



BILL NO. 73

Government Bill

*1st Session, 59th General Assembly
Nova Scotia
53 Elizabeth II, 2004*

An Act Respecting the Administration of Justice

CHAPTER 6
ACTS OF 2004

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

The Honourable Michael G. Baker, Q.C.
Minister of Justice

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

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An Act Respecting the Administration of Justice

Be it enacted by the Governor and Assembly as follows:

- 1 This Act may be cited as the *Justice Administration Amendment (2004) Act*.

PART I

CRANE OPERATORS AND POWER ENGINEERS ACT

- 2 **Subsection 31(4) of Chapter 23 of the Acts of 2000, the *Crane Operators and Power Engineers Act*, is amended by striking out “stationary” in the third and fourth lines and in the fourth line and substituting in each case “power”.**

PART II

EDUCATION ACT

- 3 **Subsection 133(1) of Chapter 1 of the Acts of 1995-96, the *Education Act*, is amended by striking out “within the municipality” in the fourth and fifth lines.**

- 4 **Subsection 134(3) of Chapter 1 is amended by striking out “in which a school to which the agreement relates is located” in the fourth and fifth lines and substituting “that benefits from the community facility to which the agreement relates”.**

PART III

ELECTIONS ACT

- 5 **Subsection 4(1) of Chapter 140 of the Revised Statutes, 1989, the *Elections Act*, is amended by striking out “a barrister” in the second line.**

- 6 **Section 14 of Chapter 140, as amended by Chapter 43 of the Acts of 2001, is further amended by adding immediately after subsection (1) the following subsection:**

(1A) Notwithstanding subsection (1), where the Chief Electoral Officer believes exigent circumstances exist that require the immediate appointment of a returning officer for an electoral district to ensure readiness for an election or conduct of an election, the Chief Electoral Officer may appoint a returning officer for that electoral district, and that returning officer holds office until a returning officer is appointed for the electoral district pursuant to subsection (1).

PART IV

FLEA MARKETS REGULATION ACT

7 Section 2 of Chapter 5 of the Acts of 2000, the *Flea Markets Regulation Act*, is amended by

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

(a) “commercial flea market” means an event organized for the sale of goods at which an operator leases or rents or otherwise provides a table, selling space or other facility to a person for the purpose of conducting sales of goods and includes an event commonly known as a flea market or an operation designated as a commercial flea market by regulation, but does not include an event operated by a body organized and operated exclusively for religious, educational, charitable or community-service purposes;

and

(b) striking out “tangible personal property subject to tax under Part II of the *Revenue Act*” in the fourth and fifth lines of clause (b) and substituting “goods at a commercial flea market”.

8 Subsection 3(3) of Chapter 5 is amended by

(a) adding “, distributor” immediately after “wholesaler” in the third line; and

(b) striking out “of such acquisition” in the fifth and sixth lines and substituting “that the vendor is an authorized sales representative of the producer, manufacturer, wholesaler, distributor or retailer of the goods”.

9 Chapter 5 is further amended by adding immediately after Section 6 the following Sections:

6A A vendor or operator shall, upon request, produce prescribed goods or provide access to prescribed goods to a peace officer.

6B Where a vendor or operator fails to provide a peace officer with information requested pursuant to Section 6 with respect to prescribed goods found at a commercial flea market or where the peace officer is satisfied on reasonable and probable grounds that the information provided is incomplete or inaccurate, the peace officer may, without laying any information or obtaining any warrant, seize and remove those goods.

6C Where a peace officer, finds goods at a commercial flea market that the peace officer is satisfied, on reasonable and probable grounds, are

(a) prohibited goods; and

(b) not being sold by an authorized sales representative of the producer, manufacturer, wholesaler, distributor or retailer of the goods,

the peace officer may, without laying any information or obtaining any warrant, seize and remove those goods.

6D For greater certainty, Sections 2E to 2G of the *Summary Proceedings Act* apply to the seizure of goods under Section 6B or 6C.

10 Subsection 8(1) of Chapter 5 is amended by adding immediately after clause (a) the following clauses:

(aa) designating classes of prescribed goods that may be subject to different information maintenance requirements for the purpose of clauses (b) and (c);

(ab) respecting requirements for proof that a vendor is an authorized sales representative of a producer, manufacturer, wholesaler, distributor or retailer of goods for the purpose of subsection 3(3);

PART V

INTERIOR DESIGNERS ACT

11 Clause 2(k) of Chapter 6 of the Acts of 2003, the *Interior Designers Act*, is amended by adding “, unless the context otherwise requires,” immediately after “means”.

12 Subsections 32(2) and (3) of Chapter 6 are repealed and the following subsections substituted:

(2) An appeal under subsection (1) may be made by filing a notice of appeal with the Registrar of the Court and serving notice on the Registrar appointed under this Act within thirty days of the day on which the decision or order was made by the hearing committee.

(3) Upon receipt of a notice of appeal, the Registrar appointed under this Act shall request a copy of the record of proceedings before the hearing committee and shall file it and a copy of the decision or order being appealed from with the Registrar of the Court.

13 Subsection 43(1) of Chapter 6 is amended by

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

(k) respecting professional misconduct, conduct unbecoming an interior designer and professional incompetence;

and

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

(q) defining “professional misconduct”, “conduct unbecoming an interior designer” and “professional incompetence”;

PART VI

JUSTICE ADMINISTRATION AMENDMENT (2003) ACT

14 Section 3 of Chapter 7 of the Acts of 2003, the *Justice Administration Amendment (2003) Act*, is amended by striking out “1” in the first line and substituting “2”.

PART VII

LABOUR STANDARDS CODE

15 Section 23 of Chapter 246 of the Revised Statutes, 1989, the *Labour Standards Code*, is amended by adding immediately after subsection (3) the following subsection:

(4) The Tribunal shall not proceed with any matter arising out of a complaint referred to in subsection (1) unless the matter to which the complaint to the Director refers occurred within the six months preceding

- (a) the receipt of that complaint by the Director; or
- (b) the initiation of an inquiry by the Director.

16 Subsection 30(2) of Chapter 246, as enacted by Chapter 14 of the Acts of 1991, is amended by striking out “(e)” in the third line and substituting “(d)”.

17 (1) Clause 32(1)(c) of Chapter 246 is amended by adding “or, where the employee has been in the employ of the employer for more than eight years, an amount at least equal to six per cent,” immediately after “cent” in the third line.

(2) Clause 32(2)(a) of Chapter 246 is amended by striking out “two weeks” in the second line and substituting “the length of vacation to which the employee is entitled under that clause”.

18 Subsection 33(2) of Chapter 246, as enacted by Chapter 14 of the Acts of 1991, is amended by adding “or, where the employee has been in the employ of the employer for more than eight years, an amount at least equal to six per cent,” immediately after “cent” in the sixth line.

19 Section 34 of Chapter 246 is amended by adding “or, where the employee has been in the employ of the employer for more than eight years, an amount at least equal to six per cent,” immediately after “cent” in the seventh line.

20 Section 60E of Chapter 246, as enacted by Chapter 7 of the Acts of 2003 (Second Session), is renumbered as Section 60G.

PART VIII

MOTOR VEHICLE ACT

21 (1) Subsection 18(1) of Chapter 293 of the Revised Statutes, 1989, the *Motor Vehicle Act*, is amended by striking out “subsection (2)” in the first line and substituting “subsections (2) and (3)”.

(2) Section 18 of Chapter 293 is further amended by adding immediately after subsection (2) the following subsection:

(3) Where a vehicle is registered in another province of Canada or in a state, an unexpired proof of registration for the vehicle issued by that other province or that state shall at all times while the vehicle is being operated upon a highway within this Province be in the possession of the driver thereof or carried in the vehicle and subject to inspection by any peace officer and subsection (1) does not apply.

22 Section 37 of Chapter 293 is amended by

(a) adding “(1)” immediately after the Section number; and

(b) adding the following subsection:

(2) In this Section, “number plate” and “permit” include a number plate or permit issued in respect of a vehicle registered in another province of Canada or in a state.

23 Chapter 293 is further amended by adding immediately after Section 230 the following Section:

230A (1) No person shall drive a motor vehicle registered in another province of Canada or in a state unless there is in force in respect of the motor vehicle or in respect of the driver of the motor vehicle a motor vehicle liability policy.

(2) In a prosecution for a violation of subsection (1), where the court is satisfied that the defendant failed to produce forthwith upon the request of a peace officer a motor vehicle liability insurance card issued pursuant to the law of the jurisdiction in which the motor vehicle is registered for a policy as required by subsection (1) that was valid and subsisting at the time of driving, such failure is proof, in the absence of evidence to the contrary, that there was not in force at the time of driving a motor vehicle liability policy as required by subsection (1).

(3) No person shall be convicted of a violation of subsection (1) if the person establishes that at the time the motor vehicle was driven,

(a) proof of financial responsibility in the amounts and to the limits required by the law of the jurisdiction in which the motor vehicle is registered; or

(b) a financial responsibility card was issued under the law of the jurisdiction in which the motor vehicle is registered,

in respect of the person or the motor vehicle.

PART IX

OCCUPATIONAL HEALTH AND SAFETY ACT

24 Subsection 25(9) of Chapter 7 of the Acts of 1996, the *Occupational Health and Safety Act*, is amended by adding “, plus such remuneration as is determined by the Minister” immediately after “Council” the second time it appears in the fourth line.

PART X

OMBUDSMAN ACT

25 Clause 2(a) of Chapter 327 of the Revised Statutes, 1989, the *Ombudsman Act*, is amended by

- (a) striking out “and” at the end of subclause (i) and substituting “or”;
- and
- (b) adding “and is designated by the Governor in Council” immediately after “Province” in the last line of subclause (ii).

26 Chapter 327 is further amended by adding immediately after Section 27 the following Section:

- 28 (1) The Governor in Council may make regulations designating an agency, board, commission, foundation or corporation for the purpose of clause (a) of Section 2.
- (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 XI

PROVINCIAL COURT ACT

27 Subsection 6(2) of Chapter 238 of the Revised Statutes, 1989, the *Provincial Court Act*, is repealed and the following subsection substituted:

- (2) Except as otherwise provided in this Act and notwithstanding any other enactment, every judge or judge of the Family Court shall retire from office upon reaching the age of seventy years.

28 Clause 23(3)(b) of Chapter 238 is amended by

- (a) striking out “ceases to hold office by reason of having” in the second and third lines and substituting “has”; and
- (b) adding “and resigns as a judge,” immediately after “years” in the fourth line.

29 (1) Any judge of the provincial court who, on a day on or after November 1, 2003 and before the coming into force of Section 27, was required to retire by virtue of subsection 6(2) of Chapter 238, as it was immediately before the coming into force of Section 27, is deemed not to have retired and to have continued in office from that day.

(2) For greater certainty, the period during which a judge referred to in subsection (1) was required to retire by virtue of subsection 6(2) of Chapter 238 as it was immediately before the coming into force of Section 27 is deemed to be service for the purpose of determining entitlement to or calculation of a pension under Section 23 of Chapter 238.

(3) The Minister of Finance may make any payment, set off any amount to which a judge was entitled because the judge was required to retire by virtue of subsection 6(2) of Chapter 238 as it was immediately before the coming into force of Section 27, or do any other thing necessary to give effect to subsection (1).

PART XII

PUBLIC SERVICE ACT

30 Section 5 of Chapter 376 of the Revised Statutes, 1989, the *Public Service Act*, as enacted by Chapter 4 of the Acts of 2001, is amended by adding “(1)” immediately after the Section number and by adding the following subsection:

(2) A designation made pursuant to subsection (1) may be made retroactive to the time when the acting minister began to act in the stead of the member of the Executive Council.

PART XIII

SPECIAL PLACES PROTECTION ACT

31 Section 14 of Chapter 438 of the Revised Statutes, 1989, the *Special Places Protection Act*, as amended by Chapter 45 of the Acts of 1990, is further amended by adding immediately after subsection (7) the following subsections:

(8) A designation of an ecological site

(a) runs with the land to which it applies and binds all successors in title to the land or any estate in the land unless the designation is terminated pursuant to this Act; and

(b) is not affected by any tax deed conveying the land to which it applies.

(9) Subsection (8) applies to all designations of ecological sites whether made before or after the coming into force of that subsection.

PART XIV

EFFECTIVE DATES

32 (1) This Act, except Sections 3, 4, 6 and 27 to 29, comes into force on such day as the Governor in Council orders and declares by proclamation.

(2) Sections 3 and 4 have effect on and after April 1, 2002.

(3) Notwithstanding Section 219 of the *Elections Act*, Section 6 comes into force upon this Act receiving Royal Assent.

(4) Sections 27 to 29 have effect on and after November 1, 2003.
