hazard to which the claim or action relates.

(4) Where an order to pay is issued by the Chief Medical Officer pursuant to subsection (1), the order shall be filed with the prothonotary of the Supreme Court of Nova Scotia and, when so filed,

(a) the order is of the same force and effect as if it were a judgment against real property that the person named in the order may then or thereafter own;

(b) a lien is established on the property referred to in clause (a) for the amount stated and it is deemed to be taxes in respect of the real property and may be collected in the same way and in the same priority as taxes under the *Assessment Act*; and

(c) the order may be enforced in the same manner as a judgment of the Supreme Court in civil proceedings.

27 Where a person has failed to comply with an order made under subsection 22(5), a court may, in addition to any other penalty it may impose, order the person to comply with subsection 22(5).

28 (1) Where an order made pursuant to Section 20 is directed to more than one person, all persons named in the order are jointly responsible for carrying out the terms of the order and are jointly and severally liable for payment of the costs of doing so, including any costs incurred by a medical officer pursuant to Section 24.

(2) Subsection (1) does not apply to an order where the Chief Medical Officer and the persons responsible for carrying out the terms of the order have agreed to an apportionment of costs.

29 Costs recoverable pursuant to Section 26 are in addition to any penalties under this Act and the regulations.

30 (1) A person to whom an order made pursuant to Section 20 is directed may, within ten days of the order being made, appeal to the Minister, by notice in writing, stating concisely the reasons for the appeal.

(2) The appeal shall be conducted in the manner prescribed by the regulations.

(3) The Minister may dismiss the appeal, allow the appeal or make any decision the medical officer or public health inspector was authorized to make.

(4) A decision of the Minister may, within thirty days of the decision, be appealed on a question of law or on a question of fact, or on a question of law and fact, to a judge of the Supreme Court of Nova Scotia, and the decision of the judge is final and binding on the Minister and the appellant, and the Minister and the appellant shall take such action as may be necessary to implement the decision.

(5) An appeal taken pursuant to subsection (4) does not operate as a stay of the decision appealed from except in so far as the judge directs.

NOTIFIABLE DISEASES OR CONDITIONS

31 (1) A physician, a registered nurse licensed pursuant to the *Registered Nurses Act* or a medical laboratory technologist licensed pursuant to the *Medical Laboratory Technology Act* who has reasonable and probable grounds to believe that a person

- (a) has or may have a notifiable disease or condition; or
- (b) has had a notifiable disease or condition,

shall forthwith report that belief to a medical officer.

(2) A principal of a public school or the operator of a private school under the *Education Act* who has reasonable and probable grounds to believe that a student in the school

- (a) has or may have a notifiable disease or condition; or
- (b) has had a notifiable disease or condition,

shall forthwith report that belief to a medical officer.

(3) An administrator of an institution who has reasonable and probable grounds to believe that a person who is a resident of the institution

- (a) has or may have a notifiable disease or condition; or
- (b) has had a notifiable disease or condition,

shall forthwith report that belief to a medical officer.

(4) An individual or member of a class of individuals, under such circumstances as prescribed by the regulations, who has reasonable and probable grounds to believe that a person

- (a) has or may have a notifiable disease or condition; or
- (b) has had a notifiable disease or condition,

shall forthwith report that belief to a medical officer.

(5) A physician, registered nurse licensed pursuant to the *Registered Nurses Act* or an administrator of an institution who believes that an illness is serious and is occurring at a higher rate than is normal, shall forthwith report that belief to a medical officer.

(6) A physician signing a death certificate who has reasonable and probable grounds to believe that the person who died suffered from a notifiable disease or condition at the time of death shall forthwith report that belief to a medical officer.

COMMUNICABLE DISEASES

32 (1) Where a medical officer is of the opinion, upon reasonable and probable grounds, that

- (a) a communicable disease exists or may exist or that there is an immediate risk of an outbreak of a communicable disease;
- (b) the communicable disease presents a risk to the public health; and
- (c) the requirements specified in the order are necessary in order to decrease or eliminate the risk to the public health presented by the communicable disease,

the medical officer may by written order require a person to take or to refrain from taking any action that is specified in the order in respect of a communicable disease.

(2) In an order made under this Section, a medical officer may specify the time or times when or the period or periods of time within which the person to whom the order is directed must comply with the order.

(3) Without limiting the generality of subsection (1), an order made under this Section may

- (a) require the owner or occupier of premises to close the premises or a part of the premises or to restrict access to the premises;
- (b) require the displaying of signage on premises to give notice of an order requiring the closing of the premises;
- (c) require any person that the order states has been exposed or may have been exposed to a communicable disease to quarantine himself or herself from other persons;
- (d) require any person who has a communicable disease or is infected with an agent of a communicable disease to isolate himself or herself from other persons;
- (e) require the cleaning or disinfecting, or both, of the premises or any thing specified in the order;
- (f) require the destruction of any matter or thing specified in the order;
- (g) require the person to whom the order is directed to submit to an examination by a physician who is acceptable to a medical officer and to deliver to the medical officer a report by the physician as to whether or not the person has a communicable disease or is or is not infected with an agent of a communicable disease;
- (h) require the person to whom the order is directed in respect of a communicable disease to place himself or herself forthwith under the care and treatment of a physician who is acceptable to a medical officer;
- (i) require the person to whom the order is directed to conduct himself or herself in such a manner as not to expose another person to infection.

(4) An order under this Section is subject to such conditions as determined by the medical officer and set out in the order.

(5) Where an order made under this Section is to be carried out by a physician or other health professional, the failure of the person subject to such an order to consent does not constitute an assault or battery against that person by the physician or other health professional should the order be carried out.

33 (1) A medical officer who makes an order under Section 32 may require the person to whom the order is directed to communicate the contents of the order to other persons specified by the medical officer.

(2) An order made under Section 32 may be directed to a person who

- (a) resides or is present in premises;
- (b) owns or is the occupier of premises;
- (c) owns or is in charge of any thing; or
- (d) is engaged in or administers an enterprise or activity,

in the Province.

(3) An order made under Section 32 may be made with respect to a class of persons who reside or are present in the Province.

(4) Where a class of persons is the subject of an order made under subsection (3), notice of the order shall be delivered to each member of the class if it is practicable to do so in a reasonable amount of time.

(5) Where delivery of notice of an order to each member of a class of persons is likely to cause a delay that could, in the opinion of the medical officer, significantly increase the risk to the health of any person, the medical officer may deliver a general notice to the members of the class through any communications media that the medical officer considers appropriate, and the medical officer shall post the order at an address or at addresses that is or are most likely to bring the notice to the attention of the members of the class.

(6) A notice under subsection (5) must contain sufficient information to allow members of the class to understand to whom the order is directed, the terms of the order and where to direct inquiries.

34 In an order made under Section 32, a medical officer may specify

- (a) that a report will not be accepted as complying with the order unless it is a report by a physician specified or approved by the medical officer; and
- (b) the period of time within which the report mentioned in this Section must be delivered to the medical officer.

35 An order made under Section 32 is not effective unless the reasons for the order are set out in the order.

36 (1) Where the delay necessary to put an order made under Section 32 in writing will or is likely to increase substantially the risk presented by a communicable disease to the public health, a medical officer may make an order orally and Section 35 does not apply.

(2) Where an oral order is made under subsection (1), the contents of the order and the reasons for the order shall be put into writing and served on each person to whom the order was directed within seventy-two hours after the making of the oral order, but a failure to comply with this subsection does not invalidate the order.

37 (1) Where a medical officer has grounds to issue an order pursuant to subsection 32(1) and has reasonable and probable grounds to believe that the person to whom an order is or would be directed under subsection 33(2)

- (a) has refused to or is not complying with the order;
- (b) is not likely to comply with the order promptly;
- (c) cannot be readily identified or located and as a result the order would not be carried out promptly; or
- (d) has requested the assistance of the medical officer in eliminating or decreasing the risk to health presented by the communicable disease,

the medical officer may take whatever action the medical officer considers necessary, including providing authority for such persons, materials and equipment to enter upon any premises and to use such force as the medical officer considers necessary to carry out the terms of the order, and the Chief Medical Officer may order a person who fails to comply to pay the costs of taking any actions necessary to comply with clauses 32(3)(a), (b), (e) or (f).

(2) Where a person requests assistance from a medical officer in complying with an order made by a medical officer, the officer to whom the request is made shall render such reasonable assistance as is practicable in the circumstances.

(3) Where a medical officer authorizes persons to enter upon premises pursuant to subsection (1), such persons have the authority to act to the same extent as if the act were carried out by the medical officer.

(4) Without limiting generality of subsection (1), actions under this Section may include

- (a) the displaying of signage on premises to give notice of the existence of a communicable disease or of an order made pursuant to this Part;
- (b) the delivery of notice to the public through any communications media the medical officer considers appropriate indicating the risk of the communicable disease;
- (c) the cleaning or disinfecting, of any thing or any premises;
- (d) the destruction of any thing found on the premises or the environs of the premises; and
- (e) closing the premises or part of the premises or restricting access to the premises.

38 (1) Where, upon application by a medical officer, a judge of the provincial court is satisfied that

- (a) a person has failed to comply with an order by a medical officer made under to Section 32 that
 - (i) the person quarantine himself or herself from other persons,
 - (ii) the person isolate himself or herself from other persons,

(iii) the person submit to an examination by a physician who is acceptable to the medical officer,

(iv) the person place himself or herself under the care and treatment of a physician who is acceptable to the medical officer, or

(v) the person conduct himself or herself in such a manner as not to expose another person to infection,

the judge may order that the person who has failed to comply with the order of the medical officer

(b) be taken into custody and be admitted to and detained in a quarantine facility named in the order;

(c) be taken into custody and be admitted to, detained and treated in an isolation facility named in the order;

(d) be examined by a physician who is acceptable to the medical officer to ascertain whether or not the person is infected with an agent of a communicable disease; or

(e) where found on examination to be infected with an agent of a communicable disease, be treated for the disease.

(2) Where an order made by a judge pursuant to subsection (1) is to be carried out by a physician or other health professional, the failure of the person subject to such an order to consent does not constitute an assault or battery against that person by the physician or other health professional should the order be carried out.

(3) A physician or other health professional carrying out an order pursuant to subsection (1) may obtain such assistance from a peace officer or other person as the physician or health professional reasonably believes is necessary.

(4) A judge shall not name an isolation facility or quarantine facility in an order under this Section unless the judge is satisfied that the isolation facility or quarantine facility is able to provide detention, care and treatment as required for the person who is the subject of the order.

39 (1) An order made under Section 38 is authority for any person to

(a) locate and apprehend the person who is the subject of the order; and

(b) deliver the person who is the subject of the order to the isolation facility or quarantine facility named in the order or to a physician for examination.

(2) An order made under Section 38 may be directed to a police force that has jurisdiction in the area where the person who is the subject of the order may be located, and the police force shall do all things reasonably able to be done to locate, apprehend and deliver the person to an isolation or quarantine facility in the jurisdiction where the person was apprehended or to an isolation or quarantine facility specified in the order.

(3) A person who apprehends a person who is the subject of an order pursuant to subsection (2) shall promptly

- (a) inform the person of the reasons for the apprehension and of the person's right to retain and instruct counsel without delay; and
- (b) tell the person where the person is being taken.

(4) An order made under clause 38(1)(c) is authority to detain the person who is the subject of the order in the isolation facility named in the order and to care for and examine the person and to treat the person for the communicable disease in accordance with generally accepted medical practice for a period of not more than four months from and including the day that the order was issued.

(5) An order made under clause 38(1)(b) is authority to detain the person who is the subject of the order in the quarantine facility named in the order and to care for and examine the person for the incubation period of the communicable disease as determined by the judge.

(6) In the case of an order made under clause 38(1)(c),

(a) where a hospital is named as the isolation facility, the person authorized by the by-laws of the hospital shall designate a physician to have responsibility for the treatment of the person named in the order or, where the by-laws do not provide the authorization, the chief executive officer of the hospital or a person delegated by the chief executive officer shall designate a physician who is acceptable to the medical officer to have responsibility for the person named in the order;

(b) where an institution is named as the isolation facility, the administrator of the institution shall designate a physician who is acceptable to the medical officer to have responsibility for the person named in the order; or

(c) where the isolation facility is not a hospital or an institution, the chief executive officer of the district health authority in which the isolation facility is located shall designate a physician who is acceptable to the medical officer to have responsibility for the person named in the order.

40 A physician responsible for treating a person pursuant to subsection 38(1) shall report in respect of the treatment and the condition of the person to a medical officer.

41 In the case of an order made under clause 38(1)(b),

(a) a medical officer shall designate a public health inspector or a public health nurse to be responsible for the monitoring of the person named in the order; and

(b) the designated public health inspector or public health nurse shall report in respect of the condition of the person to the medical officer.

42 Where ordered by a medical officer, a physician, public health inspector or public health nurse shall report to the medical officer on any matter in the manner, at the times and with the information specified by the medical officer in the order.

43 (1) Where, upon an application by a medical officer, a judge of the provincial court is satisfied that

- (a) a person continues to be infectious and contagious; and

(b) the discharge of the person from the isolation facility would present a significant risk to the public health,

the judge may, by order, extend the period of detention and treatment ordered pursuant to clause 38(1)(c) for not more than four months and, upon further applications by the medical officer, the judge may extend the period of detention and treatment for further periods each of which is not for more than four months.

(2) A person detained in accordance with an order made under this Section shall be released from detention and discharged from the isolation facility or quarantine facility upon the certificate of a medical officer.

(3) A medical officer shall monitor the treatment and condition of a detained person and shall issue a certificate authorizing the release and discharge of the person as soon as the medical officer is of the opinion that the person is no longer infectious or contagious or that the release and discharge of the person will not present a significant risk to the public health.

44 (1) An application referred to in subsection 38(1) or subsection 43(1) shall be heard in public unless

(a) the judge hearing the application is satisfied that

- (i) matters involving public security may be disclosed,
- (ii) the possible disclosure of intimate financial or personal matters of any person outweighs the desirability of holding the hearing in public, or
- (iii) a medical officer is of the opinion that the person in respect of whom the application is made is infectious and to conduct the hearing in public would be a risk to the public health; or

(b) the person in respect of whom the application is made requests otherwise and the judge hearing the application is satisfied that it is appropriate in the circumstances to conduct the hearing in private.

(2) Any party to an application under subsection 38(1) or subsection 43(1) may appeal from the decision or order to the Nova Scotia Court of Appeal.

(3) The filing of a notice of appeal does not apply to stay the decision or order appealed from unless a judge of the court to which the appeal is taken so orders.

45 Where a medical officer has made an order pursuant to Section 32 requiring a person to be placed under the care and treatment of a physician or to take other action specified in the order and the person withdraws from the care and treatment or fails to continue the specified action, Section 38 applies *mutatis mutandis* and the person is deemed to have failed to comply with an order of the medical officer.

46 A medical officer may apprehend and detain an individual where that individual has failed to comply with an order that was issued in relation to a dangerous disease and the medical officer reasonably believes that the individual poses a significant and imminent threat to the public health if not apprehended and detained.

47 (1) An individual apprehended and detained pursuant Section 46 shall be informed of the individual's right to counsel.

(2) An individual apprehended and detained pursuant to Section 46 shall not be held for longer than seventy-two hours unless a hearing is held within that time period and an order is made under Section 38.

48 (1) In this Section,

(a) "correctional facility" has the same meaning as in clause 3(b) of the *Corrections Act*;

(b) "lock-up facility" has the same meaning as in clause 3(b) of the *Corrections Act*;

(c) "place of temporary detention" means a place or facility designated as a place of temporary detention under subsection 30(1) of the *Youth Criminal Justice Act* (Canada);

(d) "youth custody facility" means a place or facility designated as a place of secure custody under subsection 85(2) of the *Youth Criminal Justice Act* (Canada).

(2) A medical officer by order may require the superintendent of a correctional facility, a youth custody facility, a lock-up facility or a place of temporary detention to take such action as is specified in the order to prevent the infection of others by a person who is detained in the correctional facility, youth custody facility, lock-up facility or place of temporary detention and who has been examined and found to be infected with an agent of a communicable disease.

49 The Minister may order a general immunization program in the Province or any part of the Province for the purpose of preventing the spread of a communicable disease.

50 A medical officer may require any person to provide further information on any report of a notifiable disease or condition at times determined by the medical officer.

51 In the case of a death of a person from a dangerous disease, access to the body of that person and the care, handling and transport of the body of that person shall be carried out in the manner directed by a medical officer unless otherwise provided for in the regulations.

52 (1) No person shall disinter or remove a buried human body except at the instance of the Attorney General unless with the written permission of the medical officer for the place in which the body is buried.

(2) The disinterment, removal, transportation and reinterment of a human body shall be carried out in the manner directed by a medical officer unless otherwise provided for in the regulations.

PUBLIC HEALTH EMERGENCIES

53 (1) Where the Chief Medical Officer reasonably believes that a public health emergency exists in the Province, and reasonably believes that the public health emergency cannot be mitigated or remedied without the implementation of special measures pursuant to this Section,

the Chief Medical Officer shall recommend to the Minister that a public health emergency be declared for all or part of the Province and the Minister may declare a public health emergency for all or part of the Province.

(2) Where the Minister has declared a public health emergency, the Chief Medical Officer may implement special measures to mitigate or remedy the emergency including

- (a) establishing a voluntary immunization program for the Province or any part of the Province;
- (b) preparing a list of individuals or classes of individuals to be given priority for active and passive immunizing agents, drugs, medical supplies or equipment;
- (c) ordering the closing of any educational setting or place of assembly;
- (d) prohibiting or limiting access to certain areas of the Province or evacuating persons from an area of the Province;
- (e) ensuring that necessities are provided to a person who is quarantined if the person has no alternative means of obtaining such necessities;
- (f) ordering construction of any work or the installation of facilities required for this Section, including sanitary facilities;
- (g) procuring first right at a reasonable cost to active and passive immunizing agents, drugs, medical supplies or equipment from any organization or corporation;
- (h) confiscating active and passive immunizing agents, drugs, medical supplies or equipment from wholesalers, district health authorities, pharmacies, physicians, institutions or any other persons or classes of persons prescribed in the regulations; and
- (i) any other measure the Chief Medical Officer reasonably believes is necessary for the protection of public health during the public health emergency.

(3) Where the Chief Medical Officer determines that a public health emergency has ended, the Chief Medical Officer shall advise the Minister and the Minister may make a declaration to that effect.

54 Where the Minister considers it appropriate to do so, the Minister may provide a grant to any person to

- (a) assist that person to comply with special measures implemented by the Chief Medical Officer; or
- (b) reimburse that person for costs that person incurred in complying with special measures implemented by the Chief Medical Officer.

55 (1) The Minister, in the circumstances mentioned in subsection (3), may, by order, require the owner or occupier of any premises to deliver possession of all or any specified part of the premises to the Minister to be used as an isolation or quarantine facility or as part of an isolation or quarantine facility.

(2) An order made under subsection (1) shall set out an expiry date for the order that is not more than twelve months after the day of its making and the Minister may, by a further order, extend the order for a further period of not more than twelve months.

(3) The Minister may make an order in writing under subsection (1) where the Chief Medical Officer certifies to the Minister that

(a) there exists or there is an immediate risk of an outbreak of a dangerous disease anywhere in the Province; and

(b) the premises are needed for use as an isolation or quarantine facility or as part of an isolation or quarantine facility in respect of the dangerous disease.

(4) An order made under subsection (1) may require delivery of possession of the premises on a date specified in the order.

(5) The Minister need not hold or afford to any person an opportunity for a hearing or afford to any person an opportunity to make submissions before making an order under subsection (1).

56 (1) Where a judge of the Supreme Court of Nova Scotia is satisfied on evidence upon oath that

(a) there exists or there is an immediate risk of an outbreak of a dangerous disease anywhere in the Province;

(b) premises are needed for use as an isolation or quarantine facility or as part of an isolation or quarantine facility in respect of the dangerous disease; and

(c) the owner or occupier of the premises

(i) has refused to deliver possession of the premises to the Minister in accordance with an order under subsection 55(1),

(ii) is not likely to comply with an order under subsection 55(1), or

(iii) cannot be readily identified or located and as a result an order under subsection 55(1) cannot be carried out promptly,

the judge may make an order directing a peace officer for the area in which the premises are located, or any other person whom the judge considers suitable, to put and maintain the Minister and any person designated by the Minister in possession of the premises, by force if necessary.

(2) An order made under this Section shall be executed at reasonable times as specified in the order.

(3) A judge may receive and consider an application for an order under this Section without notice to and in the absence of the owner or the occupier of the premises.

(4) The Minister shall, before restoring the possession of premises to the owner or occupier, cleanse and disinfect it and put it in the same state of repair as it was in when possession was taken, and shall give notice to the owner or occupier that this has been done.

57 (1) The occupier of premises used or occupied pursuant to Section 55 or 56 is entitled to compensation from Her Majesty in right of the Province for the use and occupation of the premises and, in the absence of agreement as to the compensation, the Nova Scotia Utility and Review Board, upon application in accordance with the rules governing the practice and procedure of that Board, shall determine the compensation in accordance with the *Expropriation Act*.

(2) Except in respect of proceedings before the Nova Scotia Utility and Review Board in accordance with subsection (1), the *Expropriation Act* does not apply to proceedings under this Section.

POWER TO ENTER

58 (1) When reasonably required to administer or determine compliance with this Act or the regulations or to investigate a potential health hazard or communicable disease, a medical officer may enter any premises, other than a dwelling, at any reasonable time, and may

(a) make any inspection, investigation, examination, test, analysis or inquiry that the medical officer considers necessary;

(b) detain or cause to be detained any motor vehicle, trailer, train, railway car, aircraft, boat, ship or similar vessel;

(c) require any substance, thing, solid, liquid, gas, plant, animal or other organism to be produced for inspection, examination, testing or analysis;

(d) seize or take samples of any substance, thing, solid, liquid, gas, plant, animal or other organism, other than samples of human bodily substances;

(e) require any person to

(i) provide the medical officer with information, including personal information, personal health information or proprietary or confidential business information, and

(ii) produce any document or record, including a document or record containing personal information, personal health information or proprietary or confidential business information,

and examine or copy the information, document or record, or take it to copy or retain as evidence;

(f) take photographs or videotapes of premises, or any condition, process, substance, thing, solid, liquid, gas, plant, animal or other organism located in or on the premises;

(g) bring any machinery, equipment or other thing into or onto the premises;

(h) use any machinery, equipment or other thing located in or on the premises;

(i) require that any machinery, equipment or other thing be operated, used or dismantled in or on the premises under specified conditions;

(j) make or cause an excavation to be carried out in or on the premises.

(2) Where

(a) an owner or occupier of premises denies entry or access to, through or over the premises to a medical officer or there are reasonable grounds for believing that the owner or occupier may deny entry or access to, through or over the premises to a medical officer;

(b) an owner or occupier of premises obstructs a medical officer in the exercise of powers under subsection (1);

(c) an owner or occupier of premises refuses to produce any substance, thing, solid, liquid, gas, plant, animal or other organism for the purpose of inspection, examination, test or inquiry;

(d) there are reasonable grounds to believe that the owner or occupier of premises may prevent a medical officer from carrying out powers under subsection (1) or may deny access to any thing as a result of which the medical officer may be unable to carry out powers under subsection (1); or

(e) no person is present to grant access to premises that are locked or otherwise inaccessible,

a medical officer may apply to a justice of the peace for a warrant under Section 59.

(3) Notwithstanding subsection (1), a medical officer may enter and inspect a dwelling with the consent of the owner or occupier of the dwelling.

59 (1) Where a justice of the peace is satisfied on the evidence upon oath that

(a) there are reasonable and probable grounds for believing that it is necessary to

(i) enter and have access to, through or over any premises,

(ii) make examinations, tests, and inquiries,

(iii) make, take and remove samples other than samples of human bodily substances, or to make, take and remove copies or extracts related to an examination, investigation, test or inquiry,

or to do any of such things, for the purpose of this Part or the regulations, the enforcement of any Section of this Part or the regulations, the exercise of a power or the carrying out of a duty under this Part or the regulations or the carrying out of a direction given under this Part; and

(b) a medical officer, a public health inspector or public health nurse or a person acting under a direction given by a medical officer

(i) has been denied entry to the premises,

(ii) has been instructed to leave the premises,

(iii) has been obstructed, or

(iv) has been refused production of any substance, thing, solid, liquid, gas, plant, animal or other organism related to an examination, investigation, test or inquiry,

by the owner or occupier of the premises, or with respect to premises or a dwelling

(v) entry has been refused or there are reasonable grounds to believe that entry will be refused,

(vi) the owner or occupier of the premises or the occupant of the dwelling is temporarily absent, or

(vii) the premises or dwelling is unoccupied,

the justice of the peace may at any time issue a warrant authorizing the medical officer, a public health inspector, a public health nurse and any person who is acting under a direction given by a medical officer, or any of them, to carry out any action under subsection 58(1), by force if necessary, together with such peace officers as they call upon to assist them.

(2) A warrant issued under this Section shall state the date on which it expires, which must be a date not later than fifteen days after the warrant is issued.

(3) A justice of the peace may receive and consider an application for a warrant under subsection 58(2) without notice to and in the absence of the owner or occupier of the premises or the occupier of the dwelling.

(4) A warrant may be made subject to any conditions that are specified in it.

60 Where the Minister has declared a public health emergency, a medical officer may

(a) enter and inspect any premises, including a dwelling, at any time and without a warrant; and

(b) take such action under this Act and the regulations as the medical officer reasonably believes is necessary to prevent, control or deal with the public health emergency.

61 (1) A public health inspector

(a) has the same powers as a medical officer under subsections 58(1), (2) and (3) and Section 59; and

(b) has the same powers as a medical officer under Section 60 if

(i) a medical officer has authorized the public health inspector to exercise the powers, or

(ii) the public health inspector reasonably believes that immediate action is necessary and there is no time to locate a medical officer.

(2) A public health nurse has the same powers as a medical officer under clauses 58(1)(a) and (e) and subsection 58(3) for the purposes of investigating a suspected case of a communicable disease or exposure to a health hazard.

(3) In exercising a power under this Part, a medical officer, public health inspector or public health nurse may use such reasonable force or obtain such assistance from a peace officer or other person as the medical officer, public health inspector or public health nurse reasonably believes is necessary.

62 (1) Where a medical officer, public health nurse or public health inspector removes documents or records from premises for the purposes of clause 58(1)(e) and makes a copy or extract of them or any part of them, the medical officer, public health nurse or public health inspector shall give a receipt to the occupier for the documents or records removed.

(2) Where documents or records are removed from premises, the documents or records shall be returned to the occupier as soon as possible after the making of the copies or extracts.

(3) A copy or extract of any document or record related to an inspection, examination, test or inquiry and purporting to be certified by a person referred to in subsection (1) is admissible in evidence in any action, proceeding or prosecution as proof, in the absence of evidence to the contrary, of the original without proof of the appointment, designation, authority or signature of the person purporting to have certified the copy.

63 A medical officer, public health inspector or public health nurse may be accompanied by other persons for any purpose mentioned in subsection 58(1) and those persons may carry out inspections, examinations, tests and inquiries and take such samples or do such other things as directed by the medical officer, public health inspector or public health nurse.

64 The Minister may make recommendations to the member of the Executive Council to whom is assigned the administration of the *Emergency Measures Act* respecting matters relating to public health emergencies that should be included in emergency measures plans made or required to be made under that Act.

GENERAL

65 (1) An owner or occupier of premises and any employees or agents of the owner or occupier shall give all reasonable assistance to a medical officer, public health nurse or public health inspector to enable the medical officer, public health nurse or public health inspector to exercise powers or carry out duties and functions under this Part and the regulations, and shall furnish the medical officer, public health nurse or public health inspector with such information that the medical officer, public health nurse or public health inspector reasonably requires for purposes referred to in subsection 58(1).

(2) A medical officer, public health inspector, public health nurse or other person who is exercising powers or performing duties or functions under this Part may call for the assistance of any constable, police officer or other peace officer and, where called for such assistance, it is the duty of the constable, police officer or peace officer to render the assistance.

66 (1) No person shall hinder or obstruct a medical officer, public health nurse or public health inspector in the exercise of powers or carrying out of duties or functions under this Part and the regulations.

(2) A refusal of consent to enter a private dwelling is not and shall not be considered to be hindering or obstructing within the meaning of subsection (1), except where a warrant has been obtained or entry is carried out pursuant to Section 60.

67 No person shall knowingly make a false or misleading statement, either orally or in writing, to a medical officer, public health nurse or public health inspector while the medical officer, public health nurse or public health inspector is exercising powers or carrying out duties or functions under this Part or the regulations.

68 The Minister may designate persons as analysts for the purpose of this Part.

69 (1) Subject to this Section, a certificate of an analyst stating that the analyst has analyzed or examined a sample submitted to the analyst by a medical officer, public health nurse or public health inspector and stating the result of the analysis or examination is admissible in evidence in a prosecution with respect to an offence under this Part or the regulations and, in the absence of evidence to the contrary, is proof of the statements contained in the certificate without proof of the appointment, authority or signature of the person purporting to have signed the certificate.

(2) A party against whom a certificate of an analyst is produced under subsection (1) may, with leave of the court, require the attendance of the analyst for purposes of cross-examination.

(3) A certificate shall not be received in evidence under subsection (1) unless the party intending to produce it has given reasonable notice of the intention, together with a copy of the certificate, to any party against whom it is intended to be produced.

70 A copy of an order purporting to be made by a medical officer, public health nurse or a public health inspector is, without proof of the office or signature of the medical officer, public health nurse or a public health inspector, as the case may be, receivable in evidence as proof, in the absence of evidence to the contrary, of the making of the order and of its contents for all purposes in any action, proceeding or prosecution.

71 (1) Every person who fails to comply with this Part or the regulations or with an order made pursuant to this Part or the regulations is guilty of an offence and is liable on summary conviction to

- (a) in the case of a corporation, a fine not exceeding ten thousand dollars; or
- (b) in the case of an individual, a fine not exceeding two thousand dollars or to imprisonment for a term of not more than six months, or both.

(2) Where an offence under this Part or the regulations is committed or continued on more than one day, the person who committed the offence is liable to be convicted for a separate offence for each day on which the offence is committed or continued.

(3) Notwithstanding subsection (1), a person who is guilty of a second or subsequent offence, other than by virtue of subsection (2), is liable to

- (a) in the case of a corporation, a fine of not exceeding fifty thousand dollars;
- or
- (b) in the case of an individual, a fine not exceeding ten thousand dollars or to imprisonment for a period of not more than one year, or both.

72 (1) In a prosecution for an offence under this Part or the regulations, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused, whether or not the employee or agent is identified or has been prosecuted for the offence, unless the accused establishes that the offence was committed without the knowledge or consent of the accused.

(2) Where a corporation commits an offence under this Part or the regulations, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the violation of this Part or the regulations is guilty of the offence and is liable to the punishment provided for the offence, whether or not the corporation has been prosecuted.

(3) Unless otherwise provided in this Part, no person shall be convicted of an offence under this Part or the regulations if the person establishes that the person exercised all due diligence to prevent the commission of the offence.

73 (1) No person shall sell any active or passive immunizing agent that has been provided free of charge to that person by the Minister.

(2) Every person who contravenes subsection (1) and a director or officer of a corporation who authorizes, permits or concurs in such a contravention by the corporation is guilty of an offence and, notwithstanding Section 71, is liable on summary conviction to a penalty of not more than five thousand dollars.

74 (1) The Governor in Council may make regulations

(a) prescribing the duties of the Chief Medical Officer and the Deputy Chief Medical Officer;

(b) respecting the detection, investigation, prevention, reduction, control and removal of health hazards;

(c) requiring persons or classes of persons to report prescribed health hazards;

(d) prescribing health hazards that must be reported to a medical officer;

(e) classifying persons, organizations, premises, places, animals, plants and things, or any of them, for the purpose of this Part and the regulations;

(f) establishing standards and requirements in relation to this Part and the regulations;

(g) exempting any person, organization, premises, institution, food, substance, thing, plant, gas, heat, radiation or class of them for any provision of this Part and the regulations and prescribing conditions that apply in respect of such an exemption;

(h) establishing standards and requirements for the construction, equipment, facilities, including sanitary facilities, establishment and maintenance of recreational camps;

(i) establishing standards and requirements in respect of industrial or construction camps or other places where labour is employed and requiring owners and

operators of such camps, works or other places to comply with such standards and requirements;

(j) respecting the detention, isolation, examination, disposition or destruction of any animal that has or may have a disease or a condition that may adversely affect the health of any person;

(k) requiring the immunization of domestic animals against any disease that may adversely affect the health of any person;

(l) requiring the reporting of cases of animals that have or may have diseases that may adversely affect the health of any person;

(m) prescribing the classes of persons who must make and receive reports concerning animals that have or may have diseases that adversely affect the health of any person;

(n) respecting the procurement, storage, distribution, use and availability of drugs, medical supplies and equipment, and active and passive immunizing agents;

(o) requiring the payment of fees for active and passive immunizing agents;

(p) respecting the immune status of employees who work in hospitals and institutions;

(q) respecting certificates or other means of identification for medical officers, public health nurses and public health inspectors;

(r) governing the handling, transportation, burial, disinterment and reinterment of bodies of persons who have died of a communicable disease or who had a communicable disease at the time of death;

(s) specifying additional persons or classes of persons who must report the existence or the probable existence of a notifiable disease or condition, specifying circumstances under which such a report must be made and specifying to whom the report is to be made;

(t) respecting the reporting of communicable diseases, notifiable diseases or conditions and dangerous diseases;

(u) respecting the control and classification of communicable diseases, notifiable diseases or conditions and dangerous diseases, including control of disease vectors;

(v) designating a disease or condition as a notifiable disease or condition or as a dangerous disease;

(w) requiring the evacuation of persons from localities where there are a large number of cases of a communicable disease or a dangerous disease;

(x) respecting the isolation or quarantine of persons having or who have been exposed to a communicable disease or a dangerous disease;

(y) requiring the mandatory reporting of immunizations;

(z) respecting the establishment, operation and maintenance of personal service facilities;

- (aa) prescribing places of business or classes of places as personal service facilities;
- (ab) prescribing places as institutions;
- (ac) respecting any matter related to the health or safety of persons in, on or about public pools, including standards and requirements to protect the health and safety of such persons;
- (ad) establishing responsibilities, guidelines and standards for public health laboratories;
- (ae) respecting appeals of orders made respecting health hazards;
- (af) respecting the determination of costs associated with actions taken by medical officers where orders are not complied with;
- (ag) establishing standards and requirements regarding the health or safety of persons in, on or about recreational waters;
- (ah) establishing standards and requirements regarding the health or safety of persons at exhibitions, fairs, festivals, and mass gatherings;
- (ai) respecting a public health emergency;
- (aj) prescribing persons or classes of persons for the purpose of clause 53(2)(h);
- (ak) establishing reporting requirements for a district health authority;
- (al) incorporating and adopting by reference, in whole or in part, a written standard, rule, regulation, guideline, code or document as it reads on a prescribed day or as it is amended from time to time;
- (am) establishing standards for confidentiality of records or information obtained by a medical officer pursuant to this Part.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act*.

PART II

FOOD SAFETY

75 In this Part,

- (a) “Administrator” means an inspector who is appointed as the Administrator by the Minister for the purpose of this Part;
- (b) “food” means a raw or processed substance, ice, beverage, milk or milk product, used or intended to be used for human consumption and an ingredient that may be mixed with food for human consumption;
- (c) “food establishment” means any premises, including a mobile, stationary, temporary or permanent facility or location and the surroundings under control of the same person, in which food is processed, manufactured, prepared, labelled, served, sold, offered for

sale or distributed free of charge, dispensed, displayed, stored or distributed, but does not include a dwelling except a dwelling used for commercial food preparation;

- (d) “inspector” means a person appointed as an inspector by the Minister;
- (e) “Minister” means the Minister of Agriculture and Fisheries;
- (f) “permit” means a permit issued pursuant to this Part;
- (g) “prepare” includes cut, wrap, package, freeze, cure or smoke.

76 The Minister has the general supervision and management of this Part and the regulations.

77 The Minister may delegate to any person, any duty or function conferred on the Minister under this Part.

78 The Administrator and inspectors necessary for the administration and enforcement of this Part and the regulations shall be appointed in accordance with the *Civil Service Act*.

79 (1) The Administrator must have a Certified Public Health Inspector designation from the Canadian Institute of Public Health Inspectors or an equivalent designation, together with such other qualifications, as are prescribed in the regulations.

(2) The Administrator has all the powers of a public health inspector under Part I.

80 The Minister may engage, upon such terms and conditions as the Minister considers necessary, the services of such professional or technical persons to assist in the efficient carrying out of the intent and purpose of this Part and the regulations.

81 No person shall establish or operate a food establishment except in accordance with this Part and the regulations.

82 (1) No person shall operate a food establishment, unless exempted by the Administrator, without first having obtained a permit from the Administrator.

(2) An application for a permit in respect of a food establishment shall be made to the Administrator in accordance with the regulations.

(3) Subject to this Part and the regulations, the Administrator shall issue a permit in respect of a food establishment to an applicant upon payment of the prescribed fee.

83 (1) The Administrator shall not issue or renew a permit, or may suspend or revoke a permit, in respect of a food establishment to an applicant where the Administrator is of the opinion that

- (a) the past conduct of the applicant or, where the applicant is a corporation, of any of its officers or directors, affords reasonable grounds to believe that the operation of the food establishment would not be carried on in accordance with this Part and the regulations;

(b) the applicant does not have or will not have available all premises, facilities and equipment necessary to operate a food establishment in accordance with this Part and the regulations;

(c) the applicant is not complying or will not be able to comply with this Part and the regulations; or

(d) the operation of the food establishment represents or would represent a risk to human health.

(2) Any condition that is injurious to human health or, in the opinion of the Administrator, is potentially injurious to human health is deemed a risk under this Part.

84 An inspector or the Administrator may request a medical officer to investigate pursuant to Part I if a food-related health hazard exists or may exist.

85 (1) Where an applicant or permit holder has received notification that the Administrator has refused to grant or renew a permit or has suspended or revoked a permit, the permit holder may appeal to the Minister, by notice in writing, stating concisely the reasons for the appeal.

(2) An appeal shall be conducted in the manner prescribed by the Minister.

(3) The Minister may dismiss an appeal, allow the appeal or make any decision the Administrator was authorized to make.

(4) The decision of the Minister is final and binding on the appellant and the Minister, and the appellant shall take such action as may be necessary to implement the decision.

86 The Administrator may designate types or classes of food establishments for which permits are issued under Section 82.

87 The Administrator may amend, add or impose terms and conditions on a permit.

88 A person to whom a permit is issued shall comply with all terms and conditions of the permit.

89 A food establishment must be constructed and maintained in such a manner that no condition exists that is injurious to human health or that, in the opinion of the Administrator, is potentially injurious to human health.

90 A food establishment must have appropriate maintenance, cleaning and sanitation programs to control physical, chemical and microbiological contamination of food, equipment, utensils and other facilities in the food establishment.

91 (1) No person shall sell or offer for sale, or have in that person's possession for the purpose of sale, any unwholesome, stale or decayed article of food, and any such article may be seized and destroyed by an inspector with the approval of a medical officer.

(2) Notwithstanding subsection (1), an inspector may seize an article of the type described in that subsection and may destroy it without the approval of a medical officer where the inspector reasonably believes that the article poses a serious and imminent threat to the public health.

92 No person who is infected with a disease or condition prescribed in the regulations or is known to be a carrier of such a disease shall participate in any way in the storage, production, manufacture, transportation, preparation, dispensing, serving, keeping for sale or sale of milk, milk products and other food, except as prescribed by the regulations.

93 (1) The Administrator or an inspector may, at any reasonable time, for the purpose of carrying out the Administrator's duties or inspector's duties, as the case may be, under this Part or the regulations,

(a) enter without a warrant any premises where there are reasonable and probable grounds to believe that the premises are a food establishment and that records relating to the food establishment are to be found in the premises; and

(b) inspect the premises and any food or records relating to food.

(2) Notwithstanding subsection (1), the Administrator or an inspector shall not enter any part of a dwelling without the consent of the occupier unless pursuant to a warrant.

94 No person shall hinder or obstruct the Administrator or an inspector in the performance of that person's duties, provide the Administrator or an inspector with false information or refuse to provide the Administrator or an inspector with information required for the purpose of this Part and the regulations.

95 Where the Administrator or an inspector is empowered, authorized or required by any of the provisions of this Part or of the regulations to do any act, matter or thing, the Administrator or the inspector may use such force as is reasonably necessary.

96 The Administrator or an inspector may, in the performance of duties under this Part, call for the assistance of any constable, police officer or other peace officer and, where called for such assistance, it is the duty of the constable, police officer or peace officer to render the assistance.

97 The production by an inspector of a certificate of appointment purporting to be signed by the Minister is admissible in evidence as proof of the appointment without further proof of the signature or authority of the Minister.

98 In a prosecution for a violation of this Part or the regulations, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused whether or not the employee or agent is identified or has been prosecuted for the offence, unless the accused establishes that the offence was committed without the knowledge or consent of the accused.

99 Proof that food, or a package containing food, bore

(a) a name and address purporting to be the name and address of the person by whom it was produced, processed or prepared; or

(b) a registered number or brand mark purporting to be the registered number or brand mark of the establishment where it was produced, processed or prepared,

is *prima facie* proof that the food was produced, processed or prepared and that the food or package was marked by the person whose name or address appeared on the food product or package or by the person operating the food establishment whose registered number or brand mark appeared on the package, as the case may be.

100 The Administrator or an inspector in carrying out any duties or exercising any powers under this Part or the regulations may be accompanied by any persons considered by the Administrator or the inspector, as the case may be, to be necessary to enable the Administrator or inspector to carry out those duties and exercise those powers.

101 (1) Subject to the *Public Service Act*, the Minister may enter into agreements with the Government of Canada for

(a) the performance by the Government of Canada, on behalf of the Province, of functions and duties under this Part and the regulations that are the responsibility of the Province;

(b) the performance by the Province, on behalf of the Government of Canada, of functions and duties that are the responsibility of the Government of Canada under an Act of the Parliament of Canada.

(2) The Minister may enter into agreements for the more efficient carrying out of the object and purpose of this Part and the regulations.

102 (1) A person who contravenes this Part or the regulations, and a director or officer of a corporation who authorizes, permits or concurs in such a contravention by the corporation, is guilty of an offence and upon summary conviction is liable for a first offence to a fine of not more than two thousand dollars or to imprisonment for a term of not more than six months, or to both, and for a subsequent offence to a fine of not more than ten thousand dollars or to imprisonment for a term of not more than one year, or to both.

(2) Notwithstanding subsection (1), a corporation that is convicted of an offence is liable for a first offence to a fine of not more than ten thousand dollars and for a subsequent offence to a fine of not more than fifty thousand dollars.

103 (1) Where the provisions of any Act or by-law or regulation of a regional municipality, town, municipality of a county or district or other local body are in conflict with this Part or the regulations, this Part and the regulations prevail to the extent of the conflict.

(2) Notwithstanding subsection (1), a by-law or regulation referred to in subsection (1) may impose or prescribe higher or more stringent standards or requirements than those provided for by this Part or the regulations where an enactment authorizes the by-law or regulation to impose or prescribe such standards or requirements.

104 (1) Clause 6(h) applies *mutatis mutandis* to the Minister.

(2) Section 17 applies *mutatis mutandis* to the Minister, the Administrator and the inspectors.

105 (1) The Governor in Council may make regulations

- (a) prescribing the powers and duties of the Administrator and inspectors or any class of inspectors;
- (b) prescribing the qualifications of the Administrator;
- (c) providing for the exemption from this Part or the regulations, or any part thereof, of any person or any class of persons or of any food product and prescribing the terms and conditions of the exemption;
- (d) prescribing the manner of and the devices to be used in the operation of food establishments;
- (e) prescribing the facilities and equipment to be provided and maintained at food establishments and the operation of food establishments;
- (f) respecting cleanliness and sanitation of food establishments;
- (g) requiring and governing the detention and disposal of any food at a food establishment and prescribing the procedures for the detention and disposal of food;
- (h) respecting the transportation and delivery of food from a food establishment;
- (i) prescribing the records to be made and kept by the operator of a food establishment;
- (j) providing for the issue, renewal, suspension, reinstatement or revocation of or refusal to issue or renew permits and prescribing the fees payable for permits or the renewal of permits;
- (k) providing for the inspection of food establishments and of vehicles in which food is transported;
- (l) prohibiting the sale or delivery of milk, milk products or any other food from a food establishment if conditions in that food establishment are unsanitary or if the person in charge of the food establishment refuses to permit the food establishment to be inspected by an inspector;
- (m) respecting how milk or cream must be pasteurized;
- (n) respecting the temperature to which milk or cream must be subjected and in respect of the time during which such temperature must be maintained, the period during which such milk or cream must be cooled and the temperature to and the manner in which such milk or cream must be cooled;
- (o) respecting the provision of safe and potable water supplies, for the control of sources of water and systems of distribution, and respecting the prevention of contamination or pollution of water that is used for human consumption;
- (p) providing for inspection of premises before the issue of permits;
- (q) providing for the keeping of records of permits and for inspection of those records by any person;
- (r) prescribing conditions to which permits may be subject;
- (s) governing appeals;

- (t) prescribing terms and conditions under which food may be inspected at any food establishment and the fees payable for inspection;
- (u) prescribing standards for any class or variety of food;
- (v) providing for the taking of samples at a food establishment at the expense of the owner for the purpose of testing;
- (w) providing for the labelling of food at a food establishment;
- (x) extending the period during which food or things may be retained by an inspector;
- (y) respecting the detention of food or things seized pursuant to this Part and for preserving or safeguarding the food or things;
- (z) prescribing diseases or conditions for the purpose of Section 92;
- (aa) establishing the circumstances under which a person described in Section 92 may return to work;
- (ab) incorporating and adopting by reference, in whole or in part, a written standard, rule, regulation, guideline, code or document as it reads on a prescribed day or as it is amended from time to time;
- (ac) respecting any matter the Governor in Council considers necessary or advisable for the administration of a system of administrative penalties;
- (ad) respecting any matter the Governor in Council considers necessary or advisable to carry out effectively the intent and purpose of this Part.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act*.

PART III

GENERAL

106 (1) The Governor in Council may make regulations

- (a) prescribing forms for the purpose of this Act and the regulations;
- (b) defining any word or expression used but not defined in this Act;
- (c) further defining any word or expression defined in this Act;
- (d) respecting any matter that the Governor in Council considers necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act*.

107 Sections 15, 16, 31, 40, 42 and 50, clause 58(1)(e), clauses 74(1)(p), (s), (t) and (y) and Section 104 apply notwithstanding the *Freedom of Information and Protection of Privacy Act*.

108 Subclause 21(c)(vii) of Chapter 5 of the Acts of 1995-96, the *Cosmetology Act*, as enacted by Chapter 10 of the Acts of 2003, is amended by adding “*Protection*” immediately after “*Health*”.

109 Section 11 of Chapter 24 of the Acts of 2000, the *Dairy Industry Act*, is amended by adding “*Protection*” immediately after “*Health*” in the fourth line.

110 (1) Clause 26(1)(o) of Chapter 1 of the Acts of 1995-96, the *Education Act*, is amended by adding “*Protection*” immediately after “*Health*” in the sixth line.

(2) Clause 146(1)(f) of Chapter 1 is amended by adding “*Protection*” immediately after “*Health*” in the seventh line.

111 Subsection 22(1) of Chapter 31 of the Acts of 2001, the *Fatality Investigations Act*, is amended by adding “*Protection*” immediately after “*Health*” in the first line.

112 Clause 4A(2)(f) of Chapter 5 of the Acts of 1993, the *Freedom of Information and Protection of Privacy Act*, is repealed and the following clause substituted:

(f) Section 17 and subsection 104(2) of the *Health Protection Act*;

113 (1) Clauses 2(a) to (n) and (p) to (ae) and Parts I to VI, VIII and X of Chapter 195 of the Revised Statutes, 1989, the *Health Act*, are repealed.

(2) Part VII of Chapter 195 is repealed.

(3) Part IX of Chapter 195 is repealed.

114 Section 82 of Chapter 6 of the Acts of 2000, the *Health Authorities Act*, is amended by adding “*Protection*” immediately after “*Health*” in the second line.

115 Subsection 16(1) of Chapter 197 of the Revised Statutes, 1989, the *Health Services and Insurance Act*, is amended by adding “*Protection*” immediately after “*Health*” in the fourth line.

116 Clause 464A(2)(e) of Chapter 18 of the Acts of 1998, the *Municipal Government Act*, is repealed and the following clause substituted:

(e) Section 17 and subsection 104(2) of the *Health Protection Act*;

117 Section 12 of Chapter 390 of the Revised Statutes, 1989, the *Registered Barbers Act*, is amended by adding “*Protection*” immediately after “*Health*” in the fourth line.

118 The reference to “*Health Act*” in the eighteenth line of Schedule B to Chapter 450 of the Revised Statutes, 1989, the *Summary Proceedings Act*, as enacted by Chapter 30 of the Acts of 2002, is amended by adding “*Protection*” immediately after “*Health*”.

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