



# **BILL NO. 78**

*Government Bill*

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*5th Session, 61st General Assembly  
Nova Scotia  
62 Elizabeth II, 2013*

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**An Act to Amend Chapter 3  
of the Acts of 1987,  
the Canada-Nova Scotia Offshore Petroleum  
Resources Accord Implementation (Nova Scotia) Act**

CHAPTER 16  
ACTS OF 2013

**AS ASSENTED TO BY THE ADMINISTRATOR OF THE PROVINCE  
MAY 10, 2013**

The Honourable Charlie Parker  
*Minister of Energy*

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

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**An Act to Amend Chapter 3  
of the Acts of 1987,  
the Canada-Nova Scotia Offshore Petroleum  
Resources Accord Implementation (Nova Scotia) Act**

Be it enacted by the Governor and Assembly as follows:

**1 Clause 2(o) of Chapter 3 of the Acts of 1987, the *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation (Nova Scotia) Act*, is repealed and the following clause substituted:**

(o) “Minister” means, other than for the purposes of Part IIIA, the minister of the Government of the Province who is responsible for the management of offshore petroleum resources;

**2 Section 6 of Chapter 3 is repealed and the following Section substituted:**

6 (1) Before a regulation is made under subsection (1) of Section 5, subsection (4) of Section 17, subsection (8) of Section 35, subsection (7) of Section 39, subsection (7) of Section 45, Section 51, Section 53A, Section 70, subsection (2) of Section 73, Section 120, subsection (1) of Section 124, Section 127, subsection (1) of Section 146 or Section 200, the Minister shall consult the federal Minister with respect to the proposed regulation and no regulation shall be so made without the approval of the federal Minister.

(2) Before a regulation is made under subsection (4) or (5) of Section 202A or subsection (1) of Section 202DV, the Minister as defined in subsection (1) of Section 202A shall consult the federal Minister with respect to the proposed regulation and no regulation shall be so made without the approval of that minister.

**3 Section 26 of Chapter 3 is amended by adding immediately after subsection (4) the following subsection:**

(4A) Nova Scotia social legislation, as defined in subsection (1) of Section 202A, the provisions of the *Trade Union Act*, the provisions of the *Occupational Health and Safety Act* and any regulations made under that legislation or those Acts, apply to persons employed under subsection (1).

(4B) Notwithstanding section 4 and subsection (1) of section 123 and subsection (1) of section 168 of the *Canada Labour Code*, that Act does not apply to persons employed under subsection (1).

**4 Chapter 3 is further amended by adding immediately after Section 27 the following Section:**

27A (1) The Board shall appoint an audit and evaluation committee consisting of not fewer than three members of the Board and fix the duties and functions of the committee and may, by by-law, provide for the payment of expenses to the members of the committee.

(2) In addition to any other duties and functions that it is required to perform, the audit and evaluation committee shall cause internal audits to be conducted to ensure that the officers and employees of the Board act in accordance with management systems and controls established by the Board.

**5 Subsection 30(2) of Chapter 3 is repealed and the following subsection substituted:**

(2) The annual report submitted under subsection (1) shall contain an audited financial statement and a description of the activities of the Board, including those relating to occupational health and safety, during the fiscal year covered by the report.

**6 Subsection 41(4) of Chapter 3 is repealed and the following subsections substituted:**

(3) The Minister as defined in subsection (1) of Section 202A and the federal Minister, on the recommendation of the Minister of Labour for Canada, may jointly issue written directives in relation to

(a) the development of guidelines and interpretation notes with respect to occupational health and safety matters; and

(b) the implementation of any recommendations made by an auditor under Section 202DQ or made following an inquiry under Section 202DR.

(4) Where a request is received during any calendar year by the Board or the Minister or the federal Minister to make a call for bids under Part II in relation to particular portions of the offshore area, the Minister or the federal Minister may, after having reviewed the plan of the anticipated decisions of the Board during the calendar year submitted under Section 42, issue to the Board a written directive to specify those portions of the offshore area in a call for bids made under Part II.

**7 Subsection 50(1) of Chapter 3 is amended by adding immediately following clause (c) the following clause:**

(ca) aviation regulation;

**8 Subsection 125(1) of Chapter 3 is repealed and the following subsection substituted:**

125 (1) Where the Board has reason to believe that an interest owner or holder is failing or has failed to meet any requirement of this Part or Part III or IIIA, the *Offshore Petroleum Royalty Act* or any regulation made under any of those Parts or that Act, the Board may give notice to that interest owner or holder requiring compliance with the requirement within ninety days after the day on which the notice is given or within any longer period that the Board considers appropriate.

**9 (1) Section 135 of Chapter 3 is amended by adding immediately after subsection (3) the following subsection:**

(3A) On receipt by the Board of an application for an authorization for a work or activity referred to in clause (b) of subsection (1) or an application to amend such an authorization, the Board shall provide a copy of the application to the Chief Safety Officer.

**(2) Section 135 of Chapter 3, as enacted by Chapter 12 of the Acts of 1992, is further amended by adding immediately after subsection (4) the following subsection:**

(4A) The approvals, requirements and deposits that are determined, granted or prescribed shall not be inconsistent with the provisions of this Act or the regulations.

**(3) Subsection 135(5) of Chapter 3, as enacted by Chapter 12 of the Acts of 1992, is further amended by**

**(a) striking out clauses (a) and (b) and substituting the following clauses:**

(a) a requirement, approval, fee or deposit, determined by the Board in accordance with the provisions of this Part or Part IIIA or granted or prescribed by regulations made under either of those Parts, subject to which the licence or authorization was issued;

(b) a requirement undertaken in a declaration referred to in subsection (1) of Section 136A;

**(b) striking out “or” at the end of clause (c); and**

**(c) adding immediately after clause (c) the following clause:**

(ca) any provision of Part IIIA; or

**10 Subsection 136A(2) of Chapter 3 is repealed.**

**11 Sections 137 and 137A of Chapter 3 are repealed and the following Sections substituted:**

137 (1) The Board may, for the purposes of this Act, designate any person as the Chief Safety Officer and another person as the Chief Conservation Officer.

(2) For greater certainty, the Chief Executive Officer may not be designated as the Chief Safety Officer.

137A For the purposes of this Act, an order made by an operational safety officer, the Chief Safety Officer, a conservation officer, the Chief Conservation Officer, the Committee or a health and safety officer as defined in subsection (1) of Section 202A is not a regulation as defined in the *Regulations Act*.

**12 Clauses 147(1)(a) and (b) of Chapter 3 are repealed and the following clauses substituted:**

(a) authorize the use of equipment, methods, measures or standards in lieu of any required by any regulation made under Section 146, if those Officers are satisfied that the use of that other equipment or those other methods, measures or standards would provide a level of safety, protection of the environment and conservation equivalent to that provided by compliance with the regulations; or

(b) grant an exemption from any requirement imposed, by any regulation made under Section 146, in respect of equipment, methods, measures or standards, if those Officers are satisfied with the level of safety, protection of the environment and conservation that will be achieved without compliance with that requirement.

**13 Section 149 of Chapter 3 is repealed.**

**14 Subsection 158(3) of Chapter 3 is repealed and the following subsection substituted:**

(3) Every person required to report a spill under subsection (2) shall, as soon as possible, take all reasonable measures consistent with safety and the protection of health and the environment to prevent any further spill, to repair or remedy any condition resulting from the spill and to reduce or mitigate any damage or danger that results or may reasonably be expected to result from the spill.

**15 Sections 185 to 189 of Chapter 3 are repealed the following Sections substituted:**

185 (1) Subject to subsection (6), the Minister and the federal Minister shall jointly designate as an operational safety officer for the purposes of the administration and enforcement of this Part an individual who has been recommended by the Board.

(2) The Minister and the federal Minister shall make the designation referred to in subsection (1) within thirty days after the day on which they receive the name of the individual from the Board.

(3) Subject to subsection (6), the Minister and the federal Minister shall jointly designate as a conservation officer for the purposes of the administration and enforcement of this Part an individual who has been recommended by the Board.

(4) The Minister and the federal Minister shall make the designation referred to in subsection (3) within thirty days after the day on which they receive the name of the individual from the Board.

(5) The Minister and the federal Minister shall, without delay after making a designation, notify the Board, in writing, that the designation has been made.

(6) The Minister and the federal Minister shall not designate an individual if they are not satisfied that the individual is qualified to exercise the powers and carry out the duties and functions of an operational safety officer or a conservation officer, as the case may be, under this Part.

(7) Where an individual who is recommended by the Board is not designated, the Minister and the federal Minister shall without delay notify the Board of it, in writing.

(8) An individual designated under subsection (1) or (3) who is not an employee of the Board is deemed to be an officer for the purposes of Section 17.

186 (1) An operational safety officer, the Chief Safety Officer, a conservation officer or the Chief Conservation Officer may, for the purpose of verifying compliance with this Part, order any person in charge of a place that is used for any work or activity in respect of which this Part applies or any other place in which that officer has reasonable grounds to believe that there is anything to which this Part applies

- (a) to inspect anything in the place;
- (b) to pose questions, or conduct tests or monitoring, in the place;
- (c) to take photographs or measurements, or make recordings or drawings, in the place;
- (d) to accompany or assist the officer while the officer is in the place;
- (e) to produce a document or another thing that is in the person's possession or control, or to prepare and produce a document based on data or documents that are in the person's possession or control, in the form and manner that the officer may specify;
- (f) to provide, to the best of the person's knowledge, information relating to any matter to which this Part applies, or to prepare and produce a document based on that information, in the form and manner that the officer may specify;
- (g) to ensure that all or part of the place, or anything located in the place, that is under the person's control, not be disturbed for a reasonable period specified by the officer pending the exercise of any powers under this Section; and
- (h) to remove anything from the place and to provide it to the officer, in the manner that the officer specifies, for examination, testing or copying.

(2) An operational safety officer, the Chief Safety Officer, a conservation officer or the Chief Conservation Officer may, for the purpose of verifying compliance with this Part, and subject to Section 188 enter a place that is used for any work or activity in respect of which this Part applies or any other place in which that officer has reasonable grounds to believe that there is anything to which this Part applies, and may for that purpose

- (a) inspect anything in the place;
- (b) pose questions, or conduct tests or monitoring, in the place;
- (c) take samples from the place, or cause them to be taken, for examination or testing, and dispose of those samples;
- (d) remove anything from the place, or cause it to be removed, for examination, testing or copying;

(e) while at the place, take or cause to be taken photographs or measurements, make or cause to be made recordings or drawings or use systems in the place that capture images or cause them to be used;

(f) use any computer system in the place, or cause it to be used, to examine data contained in or available to it;

(g) prepare a document, or cause one to be prepared, based on data contained in or available to the computer system;

(h) use any copying equipment in the place, or cause it to be used, to make copies;

(i) be accompanied while in the place by any individual, or be assisted while in the place by any person, that the officer considers necessary; and

(j) meet in private with any individual in the place, with the agreement of that individual.

(3) For greater certainty, an officer who has entered a place under subsection (2) may order any individual in the place to do anything described in clauses (a) to (h) of subsection (1).

(4) Anything removed under clause (h) of subsection (1) or clause (d) of subsection (2) for examination, testing or copying shall, where requested by the person from whom it was removed, be returned to that person after the examination, testing or copying is completed, unless it is required for the purpose of a prosecution under this Part.

187 An operational safety officer, the Chief Safety Officer, a conservation officer or the Chief Conservation Officer, as the case may be, shall provide written reports to the holder of an authorization about anything inspected, tested or monitored, by or on the order of the officer, for the purpose of verifying compliance with this Part, at any place that is used for a work or activity for which the authorization is issued.

188 (1) Where the place referred to in subsection (2) of Section 186 is living quarters

(a) neither a conservation officer nor the Chief Conservation Officer is authorized to enter those quarters for the purpose of verifying compliance with this Part; and

(b) an operational safety officer or the Chief Safety Officer is not authorized to enter those quarters without the consent of the occupant except

(i) to execute a warrant issued under subsection (4), or

(ii) to verify that those quarters, where on a marine installation or structure as defined in subsection (1) of Section 202A, are in a structurally sound condition.

(2) The officer shall provide reasonable notice to the occupant before entering living quarters under subclause (ii) of clause (b) of subsection (1).



(3) Notwithstanding subclause (ii) of clause (b) of subsection (1), any locker in the living quarters that is fitted with a locking device and that is assigned to the occupant shall not be opened by the officer without the occupant's consent except under the authority of a warrant issued under subsection (4).

(4) On *ex parte* application, a justice of the peace may issue a warrant authorizing an operational safety officer who is named in the warrant or the Chief Safety Officer to enter living quarters subject to any conditions specified in the warrant if the justice is satisfied by information on oath that

(a) the living quarters are a place referred to in subsection (2) of Section 186;

(b) entry to the living quarters is necessary to verify compliance with this Part; and

(c) entry was refused by the occupant or there are reasonable grounds to believe that entry will be refused or that consent to entry cannot be obtained from the occupant.

(5) The warrant may also authorize a locker described in subsection (3) to be opened, subject to any conditions specified in the warrant, if the justice of the peace is satisfied by information on oath that

(a) it is necessary to open the locker to verify compliance with this Part; and

(b) the occupant to whom it is assigned refused to allow it to be opened or there are reasonable grounds to believe that the occupant to whom it is assigned will refuse to allow it to be opened or that consent to opening it cannot be obtained from the occupant.

(6) The officer who executes a warrant issued under subsection (4) shall not use force unless the use of force has been specifically authorized in the warrant.

(7) A warrant may be issued under this Section by telephone or other means of telecommunication on information submitted by an operational safety officer or the Chief Safety Officer by one of those means and section 487.1 of the *Criminal Code* (Canada) applies for that purpose, with any modifications that the circumstances require.

(8) In this Section, "living quarters" means sleeping quarters provided for employees, as defined in subsection (1) of Section 202A, on a marine installation or structure, as defined in that subsection, and any room for the exclusive use of the occupants of those quarters that contains a toilet or a urinal.

189 The Board shall provide every operational safety officer and conservation officer and the Chief Safety Officer and the Chief Conservation Officer with a certificate of appointment or designation and, on entering any place under the authority of this Part, the officer shall, where so required, produce the certificate to the person in charge of the place.

189A (1) The owner of, and every person in charge of, a place entered by an operational safety officer, the Chief Safety Officer, a conservation officer or the Chief Conservation Officer under subsection (2) of Section 186, and every person found in

that place, shall give all assistance that is reasonably required to enable the officer to verify compliance with this Part and provide any documents, data or information that are reasonably required for that purpose.

(2) Where the place referred to in subsection (2) of Section 186 is a marine installation or structure as defined in subsection (1) of Section 202A, the person in charge of the marine installation or structure shall provide to the officer, and to every individual accompanying the officer, free of charge,

(a) suitable transportation between the usual point of embarkation on shore and the marine installation or structure, between the marine installation or structure and the usual point of disembarkation on shore, and between marine installations or structures, if the marine installation or structure or marine installations or structures are situated in the off-shore area; and

(b) suitable accommodation and food at the marine installation or structure.

189B No person shall obstruct or hinder, or make a false or misleading statement either orally or in writing to, an operational safety officer, the Chief Safety Officer, a conservation officer or the Chief Conservation Officer while the officer is engaged in carrying out the officer's duties or functions under this Part.

189C (1) On *ex parte* application, a justice of the peace may issue a warrant if the justice is satisfied by information on oath that there are reasonable grounds to believe that there is in any place anything that will provide evidence or information relating to the commission of an offence under this Part.

(2) The warrant may authorize an operational safety officer, the Chief Safety Officer, a conservation officer or the Chief Conservation Officer, and any other individual named in the warrant, to at any time enter and search the place and to seize anything specified in the warrant, or do any of the following as specified in the warrant, subject to any conditions that may be specified in the warrant:

(a) conduct examinations, tests or monitoring;

(b) take samples for examination or testing, and dispose of those samples; or

(c) take photographs or measurements, make recordings or drawings, or use systems in the place that capture images.

(3) An operational safety officer, the Chief Safety Officer, a conservation officer or the Chief Conservation Officer may exercise the powers described in this Section without a warrant if the conditions for obtaining the warrant exist but by reason of exigent circumstances it would not be feasible to obtain one.

(4) Exigent circumstances include circumstances in which the delay necessary to obtain the warrant would result in danger to human life or the environment or the loss or destruction of evidence.

(5) An individual authorized under this Section to search a computer system in a place may

(a) use or cause to be used any computer system at the place to search any data contained in or available to the computer system;

(b) reproduce or cause to be reproduced any data in the form of a printout or other intelligible output;

(c) seize any printout or other output for examination or copying; and

(d) use or cause to be used any copying equipment at the place to make copies of the data.

(6) Every person who is in charge of a place in respect of which a search is carried out under this Section shall, on presentation of the warrant, permit the individual carrying out the search to do anything described in subsection (5).

(7) The person in charge of a marine installation or structure, as defined in subsection (1) of Section 202A, shall provide to an individual who is executing a warrant under this Section at the marine installation or structure, free of charge,

(a) suitable return transportation between the marine installation or structure and any location from which transportation services to that marine installation or structure are usually provided, and between marine installations or structures, if the marine installation or structure or marine installations or structures are situated in the offshore area; and

(b) suitable accommodation and food at the marine installation or structure.

(8) A warrant may be issued under this Section by telephone or other means of telecommunication on information submitted by an operational safety officer, the Chief Safety Officer, a conservation officer or the Chief Conservation Officer by one of those means and section 487.1 of the *Criminal Code* (Canada) applies for that purpose, with any modifications that the circumstances require.

189D (1) A thing seized under this Part may be stored in the place where it was seized or may, at the discretion of an operational safety officer, the Chief Safety Officer, a conservation officer or the Chief Conservation Officer, be removed to any other place for storage.

(2) The owner of the thing seized under subsection (1) or the person who is lawfully entitled to possess it shall pay the costs of storage or removal.

(3) Where the thing seized is perishable, an operational safety officer, the Chief Safety Officer, a conservation officer or the Chief Conservation Officer may destroy the thing, or otherwise dispose of it in any manner the officer considers appropriate.

(4) Any proceeds realized from the disposition of the thing seized shall be paid to the Receiver General for Canada.

**16 Subsections 190(1) to (4) of Chapter 3 are repealed and the following subsections substituted:**

190 (1) Where an operational safety officer or the Chief Safety Officer, on reasonable grounds, is of the opinion that continuation of an operation in relation to the exploration or drilling for or the production, conservation, processing or transportation of petroleum in any portion of the offshore area is likely to result in serious bodily injury, the operational safety officer or Chief Safety Officer, as the case may be, may order that the operation cease or be continued only in accordance with the terms of the order.

(2) The officer who makes an order under subsection (1) shall affix at or near the scene of the operation a notice of the order in prescribed form.

(3) An order made by an operational safety officer under subsection (1) expires seventy-two hours after it is made unless it is confirmed before that time by order of the Chief Safety Officer.

(4) Immediately after an operational safety officer makes an order under subsection (1), the officer shall advise the Chief Safety Officer accordingly, and the Chief Safety Officer may modify or revoke the order.

**17 Section 190A of Chapter 3 is repealed and the following Section substituted:**

190A An order made by an operational safety officer or the Chief Safety Officer prevails over an order made by a conservation officer or the Chief Conservation Officer to the extent of any inconsistency between the orders.

**18 Subsection 190B(3) of Chapter 3 is repealed and the following subsection substituted:**

(3) In a prescribed emergency situation, an installation manager's powers are extended so that they also apply to each person in charge of a vessel, vehicle or aircraft that is at the installation or that is leaving or approaching it.

**19 (1) Clauses 191(1)(b) and (c) of Chapter 3 are repealed and the following clauses substituted:**

(b) makes any false entry or statement in any report, record or document required by this Part or the regulations or by any order made under this Part or the regulations;

(c) destroys, mutilates or falsifies any report or other document required by this Part or the regulations or by any order made under this Part or the regulations;

**(2) Clauses 191(1)(e) and (f) of Chapter 3 are repealed and the following clauses substituted:**

(e) undertakes or carries on a work or activity without an authorization under clause (b) of subsection (1) of Section 135 or without complying with the approvals or requirements, determined by the Board in accordance with the provisions of this Part or granted or prescribed by regulations made under this Part, of an authorization issued under that clause; or

(f) fails to comply with a direction, requirement or order of an operational safety officer, the Chief Safety Officer, a conservation officer or the Chief Conservation Officer or with an order of an installation manager or the Committee.

**(3) Section 191 of Chapter 3, as amended by Chapter 12 of the Acts of 1992, is further amended by adding immediately after subsection (2) the following subsection:**

(3) No person shall be found guilty of an offence under this Part if that person establishes that he or she exercised due diligence to prevent the commission of the offence.

**20 Chapter 3 is further amended by adding immediately after Section 191 the following Sections:**

192 (1) Where a corporation commits an offence under this Part, any of the following individuals who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is a party to and guilty of the offence and is liable on conviction to the punishment provided for the offence, whether or not the corporation has been prosecuted or convicted:

- (a) an officer, director or agent of the corporation; and
- (b) any other individual exercising managerial or supervisory functions in the corporation.

(2) In a prosecution for an offence under this Part, 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.

192A Where an individual is convicted of an offence under this Part on proceedings by way of summary conviction, no imprisonment may be imposed in default of payment of any fine imposed as punishment.

192B (1) Where a person is convicted of an offence under this Part, the court may, having regard to the nature of the offence and the circumstances surrounding its commission, in addition to any other punishment that may be imposed under this Part, make an order that has any or all of the following effects:

- (a) prohibiting the offender from committing an act or engaging in an activity that may, in the opinion of the court, result in the continuation or repetition of the offence;
- (b) directing the offender to take any measures that the court considers appropriate to avoid any injury or damage that may result from the act or omission that constituted the offence, or to remedy any injury or damage resulting from it;
- (c) directing the offender, at the offender's own expense, to publish, in any manner that the court directs, the facts relating to the offence;
- (d) directing the offender to submit to the Chief Safety Officer, on application by the Officer within three years after the conviction, any

information with respect to the offender's activities that the court considers appropriate in the circumstances;

(e) directing the offender to pay to the Board an amount of money that the court considers appropriate for the purpose of conducting research, education and training in matters related to the protection of the environment, conservation of petroleum resources or safety of petroleum operations;

(f) directing the offender to perform community service, subject to any reasonable conditions that may be imposed by the court;

(g) directing the offender to post a bond or pay an amount of money into court that the court considers appropriate to ensure that the offender complies with any prohibition, direction, requirement or condition that is specified in the order; and

(h) requiring the offender to comply with any conditions that the court considers appropriate in the circumstances for securing the offender's good conduct and for preventing the offender from repeating the same offence or committing another offence under this Part.

(2) An order made under subsection (1) comes into force on the day on which the order is made or on any other day that the court may determine, but shall not continue in force for more than three years after that day.

(3) Where an offender does not comply with an order under clause (c) of subsection (1) requiring the publication of facts relating to the offence, the Chief Safety Officer may publish the facts and recover the costs of publication from the offender.

192C (1) Subject to subsection (2), where a court has made, in relation to an offender, an order under subsection (1) of Section 192B, the court may, on application by the offender or the Chief Safety Officer, require the offender to appear before it and, after hearing the offender and the Officer, vary the order in one or more of the following ways that the court considers appropriate because of a change in the circumstances of the offender since the order was made:

(a) by making changes to any prohibition, direction, requirement or condition that is specified in the order or by extending the time during which the order is to remain in force for any period, not exceeding one year, that the court considers appropriate; or

(b) by decreasing the time during which the order is to remain in force or by relieving the offender, either absolutely or partially or for any period that the court considers appropriate, of compliance with any condition that is specified in the order.

(2) Before making an order under subsection (1), the court may direct that notice be given to any persons that the court considers to be interested and may hear any of those persons.

192D Where an application made under subsection (1) of Section 192C in relation to an offender has been heard by a court, no other application may be made under Section 192C in relation to the offender except with leave of the court.

192E Where a person is convicted of an offence under this Part and a fine that is imposed is not paid when required or where a court orders an offender to pay an amount under subsection (1) of Section 192B or subsection (1) of Section 192C, the prosecutor may, by filing the conviction or order, as the case may be, enter as a judgment the amount of the fine or the amount ordered to be paid, and costs, if any, in the Supreme Court of Nova Scotia, and the judgment is enforceable against the person in the same manner as if it were a judgment rendered against the person in that Court in civil proceedings.

**21 Section 196 of Chapter 3 is repealed and the following Section substituted:**

196 Proceedings by way of summary conviction for an offence under this Part may be instituted at any time within but no later than three years after the day on which the subject-matter of the proceedings arose, unless the prosecutor and the defendant otherwise agree.

**22 Chapter 3 is further amended by adding immediately after Section 199 the following Section:**

199A In any proceedings for an offence under this Part,

- (a) an information may include more than one offence committed by the same person;
- (b) all those offences may be tried concurrently; and
- (c) one conviction for any or all offences so included may be made.

**23 Chapter 3 is further amended by adding immediately after Section 202 the following Part:**

PART IIIA

OCCUPATIONAL HEALTH AND SAFETY

INTERPRETATION

202A (1) In this Part,

- (a) “authorization” means an authorization issued under clause (b) of subsection (1) of Section 135;
- (b) “Chief Safety Officer” means the person designated as the Chief Safety Officer under Section 137;
- (c) “committee” means a special committee and a workplace committee;
- (d) “coordinator” means an employee designated under subsection (1) of Section 202AT to act as an occupational health and safety coordinator;
- (e) “declaration” means a declaration referred to in subsection (1) of Section 136A;

(f) “employee” means an individual who, in return for monetary compensation, performs work or services for an employer in respect of a work or activity for which an authorization has been issued;

(g) “employer” means a person who employs or contracts for the services of any individual in respect of a work or activity for which an authorization has been issued, if that person has the power to exercise direction and control over the individual’s work at the workplace;

(h) “hazardous substance” includes a controlled product and any chemical, biological or physical agent that, by reason of a property that the agent possesses, is hazardous to the health or safety of an individual exposed to it;

(i) “health and safety officer” means an occupational health and safety officer or a special officer;

(j) “interest holder” has the same meaning as in Section 54;

(k) “Labour Board” means the Board as defined in the *Occupational Health and Safety Act*;

(l) “marine installation or structure” includes

(i) any ship, including any ship used for construction, production or diving or for geotechnical or seismic work,

(ii) any offshore drilling unit, including a mobile offshore drilling unit,

(iii) any production platform, subsea installation, pipeline as defined in Section 133, pumping station, living accommodation, storage structure or loading or landing platform, and

(iv) any other work, or work within a class of works, prescribed under clause (a) of subsection (5),

but does not include

(v) any vessel, including any supply vessel, standby vessel, shuttle tanker or seismic chase vessel, that provides any supply or support services to a ship, installation, structure, work or anything else described in subclauses (i) to (iv), unless the vessel is within a class of vessels that is prescribed under clause (b) of subsection (5), or

(vi) any ship or vessel within a class of ships or vessels prescribed under clause (c) of subsection (5);

(m) “Minister” means the minister of the Government of the Province who is responsible for occupational health and safety;

(n) “Nova Scotia social legislation” means the provisions of the following Acts:

(i) the *Human Rights Act*,

(ii) the *Labour Standards Code*,



(iii) the *Workers' Compensation Act*, and

(iv) the *Health Protection Act*;

(o) “occupational health and safety officer” means an individual designated by the Minister under Section 202BU;

(p) “operator” means a person who holds an authorization;

(q) “owner” means a person who has a right, title or interest, including a leasehold interest, recognized by law, in a marine installation or structure that is used or is to be used as a workplace, or any entity in which the person has vested all or any part of the person’s right, title or interest;

(r) “passenger craft” means any aircraft or vessel used to transport employees to or from a workplace while, and immediately before, it is transporting them;

(s) “person” includes individuals, corporations and partnerships;

(t) “personal protective equipment” includes personal protective clothing, personal protective devices and personal protective materials;

(u) “provider of services” means a person who, for commercial gain,

(i) provides services related to the placement with an operator or employer of individuals who, in return for monetary compensation, perform work or services for the operator or employer at a workplace, or

(ii) provides services that affect or could affect the health or safety of employees or other individuals at a workplace or on a passenger craft, including engineering services, architectural services, the services of a certifying authority referred to in subsection (6) of Section 136B, or the services of any person who provides information or advice, issues a certificate or affixes a professional seal or stamp;

(v) “special committee” means a special committee established under Section 202AU;

(w) “special officer” means an individual designated under Section 202BV;

(x) “supervisor” means an employee who is in charge of a workplace or part of a workplace or who has authority over other employees;

(y) “supplier” means a person who, for commercial gain, manufactures, supplies, sells, leases, distributes or installs any tool, equipment, machine or device, any biological, chemical, or physical agent or any other prescribed thing, to be used at a workplace or on a passenger craft;

(z) “union” means a trade union, as defined in the *Trade Union Act*, that has the status of a bargaining agent under that Act in respect of any bargaining unit at a workplace, or any organization representing

employees that has exclusive bargaining rights under any other Act of the Legislature of the Province in respect of those employees;

(aa) “workplace” means

(i) any marine installation or structure where an employee is employed in connection with a work or activity for which an authorization has been issued;

(ii) any workboat used by an employee, and operated from a marine installation or structure, to perform routine maintenance or repair work in connection with a work or activity for which an authorization has been issued, and

(iii) any dive site from which, and any underwater area at which, a diving operation is conducted by an employee in connection with a work or activity for which an authorization has been issued.

(ab) “workplace committee” means a workplace committee established under Section 202AR.

(2) In this Part, “controlled product”, “hazard symbol”, “Ingredient Disclosure List”, “label” and “material safety data sheet” have the same meanings as in section 2 and subsection (1) of section 11 of the *Hazardous Products Act* (Canada).

(3) Subsection (2) of section 11 of the *Hazardous Products Act* (Canada) applies for the purposes of this Part.

(4) Subject to Section 6 and on the recommendation of the Minister, the Governor in Council may make regulations

(a) defining “danger”, “dive site”, “diving operation” and “incident” for the purposes of this Part;

(b) amending the definition “Nova Scotia social legislation” in subsection (1) to add any Act of the Province or to remove any Act of the Province from the definition.

(5) Subject to Section 6 and on the recommendation of the Minister, the Governor in Council may make regulations

(a) prescribing a work or a class of works for the purposes of subclause (iv) of clause (1) of subsection (1);

(b) prescribing a class of vessels for the purposes of subclause (v) of clause (1) of subsection (1);

(c) prescribing a class of ships or vessels for the purposes of subclause (vi) of clause (1) of subsection (1).

(6) For the purposes of Sections 202F, 202H and 202I, an employee is deemed to be at a workplace within the offshore area while, and immediately before, the employee is being transported on a passenger craft between the last point of embarkation on shore and the workplace, between the workplace and the first point of disembarkation on shore, or between workplaces.

## HER MAJESTY

202B This Part is binding on Her Majesty in right of the Province, a province or Canada.

## APPLICATION

202C (1) This Part applies to and in respect of a workplace that is situated within the offshore area for the purposes of the exploration or drilling for, or the production, conservation or processing of, petroleum within the offshore area.

(2) This Part also applies to employees and other passengers while—and immediately before—being transported on a passenger craft between the last point of embarkation on shore and the workplace, between the workplace and the first point of disembarkation on shore, or between workplaces.

202D Except to the extent provided for under this Part, the *Occupational Health and Safety Act* does not apply to or in respect of a workplace that is situated within the offshore area for the purposes of the exploration or drilling for, or the production, conservation or processing of, petroleum within the offshore area.

202E Notwithstanding subsection (1) of section 123 and subsection (1) of section 168 of the *Canada Labour Code* and any other Act of Parliament, Parts II and III of the *Canada Labour Code* do not apply to and in respect of a workplace that is situated within the offshore area for the purposes of the exploration or drilling for, or the production, conservation or processing of, petroleum within the offshore area.

202F The *Canadian Human Rights Act* does not apply to or in respect of a workplace that is situated within the offshore area for the purposes of the exploration or drilling for, or the production, conservation or processing of, petroleum within the offshore area.

202G The *Non-smokers' Health Act* (Canada) does not apply to or in respect of a workplace that is situated within the offshore area for the purposes of the exploration or drilling for, or the production, conservation or processing of, petroleum within the offshore area.

202H (1) Nova Scotia social legislation and any regulations made under it apply to and in respect of a workplace that is situated within the offshore area for the purposes of the exploration or drilling for, or the production, conservation or processing of, petroleum within the offshore area.

(2) In the event of an inconsistency or conflict between the provisions of this Act, or any regulations made under it, and the provisions of Nova Scotia social legislation, or any regulations made under that legislation, the provisions of this Act and the regulations made under it prevail to the extent of the inconsistency or conflict.

202I (1) Notwithstanding section 4 of the *Canada Labour Code* and any other Act of Parliament, the provisions of the *Trade Union Act*, and any regulations made under it, apply to and in respect of

(a) a marine installation or structure that is situated within the offshore area in connection with the exploration or drilling for, or the production, conservation or processing of, petroleum within the offshore area and that is in the offshore area for the purpose of becoming, or that is, per-

manently attached to, permanently anchored to or permanently resting on the seabed or subsoil of the submarine areas of the offshore area;

(b) any workboat used by an employee, and operated from a marine installation or structure, to perform routine maintenance or repair work in connection with a work or activity for which an authorization has been issued; and

(c) a dive site from which, and any underwater area at which, a diving operation is conducted by an employee in connection with a work or activity for which an authorization has been issued.

(2) Part I of the *Canada Labour Code* applies to and in respect of a marine installation or structure that is situated within the offshore area in connection with the exploration or drilling for, or the production, conservation or processing of, petroleum within the offshore area if subsection (1) does not apply to or in respect of the marine installation or structure.

#### PURPOSE

202J (1) The purpose of this Part is to prevent accidents and injury arising out of, linked to or occurring in the course of employment to which this Part applies, in particular by

(a) allocating responsibility for occupational health and safety among the Board and the persons, unions and committees having obligations under this Part; and

(b) establishing a framework for them to exercise their rights and carry out their obligations.

(2) Preventive measures should first aim at the elimination of hazards, then the reduction of the risks posed by the hazards and finally, the taking of protective measures, all with the goal of ensuring the health and safety of employees.

#### ALLOCATION OF RESPONSIBILITY

202K (1) The allocation of responsibility for occupational health and safety is based on the following principles:

(a) operators have overall responsibility; and

(b) operators, employers, suppliers, providers of services, employees, supervisors, owners and interest holders have individual and shared responsibilities, and are responsible for cooperating with each other and coordinating their activities related to occupational health and safety.

(2) For greater certainty, the imposition of any specific obligation under this Part shall not be construed as limiting the generality of any other obligation under this Part.

#### DUTIES OF OPERATORS

202L (1) Every operator shall develop an occupational health and safety policy governing its workplaces.

- (2) The policy shall be set out in writing and contain
- (a) the commitments of the operator related to occupational health and safety, including its commitment to cooperate with employees with regard to health and safety;
  - (b) the responsibilities of the employers at any of the operator's workplaces related to occupational health and safety; and
  - (c) any prescribed requirements.

(3) The operator shall review the policy at least every three years in consultation with each workplace committee that it establishes and with each employer at any of the operator's workplaces.

202M Every operator shall take all reasonable measures to ensure the health and safety of all employees and other individuals at its workplaces and of all employees or other passengers while, and immediately before, being transported on a passenger craft to or from any of those workplaces.

202N Every operator shall, in respect of each of its workplaces,

- (a) ensure the coordination of all work and activities for which an authorization has been issued to the operator;
- (b) comply with its occupational health and safety management system, and ensure that all employers, supervisors and employees at, owners of and providers of services to the workplace comply with that system;
- (c) ensure that information necessary for the health and safety of employees and other individuals at the workplace is communicated to them;
- (d) ensure that all employers, supervisors and employees at, owners of and suppliers and providers of services to the workplace comply with the provisions of this Part and the regulations made under this Part;
- (e) ensure that each employee at the workplace is made aware of known or foreseeable health or safety hazards;
- (f) ensure that all work and activities for which an authorization has been issued are conducted so as to minimize the exposure to hazards, including hazardous substances, of all employees and other individuals at the workplace;
- (g) ensure that any installations, facilities, equipment and materials at the workplace are properly installed, stored and maintained and are safe for their intended use;
- (h) ensure that all employees and other individuals at the workplace conduct themselves so as to minimize their exposure to hazards, including hazardous substances;
- (i) ensure that all employees and other individuals at the workplace are provided with the facilities and personal protective equipment, including any that are prescribed, necessary for their health and safety;
- (j) ensure that all employees and other individuals at the workplace are provided with the information and training, including any that are prescribed,

required for the proper use of personal protective equipment that is prescribed or that is required by the operator be used or worn;

(k) ensure that all employees and other individuals at the workplace are provided with the instruction, training and supervision, including any that are prescribed, necessary for their health and safety;

(l) comply with the occupational health and safety requirements of any authorization issued to them, and those undertaken in the declaration related to the authorization, and record all instances of failures to comply with those requirements as well as any measures taken to rectify the failure or to prevent further such failures;

(m) ensure that all employers, supervisors and employees at, owners of and providers of services to the workplace comply with the occupational health and safety requirements of any authorization related to that workplace that is issued to the operator, and those undertaken in the declaration related to the authorization, and report any instances of failures to comply with those requirements to the operator;

(n) inform the relevant interest holders of the occupational health and safety requirements of any authorization related to that workplace that is issued to the operator, and those undertaken in the declaration related to the authorization, and of any failure to comply with those requirements;

(o) ensure that members of committees established for the workplace are provided with the support, opportunities and training, including any that are prescribed, necessary to enable the members to fulfill their duties and functions as a member of the committee;

(p) cooperate with those committees and facilitate communications between the employees and the committees;

(q) ensure that all or part of the workplace as described in subclauses (i) and (ii) of clause (aa) of subsection (1) of Section 202A is inspected by or on behalf of the operator at least once a month, so that every part of that workplace is inspected at least once a year, and ensure that the workplace committee participates;

(r) ensure that a record is kept of each inspection referred to in clause (q), including any corrective action taken as a consequence; and

(s) cooperate with the Board and with persons carrying out duties or functions under this Part.

202O (1) Every operator shall, each time before employees or other passengers are transported on a passenger craft to or from any of its workplaces,

(a) ensure that the employees and other passengers are provided with any information and instruction, including any that are prescribed, necessary for their health and safety; and

(b) ensure that the employees are provided with the operator's contact information for the purposes of subsection (2) of Section 202BC.

(2) Every operator shall ensure that a passenger craft going to or from any of its workplaces

(a) meets the requirements of any Act or other law that relates to the health or safety of the employees and other passengers on the passenger craft; and

(b) is equipped with any equipment, devices and materials necessary to ensure the health and safety of the employees and other passengers, including any that are prescribed.

(3) Every operator shall ensure that all employees and other passengers on a passenger craft going to or from any of its workplaces

(a) are provided with any personal protective equipment necessary to ensure their health and safety, including any that is prescribed; and

(b) are provided with the information and training, including any that are prescribed, required for the proper use of personal protective equipment provided under clause (a) and the equipment, devices and materials referred to in clause (b) of subsection (2).

202P (1) Every operator shall develop, implement and maintain an occupational health and safety management system that fosters a culture of workplace safety and that is adapted to the circumstances of the work or activity specified in each authorization issued to the operator, for the purposes of

(a) implementing its occupational health and safety policy;

(b) ensuring that the provisions of this Part and the regulations made under this Part are complied with; and

(c) complying with the occupational health and safety requirements of each of those authorizations, and those undertaken in a declaration related to any of those authorizations.

regarding (2) The system shall be set out in writing and include provisions

(a) the management of risks to the health and safety of employees, including any prescribed risks, and procedures for

(i) the ongoing and systematic identification and reporting of all hazards,

(ii) the assessment of risks associated with identified hazards, and

(iii) the implementation of hazard control measures;

(b) the role of any committee established for any of the operator's workplaces and the interaction between those committees;

(c) the roles and accountability of the employers, employees, providers of services and suppliers that are responsible for implementing the operator's occupational health and safety policy and occupational health and safety management system;

(d) the allocation of sufficient resources to ensure that employees continue to be qualified and competent, that there is proper quality control of documents, facilities, equipment and materials and that there is effective cooperation among employers;

(e) the procedures for carrying out work or activities, dealing with changes in operations and responding to emergencies;

(f) the procedures for dealing with failures to comply with the system and the procedures for the reporting and investigating of occupational diseases and of accidents, incidents and other hazardous occurrences and the keeping of related records and statistical analysis;

(g) the auditing of the adequacy and effectiveness of the system, including

(i) determining the ability of the system to achieve the purposes set out in subsection (1), and

(ii) identifying improvements that could be made to the system; and

(h) the implementation of the improvements identified during the audit referred to in clause (g).

(3) The operator shall review the system at least every three years in consultation with each workplace committee that it establishes.

(4) Where the regulations establish requirements in respect of anything described in any of clauses (a) to (h) of subsection (2), the system shall meet the requirements of those regulations.

202Q(1) The Chief Safety Officer may, in writing, require an operator to establish a code of practice in respect of occupational health and safety, or to adopt a code of practice in respect of occupational health and safety that is specified by the Officer, in respect of

(a) any of its workplaces or any work or activity carried out at any of its workplaces; or

(b) the transportation of employees to or from any of its workplaces.

(2) The code of practice may be revised by the Chief Safety Officer from time to time, or the Officer may require the operator to revise it from time to time.

202R(1) Every operator shall, as soon as it becomes known to the operator, notify the Chief Safety Officer of

(a) any occupational disease at any of its workplaces; or

(b) any accident, incident or other hazardous occurrence at any of its workplaces, or on a passenger craft going to or from any of those workplaces, that causes a death or serious injury or in which a death or serious injury is narrowly avoided.



(2) Every operator shall investigate any occupational disease, or any accident, incident or other hazardous occurrence, described in clause (a) or (b) of subsection (1) and shall keep adequate records of its investigation, including any records that are prescribed, for the period that is prescribed.

(3) An operator shall, no later than the first day of April of each year, submit to each workplace committee that it establishes, to the Chief Safety Officer and, on request, to any special committee established for any of the operator's workplaces, a written report for the immediately preceding calendar year, in a form determined by the Officer.

(4) The report shall set out data on all occupational diseases, and all accidents, incidents and other hazardous occurrences, that have occurred at any of the operator's workplaces or on a passenger craft going to or from any of those workplaces during the calendar year covered by the report, including the number of deaths, the number of serious injuries and the number of minor injuries.

(5) In this Section, "serious injury" means an injury that

(a) results in the loss by an individual of a body member or part of a body member or in the complete loss by an individual of the usefulness of a body member or part of a body member;

(b) results in the permanent impairment of a body function of an individual; or

(c) prevents an employee from reporting for work or from effectively performing all the functions connected with the employee's regular work on any day subsequent to the day on which the injury occurred, whether or not that subsequent day is a working day for the employee.

#### DUTIES OF EMPLOYERS

202S Every employer shall take all reasonable measures to ensure

(a) the health and safety of its employees and other individuals at a workplace under its control;

(b) the health and safety of its employees at a workplace that is not under its control, to the extent that it controls their activities at the workplace; and

(c) the health and safety of its employees while, and immediately before, the employees are transported on a passenger craft.

202T (1) Every employer shall, in respect of each workplace under its control, and in respect of any activity performed by any of its employees at a workplace that is not under its control, to the extent that it controls the activity,

(a) coordinate its undertaking with the work and activities of the operator and of any other employer at the workplace who may be affected by that undertaking;

(b) ensure that the operator's occupational health and safety management system is complied with and carry out any responsibilities assigned to the employer under that system;

(c) determine, in consultation with the operator, the impact of its undertaking on occupational health and safety and ensure that other employers at the workplace who may be affected by that undertaking are provided with adequate information;

(d) communicate to its employees and, in respect of a workplace under its control, to other individuals at the workplace, all information necessary to their health and safety, or ensure that the information is communicated to them;

(e) ensure that its employees comply with the provisions of this Part and the regulations made under this Part;

(f) ensure that each of its employees, and particularly each supervisor, is made aware of known or foreseeable health or safety hazards;

(g) ensure that its undertaking is conducted so as to minimize its employees' exposure to hazards and, in respect of any other individuals at a workplace under its control, to minimize their exposure to hazards;

(h) provide to its employees, and, in respect of a workplace under its control, to other individuals at the workplace, the facilities and personal protective equipment, including any that are prescribed, necessary for their health and safety;

(i) provide to its employees, and, in respect of a workplace under its control, to other individuals at the workplace, the information and training, including any that are prescribed, required for the proper use of all personal protective equipment that are prescribed or that is required by the operator to be used or worn;

(j) provide its employees with the instruction, training and supervision, including any that are prescribed, necessary for their health and safety;

(k) ensure that the occupational health and safety requirements of any authorization related to the workplace are complied with;

(l) record and report to the operator all instances of failures to comply with the provisions of this Part or of the regulations made under this Part, or with the occupational health and safety requirements of any authorization related to the workplace;

(m) ensure that all equipment, machines, devices, materials and other things at the workplace are properly installed, stored and maintained, are safe for their intended use and are used as intended;

(n) cooperate with and facilitate communication with committees established for the workplace;

(o) provide to members of any special committee it establishes for the workplace the support, opportunities and training, including any that are prescribed, necessary to enable the members to fulfill the duties and functions conferred on the committee;

(p) ensure that all or part of the workplace as described in sub-clauses (i) and (ii) of clause (aa) of subsection (1) of Section 202A under its control is inspected by it or on its behalf at least once a month, so that every part of that workplace is inspected at least once a year, and ensure that the workplace committee participates; and

(q) cooperate with the Board and with persons carrying out duties or functions under this Part.

(2) An employee who, with the approval of the employee's employer, is receiving training that is required under this Part shall be paid the same wages and granted the same benefits that the employee would have received had the employee been working.

202U (1) For the purpose of implementing the operator's occupational health and safety policy, every employer shall, in consultation with the workplace committee, develop, implement and maintain, in respect of each workplace under the employer's control, an occupational health and safety program that fosters a culture of workplace safety, if

(a) five or more employees are normally employed at the workplace by the employer;

(b) the program is required by the Chief Safety Officer; or

(c) the requirement for such a program is prescribed.

(2) The program shall be set out in writing and include provisions regarding

(a) the management of risks to the health and safety of the employees, including any prescribed risks, and procedures for

(i) the ongoing and systematic identification and reporting of all hazards,

(ii) the assessment of risks associated with identified hazards, and

(iii) the implementation of hazard control measures;

(b) the training and supervision of the employees that are necessary to ensure their health and safety and that of other individuals at the workplace;

(c) the establishment of special committees, the operation of workplace committees and special committees, the access by committees to a level of management with authority to resolve occupational health and safety matters and the information required under this Part to be maintained in relation to those committees;

(d) the roles of committees and their interaction in implementing the operator's occupational health and safety policy;

(e) the roles and accountability of the employers, employees, providers of services and suppliers that are responsible for implementing the operator's occupational health and safety policy;

- (f) the procedures, including those required under this Part, to be followed to protect the employees' health and safety, and the identification of types of work to which those procedures apply;
- (g) the procedures to be followed to deal with
  - (i) failures to comply with the program and with the reporting and investigating of occupational diseases, and of accidents, incidents and other hazardous occurrences, at the workplace, and
  - (ii) the keeping of related records and statistical analysis;
- (h) the auditing of the adequacy and effectiveness of the program, including
  - (i) determining the ability of the program to meet the requirements of the operator's occupational health and safety policy and occupational health and safety management system, and
  - (ii) identifying improvements that could be made to the program; and
- (i) the implementation of the improvements identified during the audit referred to in clause (h).

(3) Where the regulations establish requirements in respect of anything described in any of clauses (a) to (i) of subsection (2), the program shall meet the requirements of those regulations.

202V (1) The Chief Safety Officer may, in writing, require an employer to establish, in respect of a workplace under the employer's control or any work or activity carried out at any of those workplaces, a code of practice in respect of occupational health and safety, or to adopt, in respect of such a workplace, work or activity, a code of practice in respect of occupational health and safety that is specified by the Officer.

(2) The code of practice may be revised by the Chief Safety Officer from time to time, or the Officer may require the employer to revise it from time to time.

202W Subject to any exceptions that are prescribed, every employer shall, in respect of each workplace under its control, and in respect of any activity performed by any of its employees at a workplace that is not under its control, to the extent that it controls the activity,

- (a) ensure that concentrations of hazardous substances at the workplace are controlled in accordance with any standards that are prescribed;
- (b) ensure that all hazardous substances at the workplace are stored and handled in the manner that is prescribed;
- (c) ensure that all hazardous substances at the workplace, other than controlled products, are identified in the manner that is prescribed;
- (d) subject to the *Hazardous Materials Information Review Act* (Canada), ensure that each controlled product at the workplace or each container at the workplace in which a controlled product is contained has applied to

it a label that discloses information that is prescribed and has displayed on it, in the manner that is prescribed, all applicable hazard symbols that are prescribed;

(e) subject to the *Hazardous Materials Information Review Act* (Canada), make available to every employee at the workplace, in the manner that is prescribed, a material safety data sheet that discloses the following information with respect to each controlled product to which the employee may be exposed, namely,

(i) where the controlled product is a pure substance, its chemical identity, and where it is not a pure substance, the chemical identity of any of its ingredients that is a controlled product and the concentration of that ingredient,

(ii) where the controlled product contains an ingredient that is included in the Ingredient Disclosure List and the ingredient is in a concentration that is equal to or greater than the concentration specified in that List for that ingredient, the chemical identity and concentration of that ingredient,

(iii) the chemical identity of any ingredient of the controlled product that the employer believes on reasonable grounds may be harmful to an employee at the workplace and the concentration of that ingredient,

(iv) the chemical identity of any ingredient of the controlled product whose toxicological properties are not known to the employer and the concentration of that ingredient, and

(v) any other information that is prescribed with respect to the controlled product;

(f) where employees at the workplace may be exposed to hazardous substances, investigate and assess the potential exposure in the manner that is prescribed, with the assistance of the workplace committee or the coordinator, as the case may be; and

(g) ensure that all records of exposure to hazardous substances are kept and maintained in the manner that is prescribed and that personal records of exposure are made available to the affected employees.

202X (1) Every employer shall, in respect of each workplace under its control, and in respect of an activity performed by any of its employees at a workplace that is not under its control, to the extent that it controls the activity, provide, in respect of any controlled product to which an employee may be exposed, as soon as the circumstances permit, any information referred to in clause (e) of Section 202W that is in the employer's possession to any physician, or any other medical professional that is prescribed, who requests that information for the purpose of making a medical diagnosis of, or rendering medical treatment to, an employee in an emergency.

(2) Any physician, or any other medical professional that is prescribed, to whom information is provided by an employer under subsection (1) shall keep confidential any information specified by the employer as being confidential, except for the purpose for which it is provided.

## DUTIES OF SUPERVISORS

202Y Every supervisor shall take all reasonable measures to ensure the health and safety of employees and other individuals that he or she supervises at a workplace.

202Z Every supervisor shall

- (a) ensure that the employees that the supervisor supervises comply with the provisions of this Part and the regulations made under this Part;
- (b) inform the supervisor's employer and each of those employees of known or foreseeable health or safety hazards;
- (c) where required to do so by the supervisor's employer or the operator, provide those employees with written instructions as to the measures to be taken and the procedures to be followed for the protection of the employees; and
- (d) report to the supervisor's employer any failure to comply with the provisions of this Part or of the regulations made under this Part, or with the occupational health and safety requirements of any authorization related to the workplace that is issued to the operator.

## DUTIES OF EMPLOYEES

202AA Every employee at a workplace or on a passenger craft shall take all reasonable measures to protect the employee's own health and safety and that of other individuals at the workplace or on the passenger craft.

202AB Every employee at a workplace shall

- (a) cooperate with the operator and with all employers and other employees to protect the health and safety of individuals at the workplace;
- (b) use or wear, in the manner intended, all personal protective equipment that is prescribed or that is required by the operator or the employee's employer to be used or worn;
- (c) take all reasonable measures to ensure that other employees use or wear, in the manner intended, all personal protective equipment referred to in clause (b);
- (d) consult and cooperate with committees established for the workplace;
- (e) cooperate with the Board and with persons carrying out duties or functions under this Part;
- (f) follow all instructions of the employee's employer given for the purposes of ensuring occupational health and safety; and
- (g) report to the employee's employer any thing or circumstance at the workplace that is likely to be hazardous to the health or safety of the employee or other individuals at the workplace.

202AC Every employee shall

(a) while, and immediately before, being transported on a passenger craft, cooperate with the individual providing the employee with information and instruction on behalf of the operator, with the employee's employer and with any individual who operates or assists in operating the passenger craft, so as to protect the health and safety of individuals on the passenger craft; and

(b) while being transported on a passenger craft, use or wear, in the manner intended, all personal protective equipment that is prescribed or that is required by the operator, or by any individual who operates or assists in operating the passenger craft, to be used or worn on the passenger craft.

202AD No employee who, at the workplace or while, or immediately before, being transported on a passenger craft, comes to the assistance of another individual or carries out an emergency measure is personally liable for any injury or damage that may result from it, unless the injury or damage is a result of the employee's gross negligence or wilful misconduct.

#### DUTIES OF SUPPLIERS AND PROVIDERS OF SERVICES

202AE Every supplier shall, to protect the health and safety of individuals at a workplace or on a passenger craft, take all reasonable measures to ensure that any thing it supplies for use at the workplace or on the passenger craft is in a safe condition.

202AF Every supplier shall ensure

(a) that any thing it supplies for use at a workplace or on a passenger craft meets the requirements of the regulations made under this Part; and

(b) where there is an obligation in an agreement for the supplier to maintain the thing in safe condition, that it complies with that obligation.

202AG Every provider of services shall take all reasonable measures to ensure that no individual at a workplace or on a passenger craft is endangered as a result of the services that it provides in connection with the workplace or passenger craft.

202AH Every provider of services shall

(a) when it provides services in connection with a workplace that are related to the placement, with an operator or employer, of individuals who, in return for monetary compensation, perform work or services for the operator or employer at the workplace, ensure that those individuals have the qualifications and certifications, including any that are prescribed, that are necessary for them to perform the work or services in a manner that protects the individuals' health and safety and that of employees and other individuals at the workplace;

(b) ensure that any information that it provides in connection with the services that it provides is accurate and sufficiently complete so as to enable the operator or employer, as the case may be, to make a competent judgment on the basis of the information; and

(c) ensure, to the extent that it is possible to do so, that any operator, employer, employee, supplier or owner, or any other provider of services, will not, as a result of relying in good faith on its advice, or on a certificate, seal or stamp provided by it, be in contravention of the provisions of this Part or of the

regulations made under this Part, or of the occupational health and safety requirements of the authorization or those undertaken in the declaration related to the authorization.

#### DUTIES OF OWNERS, INTEREST HOLDERS AND CORPORATE OFFICIALS

202AI Every owner shall take all reasonable measures to ensure that any workplace in respect of which he or she is an owner is delivered and maintained so as to ensure the health and safety of individuals at that workplace, including measures to inform the operator of known or foreseeable health or safety hazards that could assist the operator in

- (a) reducing the risks posed by hazards at the workplace; and
- (b) assessing whether the provisions of this Part and the regulations made under this Part, the occupational health and safety requirements of any authorization related to the workplace that is issued to the operator and the occupational health and safety requirements undertaken in the declaration related to the authorization, are being complied with.

202AJ Every interest holder shall take all reasonable measures to ensure that the operator for a workplace in any portion of the offshore area subject to the interest, or the share of the interest, of that interest holder complies with

- (a) the provisions of this Part and the regulations made under this Part; and
- (b) the occupational health and safety requirements of any authorization related to that workplace that is issued to the operator, and the occupational health and safety requirements undertaken in the declaration related to the authorization.

202AK (1) Every director and every officer of a corporation that holds an authorization shall take all reasonable measures to ensure that the corporation complies with

- (a) the provisions of this Part and the regulations made under this Part; and
- (b) the occupational health and safety requirements of the authorization, and the occupational health and safety requirements undertaken in the declaration related to the authorization.

(2) Every director and every officer of a corporation that is a supplier or a provider of services shall take all reasonable measures to ensure that the corporation complies with Sections 202AE to 202AH.

(3) Every director and every officer of a corporation shall, where the corporation has duties under Section 202AJ, take all reasonable measures to ensure that the corporation complies with that Section.

#### COMMUNICATION OF INFORMATION

202AL (1) Every operator shall post in printed form, in a prominent place at each of its workplaces,



- (a) its occupational health and safety policy;
- (b) contact information to enable the reporting of health or safety concerns to the Board; and
- (c) the names of the members of any committees established by the operator for that workplace, the members' contact information and the minutes of the most recent meeting of those committees.

(2) Every operator shall make the following information and documents readily available at each of its workplaces in a prominent place accessible to every employee at the workplace, in printed or electronic form:

- (a) a copy of this Part and the regulations made under this Part;
- (b) a copy of the document describing the operator's occupational health and safety management system;
- (c) any code of practice required by the Chief Safety Officer under Section 202Q to be established or adopted by the operator for that workplace;
- (d) any code of practice required by the Chief Safety Officer under Section 202V to be established or adopted by any employer at that workplace;
- (e) information relating to the equipment, methods, measures, standards or other things permitted to be used at the workplace under any permission granted under Section 202BS, any conditions placed on the use of that equipment or those methods, measures, standards or other things and the duration of the permission; and
- (f) information relating to the equipment, methods, measures, standards or other things permitted to be used on a passenger craft, or whose use is permitted in respect of employees or other passengers being transported on a passenger craft, under any permission granted to the operator under Section 202BT, any conditions placed on the use of that equipment or those methods, measures, standards or other things and the duration of the permission.

(3) Every operator shall, at the request of any employee or employer at any of the operator's workplaces or by any committee established for any of those workplaces, make readily available for examination by the employee, employer or committee any material incorporated by reference in the regulations made under this Part, in printed or electronic form.

(4) Every operator shall provide to any committee established for any of its workplaces, or to any employer or employee at any of those workplaces, in printed or electronic form, within seven days after the day on which an occupational health and safety officer requires it, any information that enables employees to become acquainted with their rights and responsibilities under this Part as the officer may require.

(5) An obligation imposed on an operator under subsection (1) is satisfied if the operator provides a copy of the information or document to each employee at the workplace.

202AM (1) Every employer shall post, in a prominent place at each workplace for which it has established a special committee, in printed form, the names of the members of the special committee, the members' contact information and the minutes of the most recent meeting of that committee.

(2) Every employer shall, in respect of a workplace under its control, provide to the operator, and make readily available in a prominent place accessible to its employees at the workplace, in printed or electronic form,

(a) a copy of the occupational health and safety program for the workplace; and

(b) any code of practice required by the Chief Safety Officer under Section 202V to be established or adopted by the employer for the workplace.

(3) Every employer shall make available to the Board, where required by an occupational health and safety officer, and to any persons, unions and committees that an occupational health and safety officer may require, in printed or electronic form, within and for the time that the officer requires, any material or information referred to in subsections (3) and (4) of Section 202AL.

(4) An obligation imposed on an employer under subsection (1) is satisfied if the employer provides a copy of the information or document to each of its employees at the workplace.

202AN (1) Every operator shall communicate to employees at a workplace and the workplace committee any information that the Chief Safety Officer requires to be communicated to them, within the time and in the manner specified by the Officer.

(2) An employer shall communicate to its employees at a workplace any information that the Chief Safety Officer requires to be communicated to them, within the time and in the manner specified by the Officer.

202AO (1) Every operator and every employer shall immediately after preparing or being provided with a report respecting anything inspected, tested or monitored under this Part at the operator's workplace or at a workplace under the employer's control, as the case may be, including a report under Section 202BX, notify all committees established for the workplace of the report and, subject to Section 202AP, within seven days after the day on which a request is received from any of those committees, shall provide that committee with a copy of it.

(2) Every operator shall make available to any employee at the workplace, and the employer shall make available to any of its employees at the workplace, on request, a copy of any report that has been provided to a committee established for the workplace.

202AP (1) Where a report referred to in subsection (1) of Section 202AO contains a trade secret, the operator or employer, as the case may be, may edit the report to protect the trade secret.

(2) Where a report referred to in subsection (1) of Section 202AO contains information relating to the medical history of an identifiable individual or other prescribed information relating to an identifiable individual, the operator or employer, as the case may be, shall edit the report to protect that information before providing it

to a committee, unless the individual to whom the information relates consents in writing to the disclosure of the information to the committee.

(3) The edited report shall be provided to the committee within twenty-one days after the day on which the committee's request is received.

202AQ (1) Subject to subsections (3) and (4), every operator who receives from a committee established for any of its workplaces or any employee at any of its workplaces a written request for any information related to occupational health and safety, other than a request for report referred to in subsection (1) of Section 202AO, shall provide a written response to the request within twenty-one days after the day on which it is received.

(2) Subject to subsections (3) and (4), every employer who receives from a special committee it has established or any of its employees a written request for any information related to occupational health and safety, other than a request for a report referred to in subsection (1) of Section 202AO, shall provide a written response to the request within twenty-one days after the day on which it is received.

(3) Where the request is made by a special committee, the operator or employer is required to respond only if the information is necessary for the particular purposes for which the committee was established.

(4) Subsections (3) to (8) of Section 202AV apply to the request with any modifications that the circumstances require.

#### COMMITTEES AND COORDINATOR

202AR (1) Every operator shall establish one workplace committee for each of its workplaces, other than a workplace established for six months or less, for purposes related to occupational health and safety.

(2) Notwithstanding subsection (1), the Chief Safety Officer may authorize an operator to establish a single workplace committee in respect of two or more workplaces if the Officer is satisfied that the circumstances warrant it.

(3) An occupational health and safety committee described in subsection (1) of Section 202AT is deemed to be a workplace committee in respect of the workplace referred to in that subsection and to have been established by the operator for that workplace.

(4) A workplace committee shall

(a) receive, consider, investigate if necessary and promptly dispose of matters and complaints related to occupational health and safety;

(b) participate in inspections referred to in clause (q) of Section 202N and clause (p) of Section 202T, in the investigation of any matter under clause (f) of Section 202W and in the activities of any health and safety officers that pertain to a matter under Section 202AX or subsection (10) of Section 202AY or subsection (10) of Section 202BC, and, at the discretion of a health and safety officer, participate in the officer's activities that pertain to occupational diseases and to accidents, incidents and other hazardous occurrences;

(c) maintain records in a form and manner approved by the Chief Safety Officer, and provide a copy of those records, on request, to a health and safety officer, or to any person within a class of persons that is prescribed;

(d) keep minutes of committee meetings in a form and manner approved by the Chief Safety Officer and provide a copy of those minutes, on request, to a health and safety officer, or to any person within a class of persons that is prescribed; and

(e) perform any other duties that are assigned to it by the Chief Safety Officer or that are assigned to it under an agreement between the operator and any employers and employees, or the union representing them, at the workplace.

(5) A workplace committee may

(a) seek to identify those things and circumstances at the workplace that are likely to be hazardous to the health or safety of employees, and advise on effective procedures to eliminate the hazards, to reduce the risks posed by the hazards and to protect against the hazards;

(b) advise the operator and the employers at the workplace on the occupational health and safety policy, the occupational health and safety management system and the occupational health and safety programs, and any procedures, required under this Part;

(c) advise on the provision of personal protective equipment suited to the needs of the employees;

(d) make recommendations, for the improvement of occupational health and safety, to the operator and the employers and employees at the workplace and to any supplier, owner or provider of services that carries out duties or functions under this Part; and

(e) participate in the activities described in subsection (1) of Section 202CC.

(6) An individual who serves as a member of a workplace committee is not personally liable for anything done or omitted to be done by the individual in good faith while carrying out the individual's duties or functions.

202AS (1) A workplace committee consists of any number of individuals that may be agreed to by the operator and the employees at the workplace or the unions representing them.

(2) The operator shall select no more than half of the members of a workplace committee from among employees at the workplace, at least one of whom shall be a representative of the operator.

(3) The other members of a workplace committee, who represent the employees, shall be selected by the employees, or the unions representing them, from among employees at the workplace who do not exercise managerial functions.

(4) A workplace committee shall meet at least once every month, or more frequently if the Chief Safety Officer requires it.

(5) An employee who is a member of a workplace committee is entitled to any time off from work that is necessary to enable the employee to fulfil the employee's duties and functions as a member of the committee, including time off to take training, which time off is considered to be work time for which the employee shall be paid the same wages and granted the same benefits that the employee would have received had the employee worked for that time.

(6) A workplace committee may establish its own rules of procedure, but in establishing those rules it shall comply with any requirements that are prescribed.

(7) A workplace committee is to be co-chaired by two of its members, one chosen by members that have been selected by employees, or unions representing them, and the other chosen by members that have been selected by the operator.

(8) Where there is disagreement as to the size of a workplace committee, the selection of members or any other matter that prevents or impairs the proper functioning of the committee, the Chief Safety Officer shall determine the matter and provide those concerned with a written determination.

(9) A determination by the Chief Safety Officer under subsection (8) is final and binding and not subject to review or appeal.

202AT (1) Where an operator establishes a workplace for six months or less, the operator shall, unless there is already an occupational health and safety committee for the workplace that meets the requirements of subsections (1), (2), (3) and (7) of Section 202AS, designate an employee at that workplace who has been approved by the Chief Safety Officer to act as an occupational health and safety coordinator in respect of that workplace.

(2) The coordinator shall

(a) receive, consider, investigate if necessary and promptly dispose of matters and complaints related to occupational health and safety;

(b) assist the employer in carrying out the employer's duties under clause (f) of Section 202W;

(c) maintain records in a form and manner approved by the Chief Safety Officer, and provide a copy of those records, on request, to a health and safety officer, or to any person within a class of persons that is prescribed; and

(d) perform any other duties that are assigned to the coordinator by the Chief Safety Officer.

(3) The coordinator may make recommendations, for the improvement of occupational health and safety, to the operator and the employers and employees at the workplace and to any supplier, owner or provider of services that has duties or functions under this Part.

(4) The operator shall

(a) ensure that the coordinator is informed of his or her responsibilities as coordinator under this Section;

(b) ensure that the coordinator is provided with the training in health and safety, including any that is prescribed, necessary to enable the coordinator to fulfill his or her duties and functions as coordinator; and

(c) make readily available to employees at the workplace, in printed form, the name of the coordinator and the coordinator's contact information.

(5) The operator and the employers at the workplace shall cooperate with the coordinator and facilitate communications between the coordinator and the employees at the workplace.

(6) An individual who serves as a coordinator is not personally liable for anything done or omitted to be done by the individual in good faith while carrying out the individual's duties or functions.

(7) An employee who is a coordinator is entitled to any time off from work that is necessary to enable the employee to fulfill his or her duties and functions as a coordinator, including time off to take training, which time off is considered to be work time for which the employee shall be paid the same wages and granted the same benefits that the employee would have received had the employee worked for that time.

202AU (1) The Chief Safety Officer may, after consultation with an operator, order the operator to establish a special committee for any of its workplaces for particular purposes related to occupational health and safety.

(2) The Chief Safety Officer may, after consultation with an employer having control over a workplace, the operator, and the employer's employees at the workplace or the union representing them, order the employer to establish a special committee for that workplace for particular purposes related to occupational health and safety.

(3) The order shall set out the mandate, duties and functions of the special committee and the responsibilities of the operator or employer, as the case may be.

(4) The operator or employer, as the case may be, shall establish the special committee within fifteen days after the day on which it receives the order.

(5) Clauses (b) and (d) of subsection (5) of Section 202AR, subsection (6) of Section 202AR and Section 202AS apply, with any modifications that the circumstances require, in respect of a special committee.

202AV (1) Subject to subsections (4), (6) and (7), an operator or employer who receives recommendations from a committee established for any of the operator's workplaces or for a workplace under the employer's control, as the case may be, together with a written request to respond to the recommendations, shall provide a written response within twenty-one days after the day on which it receives the request.

(2) The response shall indicate the recommendations being accepted as well as the action, if any, that will be taken and the date by which it will be taken, and the recommendations being rejected, together with the reasons for the rejection.

(3) Where it is not possible to provide a response within twenty-one days, the operator or employer, as the case may be, shall within that period provide the committee with a written explanation for the delay and propose a date on which the response will be provided.

(4) Unless the committee notifies the operator or employer, as the case may be, that it is not satisfied that the explanation provided or the proposed date is reasonable, the operator or employer shall provide the response by that date.

(5) Where the committee is not satisfied that the explanation provided or the proposed date indicated is reasonable, the committee shall promptly report the matter to an occupational health and safety officer.

(6) Where the occupational health and safety officer is satisfied that the explanation provided and the proposed date are reasonable, the officer shall notify the committee, and the operator or employer, as the case may be, that the operator or employer is to provide the response by the date indicated, and the operator or employer, as the case may be, shall provide the response by that date.

(7) Where the occupational health and safety officer is not satisfied that the explanation provided or the proposed date is reasonable, the officer shall determine the date on which the response is to be provided and notify the committee, and the operator or employer, as the case may be, of that date, and the operator or employer, as the case may be, shall provide the response by that date.

(8) Where the committee has not been provided with a response to its recommendations within the period required or where it considers that the response is not satisfactory, it shall inform an occupational health and safety officer of the matter.

### WORKPLACE MONITORING

202AW (1) A workplace committee may choose an employee at the workplace to observe

(a) the set-up of, or any change to, systems for monitoring conditions at the workplace that affect the health or safety of employees, including systems for taking samples and measurements; and

(b) the subsequent monitoring of the conditions referred to in clause (a), including the taking of samples and measurements.

(2) Every employer who conducts an activity described in clause (a) or (b) of subsection (1) at the workplace, and the operator, where the operator conducts such an activity, shall permit the observer to observe the activity.

(3) Subsection (2) does not apply in an emergency situation, or in respect of monitoring referred to in clause (b) of subsection (1) that is carried out continuously or on a regular and frequent basis.

(4) When an operator or an employer monitors health and safety conditions at a workplace, the following requirements apply:

(a) where an employer is carrying out the monitoring, the employer shall give reasonable notice to the operator to enable the operator to comply with clause (b);

(b) where an operator is carrying out the monitoring or is notified under clause (a), the operator shall give reasonable notice of the commencement of monitoring to all employers at the workplace;

(c) the operator or the employer carrying out the monitoring shall give reasonable notice of the commencement of monitoring to the observer, and shall provide the observer with access to the workplace for the purpose of observing the monitoring; and

(d) the operator or employer carrying out the monitoring shall, at the request of the observer, explain the monitoring process to the observer.

(5) Monitoring may be carried out on the order of a health and safety officer under Section 202BW even if the notices referred to in clauses (a) to (c) of subsection (4) have not been given.

(6) An employee acting as an observer shall be paid the same wages and granted the same benefits that the employee would have received had the employee been working.

#### REPORTING OF OCCUPATIONAL HEALTH AND SAFETY CONCERNS

202AX (1) An employee who has reasonable cause to believe that a provision of this Part or of the regulations made under this Part has been contravened or that there is likely to be an accident or injury arising out of, linked to or occurring in the course of employment shall report the employee's concern to his or her supervisor.

(2) The employee and the supervisor shall try to resolve the employee's concern between themselves as soon as possible.

(3) Where the employee's concern is not resolved, the employee may notify his or her employer, and when so notified the employer shall in turn notify the workplace committee or the coordinator, as the case may be, and the operator.

(4) Where the employee's concern is not resolved after the employee notifies his or her employer, the employee may notify a health and safety officer.

#### RIGHT TO REFUSE

202AY (1) Subject to subsection (2), an employee may refuse to perform an activity at a workplace if the employee has reasonable cause to believe that the performance of the activity constitutes a danger to the employee or another individual.

(2) An employee is not permitted to refuse to perform an activity if the refusal puts the life, health or safety of another individual directly in danger.

(3) An employee who refuses to perform an activity shall immediately report the circumstances of the matter to the employee's supervisor.

(4) The supervisor shall immediately take action to try to resolve the matter.

(5) Where the supervisor believes that a danger exists, the supervisor shall immediately take any action that is necessary to protect any individual from the



danger and to inform the workplace committee or the coordinator, as the case may be, the operator and the employee's employer of the matter.

(6) Where the supervisor does not believe that a danger exists, the supervisor shall so notify the employee.

(7) Where the employee continues to refuse to perform the activity, the employee shall immediately notify his or her employer and the workplace committee or the coordinator, as the case may be, and the employer shall in turn notify the operator and any provider of services that is providing services related to the placement of that employee.

(8) Immediately after being notified under subsection (7), the operator shall notify an occupational health and safety officer of the continued refusal of the employee to perform the activity and of any remedial action taken.

(9) The workplace committee or the coordinator, as the case may be, may make any recommendations that the committee or coordinator considers appropriate to the employee, the employee's employer, the operator and any provider of services that is providing services related to the placement of that employee.

(10) The occupational health and safety officer shall, where the employee continues to refuse to perform the activity, enquire into the matter, taking into account the recommendations, if any, made by the workplace committee or the coordinator.

(11) The occupational health and safety officer shall give to the employee, the employee's employer, the operator and any provider of services that is providing services related to the placement of that employee, and to the workplace committee or the coordinator, as the case may be, a written notification of the officer's decision on the matter.

(12) Where the occupational health and safety officer decides that the performance of the activity constitutes a danger to the employee or another individual, the officer shall make any order under subsection (1) or (2) of Section 202CQ that the officer considers appropriate, and the employee may continue to refuse to perform the activity until the order is complied with or until it is varied or revoked under this Part.

(13) Where the occupational health and safety officer decides that the performance of the activity does not constitute a danger to the employee or another individual, or that the refusal puts the life, health or safety of another individual directly in danger, the employee is not entitled under this Section to continue to refuse to perform the activity.

202AZ (1) An employee who refuses under Section 202AY to perform an activity may accompany an occupational health and safety officer when the officer is enquiring into the matter under subsection (10) of Section 202AY, for the purpose of explaining the reasons for the employee's refusal.

(2) An employee who, under subsection (1), accompanies an occupational health and safety officer shall, during that time, be paid the same wages and granted the same benefits that the employee would have received if the employee had not exercised the employee's right to refuse.

202BA (1) Subject to any applicable collective agreement or other agreement, where an employee refuses under Section 202AY to perform an activity, the employer may assign reasonably equivalent work to the employee until the employee, by virtue of subsection (12) or (13) of Section 202AY, is no longer permitted to refuse to perform the activity.

(2) Where the employee is assigned reasonably equivalent work, the employer, or the provider of services that is providing services related to the placement of the employee, as the case may be, shall pay the employee the same wages and grant the employee the same benefits that the employee would have received had the employee not refused to perform the activity.

(3) Where the employee is not assigned reasonably equivalent work, the employer, or the provider of services that is providing services related to the placement of the employee, as the case may be, shall, until the employee, by virtue of subsection (12) or (13) of Section 202AY, is no longer permitted to refuse to perform the activity, pay the employee the same wages and grant the employee the same benefits that the employee would have received had the employee not refused to perform the activity.

(4) Subject to any applicable collective agreement or other agreement, where the employee refuses an assignment of reasonably equivalent work, the employee is not entitled to receive any wages or benefits.

(5) For as long as the employee continues to exercise the employee's right to refuse to perform an activity, another employee shall not be assigned to perform the activity unless the employer has advised that other employee of the refusal, the reasons for the refusal and the right of that other employee to refuse to perform the activity.

(6) Subject to any applicable collective agreement or other agreement, the employer, or the provider of services that is providing services related to the placement of the employee, as the case may be, may require repayment of any wages and benefits received by an employee under subsection (3) if an occupational health and safety officer determines in respect of an application made under Section 202BM, after all avenues of redress have been exhausted by the employee, that the employee received the wages and benefits knowing that no circumstances existed that would warrant the refusal.

202BB (1) Subject to any applicable collective agreement or other agreement, an employee at a workplace who is affected by a work stoppage arising from a refusal by another employee to perform an activity shall be paid the same wages and granted the same benefits that the employee would have received had no work stoppage occurred, until work resumes or until the employee returns to the employee's usual point of disembarkation on shore, whichever event occurs first.

(2) Subject to any applicable collective agreement or other agreement, an employer may assign reasonably equivalent work to an employee who is affected by a work stoppage at the same wages and benefits that the employee would have received if no work stoppage had occurred.

202BC (1) An employee may refuse to be transported on a passenger craft if the employee has reasonable cause to believe that being transported on it constitutes a danger to the employee.

(2) An employee who refuses to be transported on a passenger craft shall use the contact information provided under clause (b) of subsection (1) of Section 202O to immediately report the circumstances of the matter.

(3) On being notified of a refusal under subsection (2), the operator shall immediately notify the Chief Safety Officer unless the Officer has provided other contact information for the purposes of this subsection, in which case the operator shall use that contact information to make the notification.

(4) For as long as the employee continues to exercise the employee's right to refuse to be transported on the passenger craft, or for any longer period specified by the Chief Safety Officer, the operator shall notify all other employees and other passengers to be transported on the passenger craft, before they are transported, of the refusal, the reasons for the refusal and the right of employees to refuse to be transported.

(5) The operator shall immediately take action to try to resolve the matter.

(6) Where the operator believes that the transportation constitutes a danger to the employee, it shall immediately take any remedial action that is necessary and inform the workplace committee established for the workplace to or from which the employee was to be transported, and an occupational health and safety officer, of the matter.

(7) Where the operator does not believe that the transportation constitutes a danger to the employee, it shall so notify the employee.

(8) Where the employee continues to refuse to be transported, the operator shall immediately notify the workplace committee, the employee's employer and an occupational health and safety officer of the continued refusal of the employee to be transported and of any remedial action taken, and the employer shall in turn notify any provider of services that is providing services related to the placement of that employee.

(9) The workplace committee may make any recommendations to the employee and the operator that it considers appropriate.

(10) The occupational health and safety officer shall, where the employee continues to refuse to be transported, enquire into the matter, taking into account any recommendations made by the workplace committee.

(11) The occupational health and safety officer shall decide whether the transportation constitutes a danger to the employee, and shall give to the employee, the employee's employer, the operator and the workplace committee a written notification of the decision, and the employer shall in turn notify any provider of services that is providing services related to the placement of that employee.

(12) Where the occupational health and safety officer decides that the transportation constitutes a danger to the employee, the officer shall make any order under subsection (1) or (2) of Section 202CQ that the officer considers appropriate, and an employee may continue to refuse to be transported until the order is complied with or until it is varied or revoked under this Part.

(13) Where the occupational health and safety officer decides that the transportation does not constitute a danger to the employee, the employee is not entitled to continue to refuse to be transported.

202BD (1) Subject to any applicable collective agreement or other agreement, where an employee refuses under Section 202BC to be transported, the employer may assign reasonably equivalent work to the employee until the employee, by virtue of subsection (12) or (13) of Section 202BC, is no longer permitted to refuse to be transported.

(2) Where an employee is assigned reasonably equivalent work, the employer, or the provider of services that is providing services related to the placement of the employee, as the case may be, shall pay the employee the same wages and grant the employee the same benefits that the employment would have received had the employee not refused to be transported.

(3) Where an employee has not been assigned reasonably equivalent work, the employer or the provider of services that is providing services related to the placement of the employee, as the case may be, shall, until the employee, by virtue of subsection (12) or (13) of Section 202BC, is no longer permitted to refuse to be transported, pay the employee the same wages and grant the employee the same benefits that the employee would have received had the employee not refused to be transported.

(4) Subject to any applicable collective agreement or other agreement, where an employee refuses an assignment of reasonably equivalent work, the employee is not entitled to receive any wages or benefits.

(5) Subject to any applicable collective agreement or other agreement, the employer, or the provider of services that is providing services related to the placement of the employee, as the case may be, may require repayment of any wages and benefits received by an employee under subsection (3) if an occupational health and safety officer determines in respect of an application made under Section 202BM, after all avenues of redress have been exhausted by the employee, that the employee received the wages and benefits knowing that no circumstances existed that would warrant the refusal.

#### PREGNANT OR NURSING EMPLOYEES

202BE (1) Without prejudice to the rights conferred by Section 202AY and subject to this Section, an employee who is pregnant or nursing may cease to perform her job if she believes that, by reason of the pregnancy or nursing, continuing any of the functions connected with her regular work may pose a risk to her health or to that of her fetus or child.

(2) On being informed of the cessation, the employer, with the written consent of the employee, shall notify the workplace committee established for the employee's workplace or the coordinator, as the case may be.

(3) The employee shall provide to her employer, and any provider of services that is providing services related to her placement, as soon as possible, a certificate of a medical practitioner of her choice who is entitled to practise medicine under the laws of a province

(a) certifying that continuing any of the functions connected with her regular work poses a risk to her health or to that of her fetus or child and indicating the expected duration of the risk and the activities or conditions to avoid in order to eliminate the risk; or

(b) certifying that continuing the functions connected with her regular work does not pose a risk to her health or to that of her fetus or child.

(4) Without prejudice to any other right conferred by this Part, by a collective agreement, by another agreement or by any terms and conditions of employment, once the medical practitioner has established that there is a risk as described in subsection (1), the employee is no longer permitted to cease to perform her job under that subsection.

(5) For the period during which the employee does not perform her job under subsection (1), the employer may, in consultation with the employee, reassign her to another job that would not pose a risk to her health or to that of her fetus or child.

(6) Whether or not the employee has been reassigned to another job, she is deemed to continue to hold the job that she held at the time she ceased to perform her job and is to continue to receive the wages and benefits that are attached to that job for the period during which she does not perform the job.

202BF (1) An employee who is pregnant or nursing may, during the period from the beginning of the pregnancy to the end of the twenty-fourth week following the birth, request that the employer modify the functions connected with her regular work or reassign her to another job if, by reason of the pregnancy or nursing, continuing any of those functions may pose a risk to her health or to that of her fetus or child.

(2) The employee's request shall be accompanied by a certificate described in clause (a) of subsection (3) of Section 202BE.

202BG (1) An employer to whom a request has been made under subsection (1) of Section 202BF shall examine the request in consultation with the employee and, where feasible, shall modify the functions connected with her regular work or shall reassign her, and shall notify any provider of services that is providing services related to the placement of that employee that the request has been made.

(2) An employee who has made a request under subsection (1) of Section 202BF is entitled to continue in her current job while the employer examines her request, but, where the risk posed by continuing any of the functions connected with her regular work so requires, she is entitled to and shall be granted a leave of absence with the same wages and benefits—payable by the employer, or any provider of services that is providing services related to the placement of that employee, as the case may be—that she would have received had she not been on leave of absence until the employer

(a) modifies the functions connected with her regular work or reassigns her; or

(b) informs her in writing that it is not feasible to modify the functions connected with her regular work or to reassign her.

(3) The onus is on the employer to show that a modification of the functions connected with the employee's regular work or a reassignment that would avoid the activities or conditions indicated in the medical certificate is not feasible.

(4) Where the employer concludes that a modification of the functions connected with the employee's regular work or a reassignment that would avoid the activities or conditions indicated in the medical certificate is not feasible, the employer shall inform her in writing.

(5) Where the functions connected with the employee's regular work are modified or the employee is reassigned, the employee is deemed to continue to hold the job that she held at the time of making the request under subsection (1) of Section 202BF, and shall continue to receive the wages and benefits that are attached to that job.

(6) An employee referred to in subsection (4) is entitled to and shall be granted a leave of absence for the duration of the risk as indicated in the medical certificate.

### REPRISALS AND COMPLAINTS

202BH (1) In this Section and in Sections 202BI and 202BL, "reprisal action" means an action that

(a) adversely affects an employee with respect to the employee's terms or conditions of employment or any opportunity for employment or promotion, including dismissal, lay-off, suspension, demotion, transfer of job or location, discontinuation or elimination of the job, change in hours of work, reduction in wages or benefits, coercion, intimidation or the imposition of any disciplinary sanction, reprimand or other penalty; and

(b) is taken, in whole or in part, because the employee has acted in accordance with the provisions of this Part or of the regulations made under this Part or with a decision or order made under any of those provisions or has taken steps to ensure that those provisions are complied with.

(2) No operator, employer, provider of services or union shall take, or threaten to take, reprisal action against an employee.

(3) Without limiting the generality of subsection (2), actions referred to in clause (a) of subsection (1) cannot be taken against an employee for

(a) seeking to establish a committee, participating in the establishment or work of a committee or acting as a member of a committee or as a coordinator;

(b) acting as an observer under Section 202AW;

(c) making a report under Section 202AX;

(d) refusing to perform an activity under Section 202AY, refusing to be transported under Section 202BC or ceasing to perform a job under Section 202BE;

(e) requesting the employer under Section 202BF to modify the functions connected with the employee's regular work or to reassign the employee;

(f) seeking access to information to which the employee is entitled under this Part;

(g) testifying in any proceeding or inquiry under this Part; or

(h) giving information in accordance with the provisions of this Part or of the regulations made under this Part or with a decision or order made under any of those provisions to a committee, a coordinator, a health and safety officer or any other person having duties or functions under this Part, or under Part III as it relates to safety.

(4) Notwithstanding clause (d) of subsection (3), any action referred to in clause (a) of subsection (1) may be taken against an employee who has exercised rights under Section 202AY or 202BC after all avenues of redress have been exhausted by the employee, if the operator, employer, provider of services or union taking the action can demonstrate that the employee has wilfully abused those rights.

(5) The operator, employer, provider of services or union shall provide the employee with written reasons for any action taken under subsection (4) within fifteen days after the day on which a request is received from the employee to do so.

202BI (1) An employee may, either personally or through a representative, make a complaint in writing to an occupational health and safety officer that

(a) an employer or provider of services has failed to pay wages or grant benefits to the employee that are required under subsection (2) of Section 202T, subsection (5) of Section 202AS, subsection (7) of Section 202AT, subsection (6) of Section 202AW, subsection (2) of Section 202AZ, subsection (2) or (3) of Section 202BA, subsection (1) or (2) of Section 202BB, subsection (2) or (3) of Section 202BD, subsection (6) of Chapter 202BE or subsection (2) or (5) of Section 202BG; or

(b) an operator, employer, provider of services or union has taken or threatened to take reprisal action against the employee contrary to subsection (2) of Section 202BH.

(2) The complaint shall be made within ninety days after the day on which the grounds for the complaint became known or ought to have become known to the employee.

(3) On an enquiry into a complaint under clause (b) of subsection (1), the burden of proving that no reprisal action has been taken or threatened is on the operator, employer, provider of services or union against whom the complaint is made.

(4) An employee who is aggrieved by a subject-matter described in clause (a) or (b) of subsection (1) should, where the employee is bound by a collective agreement that provides for final and binding arbitration of grievances in respect of the subject-matter, present a grievance under the agreement.

(5) An employee who exercises the employee's right within the time permitted under the collective agreement is not permitted to make a complaint under

subsection (1) in respect of the same subject-matter unless it is determined that the arbitrator does not have jurisdiction to hear the grievance, in which case, the employee may, within ninety days after the day on which a final determination is made that the arbitrator does not have jurisdiction, make an application under that subsection.

202BJ (1) Where a complaint is made to an occupational health and safety officer, the officer shall enquire into it and decide if it is justified.

(2) An occupational health and safety officer may carry out an enquiry on the officer's own initiative if the officer is of the opinion, based on information that the officer considers to be reliable, that grounds for a complaint under Section 202BI exist.

202BK Where, after carrying out the enquiry, the occupational health and safety officer decides that a complaint is not justified or that no grounds for a complaint exist, the officer shall immediately give notice of the decision to the operator and the complainant, as well as to the employer, provider of services or union that is the subject of the complaint.

202BL (1) Where the occupational health and safety officer decides that an employer or a provider of services that is providing services related to the placement of an employee has failed to pay wages or grant benefits to the employee that are required under this Part, the officer may order the employer or provider of services, as the case may be, subject to any terms and conditions that the officer considers appropriate,

- (a) to pay those wages or grant those benefits; and
- (b) to take any other measure necessary to remedy the matter.

(2) Where the occupational health and safety officer decides that an operator, employer, provider of services or union has taken reprisal action contrary to subsection (2) of Section 202BH, the officer may, subject to any terms and conditions that the officer consider appropriate, order

- (a) the reinstatement of an employee on the same terms and conditions under which the employee was employed immediately before the reprisal action;
- (b) the payment or the granting to an employee, by the employer or provider of services of any wages or benefits that the employee would have been entitled to but for the reprisal action;
- (c) the removal of any reprimand or other references to the matter from the records of any operator, employer or provider of services;
- (d) the reinstatement of an employee to a union if the employee has been expelled by the union; and
- (e) the taking by the operator, employer, provider of services or union of any other measure necessary to remedy the matter.

(3) Where the occupational health and safety officer decides that an operator, employer, provider of services or union has threatened to take reprisal action



contrary to subsection (2) of Section 202BH, the officer shall order it not to take that action.

(4) An order made under this Section shall specify the provisions of this Part or of the regulations made under this Part that have not been complied with or the nature of any reprisal action taken or threatened to be taken contrary to subsection (2) of Section 202BH, as the case may be.

202BM (1) An employer or a provider of services may apply in writing to an occupational health and safety officer for a determination as to whether

(a) an employee has received wages and benefits under subsection (3) of Section 202BA knowing that no circumstances existed that would warrant the employee's refusal, under Section 202AY, to perform an activity; or

(b) an employee has received wages and benefits under subsection (3) of Section 202BD knowing that no circumstances existed that would warrant the employee's refusal, under Section 202BC to be transported.

(2) The application shall be made within thirty days after all avenues of redress have been exhausted by the employee.

(3) The burden of proving that no circumstances existed that would warrant the refusal by the employee is on the employer or the provider of services.

202BN Where an occupational health and safety officer dismisses an application made under subsection (1) of Section 202BM, the officer shall immediately give notice of the decision to the applicant, the Chief Safety Officer and the operator, as well as to the employee who is the subject of the application.

202BO Where an occupational health and safety officer determines that an employee has received wages and benefits under subsection (3) of Section 202BA or subsection (3) of Section 202BD knowing that no circumstances existed that would warrant the refusal by the employee under Section 202AY to perform an activity, or the refusal by the employee under Section 202BC to be transported, as the case may be, the officer shall immediately give notice of the decision to the applicant, the Chief Safety Officer and the operator, as well as to the employee who is the subject of the application.

#### ACTIVITIES OF BOARD

202BP (1) The Board may, for the purposes of this Part,

(a) undertake research into the causes of and the means of preventing or reducing occupational injury and illness;

(b) cause studies to be made into occupational health and safety;

(c) publish the results of the research or studies;

(d) compile, prepare and disseminate information related to occupational health and safety obtained from the research and studies;

(e) implement programs to prevent or reduce occupational injury and illness; and

(f) implement, in accordance with the regulations, if any, programs for medical monitoring and examination related to occupational health and safety, request any employer to do so or appoint any medical practitioner qualified in occupational medicine to do so.

(2) For the purposes of clause (f) of subsection (1), medical monitoring or examination of an employee may be conducted only with the employee's written consent.

(3) The Board may carry out the activities described in clauses (a), (e) and (f) of subsection (1) in conjunction with any department or agency of the Government of the Province, the Government of Canada, the government of any province or a foreign government, or with any other organization that carries out similar activities.

202BQ (1) The Board may issue and publish, in any manner that it considers appropriate, guidelines and interpretation notes with respect to the application and administration of this Part.

(2) The guidelines and interpretation notes are not regulations for the purposes of the *Regulations Act*.

#### AUTHORIZATION

202BR (1) On receipt under subsection (3A) of Section 135 of an application for an authorization, or to amend an authorization, the Chief Safety Officer shall

(a) consider the potential impact of the work or activity to be authorized on the health and safety of employees engaged in the work or activity; and

(b) make a written recommendation to the Board on the matters considered.

(2) In deciding whether to issue or amend an authorization, the Board shall take into account the recommendation of the Chief Safety Officer.

(3) In addition to any requirement or approval determined by the Board under Part III to which an authorization is subject, the authorization is also subject to any requirements and approvals, not inconsistent with the provisions of this Act or the regulations, that the Board determines relate to occupational health and safety.

#### SUBSTITUTIONS

202BS (1) The Chief Safety Officer may, on application, permit the use at a workplace, for a specified time and subject to specified conditions, of specified equipment, methods, measures, standards or other things, in lieu of any required by regulations made under this Part, if the Officer is satisfied that protection of the health and safety of employees at the workplace would not be diminished and the granting of the permission is not otherwise prohibited by regulation.

(2) The regulations are not considered to be contravened if there is compliance with a permission under subsection (1).

(3) The application shall

- (a) be in a form acceptable to the Chief Safety Officer;
  - (b) include information with respect to the consequences to health and safety that might reasonably be anticipated if the permission is granted; and
  - (c) be accompanied by technical information sufficient to enable the Chief Safety Officer to make a decision on the application.
- (4) On receipt of the application, the Chief Safety Officer shall make it available to the public in a manner that the Officer considers advisable, together with a notice that submissions may be made to the Officer for a period of thirty days, or any shorter period fixed by the Officer with the agreement of the applicable workplace committee, after the day on which the application has been made available.
- (5) Where the application is made in respect of an existing workplace, the applicant shall give a copy of the application to the operator.
- (6) An operator shall, immediately after it receives or makes an application relating to an existing workplace
- (a) post a copy of it in printed form in a prominent place at the workplace; and
  - (b) provide a copy to any committee established for that workplace and to any union representing employees within the offshore area.
- (7) The Chief Safety Officer shall, as soon as possible after the end of the period referred to in subsection (4), inform, in a manner that the Officer considers advisable, the applicant, the operator and the public of the decision made on the application.
- (8) The Chief Safety Officer may, on the Officer's own initiative or on application by the applicant for the permission under subsection (1), reconsider, confirm, vary, revoke, or suspend a decision made on the application at any time if information is made available that, had it been known when the decision was made, would reasonably be expected to have resulted in a different decision from the one made at that time, in which case, subsections (1) to (7) apply with the necessary modifications.
- 202BT (1) The Chief Safety Officer may, on application by an operator, permit the use on a passenger craft, or the use in respect of employees or other passengers being transported on a passenger craft, for a specified time and subject to specified conditions, of specified equipment, methods, measures, standards or other things, in lieu of any required by regulations made under this Part, if the granting of the permission is not otherwise prohibited by regulation made under this Part and if the Officer is satisfied that protection of the health and safety of the employees or other passengers being transported would not be diminished.
- (2) The regulations are not considered to be contravened if there is compliance with a permission under subsection (1).
- (3) The application shall
- (a) be in a form acceptable to the Chief Safety Officer;

(b) include information with respect to the consequences to health and safety that might reasonably be anticipated if the permission is granted;

(c) be accompanied by technical information sufficient to enable the Chief Safety Officer to make a decision on the application; and

(d) be accompanied by documentation issued by the Minister of Transport for Canada indicating that if the permission is granted, it would not contravene any Act or law that applies to the operation of a passenger craft.

(4) On receipt of the application, the Chief Safety Officer shall make it available to the public in a manner that the Officer considers advisable, together with a notice that submissions may be made to the Officer for a period of thirty days, or any shorter period fixed by the Officer with the agreement of each workplace committee established by the operator, after the day on which the application has been made available.

(5) An operator shall, immediately after it makes an application, post a copy of it in printed form in a prominent place at each of its workplaces, and provide a copy to any committee established for that workplace.

(6) The Chief Safety Officer shall, as soon as possible after the end of the period referred to in subsection (4), inform, in a manner that the Officer considers advisable, the operator and the public of the decision made on the application.

(7) The Chief Safety Officer may, on the Officer's own initiative or on application by the operator who requested the permission under subsection (1), reconsider, confirm, vary, revoke or suspend a decision made on the application at any time when information is made available that, had it been known when the decision was made, would reasonably be expected to have resulted in a different decision from the one made at that time, in which case, subsections (1) to (6) apply with the necessary modifications.

#### ADMINISTRATION AND ENFORCEMENT

202BU (1) The Board may recommend to the Minister an individual to be appointed as an occupational health and safety officer for the purposes of the administration and enforcement of this Part.

(2) Subject to subsection (3), the Minister shall, within thirty days after the day on which the Minister receives the Board's recommendation under subsection (1), designate the individual recommended by the Board as an occupational health and safety officer for the purposes of the administration and enforcement of this Part.

(3) The Minister shall not designate an individual if the Minister is not satisfied that the individual is qualified to exercise the powers and carry out the duties and functions of an occupational health and safety officer under this Part.

(4) The Minister shall, without delay after making the designation, notify the federal Minister in writing that the designation has been made and provide a copy to the Board.

(5) No individual may be designated under subsection (2) unless the individual has been recommended to the Minister by the Board.

(6) The designation of an individual under subsection (2) does not take effect until the individual is also designated as an occupational health and safety officer by the federal Minister under the federal Implementation Act.

(7) An individual designated under subsection (2) who is not an employee of the Board is deemed to be an officer for the purposes of Section 17.

(8) An individual designated under subsection (2) shall be provided with a certificate of designation, and, on entering any place under the authority of this Part shall, where so requested, produce the certificate to the person in charge of the place.

202BV (1) Subject to subsection (2), the Minister may designate an individual as a special officer in relation to a matter connected to the risk described in clause (a) for the purposes of the administration and enforcement of this Part in relation to that matter if the Minister is satisfied that

(a) there are reasonable grounds to believe that action by a special officer is required to avoid a serious risk to the health and safety of employees in the offshore area within the near future; and

(b) the risk cannot be avoided through the exercise of powers conferred under subsection (4) of Section 41 or Section 202DQ or 202DR.

(2) The Minister may designate the individual only if the Minister is satisfied that the individual is qualified to exercise the powers and carry out the duties and functions of a special officer under this Part.

(3) The Minister shall, without delay after making a designation, notify the federal Minister in writing that the designation has been made and provide a copy to the Board.

(4) The designation of an individual under subsection (1) does not take effect until the individual is also designated as a special officer by the federal Minister under the federal Implementation Act.

(5) The individual shall be provided with a certificate of designation and, on entering any place under the authority of this Part, shall, where so requested, produce the certificate to the person in charge of the place.

(6) No action lies against the Board for anything done or omitted to be done by an individual designated under subsection (1) while carrying out the individual's duties or functions, or by any person in the course of assisting such an individual.

202BW (1) A health and safety officer may, for the purpose of verifying compliance with this Part, order an operator, employer, employee, supervisor, interest holder, owner, provider of services or supplier

(a) to do, in a place that is used for any work or activity for which an authorization has been issued, including a passenger craft or an

aircraft or vessel that has been used or is intended to be used as a passenger craft, any of the following:

- (i) inspect anything,
  - (ii) pose questions or conduct tests or monitoring, and
  - (iii) take photographs or measurements or make recordings or drawings;
- (b) to accompany or assist the officer while the officer is in a place described in clause (a);
- (c) to produce a document or another thing that is in the person's possession or control, or to prepare and produce a document based on data or documents that are in the person's possession or control, in the form and manner that the officer may specify;
- (d) to provide, to the best of the person's knowledge, information relating to any matter to which this Part applies, or to prepare and produce a document based on that information, in the form and manner that the officer may specify;
- (e) to ensure that all or part of a place described in clause (a), or anything located in the place, that is under the person's control, not be disturbed for a reasonable period pending the exercise of any powers under this Section; and
- (f) to remove anything from a place described in clause (a) and to provide it to the officer, in the manner specified by the officer, for examination, testing or copying.

(2) A health and safety officer may, for the purpose of verifying compliance with this Part, order any person in charge of a place, other than a person in charge of a place referred to in clause (1)(a), in which the officer has reasonable grounds to believe that there is anything to which this Part applies

- (a) to inspect anything in the place;
- (b) to pose questions, or conduct tests or monitoring, in the place;
- (c) to take photographs or measurements, or make recordings or drawings, in the place;
- (d) to accompany or assist the officer while the officer is in the place;
- (e) to produce a document or another thing that is in the person's possession or control, or to prepare and produce a document based on data or documents that are in the person's possession or control, in the form and manner that the officer may specify;
- (f) to provide, to the best of the person's knowledge, information relating to any matter to which this Part applies, or to prepare and produce a document based on that information, in the form and manner that the officer may specify;

(g) to ensure that all or part of the place, or anything located in the place, that is under the person's control, not be disturbed for a reasonable period pending the exercise of any powers under this Section; and

(h) to remove anything from the place and to provide it to the officer, in the manner specified by the officer, for examination, testing or copying.

(3) A health and safety officer may, for the purpose of verifying compliance with this Part and subject to Section 202BY, enter a place that is used for any work or activity for which an authorization has been issued, including a passenger craft or an aircraft or vessel that has been used or is intended to be used as a passenger craft, or any other place in which the officer has reasonable grounds to believe that there is anything to which this Part applies, and may for that purpose

(a) inspect anything in the place;

(b) pose questions, or conduct tests or monitoring, in the place;

(c) take samples from the place, or cause them to be taken, for examination or testing, and dispose of those samples;

(d) remove anything from the place, or cause it to be removed, for examination, testing or copying;

(e) while at the place, take or cause to be taken photographs or measurements, make or cause to be made recordings or drawings or use systems in the place that capture images or cause them to be used;

(f) use any computer system in the place, or cause it to be used, to examine data contained in or available to it;

(g) prepare a document, or cause one to be prepared, based on data contained in or available to the computer system;

(h) use any copying equipment in the place, or cause it to be used, to make copies;

(i) be accompanied while in the place by any individual, or be assisted while in the place by any person, that the officer considers necessary; and

(j) meet in private with any individual in the place, with the agreement of that individual.

(4) For greater certainty, a health and safety officer who has entered a place under subsection (3) may order any individual in the place to do anything described in clauses (a) to (f) of subsection (1) or clauses (a) to (h) of subsection (2), as the case may be.

(5) Anything removed under clause (f) of subsection (1), clause (h) of subsection (2) or clause (d) of subsection (3) for examination, testing or copying shall, where requested by the person from whom it was removed, be returned to that person after the examination, testing or copying is completed, unless it is required for the purpose of a prosecution under this Part.

202BX (1) A health and safety officer shall provide to an operator written reports respecting anything inspected, tested or monitored at any of its workplaces by, or on the order of, the officer for the purpose of verifying compliance with this Part.

(2) A health and safety officer shall provide to each employer at a workplace written reports respecting anything inspected, tested or monitored at the workplace by, or on the order of, the officer for the purpose of verifying compliance with this Part that relate to the health and safety of the employer's employees.

(3) Where a report contains a trade secret, the health and safety officer may edit the report to protect the trade secret.

(4) Where a report contains information relating to the medical history of an identifiable individual or other prescribed information relating to an identifiable individual, the health and safety officer shall edit the report to protect that information before providing it to an operator or employer, unless the individual to whom the information relates consents in writing to the disclosure of the information to the operator or employer.

202BY (1) Where the place referred to in subsection (3) of Section 202BW is living quarters, a health and safety officer is not authorized to enter those quarters without the consent of the occupant except

- (a) to execute a warrant issued under subsection (4);
- (b) to verify that any lifesaving equipment that is prescribed is readily available and in good condition; or
- (c) to verify that those quarters, where on a marine installation or structure, are in a structurally sound condition sufficient to ensure the health and safety of employees.

(2) The officer shall provide reasonable notice to the occupant before entering living quarters under clause (b) or (c) of subsection (1).

(3) Notwithstanding clauses (b) and (c) of subsection (1), any locker in the living quarters that is fitted with a locking device and that is assigned to the occupant shall not be opened by the officer without the occupant's consent except under the authority of a warrant issued under subsection (4).

(4) On *ex parte* application, a justice of the peace may issue a warrant authorizing a health and safety officer who is named in it to enter living quarters subject to any conditions specified in the warrant if the justice is satisfied by information on oath that

- (a) the living quarters are a place referred to in subsection (3) of Section 202BW;
- (b) entry to the living quarters is necessary to verify compliance with this Part; and
- (c) entry was refused by the occupant or there are reasonable grounds to believe that entry will be refused or that consent to entry cannot be obtained from the occupant.



(5) The warrant may also authorize a locker described in subsection (3) to be opened, subject to any conditions specified in the warrant, if the justice of the peace is satisfied by information on oath that

(a) it is necessary to open the locker to verify compliance with this Part; and

(b) the occupant to whom it is assigned refused to allow it to be opened or there are reasonable grounds to believe that the occupant to whom it is assigned will refuse to allow it to be opened or that consent to opening it cannot be obtained from that occupant.

(6) The health and safety officer who executes a warrant issued under subsection (4) shall not use force unless the use of force has been specifically authorized in the warrant.

(7) A warrant may be issued under this Section by telephone or other means of telecommunication on information submitted by a health and safety officer by one of those means, and section 487.1 of the *Criminal Code* (Canada) applies for that purpose, with any modifications that the circumstances require.

(8) In this Section, “living quarters” means sleeping quarters provided for the accommodation of employees on a marine installation or structure or a passenger craft, and any room for the exclusive use of the occupants of those quarters that contains a toilet or a urinal.

202BZ (1) The operator for, employers, employees and supervisors at, owners of, suppliers or providers of services to, as well as the person in charge of, a place entered by a health and safety officer under subsection (3) of Section 202BW, and the interest holders having an interest, or a share of an interest, in any portion of the off-shore area in which the place is located, shall give all assistance that is reasonably required to enable the officer to verify compliance with this Part and shall provide any documents, data or information that is reasonably required for that purpose.

(2) Where the place referred to in subsection (3) of Section 202BW is a workplace, the operator shall provide to the health and safety officer, and to every individual accompanying that officer, free of charge,

(a) suitable transportation between the operator’s usual point of embarkation on shore and the workplace, between the workplace and the operator’s usual point of disembarkation on shore, and between workplaces; and

(b) suitable accommodation and food at the workplace.

202CA No person shall make a false or misleading statement or provide false or misleading information, in connection with any matter under this Part, to a health and safety officer who is carrying out duties or functions under this Part or to the Chief Safety Officer when the Officer is conducting a review under Section 202CW.

202CB No person shall obstruct or hinder a health and safety officer who is carrying out duties or functions under this Part or the Chief Safety Officer when the Officer is conducting a review under Section 202CW.

202CC (1) A health and safety officer who is inspecting, testing or monitoring anything in a workplace under subsection (3) of Section 202CW shall give to an

employer representative at the workplace, and to a member of the workplace committee who represents employees, an opportunity to accompany the officer when the officer is carrying out those activities.

(2) Where no employee representative from the workplace committee is available, the officer may select one or more other employees to accompany the officer.

(3) The officer may carry out the activities without being accompanied by an employer or employee representative if either or both of them are unavailable and the officer considers that it is necessary to proceed immediately with those activities.

(4) Where the officer is not accompanied by an employee representative, the officer shall endeavour to consult with a number of employees when carrying out the activities.

(5) An individual who is accompanying or being consulted by an officer under this Section shall be paid the same wages and granted the same benefits that the individual would have received had the individual been working.

202CD (1) On *ex parte* application, a justice of the peace may issue a warrant if the justice is satisfied by information on oath that there are reasonable grounds to believe that there is in any place anything that will provide evidence or information relating to the commission of an offence under this Part.

(2) The warrant may authorize a health and safety officer, and any other individual named in the warrant, to at any time enter and search the place and to seize anything specified in the warrant, or do any of the following as specified in it, subject to any conditions that may be specified in it:

- (a) conduct examinations, tests or monitoring;
- (b) take samples for examination or testing, and dispose of those samples; or
- (c) take photographs or measurements, make recordings or drawings, or use systems in the place that capture images.

(3) A health and safety officer may exercise the powers described in this Section without a warrant if the conditions for obtaining the warrant exist but by reason of exigent circumstances it would not be feasible to obtain one.

(4) Exigent circumstances include circumstances in which the delay necessary to obtain the warrant would result in danger to human life or the loss or destruction of evidence.

(5) An individual authorized under this Section to search a computer system in a place may

- (a) use or cause to be used any computer system at the place to search any data contained in or available to the computer system;
  - (b) reproduce or cause to be reproduced any data in the form of a printout or other intelligible output;
  - (c) seize any printout or other output for examination or copying;
- and

(d) use or cause to be used any copying equipment at the place to make copies of the data.

(6) Every person who is in charge of a place in respect of which a search is carried out under this Section shall, on presentation of the warrant, permit the individual carrying out the search to do anything described in subsection (5).

(7) An operator shall provide, free of charge, to an individual who is executing a warrant under this Section at any of its workplaces

(a) suitable return transportation between the workplace and any location from which transportation services to that workplace are usually provided, and between workplaces; and

(b) suitable accommodation and food at the workplace.

(8) A warrant may be issued under this Section by telephone or other means of telecommunication on information submitted by a health and safety officer by one of those means, and section 487.1 of the *Criminal Code* (Canada) applies for that purpose, with any modifications that the circumstances require.

202CE (1) A thing seized under this Part may be stored in the place where it was seized or may, at the discretion of a health and safety officer, be removed to any other place for storage.

(2) The owner of the thing seized or the person who is lawfully entitled to possess it shall pay the costs of storage or removal.

(3) Where the thing seized is perishable, a health and safety officer may destroy the thing, or otherwise dispose of it in any manner the officer considers appropriate.

(4) Any proceeds realized from its disposition shall be paid to the Receiver General for Canada.

#### NON-DISTURBANCE OF SCENE

202CF (1) In the case of an incident at a workplace, or involving a passenger craft, that results in serious injury or death, no person shall, unless authorized to do so by a health and safety officer, disturb anything related to the incident except to the extent necessary to

(a) attend to any individuals who are injured or killed;

(b) prevent further injuries; or

(c) prevent damage to or loss of property.

(2) Where an individual is killed or seriously injured by an incident involving a passenger craft, an individual who is investigating the incident under the *Aeronautics Act* (Canada), the *Canada Shipping Act, 2001*, or the *Canadian Transportation Accident Investigation and Safety Board Act* is not required to obtain an authorization under subsection (1).

#### DISCLOSURE OF INFORMATION

202CG No person shall prevent an employee from providing to a health and safety officer or to the Board, or to any person or committee having duties or func-

tions under this Part, information that the officer, Board, person or committee may require to carry out the duties or functions.

202CH Subject to Sections 202CK to 202CM, no person shall, except for the purposes of this Part, for the purposes of a prosecution under this Part, for the purposes of Part III as it relates to safety or for the purposes of the prosecution under Part III that relates to safety, disclose the results of

- (a) activities carried out by or on the order of a health and safety officer for the purpose of verifying compliance with this Part; or
- (b) activities carried out under a warrant issued under this Part.

202CI Subject to Section 202CL, no individual to whom information obtained under this Part is communicated in confidence shall disclose the identity of the individual who provided it except for the purposes of this Part, and no individual who obtains such information in confidence is competent or compellable to disclose the identity of the individual who provided it before any court or other tribunal except by order of the court or tribunal on any terms and conditions that the court or tribunal considers just.

202CJ (1) Subject to subsection (2) and subsection (1) of Section 202CL, trade secrets that become known to a health and safety officer who enters a place under subsection (3) of Section 202BW, or to an individual accompanying or a person assisting the officer, are privileged and shall not be disclosed except for the purposes of this Part, or for the purposes of Part III as it relates to safety.

(2) Information that, under the *Hazardous Materials Information Review Act* (Canada), a person is exempt from disclosing under clause (d) or (e) of Section 202W or under clause (a) or (b) of section 13 of the *Hazardous Products Act* (Canada), and that is obtained by a health and safety officer who enters a place under subsection (3) of Section 202BW, or by an individual accompanying or a person assisting the officer, is privileged and, notwithstanding the *Freedom of Information and Protection of Privacy Act* or any other Act or law, shall not be disclosed to any other person except for the purposes of this Part, or for the purposes of Part III as it relates to safety.

(3) Subject to subsection (2) of Section 202CL, information disclosed under subsection (1) or (2) shall not be further disclosed by the recipient, except for the purpose for which it was disclosed to the recipient.

202CK (1) Notwithstanding Section 121, the Chief Safety Officer may disclose information, other than information relating to the medical history of an identifiable individual or other prescribed information relating to an identifiable individual, an individual's identity the disclosure of which is restricted under Section 202CI or information the disclosure of which is restricted under Section 202CJ, related to occupational health and safety that the Officer obtains in his or her capacity as Chief Safety Officer to officials of the Government of the Province, the Government of Canada, a government of a province or a foreign government, or of an agency of any of those governments, for the purposes of a federal or provincial law or activity or a foreign law, if the Officer is satisfied that disclosure is in the interest of health and safety and the information is disclosed subject to any conditions agreed upon by the Officer and the government or agency.

(2) Officials of the Government of the Province or of an agency of the Government of the Province may for the purposes of this Part disclose information related to occupational health and safety, other than information relating to the medical history of an identifiable individual or other prescribed information relating to an identifiable individual, to the Chief Safety Officer, if the officials are satisfied that disclosure is in the interest of health and safety and it is disclosed subject to any conditions agreed upon by the Government or agency and the Officer.

(3) Information disclosed under subsection (1) or (2) shall not be further disclosed by the recipient without the consent in writing of the person who disclosed it to the recipient, unless it is disclosed for the same purposes and subject to the conditions referred to in that subsection.

202CL (1) The Minister and the federal Minister are entitled to access to any information that is recorded in any form, other than information relating to the medical history of an identifiable individual or information the disclosure of which is restricted under subsection (2) of Section 202CJ, if the record is under the control of the Board and the information relates to this Part, and that information shall, on the request of either Minister, be disclosed to that Minister without requiring the consent in writing of the person to whom the information relates.

(2) Information disclosed to either Minister under subsection (1) shall not be further disclosed by that Minister without the consent in writing of the person to whom it relates except for the purposes of this Part or for the purposes of Part III as it relates to safety.

202CM Notwithstanding Section 121, the Board may, after consulting with the Chief Safety Officer, disclose information under its control that relates to this Part, other than information relating to the medical history of an identifiable individual or other prescribed information relating to an identifiable individual, an individual's identity the disclosure of which is restricted under Section 202CI or information the disclosure of which is restricted under Section 202CJ, if the Board is satisfied that the public interest in making the disclosure clearly outweighs any potential harm resulting from the disclosure.

## PROCEEDINGS

202CN (1) No health and safety officer and no individual who has accompanied or person who has assisted the officer in carrying out the officer's duties or functions may be required to give testimony in civil or administrative proceedings, other than proceedings under this Part, relating to information obtained in the exercise of the officer's powers or in the carrying out of the officer's duties or functions or in accompanying or assisting the officer, except with the written permission of the Board.

(2) Where a person to whom subsection (1) applies is required to give testimony in civil or administrative proceedings for which the person has the written permission referred to in that subsection, Section 202CH does not apply to restrict the disclosure of the results described in that Section.

(3) No person shall be required to produce or give evidence in any civil or administrative proceeding relating to any information disclosed to the person under subsection (1) or (2) of Section 202CK or subsection (1) of Section 202CL.

202CO No action lies against

(a) a health and safety officer for anything done or omitted to be done by the officer in good faith while carrying out the officer's duties or functions under this Part; or

(b) an individual accompanying or a person assisting a health and safety officer for anything done or omitted to be done by the individual in good faith while carrying out the individual's duties or functions under this Part.

#### ORDERS AND DECISIONS

202CP A health and safety officer who is of the opinion that a provision of this Part or of the regulations made under this Part is being contravened or has recently been contravened by any person may order the person to

(a) terminate the contravention within the time that the officer specifies; and

(b) take measures specified by the officer, within the period that the officer specifies, to ensure that the contravention does not continue or reoccur.

202CQ (1) Where a health and safety officer is of the opinion that the performance of an activity, including the use or operation of anything or the conditions under which an activity is performed, constitutes a danger to an employee or other individual at a workplace or a passenger on a passenger craft, the officer shall order any person to take measures, immediately or within the period that the officer specifies

(a) to correct the hazard or condition, or to alter the activity, that constitutes the danger; or

(b) to protect any individual from the danger.

(2) Where a health and safety officer is of the opinion that the measures cannot be taken immediately, the officer may order any person not to use a place, operate a thing or perform an activity to which an order under subsection (1) relates until that order is complied with.

(3) Nothing in subsection (2) prevents the doing of anything necessary to comply with the order under subsection (1).

(4) Where a health and safety officer makes an order under subsection (2), the officer shall post or affix or cause to be posted or affixed to or near the place or thing to which the order relates, or in the area in which the activity to which the order relates is performed, a notice in the form, and containing the information, that the officer may specify, and no person shall remove the notice unless the person is authorized by a health and safety officer to do so.

(5) Where a health and safety officer makes an order under subsection (2), the person to whom the order is directed shall cause the use or operation of the place or thing or the performance of the activity to be discontinued, and no individual shall use or operate the place or thing or perform the activity until the order under subsection (1) is complied with.

202CR (1) A health and safety officer shall give a copy of any order the officer makes under Section 202CP or subsection (1) or (2) of Section 202CQ to the person to whom the order is directed and to the operator to whom the order relates.

(2) Where a special officer makes an order under Section 202CP or subsection (1) or (2) of Section 202CQ, the special officer shall give a copy of the order to the person to whom it is directed, the operator to whom the order relates and the Chief Safety Officer.

(3) Where an occupational health and safety officer makes an order under Section 202CP or subsection (1) or (2) of Section 202CQ as a result of being notified under subsection (4) of Section 202AX, subsection (8) of Section 202AY or subsection (8) of Section 202BC, or decides after being so notified not to make an order, the officer shall, as soon as possible, give a copy of the order, or written notice of the decision, to the employee who made the report under subsection (1) of Section 202AX or who exercised his or her rights under Section 202AY or 202BC.

(4) Where an order is made orally under Section 202CP or subsection (1) or (2) of Section 202CQ, it shall be confirmed in writing and a copy given, as soon as possible, to the persons who, under subsections (1) and (2), are required to be given a copy.

(5) A health and safety officer may make an order under Section 202CP or subsection (1) or (2) of Section 202CQ even if the officer is not physically present in the place to which the order refers.

202CS The person to whom an order under Section 202CP or subsection (1) or (2) of Section 202CQ is directed shall, within the period specified in the order, submit to the health and safety officer a notice of compliance describing the extent to which the person has complied with the order, unless the officer decides that the notice is not necessary because compliance with the order has been achieved.

202CT (1) An order made by a special officer prevails over an order made by an occupational health and safety officer, the Chief Safety Officer, an operational Safety officer, a conservation officer or the Chief Conservation Officer, as defined in Section 133, to the extent of any inconsistency between the orders.

(2) An order or a decision made by an occupational health and safety officer prevails over an order or a decision made by an operational safety officer, a conservation officer or the Chief Conservation Officer, as defined in Section 133, to the extent of any inconsistency between the orders or decisions.

#### POSTING AND PROVIDING OF CERTAIN DOCUMENTS

202CU (1) Subject to subsections (2) to (4), every operator or employer, as the case may be, shall, as soon as practicable after filing or receiving any of the following documents, post a copy of it in a prominent location at the workplace to which it relates and provide a copy of it to the workplace committee or the coordinator, as the case may be:

(a) an order made under Section 202CP or subsection (1) or (2) of Section 202CQ;

(b) a notice of compliance referred to in Section 202CS or subsection (11) of Section 202CX;

(c) an application for a review made under subsection (1) of Section 202CV or a decision made under subsection (1) of Section 202CW; or

(d) a notice of an appeal made under subsection (1) of Section 202CX or a decision or order made under subsection (9) of Section 202CX.

(2) Where any document required to be posted under subsection (1) contains a trade secret, the operator or employer, as the case may be, may, before posting it, edit it to protect that trade secret.

(3) Where the document required to be posted under subsection (1) is edited, the operator or employer shall obtain the written approval of a health and safety officer for the document as edited before posting it.

(4) Where any document required to be posted under subsection (1) contains information relating to the medical history of an identifiable individual or other prescribed information relating to an identifiable individual, the operator or employer, as the case may be, shall, unless the individual to whom the information relates consents in writing to the information being posted, before posting it, edit it to protect that information, and obtain the written approval of a health and safety officer for the document as edited.

(5) An obligation imposed on an operator or employer under subsection (1) is satisfied if

(a) the operator or employer, as the case may be, ensures that the document is posted for the time necessary, which is at least thirty days or any longer period that is prescribed, to enable employees at the workplace to inform themselves of the content; or

(b) the operator or employer, as the case may be, provides a copy of the document to each employee at the workplace.

#### REVIEW AND APPEALS

202CV(1) Subject to subsection (2), any person who is, or any union representing employees who are, directly affected by a decision of an occupational health and safety officer under subsection (13) of Section 202AY or subsection (13) of Section 202BC, or by an order of an occupational health and safety officer under Section 202CP or subsection (1) or (2) of Section 202CQ, may apply for a review by the Chief Safety Officer of the decision or order.

(2) Where the Chief Safety Officer, acting as an occupational health and safety officer, makes a decision under subsection (13) of Section 202AY or subsection (13) of Section 202BC or an order under Section 202CP or subsection (1) or (2) of Section 202CQ, the Officer is not permitted to review those decisions or orders.

(3) An application for a review shall be made in writing to the Chief Safety Officer within forty-five days after the date of the decision or order that is the subject of the review being made in writing or, where the decision or order was made orally, of it being confirmed in writing.



(4) Unless otherwise ordered by the Chief Safety Officer, an application for review of a decision or an order does not operate as a stay of the decision or order.

202CW (1) On receiving an application for a review, the Chief Safety Officer shall, in a summary way and without delay, enquire into the circumstances of the decision or order and may confirm, vary or revoke the decision or order.

(2) In making an enquiry, the Chief Safety Officer may consider new information including, but not limited to, information provided by the applicant.

(3) The Chief Safety Officer is not prevented from conducting a review by reason only that the Officer, in the course of carrying out the Officer's duties and functions under this Part, receives information regarding the matter under review or communicates with any person concerning that matter.

(4) The Chief Safety Officer shall provide the Officer's decision in writing, with reasons, to the applicant, to the operator affected by it and to any person who made representations in relation to the matter under review.

(5) A decision of the Chief Safety Officer made under this Section that is not appealed is final and binding and not subject to review.

202CX (1) Any person who is, or any union representing employees who are, directly affected by any of the following decisions or orders may appeal the decision or order to the Labour Board:

(a) a decision of an occupational health and safety officer under Section 202BK;

(b) an order of an occupational health and safety officer under subsections (1), (2) or (3) of Section 202BL;

(c) a determination of an occupational health and safety officer made in respect of an application under Section 202BM;

(d) an order of a special officer under Section 202CP or subsection (1) or (2) of Section 202CQ;

(e) an order of the Chief Safety Officer referred to in subsection (1) or (2) of Section 202AU or subsection (2) of Section 202CV; or

(f) a decision of the Chief Safety Officer under subsection (1) of Section 202CW.

(2) The costs incurred by the Labour Board in respect of appeals made under subsection (1), including the remuneration of its members, shall be paid by the Board as defined in Section 2.

(3) An appeal shall be made by filing a notice of appeal under the *Occupational Health and Safety Act* within forty-five days after the date of the decision or order that is the subject of the appeal.

(4) Subject to subsection (5) or unless otherwise ordered by the Labour Board, an appeal of a decision or order does not operate as a stay of the decision or order.

(5) Any order under subsection (1), (2) or (3) of Section 202BL is stayed until disposition of the appeal.

(6) The Chief Safety Officer may, subject to any conditions imposed by the Labour Board, make representations to the Labour Board in respect of the decision or order being appealed.

(7) The rules of practice and procedure that apply to appeals made under the *Occupational Health and Safety Act* apply to appeals made under subsection (1), except that when an employer is required to receive a copy of an order or decision, the operator and Chief Safety Officer shall receive a copy of it as well.

(8) The Labour Board and each of its members has the powers, privileges and immunities granted under the *Labour Board Act*.

(9) The Labour Board may revoke, or make an order confirming or varying, the decision or order being appealed, and may make any order that a health and safety officer has the power or duty to make under Section 202CP or subsection (1) or (2) of Section 202CQ.

(10) Where the Labour Board makes an order that a health and safety officer has the power or duty to make under subsection (2) of Section 202CQ in respect of a place, thing or activity, the person to whom the order is directed shall cause the use or operation of the place or thing or the performance of the activity to be discontinued, and no individual shall use or operate the place or thing or perform the activity until the measures ordered by that board have been taken.

(11) Where required to do so by the Chief Safety Officer, the person or union to whom an order under subsection (9) is directed shall, within the period specified by the Officer, submit to the Officer a notice of compliance describing the extent to which the person or union has complied with the order.

202CY Time spent by an employee attending proceedings under Section 202CX as a party, or as a witness as a result of a summons, is considered to be work time for which the employee shall be paid the same wages and granted the same benefits that the employee would have received had the employee worked for that time.

#### ENFORCEMENT OF MONETARY ORDERS AND DECISIONS

202CZ (1) An order of an occupational health and safety officer made under any of subsections (1) to (3) of Section 202BL that has not been appealed or an order of the Labour Board under subsection (9) of Section 202CX requiring payment of wages or benefit entitlements to an employee may, for the purpose of its enforcement, be made an order of the Supreme Court of Nova Scotia and shall be enforced in the same manner as any order of that Court.

(2) To make the order an order of the Supreme Court of Nova Scotia, the rules of practice and procedure established under the *Occupational Health and Safety Act* for making any order an order of that Court may be followed.

(3) After an order has been made an order of the Supreme Court of Nova Scotia, any subsequent order rescinding or replacing the first order has the effect of cancelling the order of the Court, and that subsequent order may be made an order of that Court in the same manner.

202DA (1) The Chief Safety Officer may request the Director of Labour Standards designated under the *Labour Standards Code* to enforce an order referred to in Section 202CZ.

(2) For the purpose of enforcement under subsection (1), an order shall be made an order of the Labour Board and may be enforced in the same manner as an order of the Labour Board.

(3) Section 72 of the *Occupational Health and Safety Act* applies to the enforcement of an order, with any modifications that the circumstances require, including the substitution of the Chief Safety Officer for the Director in subsections (3), (5) and (6) of Section 72 of that Act.

#### OFFENCES AND PENALTIES

202DB (1) Every person is guilty of an offence who

(a) contravenes any provision of this Part or of the regulations made under this Part;

(b) makes any false entry or statement in any report, record or other document required by this Part or the regulations made under this Part or by any order made under this Part;

(c) destroys, damages or falsifies any report, record or other document required by this Part or the regulations made under this Part or by any order made under this Part;

(d) fails to comply with an order of a health and safety officer;

(e) fails to comply with a requirement of the Chief Safety Officer under Section 202Q or 202V;

(f) fails to comply with a decision of the Chief Safety Officer under Section 202CW; or

(g) fails to comply with an order of the Labour Board under subsection (9) of Section 202CX.

(2) Every person who is guilty of an offence under subsection (1) is liable

(a) on summary conviction, to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding one year, or to both; or

(b) on conviction on indictment, to a fine not exceeding one million dollars or to imprisonment for a term not exceeding five years, or to both.

(3) Notwithstanding clause (a) of subsection (1), a person who contravenes clause (l) or (m) of Section 202N, clause (k) of subsection (1) of Section 202T, clause (b) of Section 202AJ or clause (b) of subsection (1) of Section 202AK is not guilty of an offence unless compliance with that clause is necessary to protect occupational health and safety.

(4) No individual shall be excused from recording in accordance with Section 202N or 202T instances of non-compliance and any corrective action taken

on the grounds that any information given by the individual may tend to incriminate the individual or subject the individual to any proceeding or penalty, but the information, or any evidence derived from it, may not be used or received to incriminate that individual in any criminal proceeding initiated against the individual, other than a prosecution under section 132, 136 or 137 of the *Criminal Code* (Canada).

(5) No person shall be found guilty of an offence under subsection (1) if the person establishes that the person exercised due diligence to prevent the commission of the offence.

202DC (1) Where a corporation commits an offence under this Part, any of the following individuals who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is a party to and guilty of the offence and is liable on conviction to the punishment provided for the offence, whether or not the corporation has been prosecuted or convicted:

- (a) an officer, director or agent of the corporation; and
- (b) any other individual exercising managerial or supervisory functions in the corporation.

(2) In a prosecution for an offence under this Part, 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.

202DD Where an individual is convicted of an offence under this Part, on proceedings by way of summary conviction, no imprisonment may be imposed in default of payment of any fine imposed as punishment.

202DE (1) Where a person is convicted of an offence under this Part, the court may, having regard to the nature of the offence and the circumstances surrounding its commission, in addition to any other punishment that may be imposed under this Part, make an order that has any or all of the following effects:

- (a) prohibiting the offender from committing an act or engaging in an activity that may, in the opinion of the court, result in the continuation or repetition of the offence;
- (b) directing the offender to take any measures that the court considers appropriate to avoid any harm to health or safety that may result from the act or omission that constituted the offence, or to remedy any harm to health or safety resulting from it;
- (c) directing the offender, at the offender's own expense, to publish, in any manner that the court directs, the facts relating to the offence;
- (d) directing the offender to submit to the Chief Safety Officer, on application by that Officer within three years after the conviction, any information with respect to the offender's activities that the court considers appropriate in the circumstances;
- (e) directing the offender to pay to the Board an amount of money that the court considers appropriate for the purpose of conducting research, education and training in occupational health and safety matters;

(f) directing the offender to perform community service, subject to any reasonable conditions that may be imposed by the court;

(g) directing the offender to post a bond or pay an amount of money into court that the court considers appropriate to ensure that the offender complies with any prohibition, direction, requirement or condition that is specified in the order; and

(h) requiring the offender to comply with any conditions that the court considers appropriate in the circumstances for securing the offender's good conduct and for preventing the offender from repeating the same offence or committing another offence under this Part.

(2) An order made under subsection (1) comes into force on the day on which the order is made or on any other day that the court may determine, but shall not continue in force for more than three years after that day.

(3) Where an offender does not comply with an order under clause (c) of subsection (1) requiring the publication of facts relating to the offence, the Chief Safety Officer may publish the facts and recover the costs of publication from the offender.

202DF (1) Subject to subsection (2), where a court has made an order under subsection (1) of Section 202DE, the court may, on application by the offender or the Chief Safety Officer, require the offender to appear before it and, after hearing the offender and the Chief Safety Officer, vary the order in one or both of the following ways that the court considers appropriate because of a change in the circumstances of the offender since the order was made:

(a) by making changes to any prohibition, direction, requirement or conditions that is specified in the order or by extending the time during which the order is to remain in force for any period, not exceeding one year, that the court considers appropriate; or

(b) by decreasing the time during which the order is to remain in force or by relieving the offender, either absolutely or partially or for any period that the court considers appropriate, of compliance with any condition that is specified in the order.

(2) Before making an order under subsection (1), the court may direct that notice be given to any persons that the court considers to be interested and may hear any of those persons.

202DG Where an application made under subsection (1) of Section 202DF in relation to an offender has been heard by a court, no other application may be made under that Section in relation to the offender except with leave of the court.

202DH Where a person is convicted of an offence under this Part and a fine that is imposed is not paid when required or where a court orders an offender to pay an amount under subsection (1) of Section 202DE or subsection (1) of Section 202DF, the prosecutor may, by filing the conviction or order, as the case may be, enter as a judgment the amount of the fine or the amount ordered to be paid, and costs, if any, in the Supreme Court of Nova Scotia, and the judgment is enforceable against the person in the same manner as if it were a judgment rendered against the person in that Court in civil proceedings.

202DI Where a person is guilty of an offence under this Part, a court may, in addition to any other penalty it may impose, order that person to comply with the provisions of this Part or the regulation or order for the contravention of which that person has been convicted.

202DJ Where an offence under this Part is committed on more than one day or is continued for more than one day, it constitutes a separate offence for each day on which it is committed or continued.

202DK Proceedings by way of summary conviction for an offence under this Part may be instituted at any time within but not later than three years after the day on which the subject-matter of the proceedings arose, unless the prosecutor and the defendant otherwise agree.

202DL In any prosecution for an offence under this Part, a copy of any order or other document purporting to have been made under this Part, and purporting to have been signed, in the case of an order or other document purporting to have been made by the Labour Board, by the chair, a vice-chair or a member of the Labour Board and, in any other case, by the individual authorized under this Part to make that order or document, is, in the absence of any evidence to the contrary, proof of the matters set out in it.

202DM Any complaint or information relating to an offence under this Part may be heard, tried or determined by a justice of the peace or judge if the accused is resident or carrying on business within the territorial jurisdiction of that justice or judge although the matter of the complaint or information did not arise in that territorial jurisdiction.

202DN (1) Even though a prosecution has been instituted for an offence under this Part, the Board may commence and maintain an action to enjoin the committing of any contravention of any provision of this Part or of the regulations made under this Part.

(2) No civil remedy for any act or omission is suspended or affected by reason that the act or omission is an offence under this Part.

202DO In any proceedings for an offence under this Part

- (a) an information may include more than one offence committed by the same person;
- (b) all those offences may be tried concurrently; and
- (c) one conviction for any or all offences so included may be made.

#### ADVISORY COUNCIL

202DP (1) An advisory council is hereby established, composed of

- (a) four representatives of employees and four representatives of industry;
- (b) two representatives of the Government of the Province and two representatives of the Government of Canada; and
- (c) the Chief Safety Officer or the Officer's representative.

(2) Two of the employee representatives and two of the industry representatives shall be appointed by the Minister and the Minister of Energy and the other four shall be appointed jointly by the federal Minister and the Minister of Labour for Canada.

(3) Before making any appointment referred to in subsection (2), the Minister and the Minister of Energy, or the federal Minister and the Minister of Labour for Canada, as the case may be, shall consult with non-management employees, or the unions representing them, on the appointment of an employee representative and with industry associations on the appointment of an industry representative.

(4) The representatives of the Government of the Province shall be appointed jointly by the Minister and the Minister of Energy and the representatives of the Government of Canada shall be appointed jointly by the federal Minister and the Minister of Labour for Canada.

(5) The mandate of the advisory council is to advise the Board, the Minister, the Minister of Energy, the federal Minister and the Minister of Labour for Canada on

- (a) the administration and enforcement of this Part; and
- (b) any other matter related to occupational health and safety that is referred to it by any of them.

(6) At the discretion of the Minister, the Minister of Energy, the federal Minister and the Minister of Labour for Canada, the members of the advisory council may be paid

- (a) the remuneration that may be jointly fixed by those Ministers; and
- (b) any reasonable travel and living expenses that are incurred by the members while carrying out their duties or functions away from their ordinary place of residence.

(7) The Board shall pay the remuneration and expenses referred to in subsection (6).

(8) Members are to be appointed for a term of not more than five years and may be re-appointed.

(9) The advisory council is to have two chairpersons selected from among its members, one of whom shall be selected by the employee representatives and the other of whom shall be selected by the industry representatives.

202DQ (1) The Minister or the federal Minister, or both, may appoint any individual as auditor to measure and report on the effectiveness of the Board in carrying out its duties and functions under this Part.

(2) A report of the audit shall be made, as soon as practicable, to the Minister, the federal Minister and the Board.

(3) The auditor is entitled to free access at all convenient times to information that relates to the fulfillment of the auditor's responsibilities and is also entitled to require and receive from the Board and from any persons or committees

having duties or functions under this Part any information, including reports, and explanations that the auditor considers necessary for that purpose.

(4) The auditor may examine any individual on oath on any matter pertaining to the effectiveness of the Board in carrying out its duties and functions under this Part and, for the purposes of an examination, may exercise all the powers of a commissioner appointed under the *Public Inquiries Act*.

(5) Information, including reports, and explanations disclosed to the auditor under subsection (2) shall not be further disclosed by the auditor without the consent in writing of the person to whom it relates.

(6) The Board shall consider the report of the audit and, within sixty days after the day on which the Board receives the report, it shall send to the auditor its written response to the report, and send a copy of that response to the Minister and the federal Minister.

(7) Where the Minister and the federal Minister jointly appoint the auditor, they may also jointly agree, with the consent in writing of the Minister of Energy, to require the cost of the audit to be borne by the Board, but where only one of those Ministers appoints the auditor, that Minister shall pay the cost of the audit.

202DR (1) The Minister, the federal Minister, the Minister jointly with the federal Minister or the Board may appoint one or more individuals to inquire into and report on occupational health and safety matters that are related to employment to which this Part applies.

(2) An individual who is appointed by the Minister, by the Minister jointly with the federal Minister or by the Board has all the powers of a person appointed as a commissioner under the *Public Inquiries Act*.

(3) Every witness who attends and gives evidence at any inquiry under this Section is entitled to be paid reasonable travel and living expenses incurred by the witness in doing so and the witness fees prescribed in the tariff of fees in use in the Supreme Court of Nova Scotia.

(4) Once the Board receives a copy of the report, it shall consider the report and shall, within sixty days after the day on which it is received, send to the Minister and the federal Minister its written response to the report.

(5) Where one or more individuals are appointed by the Minister, the federal Minister or the Minister jointly with the federal Minister under subsection (1) in respect of a matter, the Minister or Ministers making the appointment may, where that Minister or those Ministers determine that an inquiry is being conducted under Section 162 in respect of the same matter, direct that the Board terminate that inquiry and provide to that individual or those individuals any records or evidence collected in respect of the matter.

(6) The Board shall comply with a direction made under subsection (5).

(7) Where the Minister and the federal Minister jointly appoint the individual or individuals under subsection (1), they may also jointly agree, with the consent in writing of the Minister of Energy, to require the cost of the inquiry to be borne by the Board, but where only one of those Ministers appoints an individual or individuals under subsection (1), that Minister shall pay the cost of the inquiry.



## DOCUMENTS IN ELECTRONIC OR OTHER FORM

202DS The definitions in this Section apply in this Section and Sections 202DT and 202DU.

(a) “electronic document” means any form of representation of information or of concepts fixed in any medium in or by electronic, optical or other similar means and that can be read or perceived by an individual or by any means;

(b) “information system” means a system used to generate, send, receive, store or otherwise process an electronic document.

202DT No provision of this Part or of the regulations made under this Part requires an electronic document to be created or provided.

202DU (1) A requirement under this Part that a notice, document or other information be created in writing is satisfied by the creation of an electronic document if

(a) the information in the electronic document is accessible so as to be usable for subsequent reference; and

(b) the regulations pertaining to this subsection, if any, have been complied with.

(2) A requirement under this Part that a notice, document or other information be provided under this Part, whether or not it is required to be provided in writing, is satisfied by the provision of an electronic document if

(a) the addressee has designated an information system for the receipt of the electronic document;

(b) the electronic document is provided to the designated information system, unless otherwise prescribed;

(c) the information in the electronic document is accessible by the addressee and capable of being retained by the addressee, so as to be usable for subsequent reference; and

(d) the regulations pertaining to this subsection, if any, have been complied with.

(3) Where a consent is required to be given in writing under this Part, the requirement is satisfied by the provision of an electronic document that signifies that consent has been given if

(a) the addressee has designated an information system for the receipt of the electronic document;

(b) the electronic document is provided to the designated information system, unless otherwise prescribed;

(c) the information in the electronic document that signifies that consent has been given is accessible by the addressee and capable of being retained by the addressee, so as to be usable for subsequent reference; and

(d) the regulations pertaining to this subsection, if any, have been complied with.

(4) Notwithstanding subsection (2), the reasons referred to in subsection (5) of Section 202BH and the decision referred to in subsection (4) of Section 202CW shall be provided in writing.

## REGULATIONS

202DV (1) Subject to Section 6 and on the recommendation of the Minister, the Governor in Council may make regulations generally for carrying out the purposes and provisions of this Part, including regulations

(a) establishing requirements in respect of anything described in subsection (2) of Section 202P or subsection (2) of Section 202U;

(b) respecting the manner in which an operator is required to investigate under subsection (2) of Section 202R any occupational disease or any accident, incident or other hazardous occurrence;

(c) respecting the establishment, by an operator, of procedures for safe entry to or exit from a marine installation or structure and of standards for occupancy of a marine installation or structure;

(d) respecting the establishment of codes of practice, and specifying who is responsible for ensuring that those codes of practice are complied with;

(e) respecting the safety of work or activities that are carried out in a confined space, at heights, directly over water, under water, or of any work or activity that involves the use of explosives;

(f) respecting ergonomic standards and procedures for a workplace;

(g) respecting the establishment of standards for the design, installation and maintenance of the following things:

(i) guard, guard-rails, barricades, fences and other equipment of a similar nature,

(ii) boilers and pressure vessels,

(iii) escalators, elevators and other devices of a similar nature,

(iv) all equipment for the generation, distribution or use of electricity,

(v) gas-burning or oil-burning equipment or other heat-generating equipment, and

(vi) heating, ventilation and air-conditioning systems;

(h) respecting the establishment of standards for the design and maintenance of equipment, machines, devices, materials and other things that may be used by employees in carrying out their job functions;

(i) respecting the circumstances and manner in which any thing referred to in clause (g) or (h) shall or shall not be used, and any qualifications that an individual is required to have in order to use it;

(j) specifying who is responsible for ensuring that the standards referred to in clauses (g) and (h) are complied with and that the things referred to in those clauses are used in the specified circumstances and manner and by individuals who have the required qualifications;

(k) respecting the establishment of standards relating to levels or limits for ventilation, lighting, temperature, humidity, sound and vibration and exposure to chemical agents, biological agents and radiation and specifying who is responsible for ensuring that those standards are complied with;

(l) respecting the qualifications of persons authorized to carry out prescribed training;

(m) respecting the establishment of fire safety and emergency measures, and specifying who is responsible for ensuring that those measures are complied with;

(n) respecting the provision, by an operator, and employer, or both, of sanitary and personal facilities, potable water, sustenance and first-aid and health services;

(o) respecting the prevention of, and protection against, violence at the workplace;

(p) respecting the manner and form in which records are to be maintained and information communicated;

(q) respecting the manner in which programs for medical monitoring and examination referred to in clause (f) of subsection (1) of Section 202BP are to be implemented, including restricting the types of interventions that may be used;

(r) respecting the procedures governing the granting of a permission under Section 202BS or 202BT, including any requirements for consultation or notice;

(s) specifying the equipment, methods, measures or standards or other things required by regulations made under this Section in respect of which the granting of a permission under Section 202BS or 202BT is prohibited;

(t) respecting the operation of an advisory council established under Section 202DP;

(u) respecting any matter necessary for the purposes of the application of Section 202DU, including

(i) the time and circumstances when, and the place where, an electronic document is to be considered to have been provided or received, and

- (ii) the circumstances in which a secure electronic signature, as defined in subsection (1) of Section 31 of the *Personal Information Protection and Electronic Documents Act* (Canada), is required to be linked to an electronic document; and
  - (v) prescribing anything that by this Part is to be prescribed.
- (2) The regulations may incorporate any material by reference, regardless of its source, either as it exists on a particular date or as amended from time to time.
- (3) For greater certainty, a document that is incorporated by reference into a regulation is not required to be transmitted for registration or published in the *Royal Gazette* by reason only that it is incorporated by reference.
- (4) Regulations made under subsection (1) may be made applicable to all persons or one or more classes of persons.
- (5) Regulations made under subsection (1) in respect of employees and other passengers on a passenger craft, or the passenger craft, shall, in addition to the requirement set out in that subsection, be made on the recommendation of the Minister of Transport for Canada.

**24 (1)** The Chief Safety Officer may, on application, grant an exemption in respect of a workplace, or grant an exemption to an operator in respect of passengers being transported on a passenger craft to or from any of its workplaces, for a specified time and subject to specified conditions, from any requirement in respect of equipment, methods, measures or standards that is set out in the *Nova Scotia Offshore Marine Installations and Structures Occupational Health and Safety Transitional Regulations*, the *Nova Scotia Offshore Marine Installations and Structures Transitional Regulations* or the *Transitional Regulations Respecting the Safety of Diving Operations Conducted in the Nova Scotia Offshore Area*, if the Officer is satisfied that the health and safety of employees at the workplace or passengers on the passenger craft, as the case may be, will be maintained without compliance with the requirement.

(2) The regulations are not considered to be contravened if there is compliance with an exemption under subsection (1).

(3) The application shall

- (a) be in a form acceptable to the Chief Safety Officer;
- (b) include information with respect to the consequences to health and safety that might reasonably be anticipated if the exemption is granted; and
- (c) be accompanied by technical information sufficient to enable the Chief Safety Officer to make a decision on the application.

(4) On receipt of the application, the Chief Safety Officer shall make it available to the public in a manner that the Officer considers advisable, together with a notice that submissions may be made to the Officer for a period of thirty days, or any shorter period that the officer fixes with the agreement of the applicable workplace committee, after the day on which the application has been made available.

(5) Where the application is made in respect of an existing workplace, the applicant shall give a copy of the application to the operator.

(6) An operator shall, immediately after the operator receives or makes an application relating to an existing workplace or to a passenger craft

(a) post a copy of it in printed form in a prominent place at the applicable workplace; and

(b) provide a copy to any committee established for that workplace and to any union representing employees within the offshore area.

(7) The Chief Safety Officer shall, as soon as possible after the end of the period referred to in subsection (4), give to the applicant and the operator a copy of the decision made on the application, and make the decision available to the public in a manner that the Officer considers advisable.

(8) The Chief Safety Officer may, on the Officer's own initiative or an application by the applicant for the exemption under subsection (1), reconsider, confirm, vary, revoke or suspend a decision made in respect of the application at any time if information is made available that, had it been known when the decision was made, would reasonably be expected to have resulted in a different decision from the one made at that time.

(9) Subsections (1) to (7) apply with the necessary modifications to the reconsideration, confirmation, variation, revocation or suspension of a decision under subsection (8).

(10) Words and expressions used in this Section have the same meaning as in subsection 202A(1) of the *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation (Nova Scotia) Act*.

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

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