



BILL NO. 65

Government Bill

*2nd Session, 61st General Assembly
Nova Scotia
59 Elizabeth II, 2010*

An Act to Amend Chapter 203 of the Revised Statutes, 1989, the Homes for Special Care Act

CHAPTER 17
ACTS OF 2010

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
MAY 11, 2010**

The Honourable Denise Peterson-Rafuse
Minister of Community Services

*Halifax, Nova Scotia
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**An Act to Amend Chapter 203
of the Revised Statutes, 1989,
the Homes for Special Care Act**

Be it enacted by the Governor and Assembly as follows:

1 Clause 2(1)(m) of Chapter 203 of the Revised Statutes, 1989, the *Homes for Special Care Act*, is amended by

(a) adding “required to be approved by the Minister” immediately after “place” the second time it appears in the second line; and

(b) striking out “four” in the fourth line and substituting “three”.

2 Section 4 of Chapter 203 is amended by adding “, a home for the disabled, a home for the aged” immediately after “facility” in the second and in the third lines.

3 (1) Subsection 5(1) of Chapter 203 is amended by adding “, a home for the disabled, a home for the aged” immediately after “facility” in the second and third lines.

(2) Subsection 5(2) of Chapter 203 is amended by adding “, a home for the disabled, a home for the aged” immediately after “facility” in the third line.

4 Section 7 of Chapter 203 is amended by

(a) striking out “or” at the end of clause (e);

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

(c) adding the following clauses:

(g) the licensee or employee of the licensee does not comply with enactments that apply to it;

(h) the licensee or its administrator has failed to demonstrate that its actions, either direct or indirect, are incidental to the attainment of the objects for which it was incorporated or are within the proper exercise of its powers or conform with its own governance requirements; or

(i) the licensee or its administrator is unable to demonstrate that it has or will exercise sufficient control, either directly or indirectly, over the operations of the licensee, including the care of its residents, its premises, its accommodation, its equipment and its facilities.

5 Chapter 203 is further amended by adding immediately after Section 8 the following Sections:

8A Sections 8B to 8E do not apply to a residential care facility licensed by the Minister of Health, a home for the aged or a nursing home.

8B The Minister may appoint such person or persons who shall have such powers and duties prescribed in the regulations to manage and administer or to assist to manage and administer, and generally oversee the operations of a licensee whose license has been suspended, cancelled or not re-issued, until the license is re-instated or re-issued, as the Minister considers necessary.

8C (1) No action or other proceeding for damages or otherwise shall be instituted against the Minister's appointee under Section 8B or any agent of the appointee, as a result of any act done in good faith in the performance or intended performance of any duty under this Act or in the exercise or intended exercise of any power and duty under this Act, or of any neglect or default in the performance or exercise in good faith of such power or duty.

(2) Subsection (1) does not relieve the Crown of any liability under the *Proceedings Against the Crown Act*.

(3) Neither the Crown nor the Minister's appointee shall be liable for any actions of a licensee taken during the period before the appointment under Section 8A or attributable to that period.

8D Neither the appointment by the Minister under Section 8B, the operation and management of the facility by the appointee nor the ceasing of that operation and management is a sale, lease or transfer of the licensee's business or operations thereof for the purpose of Section 31 of the *Trade Union Act* nor a merger, amalgamation or transfer of jurisdiction for the purpose of Section 32 of that Act.

8E For greater certainty, any collective agreement binding a licensee continues to apply during an appointment under Section 8B.

6 Subsection 19(1) of Chapter 203, as amended by Chapter 9 of the Acts of 2007, is further amended by adding immediately after clause (w) the following clauses:

(wa) respecting the powers and duties of a person appointed pursuant to Section 8B;

(wb) respecting matters that a person appointed pursuant to Section 8B must consider in exercising the person's powers and duties;

(wc) respecting the services and scope of the services to be provided by a person appointed pursuant to Section 8B and any conditions that apply to the exercise of the person's discretion in the scope of the services to be provided;

7 Section 1 comes into force on such day as the Governor in Council orders and declares by proclamation.
