

Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation (Nova Scotia) Act

CHAPTER 3 OF THE ACTS OF 1987

as amended by

1988, c. 56; 1992, c. 12, ss. 1-27; 1993, c. 16, ss. 1-6;
N.S. Reg. 11/2004; 2007, c. 14, s. 5; 2012, c. 17; 2013, cc. 15, 16;
2014, c. 43; 2015, c. 36



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Halifax

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2014, c. 43; 2015, c. 36

**An Act to Implement an Agreement
Between the Government of Nova Scotia
and the Government of Canada
on Offshore Petroleum Resource
Management and Revenue**

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(The table of contents is not part of the statute)

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Short title

1 This Act may be cited as the *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation (Nova Scotia) Act*. 1987, c. 3, s. 1.

Interpretation

2 In this Act,

(a) “Bay of Fundy” means the submarine areas within the limits described in Schedule II;

- (b) “Board” means the Canada-Nova Scotia Offshore Petroleum Board established by the joint operation of Section 9 of this Act and Section 10 of the federal Implementation Act;
- (c) “Canada-Nova Scotia benefits plan” means a plan submitted pursuant to subsection (2) of Section 45;
- (d) *repealed 1993, c. 16, s. 1.*
- (e) “Chief Executive Officer” means the Chief Executive Officer of the Board appointed pursuant to Section 25;
- (ea) “coalbed methane”, otherwise known as “natural gas from coal”, means methane naturally occurring in coal seams and adjacent strata;
- (f) “development plan” means a plan submitted pursuant to subsection (2) of Section 136 for the purpose of obtaining approval of the general approach of developing a pool or field as proposed in the plan;
- (g) “federal Government” or “Government of Canada” means the Governor General in Council;
- (h) “federal Implementation Act” means the *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act* (Canada);
- (i) “federal Minister” means the Minister of Energy, Mines and Resources for Canada;
- (j) “field”
 - (i) means a general surface area underlain or appearing to be underlain by one or more pools, and
 - (ii) includes the subsurface regions vertically beneath the general surface area referred to in subclause (i);
- (k) “frontier lands” has the same meaning as in the *Canada Petroleum Resources Act* (Canada);
- (l) “fundamental decision” means a decision made by the Board respecting the exercise of a power or the performance of a duty or function pursuant to a provision of this Act that expressly provides for the exercise of the power or the performance of the duty or function subject to Sections 31 to 37;
- (m) “gas” means natural gas and includes substances other than oil that are produced in association with natural gas but does not include coalbed methane associated with the development or operation of a coal mine;
- (n) “Government” means the federal Government, the Provincial Government, or both, as the context requires;
- (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;
- (p) “Nova Scotia lands” means

- (i) Sable Island, and
- (ii) those submarine areas that belong to Her Majesty in right of the Province or in respect of which Her Majesty in right of the Province has the right to dispose of or exploit the natural resources, and that are within the offshore area;
- (q) “Offshore Accord” means the Canada-Nova Scotia Offshore Petroleum Resources Accord, dated the twenty-sixth day of August, 1986, and entered into by the Government of Canada, as represented by the Prime Minister of Canada and the Minister of Energy, Mines and Resources, and by the Province of Nova Scotia, as represented by the Premier and the Minister of Mines and Energy, and includes any amendments thereto;
- (r) “offshore area” means the lands and submarine areas within the limits described in Schedule I;
- (s) “oil” means
 - (i) crude oil regardless of gravity produced at a well head in liquid form, and
 - (ii) any other hydrocarbons, except coal and gas, and, without limiting the generality of the foregoing, hydrocarbons that may be extracted or recovered from deposits of oil sand, bitumen, bituminous sand, oil shale or from any other types of deposits on the surface or subsurface or the seabed or subsoil thereof of the offshore area;
- (t) “petroleum” means oil or gas;
- (u) “pool” means a natural underground reservoir containing or appearing to contain an accumulation of petroleum that is separated or appears to be separated from any other such accumulation;
- (v) “prescribed”, except where otherwise provided, means prescribed by regulations made by the Governor in Council;
- (w) “Sable Island” means the area, whether above or under water, in the offshore area, that is within the limits described in Schedule III;
- (x) “Sable Island National Park Reserve of Canada” means Sable Island National Park Reserve of Canada as described in Schedule 2 to the *Canada National Parks Act*;
- (y) “spill-treating agent”, except in Section 158B, means a spill-treating agent that is on the list established under section 14.2 of the *Canada Oil and Gas Operations Act*. 1987, c. 3, s. 2; 1993, c. 16, s. 1; 2007, c. 14, s. 5; 2012, c. 17, s. 1; 2013, c. 15, s. 1; 2013, c. 16, s. 1; 2014, c. 43, s. 1.

Jurisdiction preserved

3 The provisions of this Act shall not be construed as providing a basis for any claim by or on behalf of the Government of Canada in respect of any entitle-

ment to or legislative jurisdiction over the offshore area or any living or non-living resources in the offshore area. 1987, c. 3, s. 3.

Act prevails

4 In case of any inconsistency or conflict between

- (a) this Act or a regulation made pursuant thereto; and
- (b) any other Provincial enactment,

this Act and the regulations made pursuant thereto prevail. 1987, c. 3, s. 4.

Amendment of description of offshore area

5 (1) Subject to Section 6, the Governor in Council may make regulations amending the description of the limits set out in Schedule I for the purposes of the definition “offshore area”.

(2) The Minister may approve charts or cause charts to be issued setting out the offshore area or any portion thereof as may be set out consistent with the nature and scale of the chart.

(3) In any legal or other proceedings, a chart purporting to be approved or issued by the Minister is conclusive proof of the limits of the offshore area or portion thereof set out in the chart without proof of the signature or official character of the person purporting to have approved or issued the chart. 1987, c. 3, s. 5.

Approval by federal Minister

6 (1) Before a regulation is made under subsection (1) of Section 5, subsection (4) of Section 17, Section 30A, subsection (8) of Section 35, subsection (7) of Section 39, subsection (7) of Section 45, Section 51, 53A or 70, subsection (2) of Section 73, Section 120, subsection (1) of Section 124, Section 127, subsection (1) of Section 146, subsection (2C) of Section 159, subsection (1B) of Section 160, subsection (1) of Section 199B or Section 200, the Minister shall consult the federal Minister with respect to the proposed regulation and the regulation shall not be made without the federal Minister’s approval.

(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. 2013, c. 16, s. 2; 2014, c. 43, ss. 2, 34.

Amendment of Accord

7 The Government of Nova Scotia as represented by the Premier of Nova Scotia or by such other member of the Executive Council for Nova Scotia as may be designated by the Governor in Council, may, jointly with the Government of Canada, amend the Offshore Accord from time to time. 1987, c. 3, s. 7.

Application of Act

8 This Act applies to Nova Scotia lands within the offshore area. 1987, c. 3, s. 8.

PART I**JOINT MANAGEMENT****Canada-Nova Scotia Offshore Petroleum Board**

9 (1) There is established by the joint operation of this Act and the federal Implementation Act a board to be known as the Canada-Nova Scotia Offshore Petroleum Board.

(2) Notwithstanding subsection (1), the Board shall be treated as if established by or under the law of the Province.

(3) The Board has the powers and capacities of a corporation incorporated pursuant to the *Companies Act*, including those set out in Section 14 of the *Interpretation Act*.

(4) The Board may be dissolved only by the joint operation of an Act of the Legislature and an Act of Parliament. 1987, c. 3, s. 9.

Membership of Board

10 (1) The Board shall consist of five members.

(2) Subject to subsection (3), the members of the Board may be appointed by both the Provincial Government and the Government of Canada, or, in the alternative, each Government may appoint two members.

(3) The Chairman of the Board shall be appointed by the Provincial Government and the Government of Canada.

(4) The Provincial Government may appoint one alternate member only to serve in the absence or incapacity of any member first appointed by it.

(5) The federal Government may appoint one alternate member only to serve in the absence or incapacity of any member first appointed by it.

(6) The federal Government and the Provincial Government may jointly appoint one alternate member only to serve in the absence or incapacity of any member first jointly appointed by them. 1987, c. 3, s. 10.

Restriction on public servants as Board members

11 (1) In this Section and Section 12, “civil servant” means

(a) a person employed in the Province pursuant to the *Civil Service Act* and a person in the public service appointed by order-in-council; and

(b) a person employed in the public service of Canada as defined in the federal Implementation Act.

(2) Not more than two members of the Board may, during the term of office of those members on the Board, be civil servants and of those two members, not more than one may be appointed by each Government.

(3) The Chairman of the Board shall not, during the term of office as Chairman, be a civil servant. 1987, c. 3, s. 11.

Term of Board member

12 (1) Subject to subsection (2), each member of the Board, including the Chairman, shall be appointed for a term of six years.

(2) The first two members of the Board, other than the Chairman, to be appointed by each Government shall be appointed for terms of four and five years, respectively.

(3) Each member of the Board is eligible for re-appointment.

(4) Each member of the Board who is not a civil servant holds office during good behaviour but may be removed for cause by the Government or Governments that appointed the member.

(5) Each member of the Board who is a civil servant holds office during pleasure. 1987, c. 3, s. 12.

Chairman of Board

13 (1) Consultation between the two Governments with respect to the selection of the Chairman of the Board shall be deemed to commence

(a) six months prior to the expiration of the term of office of the incumbent Chairman; or

(b) where applicable, on the date of receipt by the Board of notice of the death, resignation or termination of appointment of the incumbent Chairman,

whichever occurs earlier.

(2) Where the two Governments fail to agree on the appointment of the Chairman of the Board within three months after the commencement of consultation between the Governments, after written notice given by one of the Governments to the other, the Chairman shall be selected pursuant to subsection (3) by a panel, consisting of three members and constituted in accordance with Section 43

unless, at any time prior to the selection of the Chairman by the panel, the Governments agree on the appointment.

(3) The Chairman of the Board shall be selected from among persons nominated by each Government by the panel within sixty days after the appointment of the chairman of the panel.

(4) The decision of the panel selecting a Chairman of the Board is final and binding on both Governments. 1987, c. 3, s. 13.

Acting Chairman

14 The Board shall designate a member to act as Chairman of the Board during any absence or incapacity of the Chairman or vacancy in the office of Chairman, and that person, while acting as Chairman, has and may exercise all of the powers and perform all of the duties and functions of the Chairman. 1987, c. 3, s. 14.

Terms and conditions of appointment of Chairman

15 (1) Subject to Section 12, the salary and other terms and conditions of the appointment of the Chairman of the Board or any other member or alternate member appointed by both Governments, including the effective date of the appointment, shall be fixed by an order of the Provincial Government and an order of the federal Government after agreement has been reached by both Governments on the salary and other terms and conditions.

(2) The salary and other terms and conditions of the appointment of any member appointed by either the Provincial Government or the federal Government shall be agreed on by both Governments. 1987, c. 3, s. 15.

Conflict of interest guidelines

16 Each member of the Board shall be subject to conflict of interest guidelines established jointly by the Minister and federal Minister and are not subject to any conflict of interest guidelines established by the Provincial Government. 1987, c. 3, s. 16.

Indemnification of Board members, officers and employees

17 (1) The Province shall, subject to such terms and conditions as may be prescribed, indemnify a person who is a present or former member, officer or employee of the Board, and the heirs and legal representatives of that person, against such costs, charges and expenses, including such amounts paid to settle an action or satisfy a judgment, reasonably incurred in respect of any civil, criminal or administrative action or proceeding to which that person is a party by reason of being or having been such a member, officer or employee, as may be prescribed.

(2) Where the Government of Canada has indemnified a person referred to in subsection (1) or the heirs or legal representatives of that person, the Province shall, subject to such terms and conditions as are prescribed, pay to the Government of Canada one half of the amount so indemnified.

(3) Any amount payable in respect of indemnification pursuant to this Section may be paid out of the Consolidated Fund.

(4) Subject to Section 6, the Governor in Council may make regulations prescribing anything that by this Section is to be prescribed. 1987, c. 3, s. 17.

Additional duties of Board

18 (1) The Board shall, in addition to performing the duties and functions conferred or imposed on the Board by or pursuant to this Act, perform such duties and functions as are conferred or imposed on it by the Offshore Accord, to the extent that such duties and functions are not inconsistent with this Act or any regulations made thereunder.

(2) The Board may make recommendations to both Governments, respecting petroleum-related activity in the offshore area and, respecting proposed amendments to this Act, the federal Implementation Act, any regulations made pursuant to those Acts and to any other legislation relating to petroleum resource activities in the offshore area. 1987, c. 3, s. 18.

Information to Ministers

19 (1) The Minister and the federal Minister are entitled to access to any information or documentation relating to petroleum resource activities in the offshore area that is provided for the purposes of this Act or any regulation made thereunder and such information or documentation shall, notwithstanding subsection (2) of Section 121, on the request of either the Minister or the federal Minister be disclosed to that Minister without requiring the consent of the party who provided the information or documentation.

(2) Section 121 applies, with such modifications as the circumstances require, to any information or documentation to which the Minister and the federal Minister have access pursuant to subsection (1) and any disclosure of such information or documentation by the Minister or federal Minister or the production or giving of evidence relating thereto by such Minister, as if the references in that Section to the administration or enforcement of Parts II or III of this Act included references to the administration or enforcement of the federal Implementation Act.

(3) The Board shall require every person who makes an application in respect of which a fundamental decision is to be made by the Board, to give, forthwith after making the application, a written summary of the application to the Minister and the federal Minister. 1987, c. 3, s. 19.

Location of Board

20 The principal office and staff of the Board shall be located in the Province. 1987, c. 3, s. 20.

Responsibility for storage and curatorship

21 (1) The Board shall have responsibility for the storage and curatorship, in a facility in the Province, of all geophysical and geological records and reports, reports respecting wells and materials recovered from wells in the offshore area and, without limiting the generality of the foregoing, drill cuttings, fluid samples, hydrocarbon samples and cores recovered from wells in the offshore area.

(2) The Board shall, at the request of the Minister or the federal Minister,

(a) furnish that Minister with a sample of any material referred to in subsection (1); or

(b) where it is not possible to produce a sample of such material, provide that Minister with all or a portion of such material, subject to being returned to the facility referred to in subsection (1),

if the material is to be permanently retained at the facility referred to in subsection (1). 1987, c. 3, s. 21.

Meetings of Board

22 A meeting of the Board shall be held

(a) once every two months unless the members of the Board unanimously agree to defer such a meeting; and

(b) at any other time

(i) at the call of the Chairman of the Board,

(ii) on the request of any two members of the Board, or

(iii) on the request of the Minister or the federal Minister to review any matter referred to the Board by that Minister. 1987, c. 3, s. 22.

Quorum and votes

23 (1) Three members of the Board constitute a quorum of the Board.

(2) Where, in the absence of unanimous agreement, a vote is required to be taken in respect of a decision of the Board, the decision shall be made on the basis of a majority vote of the members of the Board. 1987, c. 3, s. 23.

By-laws

24 Subject to this Act and the Offshore Accord, the Board may

(a) make by-laws respecting

(i) the members, officers and employees of the Board,

- (ii) the attendance and participation, including voting rights, at meetings of the Board of alternate members of the Board appointed pursuant to Section 10,
 - (iii) the manner of appointing the officers and employees of the Board on the basis of selection according to merit, including the holding of open competitions therefor,
 - (iv) the practices and procedures of the Board,
 - (v) the conduct of meetings of the Board,
 - (vi) the manner of dealing with matters and business before the Board, and
 - (vii) generally, the carrying on of the work of the Board and the management of the internal affairs of the Board; and
- (b) establish conflict of interest guidelines respecting persons employed by the Board pursuant to subsection (1) of Section 26. 1987, c. 3, s. 24.

Chief Executive Officer

- 25 (1)** There shall be a Chief Executive Officer of the Board who,
- (a) where both the federal Government and the Provincial Government appoint the Chairman as Chief Executive Officer, is the Chairman of the Board; or
 - (b) in any other case, is to be appointed by the Board by means of an open competition.

(2) The appointment of a Chief Executive Officer pursuant to clause (b) of subsection (1) is subject to the approval of both Governments.

(3) Where either Government fails to make an appointment pursuant to clause (a) of subsection (1) or to approve the appointment of a Chief Executive Officer pursuant to clause (b) of subsection (1), the Chief Executive Officer shall be appointed by both the federal Government and the Provincial Government after having been selected pursuant to subsection (4) by a panel, consisting of three members and constituted in accordance with Section 43, unless at any time prior to the selection of the Chief Executive Officer by the panel, the two Governments agree on the appointment.

(4) The Chief Executive Officer shall be selected from among persons nominated by each Government within sixty days after the appointment of the Chairman of the panel.

(5) The decision of the panel selecting a Chief Executive Officer is final and binding on both Governments.

(6) Subsection (1) of Section 13 applies, with such modifications as the circumstances require, to the appointment of the Chief Executive Officer pursuant to clause (a) of subsection (1) or subsection (3).

(7) The Board shall designate a person to act as Chief Executive Officer during any absence or incapacity of that Officer or vacancy in the office of Chief Executive Officer and that person, while acting as Chief Executive Officer, has and may exercise all the powers and perform all of the duties and functions of that office. 1987, c. 3, s. 25.

Officers and employees

26 (1) The Board may, on the recommendation of the Chief Executive Officer, employ such other officers and such employees as are necessary for the Board to properly perform the powers, duties and functions of the Board pursuant to this Act and the Offshore Accord.

(2) The appointment of every person employed pursuant to subsection (1) shall be based on selection according to merit.

(3) A person employed pursuant to subsection (1) is not considered to be employed in the public service of Canada or the civil service of the Province by virtue of that employment.

(4) For the purpose of being eligible for appointment to a position in the civil service pursuant to the *Civil Service Act*,

(a) any person who, immediately prior to being employed by the Board, was employed in the civil service shall be deemed to be a person employed in the civil service in the Department of Mines and Energy in the location where that person is performing duties for the Board and in a position of an occupational nature and at a level equivalent to the position in which that person is employed by the Board; and

(b) any person who, immediately prior to being employed by the Board, was not employed in the civil service shall, two years after being employed by the Board, be deemed to be a person employed in the civil service in the Department of Mines and Energy in the location where that person is performing duties for the Board and in a position of an occupational nature and at a level equivalent to the position in which that person is employed by the Board.

(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).

(5) In this Section, “civil service” has the same meaning as in the *Civil Service Act*. 1987, c. 3, s. 26; 2013, c. 16, s. 3.

Auditor

27 The Board shall appoint an auditor, for such term as is set by the Board, for the purposes of auditing the financial statements of the Board. 1987, c. 3, s. 27.

Audit and evaluation committee

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. 2013, c. 16, s. 4.

Budget

28 (1) The Board shall, in respect of each fiscal year, prepare a budget for the Board sufficient to permit the Board to properly exercise its powers and perform its duties and functions.

(2) The budget shall be submitted to the Minister and the federal Minister, at such time as may be specified by each Minister, for their consideration and approval.

(3) Where it appears that the actual aggregate of the expenditures of the Board in respect of any fiscal year is likely to be substantially greater or less than that estimated in its budget in respect of that fiscal year, the Board shall submit to both Ministers for their consideration and approval a revised budget in respect of that fiscal year containing such particulars as may be requested by either Minister.

(4) The Government of Nova Scotia shall pay one half of the aggregate of the expenditures set out in the budget or revised budget, where applicable, submitted and approved pursuant to this Section in respect of each fiscal year.

(5) The sums required for the payment pursuant to subsection (4) shall be paid out of the Consolidated Fund from time to time as required. 1987, c. 3, s. 28.

Access by Ministers to books and accounts

29 Subject to subsection (2) of Section 19, both the Minister and the federal Minister are entitled to access to the books and accounts of the Board. 1987, c. 3, s. 29.

Annual report

30 (1) The Board shall, in respect of each fiscal year, prepare an annual report in both official languages of Canada and submit it to the Minister and the federal Minister not later than ninety days after the expiration of that fiscal year.

(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.

(3) The Minister shall

(a) table the report before the Legislature within fifteen days following submission of the report to the Minister; or

(b) if the Legislature is not then sitting, within fifteen days after the Legislature next sits. 1987, c. 3, s. 30; 2013, c. 16, s. 5.

Regulations

30A (1) Subject to Section 6, the Governor in Council may make regulations

(a) respecting the fees or charges, or the method of calculating the fees or charges, to be paid for the provision, by the Board, of a service or product under this Act;

(b) respecting the fees or charges, or the method of calculating the fees or charges, in respect of any of the Board's activities under this Act or under the *Canadian Environmental Assessment Act, 2012*, that are to be paid by

(i) a person who makes an application for an authorization under clause (b) of subsection (1) of Section 135 or an application under subsection (2) of Section 136, or

(ii) the holder of an operating licence issued under clause (a) of subsection (1) of Section 135 or an authorization issued under clause (b) of subsection (1) of Section 135; and

(c) respecting the refund of all or part of any fee or charge referred to in clause (a) or (b), or the method of calculating that refund.

(2) The amounts of the fees or charges referred to in clause (a) of subsection (1) shall not exceed the cost of providing the services or products.

(3) The amounts of the fees or charges referred to in clause (b) of subsection (1) shall not exceed the cost of the Board's activities under this Act or under the *Canadian Environmental Assessment Act, 2012*. 2014, c. 43, s. 3.

Division of fees and charges

30B One half of the amounts of the fees and charges obtained in accordance with regulations made under Section 30A shall be paid to the credit of the Receiver General for Canada and the other half shall be paid to the credit of Her Majesty in right of the Province, in the time and manner prescribed under those regulations. 2014, c. 43, s. 3.

Finality of exercise of Board powers

31 Subject to this Act, the exercise of a power or the performance of a duty or function by the Board pursuant to this Act is final and not subject to the review or approval of either Government, the Minister or the federal Minister. 1987, c. 3, s. 31.

Notice of fundamental decision

32 (1) Where a fundamental decision is made by the Board, the Board shall, forthwith after making the decision, give written notice of that decision to the Minister and the federal Minister.

- (2) The Board shall cause a fundamental decision to be published
- (a) thirty days after receipt by both ministers of written notice of the decision; or
 - (b) when the fundamental decision is implemented,

whichever first occurs. 1987, c. 3, s. 32.

Time for implementation of fundamental decision

33 (1) Subject to subsection (2), a fundamental decision shall not be implemented

- (a) before the expiration of thirty days after receipt by the Minister and the federal Minister of a notice of the fundamental decision and any further period during which the implementation of the decision is suspended or during which the decision may be set aside, the setting aside may be overruled or a determination may be made by the National Energy Board; or
- (b) if the decision has been conclusively set aside.

(2) A fundamental decision may be implemented before the expiration of the periods referred to in clause (a) of subsection (1) where the Board is advised, in writing, that both the Minister and the federal Minister approve that decision.

(3) Where, on the expiration of the periods referred to in clause (a) of subsection (1), a fundamental decision of the Board has not been conclusively set aside, that decision shall be implemented forthwith by the Board. 1987, c. 3, s. 33.

Suspension of implementation of fundamental decision

34 (1) The Minister or the federal Minister may, on giving written notice to the other Minister and the Board within thirty days after receipt of a notice of a fundamental decision, suspend the implementation of the decision during a period specified in the notice not exceeding sixty days after receipt of the notice of the decision.

(2) The Minister shall publish notice of a suspension by the Minister, pursuant to subsection (1), in the Royal Gazette. 1987, c. 3, s. 34.

Setting aside fundamental decision

35 (1) Within thirty days after receipt by the Minister and the federal Minister of a notice of a fundamental decision and any further period during which the implementation of the decision is suspended, the decision may be set aside

(a) by both the Minister and the federal Minister by written notice thereof to the Board; or

(b) by the Minister, by written notice thereof to the federal Minister and the Board, in the case of

(i) a fundamental decision of the Board referred to in clause (a) of subsection (3) of Section 136, or

(ii) a fundamental decision with respect to a call for bids in relation to, or an interest in relation to, a portion of the offshore area that is situated wholly within the Bay of Fundy or Sable Island,

and the Minister shall publish notice of the setting aside in the Royal Gazette.

(2) The federal Minister may, by written notice to the Minister and the Board,

(a) set aside a fundamental decision of the Board within thirty days after receipt of a notice of the decision or any further period during which the implementation of the decision is suspended; or

(b) overrule the setting aside of a fundamental decision by the Minister, within thirty days after receipt of a notice to that effect,

if in the opinion of the federal Minister, the decision or setting aside of the decision would unreasonably delay the attainment of security of supply.

(3) Notwithstanding subsection (2), where the Minister disagrees with the setting aside or overruling by the federal Minister in respect of a fundamen-

tal decision pursuant to subsection (2), the National Energy Board shall, on summary application made to it by the Minister,

(a) determine whether the fundamental decision of the Board or the setting aside of that decision would unreasonably delay the attainment of security of supply; and

(b) thereby confirm or vacate the setting aside or overruling by the federal Minister in respect of the fundamental decision.

(4) A determination of the National Energy Board pursuant to subsection (3)

(a) shall be made summarily within such time and in such manner as may be prescribed on application by the Minister within such time and in such manner as may be prescribed;

(b) is not subject to be reviewed or set aside by any government, court or other body; and

(c) shall be published forthwith by the Board.

(5) Where an application is made by the Minister to the National Energy Board prior to the coming into force of the first regulation made for the purposes of clause (a) of subsection (4), the application and the determination of the National Energy Board shall be made in accordance with the procedures established by the National Energy Board.

(6) A fundamental decision of the Board shall be deemed, for the purposes of clause (b) of subsection (1) of Section 33 and subsection (3) of Section 33, to be conclusively set aside where the periods within which the setting aside may be overruled pursuant to clause (b) of subsection (2) and the setting aside or overruling thereof may be vacated pursuant to subsection (3) have expired and

(a) the setting aside has not been overruled or, if it has been so overruled that overruling is vacated pursuant to subsection (3); or

(b) the setting aside has not been vacated pursuant to subsection (4).

(7) In this Section and in Sections 36 and 37,

(a) “security of supply”, in respect of any period, means the anticipation of self-sufficiency during each of the five calendar years in that period, taking into account the aggregate during each such year of anticipated additions to producing capacity and anticipated adjustments to refining capacity;

(b) “self-sufficiency” means a volume of suitable crude oil and equivalent substances available from Canadian hydrocarbon producing capacity that is adequate to supply the total feedstock requirements of Canadian refineries necessary to satisfy the total domestic

refined product requirements of Canada, excluding those feedstock requirements necessary to produce specialty refined products;

(c) “suitable crude oil and equivalent substances” means those substances that are appropriate for processing in Canadian refineries and that are potentially deliverable to Canadian refineries.

(8) Subject to Section 6, the Governor in Council may make regulations prescribing anything that, by this Section, is to be prescribed. 1987, c. 3, s. 35.

Determination of security of supply

36 (1) For the purposes of this Act, where a determination as to whether security of supply exists is made pursuant to this Section by the Minister and the federal Minister or by a panel or is deemed to have been made pursuant to this Section, it is final and binding for the duration of the period in respect of which it is made.

(2) In respect of the period commencing on January 1, 1986, and terminating on December 31, 1990, a determination is and is deemed to have been made, for all purposes of this Act, that security of supply does not exist.

(3) Each period following the period referred to in subsection (2) shall commence on the expiration of the period immediately preceding that period and shall be for a duration of five successive calendar years. 1987, c. 3, s. 36.

Failure to agree on security of supply

37 (1) Where the Minister and the federal Minister fail to agree on a determination as to whether security of supply exists in respect of any period, the determination shall be made by a panel consisting of three members, constituted in accordance with Section 43, within sixty days after the appointment of the chairman of the panel unless, at any time prior thereto, the Minister and the federal Minister agree on the determination.

(2) Where a determination is made pursuant to subsection (1) by a panel as to whether security of supply exists, that determination is not subject to be reviewed or set aside by any Minister, government, court or other body. 1987, c. 3, s. 37.

Powers and obligations of Government of Canada

38 (1) Notwithstanding any other provision of this Act, nothing in this Act limits the powers of the Government of Canada in the event of a sudden domestic or import supply shortfall of suitable crude oil and equivalent substances or with respect to any other energy emergency.

(2) Notwithstanding any other provision of this Act, where the Government of Canada has obligations with respect to the allocation of petroleum pursuant to the Agreement On An International Energy Program dated November 18, 1974, the Board shall, where authorized to do so by the federal Minister and

during the period that those obligations continue, take such measures as are necessary to comply with those obligations and as are fair and equitable in relation to other hydrocarbon-producing regions of Canada. 1987, c. 3, s. 38.

Shortfall of petroleum deliveries

39 (1) For the purposes of this Section, “shortfall of petroleum deliveries in the Province” means deliveries of petroleum that are inadequate to supply, on commercial terms,

(a) the end use consumption demands of all consumers in the Province;

(b) the feedstock requirements of industrial facilities that are in place in the Province on the thirty-first day of January, 1986; and

(c) the feedstock requirements of any refining facility located in the Province that was not in place on January 31, 1986, if the feedstock requirements required to satisfy the demand of industrial capacity, as of January 31, 1986, in Nova Scotia, New Brunswick, Prince Edward Island and Newfoundland and Labrador have been met.

(2) Where there is a shortfall of petroleum deliveries in the Province, the Minister may, after consulting with the federal Minister, give notice to holders of production licences in the offshore area that the consumers and facilities referred to in subsection (1) that are specified in the notice have, during the term of the notice, the first option to acquire, on commercial terms, petroleum produced in the offshore area unless a sales contract, with respect to that petroleum, has been entered into prior to the giving of the notice.

(3) Notwithstanding any other provision of this Act, any contract entered into after the giving of the notice referred to in subsection (2) shall be deemed to be varied or suspended to the extent necessary to give effect to that notice.

(4) The term of a notice given pursuant to subsection (2) is the period during which a shortfall of petroleum deliveries in the Province continues to exist.

(5) Where the federal Minister or a holder of a production licence to whom a notice has been given pursuant to subsection (2), does not agree with the Minister that a shortfall of petroleum deliveries in the Province exists or continues to exist, the matter shall be referred to arbitration in the manner prescribed.

(6) Where it is determined pursuant to arbitration that a shortfall of petroleum deliveries in the Province does not exist or continue to exist, the notice given pursuant to subsection (2) is and is deemed to be revoked and ceases to have effect on the date on which the determination is made.

(7) Subject to Section 6, the Governor in Council may make regulations for carrying out the purposes of this Section and, without limiting the generality of the foregoing, may make regulations

(a) defining the expression “commercial terms” or providing for arbitration to establish commercial terms in any particular case;

(b) governing, for the purposes of this Section, arbitration and the making of arbitration orders and appeals from and enforcement of arbitration orders; and

(c) prescribing the manner of exercising a first option to acquire that is granted pursuant to a notice given pursuant to subsection (2). 1987, c. 3, s. 39; 2014, c. 43, s. 4.

Acquisition of portion of trunkline by Government

40 (1) In this Section,

(a) “certificate” means a certificate of public convenience and necessity issued pursuant to Part III of the *National Energy Board Act*;

(b) “Nova Scotia trunkline” means a trunkline for the transmission of petroleum in the offshore area or from the offshore area, and includes all tanks, reservoirs, storage facilities, pumps, racks, compressors, loading facilities, interstation systems of communication by telephone, telegraph or radio, and real and personal property connected therewith that are located within the offshore area or any other part of Nova Scotia, but does not include laterals, gathering lines, flow lines, structures, and facilities for the production and processing of petroleum.

(2) No certificate shall be issued in respect of a Nova Scotia trunkline, unless the National Energy Board is satisfied that the Government of Nova Scotia has been given a reasonable opportunity to acquire on a commercial basis at least a fifty per cent, or such lesser percentage as the Government proposes to acquire as a result of the opportunity, ownership interest in the trunkline.

(3) Where a certificate is not required in respect of a Nova Scotia trunkline, no authorization shall be issued pursuant to clause (b) of subsection (1) of Section 135 in respect of that trunkline, unless the Board is satisfied that the Government of Nova Scotia has been given a reasonable opportunity to acquire on a commercial basis at least a fifty per cent, or such lesser percentage as the Government proposes to acquire as a result of the opportunity, ownership interest in the trunkline.

(4) The Minister may, with the approval of the Governor in Council, enter into such agreements, make such arrangements and expend such money as is necessary for him to participate in the construction, operation and acquisition of

trunklines including the acquisition of the ownership interest referred to in this Section. 1987, c. 3, s. 40; 2015, c. 36, s. 1.

Written directives

41 (1) The Minister and the federal Minister may jointly issue to the Board written directives in respect of

- (a) fundamental decisions;
- (b) Canada-Nova Scotia benefits plans and any of the provisions thereof;
- (c) public reviews conducted pursuant to Section 44;
- (d) studies to be conducted by the Board; and
- (e) advice with respect to policy issues to be given by the Board to the Minister and the federal Minister.

(2) The Minister may issue to the Board written directives respecting any fundamental decision relating to the Bay of Fundy or Sable Island.

(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.

(5) The Board shall comply with a directive issued pursuant to this Section.

(6) Directives issued pursuant to this Section are not and are deemed not to be regulations for the purposes of the *Regulations Act*.

(7) Where a directive is issued pursuant to this Section a notice shall be published in the Royal Gazette that the directive has been issued and that the text of the directive is available for inspection by any person on request made to the Board. 1987, c. 3, s. 41; 1993, c. 16, s. 3; 2013, c. 16, s. 6.

Submission of plan

42 During the first month of each calendar year, the Board shall submit to the Minister and the federal Minister a plan outlining the anticipated decisions of the Board during that calendar year respecting

(a) the making of calls for bids pursuant to Part II with respect to interests to be issued in relation to portions of the offshore area and the issuance and terms and conditions of such interests; and

(b) exploration and development of the offshore area. 1987, c. 3, s. 42.

Appointment of panel

43 (1) For the purposes of subsection (2) of Section 13, subsection (3) of Section 25, subsection (1) of Section 37 and subsection (4) of Section 134B one member of a panel shall be appointed by each Government within thirty days after the expiration of the three months referred to in subsection (2).

(2) The chairman of the panel shall be appointed

(a) jointly by the two members of the panel appointed pursuant to subsection (1) within thirty days after the later of the two appointments made pursuant to that subsection; or

(b) where the two members of the panel fail to agree on the appointment of the chairman of the panel within the thirty-day period referred to in clause (a), by the Chief Justice of Nova Scotia within thirty days after the expiration of that period. 1987, c. 3, s. 43; 1988, c. 56, s. 1.

Public review

44 (1) Subject to any directives issued pursuant to subsection (1) of Section 41, the Board may conduct a public review in relation to the exercise of any of its powers or the performance of any of its duties or functions where the Board is of the opinion that it is in the public interest to do so.

(2) Where a public review is conducted pursuant to subsection (1) in relation to any matter, the Board may

(a) establish terms of reference and a timetable that will permit a comprehensive review of all aspects of the matter, including those within the authority of the Legislature or of Parliament;

(b) appoint one or more commissioners and, where there is to be more than one commissioner, appoint as commissioners persons nominated by each of the Governments in recognition of the authority of ministers of the Crown in right of the Province or of Canada under any enactment of the Province or of Parliament, other than this enactment or the federal Implementation Act, in relation to the matter;

(c) cause the commissioners to hold public hearings in appropriate locations in the Province or elsewhere in Canada and report thereon to the Board, the Minister and the federal Minister; and

(d) where the public review is conducted in relation to any potential development of a pool or field, require the person who proposed the potential development to submit and make available for public distribution a preliminary development plan, an environmental impact statement, a socio-economic impact statement, a preliminary Canada-Nova Scotia benefits plan and any other plan specified by the Board.

(3) On the request of the Board, the Government of the Province may, subject to such terms and conditions as it considers necessary, confer on the Board or the commissioners appointed pursuant to clause (b) of subsection (2) all or any of the powers, privileges and immunities conferred on persons appointed as commissioners pursuant to the *Public Inquiries Act*.

(4) The commissioners shall make their recommendations respecting any preliminary plan or statement submitted pursuant to clause (d) of subsection (2) within two hundred and seventy days after their receipt of the plan or statement or such shorter period as may be set by the Board. 1987, c. 3, s. 44.

Public hearing

44A The Board may conduct a public hearing in relation to the exercise of any of its powers or the performance of any of its duties and functions as a responsible authority as defined in subsection (1) of section 2 of the *Canadian Environmental Assessment Act, 2012*. 2014, c. 43, s. 5.

Confidentiality

44B At any public hearing conducted under Section 44A, the Board may take any measures and make any order that it considers necessary to ensure the confidentiality of any information likely to be disclosed at the hearing if the Board is satisfied that

(a) disclosure of the information could reasonably be expected to result in a material loss or gain to a person directly affected by the hearing, or to prejudice the person's competitive position, and the potential harm resulting from the disclosure outweighs the public interest in making the disclosure; or

(b) the information is financial, commercial, scientific or technical information that is confidential information supplied to the Board and

(i) the information has been consistently treated as confidential information by a person directly affected by the hearing, and

(ii) the person's interest in confidentiality outweighs the public interest in its disclosure. 2014, c. 43, s. 5.

Confidentiality where security concern

44C At any public hearing conducted under Section 44A, the Board may take any measures and make any order that it considers necessary to ensure the confidentiality of information that is likely to be disclosed at the hearing if the Board is satisfied that

(a) there is a real and substantial risk that disclosure of the information will impair the security of pipelines, as defined in Section 133, installations, vessels, aircraft or systems, including computer or communication systems, or methods employed to protect them; and

(b) the need to prevent disclosure of the information outweighs the public interest in its disclosure. 2014, c. 43, s. 5.

Limitation

44D The Board shall not take any measures or make any order under Section 44B or 44C in respect of information or documentation referred to in clauses (a) to (e) and (i) of subsection (5) of Section 121. 2014, c. 43, s. 5.

Canada-Nova Scotia benefits plan

45 (1) In this Section, “Canada-Nova Scotia benefits plan” means a plan for the employment of Canadians and, in particular, members of the labour force of the Province and, subject to clause (d) of subsection (3), for providing manufacturers, consultants, contractors and service companies in the Province and other parts of Canada with a full and fair opportunity to participate on a competitive basis in the supply of goods and services used in any proposed work or activity referred to in the benefits plan.

(2) Before the Board may approve any development plan pursuant to subsection (4) of Section 136 or authorize any work or activity pursuant to clause (b) of subsection (1) of Section 135, a Canada-Nova Scotia benefits plan shall be submitted to and approved by the Board, unless the Board waives that requirement in accordance with subsection (6).

(3) A Canada-Nova Scotia benefits plan shall contain provisions intended to ensure that

(a) before carrying out any work or activity in the offshore area, the corporation or other body submitting the plan shall establish in the Province an office where appropriate levels of decision making are to take place;

(b) consistent with the *Canadian Charter of Rights and Freedoms*, individuals resident in the Province shall be given first consideration for training and employment in the work program for which the plan was submitted and any collective agreement entered into by the corporation or other body submitting the plan and an organization of employees respecting terms and conditions of employment in the offshore area shall contain provisions consistent with this clause;

(c) a program shall be carried out and expenditures shall be made for the promotion of education and training and of research and development in the Province in relation to petroleum resource activities in the offshore area;

(d) first consideration is given to services provided from within the Province and to goods manufactured in the Province, where those services and goods are competitive in terms of fair market price, quality and delivery.

(4) The Board may require that any Canada-Nova Scotia benefits plan include provisions to ensure that disadvantaged individuals or groups have access to training and employment opportunities and to enable such individuals or groups or corporations owned or cooperatives operated by them to participate in the supply of goods and services used in any proposed work or activity referred to in the benefits plan.

(5) In reviewing any Canada-Nova Scotia benefits plan, the Board shall consult with the Minister and the federal Minister on the extent to which the plan meets the requirements set out in subsections (1), (3) and (4).

(6) The Board may, pursuant to subsection (2),

(a) subject to any directives issued pursuant to subsection (1) of Section 41, approve any Canada-Nova Scotia benefits plans; or

(b) with the consent of both ministers, waive the requirement for any Canada-Nova Scotia benefits plan.

(7) Subject to Section 6, the Governor in Council may make regulations prescribing the time and manner of submission of any Canada-Nova Scotia benefits plan and the form and information to be contained therein. 1987, c. 3, s. 45.

Payments to Board

46 (1) A payment of royalty, rental, licence fee, cash bonus or deposit required to be made pursuant to the *Offshore Petroleum Royalty Act* or Parts II and III of this Act in respect of the offshore area shall be made to the Board.

(2) A payment made to the Board pursuant to

(a) the federal Implementation Act in respect of those kinds of payments referred to in subsection (1); or

(b) this Section,

is a good and sufficient discharge of liability to make payment of such amounts pursuant to the *Offshore Petroleum Royalty Act* or Parts II and III of this Act. 1987, c. 3, s. 46.

Deposit in Nova Scotia Offshore Revenue Account

47 All revenues collected or assessed by the Board or the Province in respect of royalties, bonuses, rentals, licence fees and corporate or retail sales tax shall be deposited by the Board and the Province into the Nova Scotia Offshore Revenue Account and paid by the Government of Canada to the Province consistent with payment schedules under the Canada-Nova Scotia Tax Collection Agreement. 1987, c. 3, s. 47.

Jurisdiction of Nova Scotia courts

48 (1) It is hereby declared that, subject to any exceptions prescribed, every court in Nova Scotia has jurisdiction in respect of matters arising in respect of the collection of royalties, rentals, license fees, bonuses, deposits, consumption tax or insurance premiums tax, or in respect of any enactment determined by regulation to be applicable in the offshore area, as if those matters had arisen within the territorial limits of the County of Halifax, to the same extent as the court has jurisdiction in respect of matters occurring in the County of Halifax.

(2) Nothing in this Act limits the jurisdiction that a court may exercise apart from this Act.

(3) For the purposes of this Section, “court” includes a judge thereof and any justice or provincial magistrate. 1987, c. 3, s. 48.

Resolution of dispute

49 (1) In this Section, “agreement” means an agreement between the Government of Canada and the government of a province respecting resource management and revenue sharing in relation to activities respecting the exploration for or the production of petroleum carried out on any submarine lands.

(2) Where a dispute between the Province and any other province that is a party to an agreement arises in relation to the description of any portion of the limits set out in Schedule I and the Province and the Government of Canada are unable, by means of negotiation, to bring about a resolution of the dispute within a reasonable time, the dispute shall, at such time as the federal Minister deems appropriate, be referred to an impartial person, tribunal or body and settled by means of the procedure determined in accordance with subsection (3).

(3) For the purposes of this Section, the person, tribunal or body to which a dispute is to be referred, the constitution and membership of any tribunal or body and the procedures for the settlement of a dispute may be determined by the federal Minister after consultation with the provinces concerned in the dispute.

(4) Where the procedure for the settlement of a dispute pursuant to this Section involves arbitration, the arbitrator shall apply the principles of international law governing maritime boundary delimitation, with such modifications as the circumstances require.

(5) Notwithstanding Section 6, where a dispute is settled pursuant to this Section and a regulation pursuant to subsection (1) of Section 5 amending the description of the portion of the limits set out in Schedule I in relation to which the dispute arose is made in accordance with the settlement, the regulation is not subject to the procedure set out in Section 6 with respect to that description. 1987, c. 3, s. 49.

Board to conclude memorandum of understanding

50 (1) The Board shall, to ensure effective coordination and avoid duplication of work and activities, conclude with the appropriate departments and agencies of the Government of the Province and the Government of Canada memoranda of understanding in relation to

- (a) environmental regulation;
- (b) emergency measures;
- (c) coast guard and other marine regulation;
- (ca) aviation regulation;
- (d) employment and industrial benefits for Canadians in general and the people of the Province in particular and the review and evaluation procedures to be followed by both Governments and the Board in relation to such benefits;
- (e) occupational health and safety;
- (f) a Nova Scotia trunkline within the meaning of Section 40; and
- (g) such other matters as are appropriate.

(2) The Minister and the federal Minister shall be parties to any memorandum of understanding concluded in relation to a matter referred to in clause (d) of subsection (1). 1987, c. 3, s. 50; 2013, c. 16, s. 7.

Regulations

51 Subject to Section 6, the Governor in Council may make regulations for carrying out or giving effect to any of the provisions of Part I. 1987, c. 3, s. 51.

Regulations Act

52 Regulations made by the Governor in Council pursuant to this Act are regulations within the meaning of the *Regulations Act*. 1987, c. 3, s. 52.

Powers conferred by federal Implementation Act

53 The Minister and any corporation, agency, board, commission or tribunal of the Province may exercise such powers, duties and functions as are conferred on the Minister or the corporation, agency, board, commission or tribunal pursuant to the federal Implementation Act. 1987, c. 3, s. 53; 2012, c. 17, s. 3.

PART IA

CROWN SHARE ADJUSTMENT PAYMENTS

Regulations

53A Subject to Section 6, the Governor in Council may make regulations respecting information that must be provided to the Minister to permit the Minister to demonstrate and determine the payments to be calculated under section 247 of the federal Implementation Act. 2012, c. 17, s. 4.

PART II

Interpretation of Part

54 In this Part,

- (a) “call for bids” means a call for bids made in accordance with Section 64;
- (b) “Canada Oil and Gas Land Regulations” means the Canada Oil and Gas Land Regulations made pursuant to the *Public Lands Grants Act* (Canada) and the *Territorial Lands Act* (Canada);
- (c) “commercial discovery” means a discovery of petroleum that has been demonstrated to contain petroleum reserves that justify the investment of capital and effort to bring the discovery to production;
- (d) “commercial discovery area” means, in relation to a declaration of commercial discovery made pursuant to subsection (1) or (2) of Section 84, those portions of the offshore area described in the declaration;
- (e) “Crown reserve lands” means any portion of the offshore area in respect of which no interest is in force;
- (f) “holder” or “interest holder” means, in respect of an interest or a share therein, the person indicated in the register referred to in Section 107 as the holder of the interest or the share;
- (g) “interest” means any exploration licence, production licence or significant discovery licence;
- (h) “interest owner” means the interest holder who holds an interest or the group of interest holders who hold all of the shares in an interest;
- (i) “prescribed” means,
 - (i) in the case of a form or the information to be given on a form, prescribed by the Board, and
 - (ii) in any other case, prescribed by regulations made by the Governor in Council;
- (j) “share” means, with respect to an interest, an undivided share in the interest or a share in the interest held in accordance with Section 72;

(k) “significant discovery” means a discovery indicated by the first well on a geological feature that demonstrates by flow testing the existence of hydrocarbons in that feature and, having regard to geological and engineering factors, suggests the existence of an accumulation of hydrocarbons that has potential for sustained production;

(l) “significant discovery area” means, in relation to a declaration of significant discovery made pursuant to subsection (1) or (2) of Section 77, those portions of the offshore area described in the declaration. 1987, c. 3, s. 54.

Form of notice

55 Where a notice is required to be given pursuant to this Part or the regulations, it shall be given in such form and manner as may be prescribed and shall contain such information as may be prescribed. 1987, c. 3, s. 55.

Part II binding on Her Majesty

56 This Part is binding on Her Majesty in right of the Province, a province and Canada. 1987, c. 3, s. 56.

Exercise of powers by designated person

57 The Board may designate any person to exercise the powers and perform the duties and functions pursuant to this Part that are specified in the designation and on such designation that person may exercise those powers and shall perform those duties and functions subject to such terms and conditions, if any, as are specified in the designation. 1987, c. 3, s. 57.

Advisory bodies

58 (1) The Board may from time to time appoint and fix the terms of reference of such advisory bodies as the Board considers appropriate to advise the Board with respect to such matters relating to the administration or operation of this Part or Part III as are referred to them by the Board.

(2) The members of any advisory body appointed pursuant to subsection (1) may be paid for their services such remuneration and expenses as are fixed by the Board. 1987, c. 3, s. 58.

Representative of interest owners

59 (1) Where an interest owner consists of two or more holders, such holders shall, in the manner prescribed, appoint one of their number to act as representative of the interest owner for the purposes of this Part and the *Offshore Petroleum Royalty Act*, but such holders may, with the consent of the Board, appoint different representatives for different purposes.

(2) In the event that an interest owner consisting of two or more holders fails to appoint a representative for any of the purposes of this Part, the

Board may designate one of such holders as the representative of the interest owner for such purposes.

(3) An interest owner is bound by the acts or omissions of the appointed or designated representative of such interest owner with respect to any matter to which the authority of the representative extends.

(4) A representative of an interest owner appointed or designated pursuant to this Section shall perform the duties in respect of the purposes for which that representative has been appointed or designated, and any operating agreement or other similar arrangement in force in respect of the relevant interest of that interest owner stands varied or amended to the extent necessary to give effect to this subsection. 1987, c. 3, s. 59.

Prohibition of issuance of interests

60 (1) Subject to Sections 31 to 37, the Board may, except in a case referred to in subsection (2), by order, for such purposes and under such conditions as may be set out in the order, prohibit the issuance of interests in respect of such portions of the offshore area as are specified in the order.

(2) The federal Minister may, by order, in the case of a disagreement with any government concerning the location of an international boundary and under such conditions as may be set out in the order, prohibit the issuance of interests in respect of such portions of the offshore area as are specified in the order. 1987, c. 3, s. 60.

Surrender of interest

61 (1) An interest owner may, in the manner prescribed and subject to any requirements that may be prescribed respecting the minimum geographical area to which an interest may relate, surrender an interest in respect of all or any portion of the offshore area subject to the interest.

(2) Any liability of an interest owner or interest holder to Her Majesty in right of the Province, either direct or by way of indemnity, that exists at the time of any surrender pursuant to subsection (1) is not affected by the surrender. 1987, c. 3, s. 61.

Power to prohibit

- 62 (1) Subject to subsection (2), the Board may, in the case of
- (a) an environmental or social problem of a serious nature;
 - or
 - (b) dangerous or extreme weather conditions affecting the health or safety of people or the safety of equipment,

by order, prohibit any interest owner specified in the order from commencing or continuing any work or activity in the offshore area or any portion thereof that is subject to the interest of that interest owner.

(2) An order of the Board made in a case referred to in clause (a) of subsection (1) is subject to Sections 31 to 37.

(3) The federal Minister may, in the case of a disagreement with any government concerning the location of an international boundary, by order, prohibit any interest owner specified in the order from commencing or continuing any work or activity in the offshore area or any portion thereof that is subject to the interest of that interest owner.

(4) Where, by reason of an order made pursuant to subsection (1) or (3), any requirement in relation to an interest cannot be complied with while the order is in force, compliance with the requirement is suspended until the order is revoked.

(5) Notwithstanding any other provision in this Act, the term of an interest that is subject to an order pursuant to subsection (1) or (3) and the period provided for compliance with any requirement in relation to the interest are extended for a period equal to the period that the order is in force.

(6) Nothing in this Section affects the authority of the Board to relieve a person from any requirement in relation to an interest or pursuant to this Part or the regulations. 1987, c. 3, s. 62.

Issue of interest by Board

63 (1) The Board may issue interests in respect of any portions of the offshore area in accordance with this Part and the regulations.

(2) Subject to subsection (3), the application of any interest may be restricted to such geological formations and to such substances as may be specified in the interest.

(3) Subsection (2) does not apply to any interest

(a) that is in force or in respect of which negotiations were completed before or on the coming into force of this Section in relation to any portion of the offshore area; or

(b) that immediately succeeds an interest referred to in clause (a) in relation to that portion of the offshore area where that portion was not Crown reserve lands on the expiration of the interest referred to in clause (a). 1987, c. 3, s. 63.

Call for bids

64 (1) Subject to Section 67, the Board shall not issue an interest in relation to Crown reserve lands unless

(a) prior thereto, the Board has made a call for bids in relation to those Crown reserve lands by publishing a notice in accordance with this Section and Section 69; and

(b) the interest is issued to the person who submitted, in response to the call, the bid selected by the Board in accordance with subsection (1) of Section 65.

(2) The making of a call for bids by the Board is subject to Sections 31 to 37.

(3) Any request received by the Board to make a call for bids in relation to particular portions of the offshore area shall be considered by the Board in selecting the portions of the offshore area to be specified in a call for bids.

(4) A call for bids shall specify

(a) the interest to be issued and the portion of the offshore area to which the interest is to apply;

(b) where applicable, the geological formations and substances to which the interest is to apply;

(c) the other terms and conditions subject to which the interest is to be issued;

(d) any terms and conditions that a bid must satisfy to be considered by the Board;

(e) the form and manner in which a bid is to be submitted;

(f) subject to subsection (5), the closing date for the submission of bids; and

(g) the sole criterion that the Board will apply in assessing bids submitted in response to the call.

(5) Unless otherwise prescribed, a call for bids shall be published at least one hundred and twenty days before the closing date for the submission of bids specified in the call. 1987, c. 3, s. 64.

Selection of bid

65 (1) A bid submitted in response to a call for bids shall not be selected unless

(a) the bid satisfies the terms and conditions and is submitted in the form and manner specified in the call; and

(b) the selection is made on the basis of the criterion specified in the call.

(2) Where the Board selects a bid submitted in response to a call for bids, the Board shall publish a notice in accordance with Section 69 setting out the terms and conditions of that bid.

(3) Where an interest is to be issued as a result of a call for bids, the terms and conditions of the interest shall be substantially consistent with any terms and conditions in respect of the interest specified in the call.

(4) The Board shall publish a notice in accordance with Section 69 setting out the terms and conditions of any interest issued as a result of a call for bids as soon as practicable after the issuance thereof. 1987, c. 3, s. 65.

Board not required to issue interest

66 (1) The Board is not required to issue an interest as a result of a call for bids.

(2) Subject to Section 67, where the Board has not issued an interest with respect to a particular portion of the offshore area specified in a call for bids within six months after the closing date specified in the call for the submission of bids, the Board shall, before issuing an interest in relation to that portion of the offshore area, make a new call for bids. 1987, c. 3, s. 66.

Issue of interest where no call for bids

67 (1) Subject to Sections 31 to 37, the Board may issue an interest, in relation to any Crown reserve lands, without making a call for bids where

(a) the portion of the offshore area to which the interest is to apply has, through error or inadvertence, become Crown reserve lands and the interest owner who last held an interest in relation to such lands has, within one year after the time they so became Crown reserve lands, requested the Board to issue an interest; or

(b) the Board is issuing the interest to an interest owner in exchange for the surrender by the interest owner, at the request of the Board, of any other interest or a share in any other interest, in relation to all or any portion of the offshore area subject to that other interest.

(2) Where the Board proposes to issue an interest pursuant to subsection (1), the Board shall, not later than ninety days before issuing the interest, publish a notice in accordance with Section 69 setting out the terms and conditions of the proposed interest. 1987, c. 3, s. 67.

Issue of interest not vitiated

68 Where an interest has been issued, it is not vitiated by reason only of a failure to comply with any of the requirements set out in Sections 64 to 67 respecting the form and content of, and time and manner of publishing, any notice required by those Sections in relation to that interest. 1987, c. 3, s. 68.

Publication of notice

69 Any notice required to be published by the Board pursuant to subsection (1) of Section 64, subsection (2) or (4) of Section 65, subsection (2) of Section 67 or subsection (2) of Section 74 shall be published in the Royal Gazette

and in any other publication the Board deems appropriate and notwithstanding those subsections, may contain only a summary of the information required to be published and a statement that the full text thereof is available for inspection by any person on request made to the Board. 1987, c. 3, s. 69; 1992, c. 12, s. 1.

Regulations

70 Subject to Section 6, the Governor in Council may, for the purposes of Section 64, make regulations of general application in relation to the offshore area or any portion thereof, or in respect of any particular call for bids, prescribing the terms, conditions and criterion to be specified in a call for bids, the manner in which bids are to be submitted and requiring those terms and conditions and that criterion and manner to be specified in the call. 1987, c. 3, s. 70.

Rights conferred by exploration licence

71 (1) An exploration licence confers, with respect to the portion of the offshore area to which the licence applies,

- (a) the right to explore for, and the exclusive right to drill and test for, petroleum;
- (b) the exclusive right to develop that portion of the offshore area in order to produce petroleum; and
- (c) the exclusive right, subject to compliance with the other provisions of this Part, to obtain a production licence.

(2) The making of a call for bids and the issuance of an exploration licence by the Board is subject to Sections 31 to 37. 1987, c. 3, s. 71.

Application of exploration licence to portion only

72 A share in an exploration licence may, subject to any requirements that may be prescribed, be held with respect to a portion only of the offshore area subject to the exploration licence. 1987, c. 3, s. 72.

Terms and conditions of exploration licence

73 (1) An exploration licence shall contain such terms and conditions as may be prescribed and may contain any other terms and conditions, not inconsistent with this Part or the regulations, as may be agreed on by the Board, subject to Sections 31 to 37, and the interest owner of the licence.

(2) Subject to Section 6, the Governor in Council may make regulations prescribing terms and conditions required to be included in exploration licences issued in relation to the offshore area or any portion thereof. 1987, c. 3, s. 73.

Amendment of exploration licence

74 (1) The Board, subject to Sections 31 to 37, and the interest owner of an exploration licence may, by agreement, amend any provision of the exploration licence in any manner not inconsistent with this Part or the regulations

and, without limiting the generality of the foregoing, may, subject to subsection (2), amend the licence to include any other portion of the offshore area.

(2) The Board shall not amend an exploration licence to include any portion of the offshore area that, immediately prior to the inclusion, was Crown reserve lands unless the Board would be able to issue an interest to that interest owner in relation to those lands pursuant to subsection (1) of Section 67 and a notice has been published in accordance with Section 69 not later than ninety days before making the amendment, setting out the terms and conditions of the amendment.

(3) Subject to Sections 31 to 37, the Board may, on the application of the interest owners of two or more exploration licences, consolidate those exploration licences into a single exploration licence, subject to any terms and conditions that may be agreed on by the Board and those interest owners. 1987, c. 3, s. 74.

Effective date and term of exploration licence

75 (1) The effective date of an exploration licence is the date specified in the licence as the effective date thereof.

(2) Subject to subsection (3) and Section 76, the term of an exploration licence shall not exceed nine years from the effective date of the licence and shall not be extended or renewed.

(3) Subject to Section 76, the term of an exploration licence entered into or in respect of which negotiations have been completed before December 20, 1985, may be renegotiated once only for a further term not exceeding four years and thereafter the term thereof shall not be renegotiated, extended or renewed.

(4) On the expiration of an exploration licence, any portion of the offshore area to which the exploration licence related and that is not subject to a production licence or a significant discovery licence becomes Crown reserve lands. 1987, c. 3, s. 75.

Continuation of exploration licence

76 (1) Where, prior to the expiration of the term of an exploration licence, the drilling of any well has been commenced on any portion of the offshore area to which the exploration licence applies, the exploration licence continues in force while the drilling of that well is being pursued diligently and for so long thereafter as may be necessary to determine the existence of a significant discovery based on the results of that well.

(2) Where the drilling of a well referred to in subsection (1) is suspended by reason of dangerous or extreme weather conditions or mechanical or other technical problems encountered in the drilling of the well, the drilling of that well shall, for the purposes of subsection (1), be deemed to be being pursued diligently during the period of suspension.

(3) Where the drilling of a well referred to in subsection (1) cannot be completed for mechanical or other technical problems and if, within ninety

days after the cessation of drilling operations with respect to that well, or such longer period as the Board determines, the drilling of another well is commenced on any portion of the offshore area that was subject to the exploration licence, the drilling of that other well shall, for the purposes of subsection (1), be deemed to have commenced prior to the expiration of the term of the exploration licence. 1987, c. 3, s. 76.

Declaration of significant discovery

77 (1) Subject to Section 126, where a significant discovery has been made on any portion of the offshore area that is subject to an interest or a share therein held in accordance with Section 72, the Board shall, on the application of the interest holder of the interest or the share made in the form and manner and containing such information as may be prescribed, make a written declaration of significant discovery in relation to those portions of the offshore area in respect of which there are reasonable grounds to believe that the significant discovery may extend.

(2) Where a significant discovery has been made on any portion of the offshore area, the Board may, by order subject to Section 126, make a declaration of significant discovery in relation to that portion of the offshore area in respect of which there are reasonable grounds to believe the significant discovery may extend.

(3) A declaration made pursuant to subsection (1) or (2) shall describe the portions of the offshore area to which the declaration applies.

(4) Subject to subsection (5), where a declaration of significant discovery is made pursuant to subsection (1) or (2) and, based on the results of further drilling, there are reasonable grounds to believe that a discovery is not a significant discovery or that the portions of the offshore area to which the significant discovery extends differ from the significant discovery area, the Board may, subject to Section 126 and as appropriate in the circumstances,

(a) amend the declaration of significant discovery by increasing or decreasing the significant discovery area; or

(b) revoke the declaration.

(5) A declaration of significant discovery shall not be amended to decrease the significant discovery area or revoked earlier than,

(a) in the case of a significant discovery area that is subject to a significant discovery licence issued pursuant to subsection (1) of Section 79, the date on which the exploration licence referred to in that subsection expires; and

(b) in the case of a significant discovery area that is subject to a significant discovery licence issued pursuant to subsection (2) of Section 79, three years after the effective date of the significant discovery licence.

(6) A copy of a declaration of significant discovery and of any amendment or revocation thereof made pursuant to this Section in relation to any portion of the offshore area subject to an interest shall be sent by registered mail to the interest owner of that interest. 1987, c. 3, s. 77.

Rights conferred by significant discovery licence

78 A significant discovery licence confers, with respect to the portion of the offshore area to which the licence applies,

- (a) the right to explore for, and the exclusive right to drill and test for, petroleum;
- (b) the exclusive right to develop that portion of the offshore area in order to produce petroleum; and
- (c) the exclusive right, subject to compliance with the other provisions of this Part, to obtain a production licence. 1987, c. 3, s. 78.

Significant discovery licence

79 (1) Where a declaration of significant discovery is in force and all or a portion of the significant discovery area is subject to an exploration licence or a share therein held in accordance with Section 72, the Board shall, on the application of the interest holder of the exploration licence or the share made in the form and manner and containing such information as may be prescribed, issue to the interest holder a significant discovery licence in respect of all portions of the significant discovery area that are subject to the exploration licence or the share.

(2) Where a declaration of significant discovery is in force and the significant discovery area extends to Crown reserve lands, the Board may, after making a call for bids in relation to those Crown reserve lands or any portion thereof and selecting a bid submitted in response to the call in accordance with subsection (1) of Section 65, issue a significant discovery licence to the person who submitted that bid in relation to the Crown reserve lands specified in the call.

(3) A significant discovery licence shall be in the form prescribed and may contain any other terms and conditions, not inconsistent with this Part or the regulations, as may be agreed on by the Board, subject to Sections 31 to 37, and the interest owner of the significant discovery licence.

(4) The making of a call for bids and the issuance of a significant discovery licence by the Board pursuant to subsection (2) is subject to Sections 31 to 37. 1987, c. 3, s. 79.

Change of significant discovery area

80 (1) Where a significant discovery area in relation to a declaration of significant discovery is decreased pursuant to an amendment made pursuant to subsection (4) of Section 77, any significant discovery licence that was issued on the basis of that declaration shall be amended by decreasing accordingly the portion of the offshore area subject to that licence.

(2) Where a significant discovery area in relation to a declaration of significant discovery is increased pursuant to an amendment made pursuant to subsection (4) of Section 77, any significant discovery licence that was issued on the basis of that declaration shall be amended to include all portions of the amended significant discovery area that are subject to any exploration licence held by the interest owner of that significant discovery licence at the time the significant discovery area is so increased. 1987, c. 3, s. 80.

Effect and term of exploration licence

81 (1) On the issuance of a significant discovery licence pursuant to subsection (1) of Section 79 with respect to a significant discovery area, any exploration licence ceases to have effect in relation to that significant discovery area.

(2) The effective date of a significant discovery licence is the date of application for the licence.

(3) Subject to subsection (1) of Section 91, a significant discovery licence continues in force, in relation to each portion of the offshore area to which the licence applies, during such period as the declaration of significant discovery on the basis of which the licence was issued remains in force in relation to that portion.

(4) On the expiration of a significant discovery licence, any portion of the offshore area to which the significant discovery licence related and that is not subject to a production licence becomes Crown reserve lands. 1987, c. 3, s. 81.

Requirement for activity

82 (1) Subject to subsections (2) to (4) and Sections 31 to 37, the Board may, at any time after making a declaration of significant discovery, by order subject to Section 126, require the interest owner of any interest in relation to any portion of the significant discovery area to drill a well on any portion of the significant discovery area that is subject to that interest, in accordance with such directions as may be set out in the order, and to commence the drilling within one year after the making of the order or within such longer period as the Board specifies in the order.

(2) No order may be made under subsection (1) with respect to any interest owner who has completed a well on the relevant portion of the offshore area within six months after the completion of that well.

(3) No order may be made pursuant to subsection (1) within the three years immediately following the well termination date of the well indicating the relevant significant discovery.

(4) No order made pursuant to subsection (1) may require an interest owner to drill more than one well at a time on the relevant portion of the offshore area.

(5) For the purposes of subsection (3), “well termination date” means the date on which a well has been abandoned, completed or suspended in accordance with any applicable drilling regulations. 1987, c. 3, s. 82; 2014, c. 43, s. 6.

Board may provide information

83 (1) The Board may, notwithstanding Section 121, provide information or documentation relating to a significant discovery to any interest owner who requires such information or documentation to assist the interest owner in complying with an order made pursuant to subsection (1) of Section 82.

(2) An interest owner shall not disclose any information or documentation provided to that interest owner pursuant to subsection (1) except to the extent necessary to enable the interest owner to comply with an order made pursuant to subsection (1) of Section 82. 1987, c. 3, s. 83.

Declaration of commercial discovery

84 (1) Subject to Section 126, where a commercial discovery has been made on any portion of the offshore area that is subject to an interest or a share therein held in accordance with Section 72, the Board shall, on the application of the interest holder of the interest or the share made in the form and manner and containing such information as may be prescribed, make a written declaration of commercial discovery in relation to those portions of the offshore area in respect of which there are reasonable grounds to believe that the commercial discovery may extend.

(2) Subject to Section 126, where a commercial discovery has been made on any portion of the offshore area, the Board may, by order, make a declaration of commercial discovery in relation to those portions of the offshore area in respect of which there are reasonable grounds to believe that the commercial discovery may extend.

(3) Subsections (3), (4) and (6) of Section 77 apply, with such modifications as the circumstances require, with respect to a declaration made pursuant to subsection (1) or (2). 1987, c. 3, s. 84.

Order reducing term of interest

85 (1) Subject to Sections 31 to 37, the Board may, at any time after making a declaration of commercial discovery, give notice to the interest owner of any interest in relation to any portion of the commercial discovery area where commercial production of petroleum has not commenced before that time stating that, after such period of not less than six months as may be specified in the notice, an order may be made reducing the term of that interest.

(2) During the period specified in a notice sent to an interest owner pursuant to subsection (1), the Board shall provide a reasonable opportunity for the interest owner to make such submissions as the interest owner considers relevant to determining whether the Board should make an order reducing the term of the relevant interest.

(3) Notwithstanding any other provision of this Act, where the Board is of the opinion that it is in the public interest, the Board may, at any time not later than six months after the expiration of the period specified in a notice in respect of an interest sent pursuant to subsection (1), by order subject to Sections 31 to 37 and Section 126, reduce the term of the interest to three years after the date the order is made or such longer period as may be specified in the order.

(4) Notwithstanding any other provision of this Act but subject to subsections (5) and (6), where an order is made pursuant to subsection (3), any interest in respect of a portion of the offshore area within the area to which the interest that is the subject of the order applied on the date the order was made ceases to have effect at the end of the period specified in the order.

(5) Where commercial production of petroleum on any portion of the offshore area referred to in subsection (4) commences before the expiration of the period specified in an order made pursuant to subsection (3) or the period extended pursuant to subsection (6), the order ceases to have effect and is deemed to have been vacated.

(6) Subject to Sections 31 to 37, the Board may extend the period specified in an order made pursuant to subsection (3) or may revoke the order. 1987, c. 3, s. 85.

Rights conferred by production licence

86 (1) A production licence confers, with respect to the portion of the offshore area to which the licence applies,

- (a) the right to explore for, and the exclusive right to drill and test for, petroleum;
- (b) the exclusive right to develop that portion of the offshore area in order to produce petroleum;
- (c) the exclusive right to produce petroleum from that portion of the offshore area; and
- (d) title to the petroleum so produced.

(2) Notwithstanding subsection (1), the Board may, subject to such terms and conditions as the Board deems appropriate, authorize any interest holder of an interest or a share therein to produce petroleum on any portion of the offshore area subject to the interest or share for use in the exploration or drilling for or development of petroleum on any portion of the offshore area. 1987, c. 3, s. 86.

Issue of production licence

87 (1) Subject to Section 93, the Board, on application made in the form and manner and containing such information as may be prescribed,

- (a) shall issue a production licence to one interest owner, in respect of any one commercial discovery area or portion thereof

that is subject to an exploration licence or a significant discovery licence held by that interest owner; and

(b) may, subject to Sections 31 to 37 and to such terms and conditions as may be agreed on by the Board and the relevant interest owners, issue a production licence to

(i) one interest owner, in respect of two or more commercial discovery areas or portions thereof that are subject to an exploration licence or a significant discovery licence held by that interest owner, or

(ii) two or more interest owners, in respect of one or more commercial discovery areas or portions thereof that are subject to an exploration licence or a significant discovery licence held by any of those interest owners.

(2) Where a declaration of commercial discovery is in force and the commercial discovery area extends to Crown reserve lands, the Board may, after making a call for bids in relation to those Crown reserve lands or any portion thereof and selecting a bid submitted in response to the call in accordance with subsection (1) of Section 14, issue a production licence to the person who submitted that bid in relation to the Crown reserve lands specified in the call.

(3) A production licence shall be in the form prescribed and may contain any terms and conditions, not inconsistent with this Part or the regulations, as may be agreed on by the Board, subject to Sections 31 to 37, and the interest owner of the production licence.

(4) The making of a call for bids and the issuance of a production licence pursuant to subsection (2) is subject to Sections 31 to 37. 1987, c. 3 s. 87; 1993, c. 16, s. 4.

Consolidation of production licences

88 Subject to Sections 31 to 37, the Board may, on the application of the interest owners of two or more production licences, consolidate those production licences into a single production licence, on such terms and conditions as may be agreed on by the Board and those interest owners. 1987, c. 3 s. 88.

Change of area covered by licence

89 (1) Where a commercial discovery area in relation to a declaration of commercial discovery is decreased pursuant to an amendment made pursuant to subsection (3) of Section 84, any production licence that was issued on the basis of that declaration shall be amended by decreasing accordingly the portion of the offshore area subject to that licence.

(2) Where a commercial discovery area in relation to a declaration of commercial discovery is increased pursuant to an amendment made pursuant to subsection (3) of Section 84, any production licence that was issued on the basis

of that declaration shall be amended to include all portions of the amended commercial discovery area that are subject to an exploration licence or a significant discovery licence held by the interest owner of that production licence at the time the commercial discovery area is so increased. 1987, c. 3, s. 89.

Effective date and term of production licence

90 (1) Subject to subsections (2) to (4), a production licence is effective from the date it is issued and shall be issued for a term of twenty-five years.

(2) Where a declaration of commercial discovery on the basis of which a production licence was issued is, pursuant to subsection (3) of Section 84, revoked or amended to exclude all portions of the commercial discovery area in relation to which the production licence was issued, the production licence ceases to be in force.

(3) Where, on the expiration of the term of a production licence, petroleum is being produced commercially, the term is extended for such period thereafter during which commercial production of petroleum continues.

(4) Subject to Sections 31 to 37, the Board may, by order, on such terms and conditions as may be specified in the order, extend the term of a production licence where

(a) commercial production of petroleum from the portion of the offshore area subject to the licence ceases before or on the expiration of the twenty-five year term of the production licence and the Board has reasonable grounds to believe that commercial production from such portion of the offshore area will recommence; or

(b) the Board has reasonable grounds to believe that commercial production of petroleum from such portion of the offshore area will, at any time before or after the expiration of the term of the licence, cease during any period and thereafter recommence. 1987, c. 3, s. 90.

Former interest ceases to have effect

91 (1) On the issuance of a production licence, any interest in relation to the portion of the offshore area in respect of which the production licence is issued held immediately prior to the issuance of the production licence ceases to have effect in relation to such portion of the offshore area, but otherwise continues to have effect according to its terms and the provisions of this Act.

(2) On the expiration of a production licence, the portion of the offshore area in relation to which the production licence was issued becomes Crown reserve lands. 1987, c. 3, s. 91.

Authorization of subsurface storage

92 (1) The Board may, subject to Sections 31 to 37, and any terms and conditions it considers appropriate, issue a licence for the purpose of subsurface storage of petroleum or substances related to petroleum activity in portions of the offshore area at depths greater than sixty feet.

(2) No portion of the offshore area shall be used for a purpose referred to in subsection (1) without a licence referred to therein. 1987, c. 3, s. 92.

Requirements for holder of production licence

93 No production licence or share in a production licence may be held by any person unless that person is a corporation incorporated in Canada. 1993, c. 16, s. 5.

94 to 102 *repealed 1993, c. 16, s. 6.*

Application of Part VII Canada Petroleum Resources Act

103 (1) Part VII of the *Canada Petroleum Resources Act* and the regulations made pursuant to that Part apply, with such modifications as the circumstances require, within the offshore area and the Environmental Studies Management Board established pursuant to Part VII of that Act has and may exercise in the offshore area the same powers and duties which that Board has in respect of frontier lands as defined in the *Canada Petroleum Resources Act*.

(2) The rates fixed by the federal Minister pursuant to section 80 of the *Canada Petroleum Resources Act* do not apply until approved by the Board.

(3) Notwithstanding subsection (2) of section 78 of the *Canada Petroleum Resources Act*, as incorporated herein, one of the members of the Environmental Studies Management Board established by subsection (1) of section 78 of that Act is to be appointed by the Board on the recommendation of the Minister.

(4) The Environmental Studies Management Board referred to in subsection (3) shall submit to the Board a copy of every annual report and recommendation submitted to the federal Minister pursuant to clause (d) or (e) of subsection (1) of section 79 of the *Canada Petroleum Resources Act* and a copy of that Part and every Budget submitted to the federal Minister pursuant to clause (c) of subsection (1) of Section 79 of that Act that relates to the offshore area at the same time the report or recommendation is submitted to the federal Minister. 1987, c. 3, s. 103.

Interpretation of Sections 104 to 120

104 (1) In Sections 104 to 120,

(a) “assignment of security interest” means a notice of the assignment of a security interest or any part thereof in respect of which a security notice has been registered pursuant to Sections 104 to 120;

(b) “court” means the Supreme Court of Nova Scotia and includes a judge thereof;

(c) “Deputy Registrar” means such person as the Board may designate for the purposes of Sections 104 to 120;

(d) “discharge” means a notice of the discharge of a security notice or postponement and includes a partial discharge;

(e) “instrument” means a discharge, postponement, security notice, transfer or an assignment of a security interest;

(f) “operator’s lien” means any charge on or right in relation to an interest or a share in an interest

(i) that arises pursuant to a contract

(A) to which the interest owner or holder of the interest or share is a party,

(B) that provides for the operator appointed thereunder to carry out any work or activity related to the exploration for or the development or production of petroleum in the portion of the offshore area to which the interest or share applies, and

(C) that requires the interest owner or holder to make payments to the operator to cover all or part of the advances made by the operator in respect of the costs and expenses of such work or activity, and

(ii) that secures the payments referred to in paragraph (C) of subclause (i);

(g) “postponement” means a document evidencing the postponement of a security notice or operator’s lien;

(h) “Registrar” means such person as the Board may designate for the purposes of Sections 104 to 120;

(i) “secured party” means the person claiming a security interest pursuant to a security notice;

(j) “security interest” means any charge on or right in relation to an interest or a share in an interest that secures

(i) the payment of an indebtedness arising from an existing or future loan or advance of money,

(ii) a bond, debenture or other security of a corporation, or

(iii) the performance of the obligations of a guarantor under a guarantee given in respect of all or any part of an indebtedness referred to in subclause (i) or all or any part of a bond, debenture or other security of a corporation,

and includes a security given pursuant to Section 177 of the *Bank Act* (Canada), but does not include an operator's lien;

(k) "security notice" means a notice of a security interest;

(l) "transfer" means a transfer of an interest or a share in an interest;

(2) Where an assignment of security interest is registered pursuant to Sections 104 to 120, a reference in Sections 104 to 120 to a secured party shall, in respect of the security notice to which the assignment of security interest relates, be read as a reference to the assignee named in the assignment of security interest. 1987, c. 3, s. 104; 2015, c. 36, s. 2.

Notice of change of share or interest to Board

105 Where an interest holder of an interest or any share therein enters into an agreement or arrangement that is or may result in a transfer, assignment or other disposition of the interest or any share therein, the interest holder shall give notice of such agreement or arrangement to the Board, together with a summary of its terms and conditions or, on the request of the Board, a copy of the agreement or arrangement. 1987, c. 3, s. 105.

106 *repealed 1993, c. 16, s. 6.*

Public register

107 (1) A public register of all interests and instruments registered pursuant to Sections 104 to 120 shall be established and maintained in accordance with Sections 104 to 120 and the regulations.

(2) The Registrar and Deputy Registrar shall exercise such powers and perform such duties and functions in respect of the register and the system of registration established pursuant to Sections 104 to 120 as may be prescribed. 1987, c. 3, s. 107.

Limitation on registration

108 (1) No document other than an interest or instrument may be registered pursuant to Sections 104 to 120.

(2) No instrument may be registered pursuant to Sections 82 to 98 unless it has been submitted for registration in the form prescribed for that instrument, in such manner and containing such information as may be prescribed, and meets any other requirement for the registration thereof prescribed by Sections 104 to 120 and the regulations. 1987, c. 3, s. 108.

109 *repealed 1993, c. 16, s. 6.*

Requirements for instruments

110 (1) No security notice may be registered pursuant to Sections 104 to 120 unless the security notice specifies

- (a) the nature of the security interest claimed;
- (b) the person from whom the security interest was acquired;
- (c) the documents giving rise to the security interest; and
- (d) such other particulars in respect thereof as may be prescribed.

(2) No instrument may be registered pursuant to Sections 104 to 120 unless a notice of official address for service in respect of that instrument is filed with the Registrar in prescribed form.

(3) The official address for service in respect of an instrument may be changed by filing with the Registrar another notice of official address for service, in prescribed form. 1987, c. 3, s. 110.

Security notice continues

111 Where a significant discovery licence or production licence is issued at any time in respect of any portion of the offshore area that was not Crown reserve lands immediately before that time, the registration pursuant to Sections 104 to 120 of a security notice in respect of the interest in force immediately preceding the issuance of that licence and relating to that portion of the offshore area applies in respect of the licence as though the security notice referred to that licence and as though that licence had been issued prior to the registration of the security notice. 1987, c. 3, s. 111.

Registration of documents

112 (1) Every document submitted for registration pursuant to Sections 104 to 120 shall be examined by the Registrar and where the Registrar determines that the document is an instrument that meets all the requirements for the registration thereof prescribed by this Part and the regulations, the Registrar shall register the instrument in accordance with this Part and the regulations.

(2) Where the Registrar refuses to register any document pursuant to Sections 104 to 120, the Registrar shall return the document to the person submitting the document for registration and provide that person with the reasons for the refusal.

(3) An instrument is registered pursuant to Sections 104 to 120 by the endorsement of a memorandum of registration on the instrument specifying the registration number of the instrument and the time and date of registration.

(4) Instruments accepted for registration pursuant to Sections 104 to 120 shall be registered in the chronological order in which such instruments are received by the Registrar. 1987, c. 3, s. 112.

Registration deemed actual notice

113 The registration of an instrument pursuant to Sections 104 to 120 shall be deemed to constitute actual notice of the instrument to all persons as of the time of registration of the instrument and, in the case of a security notice, shall be deemed to constitute actual notice to all persons who may serve a demand for information pursuant to Section 115 in respect of the security notice of the contents of the documents specified in the security notice. 1987, c. 3, s. 113.

Priorities

114 (1) Subject to subsections (2) and (5), any particular right, in relation to an interest or a share therein, in respect of which an instrument has been registered pursuant to Sections 104 to 120 at any time has priority over and is valid against any other right, in relation to that interest or share,

(a) in respect of which an instrument may be registered pursuant to Sections 104 to 120,

(i) where the instrument was not so registered, or

(ii) where the instrument was so registered after that time,

whether that other right was acquired before or after that particular right; or

(b) in respect of which an instrument may not be registered pursuant to Sections 104 to 120, acquired after that time.

(2) Where any right in respect of which an instrument may be registered pursuant to Sections 104 to 120 was acquired before the coming into force of Sections 104 to 120 and an instrument in respect of such right is registered pursuant to those Sections not later than one hundred and eighty days after the coming into force of those Sections, the priority and validity of such right shall be determined as though the instrument was registered pursuant to those Sections at the time the right was acquired and as though those Sections were in force at that time.

(3) Notwithstanding subsection (2), no right in respect of which that subsection applies shall have priority over and be valid against any other right in respect of which that subsection applies but in respect of which an instrument is not registered within the period referred to in that subsection, where the person claiming the right in respect of which an instrument is registered within that period acquired such right with actual knowledge of the other right.

(4) No instrument in respect of any right to which subsection (2) applies shall be registered unless it is accompanied by the statutory declaration, in

prescribed form, of the person claiming such right, attesting to the time at which such right was acquired.

(5) An operator's lien, in relation to an interest or share therein, shall, without registration of any document evidencing the operator's lien, have priority over and be valid against any other right, in relation to that interest or share, in respect of which an instrument may be registered pursuant to Sections 104 to 120, whether an instrument in respect of that other right was registered before or after the acquisition of the operator's lien or the operator's lien was acquired before or after that other right, unless the operator's lien is postponed with respect to such other rights by the registration pursuant to Sections 104 to 120 of a postponement in respect of the operator's lien and a discharge in respect of that postponement has not been registered pursuant to Sections 104 to 120. 1987, c. 3, s. 114.

Demand for information

115 (1) A person may, in accordance with this Section, serve a demand for information in respect of a security notice that has been registered pursuant to this Part in relation to an interest or a share therein where that person

- (a) is the holder of that interest or share;
- (b) is specified in the security notice as the person from whom the security interest was acquired;
- (c) is the secured party pursuant to another security notice registered pursuant to Sections 104 to 120 in relation to that interest or share;
- (d) is a member of a class of persons prescribed by the regulations for the purposes of this subsection; or
- (e) obtains leave to do so from the court.

(2) A demand for information, in respect of a security notice, may be served pursuant to subsection (1) by serving on the secured party under the security notice a demand notice, in prescribed form, requiring the secured party

- (a) to inform the person serving the demand notice, within fifteen days after service of the notice, of the place where the documents specified in the security notice or copies thereof are located and available for examination, and of the normal business hours during which the examination may be made; and
- (b) to make such documents or copies thereof available for examination at that place during normal business hours, by or on behalf of the person serving the notice, within a reasonable period after the demand notice is served.

(3) A demand for information is served for the purposes of this Section if it is sent by registered mail or delivered to the official address for service in respect of the security notice according to the records of the Registrar.

(4) A demand for information served pursuant to subsection (1) may be complied with by mailing or delivering to the person serving the demand notice a true copy of the documents referred to in the demand notice.

(5) Where a secured party fails without reasonable excuse to comply with a demand for information in respect of a security notice in relation to an interest or share therein served on the secured party in accordance with this Section, the court may, on application by the person who served the demand notice, make an order requiring the secured party to comply with the demand for information within the time and in the manner specified in the order.

(6) Where a secured party fails to comply with an order of a court made pursuant to subsection (5), the court may, on the application of the person who applied for the order,

- (a) make any other order the court considers necessary to ensure compliance with the order made pursuant to subsection (5); or
- (b) make an order directing the Registrar to cancel the registration of the security notice.

(7) In this Section, “document” includes any amendment to the document. 1987, c. 3, s. 115.

Other remedies

116 (1) A person who may serve a demand for information in respect of a security notice in relation to an interest or a share therein pursuant to subsection (1) of Section 115 may

- (a) serve on the secured party under the security notice a notice to take proceedings, in prescribed form, directing that secured party to apply to the court, within sixty days after the day on which the notice to take proceedings is served, for an order substantiating the security interest claimed in the security notice; or
- (b) commence proceedings in the court, requiring the secured party to show cause why the registration of the security notice should not be cancelled.

(2) The court may, by order, on the *ex parte* application of a person who proposes to serve a notice to take proceedings pursuant to subsection (1), shorten the sixty-day period referred to in clause (a) of subsection (1) and, if the order is made,

- (a) clause (a) of subsection (1) shall, in relation to that notice to take proceedings, be deemed to refer to the shorter period; and
- (b) a certified copy of the order shall be served with that notice to take proceedings.

(3) The court may, on the application of a secured party served with a notice to take proceedings, extend the period for applying to the court referred to in clause (a) of subsection (1), whether or not that period has been shortened pursuant to subsection (2).

(4) A notice to take proceedings is served for the purposes of this Section if it is sent by registered mail or delivered to the secured party at the official address for service in respect of the security notice according to the records of the Registrar.

(5) The registration of a security notice shall be cancelled on submission to the Registrar of a statutory declaration showing that

(a) a notice to take proceedings was served in accordance with this Section; and

(b) no application was commenced in accordance with the notice to take proceedings or within the period extended pursuant to subsection (3) or an application so made was dismissed by the court or discontinued.

(6) Where the registration of a security notice in respect of a security interest is cancelled pursuant to subsection (5) or (7), the secured party under the security notice may not submit for registration pursuant to Sections 104 to 120 another security notice in respect of that security interest without leave of the court to do so.

(7) The registration of a security notice shall be cancelled where there is submitted to the Registrar a certified copy of an order or judgment of a court directing the Registrar to do so, whether as a result of proceedings taken pursuant to Sections 104 to 120 or otherwise. 1987, c. 3, s. 116.

Transfer not effective until registered

117 A transfer of an interest or a share therein is not effective against the Crown prior to the registration of the transfer. 1987, c. 3, s. 117.

Rights preserved

118 For greater certainty, the registration of an instrument

(a) does not restrict or in any manner affect any right or power of the Board, the Minister or the federal Minister pursuant to this Part, the regulations or the terms of any interest; and

(b) does not derogate from any proprietary right or any right to dispose of or exploit natural resources that Her Majesty in right of the Province has pursuant to this Act in respect of any portion of the offshore area. 1987, c. 3, s. 118.

No liability for acts done in good faith

119 No action or other proceedings for damages shall be commenced against the Registrar or Deputy Registrar or anyone acting under the authority of the Registrar or Deputy Registrar for an act done or omission in good faith in the exercise of a power or the performance of a duty pursuant to Sections 104 to 120. 1987, c. 3, s. 119.

Regulations

120 Subject to Section 6, the Governor in Council may make regulations for carrying out the purposes and provisions of Sections 104 to 120 and, without restricting the generality of the foregoing, may make regulations

(a) prescribing the powers, duties and functions of the Registrar and Deputy Registrar for the purposes of Sections 104 to 120 and the time when, and manner and circumstances in which, they are to be exercised, and providing for the designation by the Board of any person or class of persons to exercise such powers and perform such duties and functions as may be specified in the regulations;

(b) governing the books, abstracts and indexes to be maintained as the register for the purposes of Sections 104 to 120 and the particulars of interests, instruments and portions of the offshore area and the orders and declarations made in relation to interests to be recorded therein;

(c) governing the filing of copies of interests, registered instruments and other documents in the register established pursuant to Section 85;

(d) governing public access to and searches of the register;

(e) *repealed 2014, c. 43, s. 7.*

and

(f) prescribing any other matter or thing that is by Sections 104 to 120 to be prescribed. 1987, c. 3, s. 120; 2014, c. 43, s. 7.

Disclosure

121 (1) In this Section,

(a) “delineation well” means a well that is so located in relation to another well penetrating an accumulation of petroleum that there is a reasonable expectation that another portion of that accumulation will be penetrated by the first-mentioned well and that the drilling is necessary in order to determine the commercial value of the accumulation;

(b) “development well” means a well that is so located in relation to another well penetrating an accumulation of petroleum that it is considered to be a well or part of a well drilled for the purpose of production or observation or for the injection or disposal of fluid into or from the accumulation;

(c) “engineering research or feasibility study” includes work undertaken to facilitate the design or to analyse the viability of engineering technology, systems or schemes to be used in the exploration for or the development, production or transportation of petroleum in the offshore area;

(d) “environmental study” means work pertaining to the measurement or statistical evaluation of the physical, chemical and biological elements of the lands, oceans or coastal zones, including winds, waves, tides, currents, precipitation, ice cover and movement, icebergs, pollution effects, flora and fauna both onshore and offshore, human activity and habitation and any related matters;

(e) “experimental project” means work or activity involving the utilization of methods or equipment that are untried or unproven;

(f) “exploratory well” means a well drilled on a geological feature on which a significant discovery has not been made;

(g) “geological work” means work, in the field or laboratory, involving the collection, examination, processing or other analysis of lithological, paleontological or geochemical materials recovered from the surface or subsurface or the seabed or its subsoil of any portion of the offshore area and includes the analysis and interpretation of mechanical well logs;

(h) “geophysical work” means work involving the indirect measurement of the physical properties of rocks in order to determine the depth, thickness, structural configuration or history of deposition thereof and includes the processing, analysis and interpretation of material or data obtained from such work;

(i) “geotechnical work” means work, in the field or laboratory, undertaken to determine the physical properties of materials recovered from the surface or subsurface or the seabed or its subsoil of any portion of the offshore area;

(j) “well site seabed survey” means a survey pertaining to the nature of the surface or subsurface or the seabed or its subsoil of any portion of the offshore area in the area of the proposed drilling site in respect of a well and to the conditions of those portions of the offshore area that may affect the safety or efficiency of drilling operations;

(k) “well termination date” means the date on which a well has been abandoned, completed or suspended in accordance with any applicable regulations respecting the drilling for petroleum made under Part III.

(2) Subject to this Section and Section 19, information or documentation provided for the purposes of this Part or Part III or any regulation made pursuant to either Part, whether or not such information or documentation is

required to be provided pursuant to either Part or any regulation made thereunder, is privileged and shall not knowingly be disclosed without the consent in writing of the person who provided it except for the purposes of the administration or enforcement of either Part or for the purposes of legal proceedings relating to such administration or enforcement.

(3) No person shall be required to produce or give evidence relating to any information or documentation that is privileged pursuant to subsection (2) in connection with any legal proceedings, other than proceedings relating to the administration or enforcement of this Part or Part III.

(4) For greater certainty, this Section does not apply to a document that has been registered pursuant to Sections 104 to 120.

(5) Subsection (2) does not apply to the following classes of information or documentation obtained as a result of carrying on a work or activity that is authorized pursuant to Part III, namely, information or documentation in respect of

(a) an exploratory well, where the information or documentation is obtained as a direct result of drilling the well and if two years have passed since the well termination date of that well;

(b) a delineation well, where the information or documentation is obtained as a direct result of drilling the well and if the later of

(i) two years since the well termination date of the relevant exploratory well, and

(ii) ninety days since the well termination date of the delineation well,

have passed;

(c) a development well, where the information or documentation is obtained as a direct result of drilling the well and if the later of

(i) two years since the well termination date of the relevant exploratory well, and

(ii) sixty days since the well termination date of the development well,

have passed;

(d) geological work or geophysical work performed on or in relation to any portion of the offshore area,

(i) in the case of a well site seabed survey where the well has been drilled, after the expiration of the period referred to in clause (a) or the later period referred to in subclauses (i) or (ii) of clause (b) or subclauses (i) or (ii) of clause

(c), according to whether clause (a), (b) or (c) is applicable in respect of that well, or

(ii) in any other case, after the expiration of five years following the date of completion of the work;

(e) any engineering research or feasibility study or experimental project, including geotechnical work, carried out on or in relation to any portion of the offshore area,

(i) where it relates to a well and the well has been drilled, after the expiration of the period referred to in clause (a) or the later period referred to in subclauses (i) or (ii) of clause (b) or subclauses (i) or (ii) of clause (c), according to whether clause (a), (b) or (c) is applicable in respect of that well, or

(ii) in any other case, after the expiration of five years following the date of completion of the research, study or project or after the reversion of that portion of the offshore area to Crown reserve lands, whichever occurs first;

(f) any contingency plan formulated in respect of emergencies arising as a result of any work or activity authorized pursuant to Part III;

(g) diving work, weather observation or the status of operational activities or of the development of or production from a pool or field;

(ga) an accident, incident or petroleum spill, to the ~~extent~~ [extent] necessary to permit a person or body to produce and to distribute or publish a report for the administration of this Act in respect of the accident, incident or spill;

(h) any study funded from the account established pursuant to Section 103, if the study has been completed; and

(i) an environmental study, other than a study referred to in clause (h),

(i) where it relates to a well and the well has been drilled, after the expiration of the period referred to in clause (a) or the later period referred to in subclauses (i) or (ii) of clause (b) or subclauses (i) or (ii) of clause (c), according to whether clause (a), (b) or (c) is applicable in respect of that well, or

(ii) in any other case, if five years have passed since the completion of the study.

(6) Notwithstanding subclause (ii) of clause (d) of subsection (5), any information or documentation in respect of geological work or geophysical work that is performed in relation to a well after the commencement of the drilling

of the well may be disclosed in accordance with that subclause, but shall not be disclosed prior to the expiration of the period referred to in clause (a) or the later period referred to in subclauses (i) or (ii) of clause (b) or subclauses (i) or (ii) of clause (c), according to whether clause (a), (b) or (c) is applicable in respect of that well.

(7) The Board may disclose any information or documentation that it obtains under this Part or Part III—to officials of the Government of Canada, the Government of the Province or any other provincial government, or a foreign government or to the representatives of any of their agencies—for the purposes of a federal, provincial or foreign law, as the case may be, that deals primarily with a petroleum-related work or activity, including the exploration for and the management, administration and exploitation of petroleum resources, if

(a) the government or agency undertakes to keep the information or documentation confidential and not to disclose it without the Board's written consent;

(b) the information and documentation is disclosed in accordance with any conditions agreed to by the Board and the government or agency; and

(c) in the case of disclosure to a foreign government or agency, the Minister and federal Minister consent in writing.

(8) The Board may disclose to the Minister and federal Minister the information or documentation that it has disclosed or intends to disclose under subsection (7), but the Minister and the federal Minister are not to further disclose that information or documentation unless the Board consents in writing to that disclosure or the Minister or the federal Minister is required by an Act of the Legislature or an Act of Parliament, as the case may be, to disclose that information or documentation.

(9) For the purposes of clause (a) of subsection (7) and subsection (8), the Board may consent to the further disclosure of information or documentation only if the Board itself is authorized under this Section to disclose it.

(10) Subsection (2) does not apply in respect of information regarding the applicant for an operating licence or authorization under subsection (1) of Section 135 or the scope, purpose, location, timing and nature of the proposed work or activity for which the authorization is sought.

(11) Subsection (2) does not apply in respect of information or documentation provided for the purposes of a public hearing conducted under Section 44A.

(12) Subject to Section 122, the Board may disclose all or part of any information or documentation related to safety or environmental protection that is provided in relation to an application for an operating licence or authorization under subsection (1) of Section 135 or to an operating licence or authorization that

is issued under that subsection or provided in accordance with any regulation made under this Part or Part III.

(13) Notwithstanding subsection (12), the Board is not permitted to disclose information or documentation under that subsection if the Board is satisfied that

(a) disclosure of it could reasonably be expected to result in a material loss or gain to a person, or to prejudice the person's competitive position, and the potential harm resulting from the disclosure outweighs the public interest in making the disclosure;

(b) it is financial, commercial, scientific or technical information or documentation that is confidential and has been consistently treated as such by a person who would be directly affected by its disclosure, and for which the person's interest in confidentiality outweighs the public interest in its disclosure; or

(c) there is a real and substantial risk that disclosure of it will impair the security of pipelines, as defined in Section 133, installations, vessels, aircraft or systems, including computer or communication systems, used for any work or activity in respect of which this Act applies—or methods employed to protect them—and the need to prevent its disclosure outweighs the public interest in its disclosure.

(14) Subsections (10) to (12) do not apply in respect of information or documentation described in clauses (a) to (e) and (i) of subsection (5). 1987, c. 3, s. 121; 1992, c. 12, s. 3; 2014, c. 43, s. 8.

Notice of intent to disclose

122 (1) Where the Board intends to disclose any information or documentation under subsection (12) of Section 121, the Board shall make every reasonable effort to give the person who provided it written notice of the Board's intention to disclose it.

(2) Any person to whom a notice is required to be given under subsection (1) may waive the requirement, and where that person has consented to the disclosure that person is deemed to have waived the requirement.

(3) A notice given under subsection (1) shall include

(a) a statement that the Board intends to disclose information or documentation under subsection (12) of Section 121;

(b) a description of the information or documentation that was provided by the person to whom the notice is given; and

(c) a statement that the person may, within twenty days after the day on which the notice is given, make written representations to the Board as to why the information or documentation, or a portion of it, should not be disclosed.

(4) Where a notice is given to a person by the Board under subsection (1), the Board shall

(a) give the person the opportunity to make, within twenty days after the day on which the notice is given, written representations to the Board as to why the information or documentation, or a portion of it, should not be disclosed; and

(b) after the person has had the opportunity to make representations, but no later than thirty days after the day on which the notice is given, make a decision as to whether or not to disclose the information or documentation and give written notice of the decision to the person.

(5) A notice given under clause (b) of subsection (4) of a decision to disclose information or documentation shall include

(a) a statement that the person to whom the notice is given may request a review of the decision under subsection (7) within twenty days after the day on which the notice is given; and

(b) a statement that where no review is requested under subsection (7) within twenty days after the day on which the notice is given, the Board shall disclose the information or documentation.

(6) Where, under clause (b) of subsection (4), the Board decides to disclose the information or documentation, the Board shall disclose it on the expiry of twenty days after a notice is given under that clause, unless a review of the decision is requested under subsection (7).

(7) Any person to whom the Board is required under clause (b) of subsection (4) to give a notice of a decision to disclose information or documentation may, within twenty days after the day on which the notice is given, apply to the Supreme Court of Nova Scotia for a review of the decision.

(8) An application made under subsection (7) shall be heard and determined in a summary way in accordance with any applicable rules of practice and procedure of the Supreme Court of Nova Scotia.

(9) In any proceedings arising from an application under subsection (7), the Supreme Court of Nova Scotia shall take every reasonable precaution, including, where appropriate, conducting hearings *in camera*, to avoid the disclosure by the Court or any person of any information or documentation that, under this Act, is privileged or is not to be disclosed. 2014, c. 43, s. 9.

Arbitration

123 (1) Where a dispute of a prescribed class arises between two or more interest holders of an interest in respect of any operations conducted in carrying out a work or activity in the offshore area authorized pursuant to Part III and an operating agreement or other similar arrangement that extends to such work or

activity is not in force or was made prior to March 5, 1982, the matters in dispute may, by order of the Board, be submitted to arbitration conducted in accordance with the regulations.

(2) Subsection (1) applies only in respect of

(a) interests in force on March 5, 1982, in relation to any portions of the offshore area; and

(b) interests immediately succeeding the interests referred to in clause (a) in relation to those portions of the offshore area where those portions of the offshore area were not Crown reserve lands on the expiration of the interests referred to in clause (a).

(3) An order of an arbitrator made pursuant to arbitration pursuant to subsection (1) is binding on all interest holders specified in the order from the date specified in the order, and the terms and conditions of the order are deemed to be terms and conditions of the interest to which the matters relate. 1987, c. 3, s. 123.

Regulations

124 (1) Subject to Section 6, the Governor in Council may make regulations for carrying out the purposes and provisions of Section 123 and, without restricting the generality of the foregoing, may make regulations

(a) governing arbitration and the making of arbitration orders;

(b) prescribing the classes of disputes that may be submitted to arbitration; and

(c) governing appeals from, and the enforcement of arbitration orders.

(2) Regulations made pursuant to subsection (1) may apply generally to the offshore area or any portion thereof. 1987, c. 3, s. 124; 1992, c. 12, s. 5.

Compliance

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.

(2) Notwithstanding anything in this Part, where an interest owner or holder fails to comply with a notice pursuant to subsection (1) within the period specified in the notice and the Board considers that the failure to comply warrants cancellation of the interest of the interest owner or holder or any share in the interest held by the holder with respect to a portion only of the offshore area subject to the interest, the Board may, by order subject to Sections 31 to 37 and Sec-

tion 126, cancel that interest or share, and where the interest or share is so cancelled, the portion of the offshore area thereunder becomes Crown reserve lands.

(3) Notwithstanding any other provision of this Act, but subject to subsection (4), where a person is in default in accordance with the *Offshore Petroleum Royalty Act* and any regulations made thereunder in the payment of any amount payable pursuant to that Act in respect of any interest issued in relation to any portion of the offshore area, the Minister may, for so long as the amount remains unpaid, direct the Board to

(a) refuse to issue to that person any interest in relation to any portion of the offshore area;

(b) refuse to authorize, pursuant to clause (b) of subsection (1) of Section 135, that person to carry on any work or activity related to the exploration for or the production of petroleum on any portion of the offshore area and may suspend any such authorization already given; and

(c) exercise the powers pursuant to subsections (1) and (2).

(4) Notwithstanding any other provision of this Act, a decision of the Board made in accordance with a direction of the Minister pursuant to subsection (3) is not a fundamental decision.

(5) No remedy may be exercised pursuant to subsection (3) in respect of a default in payment of an amount pending any assessment, reassessment, appeal or review in respect of that default pursuant to the *Offshore Petroleum Royalty Act* and any regulations made thereunder. 1987, c. 3, s. 125; 2013, c. 16, s. 8.

Notice by Board of pending decision or action

126 (1) In this Section, “Committee” means the Oil and Gas Committee established pursuant to Part III.

(2) The Board shall, not less than thirty days before making any order or decision or taking any action in respect of which it is expressly stated in this Part to be subject to this Section, give notice in writing to the persons the Board considers to be directly affected by the proposed order, decision or action.

(3) Any person receiving a notice pursuant to subsection (2) may, in writing, request a hearing within the thirty-day period referred to in that subsection and, on receipt of such a request, the Board shall direct the Committee to appoint a time and place for a hearing and give notice thereof to the person who requested the hearing.

(4) Any person requesting a hearing pursuant to subsection (3) may make representations and introduce witnesses and documents at the hearing.

(5) For the purposes of a hearing requested pursuant to subsection (3), the Committee has, regarding the attendance, swearing and examination of witnesses and the production and inspection of documents, all such powers, rights and privileges as are vested in a superior court of record.

(6) On the conclusion of the hearing, the Committee shall submit to the Board its recommendations concerning the proposed order, decision or action of the Board, together with the evidence and other material that was before the Committee.

(7) Before making any order or decision or taking any action in respect of which a hearing has been held, the Board shall consider the recommendations of the Committee.

(8) Where an order, decision or action referred to in subsection (2) is made or taken, the Board shall notify the person who requested a hearing in respect of the order, decision or action pursuant to subsection (3) and, on request by that person, publish or make available to that person the reasons for the order, decision or action.

(9) Subject to subsection (10), an order, decision or action referred to in subsection (2) takes effect as of

(a) the day that immediately follows the last day of the thirty-day period referred to in that subsection, where no hearing is requested pursuant to subsection (3); or

(b) the day that the order or decision is made or the action is taken by the Board, where a hearing is requested pursuant to subsection (3).

(10) Where a decision referred to in subsection (2) is a fundamental decision, or an order or action referred to in that subsection involves the making of a fundamental decision, the periods referred to in clause (a) of subsection (1) of Section 33 do not commence prior to the day referred to in clause (a) or (b) of subsection (9), as the case may be, and the order, decision or action takes effect subject to Section 33.

(11) Any order, decision or action, in respect of which a hearing is held pursuant to this Section, is subject to review and to be set aside by the Supreme Court of Nova Scotia upon application made, in the manner prescribed, to the Supreme Court within thirty days of the date the order, decision or action takes effect pursuant to subsection (9). 1987, c. 3, s. 126; 2015, c. 36, s. 3.

Regulations

127 Subject to Section 6, the Governor in Council may make regulations for carrying out the purposes and provisions of this Part and, without restricting the generality of the foregoing, may make regulations

(a) authorizing or requiring the survey, division and subdivision of the offshore area and defining and describing those divisions and subdivisions;

(b) prescribing the information and documentation to be provided by interest owners and interest holders for the purposes of this Part, the time when and manner in which such information and documentation is to be provided, authorizing the Board to prescribe the form in which it is to be provided and requiring such information and documentation to be provided in accordance with the regulations;

(c) requiring fees and deposits to be paid in respect of interests, prescribing the amounts of such fees and deposits, the time and manner of their payment and providing for the administration of such fees and deposits and the disposition and return of deposits; and

(d) prescribing any other matter or thing that by this Part is to be prescribed or that is to be done by regulations. 1987, c. 3, s. 127.

Forms

128 (1) The Board may prescribe any form or any information to be given on a form that is by this Part or the regulations to be prescribed and may include on any form so prescribed a declaration, to be signed by the person completing the form, declaring that the information given by that person on the form is, to the best of the knowledge of that person, true, accurate and complete.

(2) Every form purporting to be a form prescribed or authorized by the Board shall be deemed to be a form prescribed by the Board, pursuant to this Part, unless called in question by the Board or some person acting for the Board or Her Majesty. 1987, c. 3, s. 128.

Transitional provision

129 (1) Where an exploration agreement in relation to any portion of the offshore area was entered into or negotiations in respect thereof were completed pursuant to the *Offshore Oil and Gas Act*, or an exploration agreement was ratified and confirmed by Section 41 of the *Canada-Nova Scotia Oil and Gas Agreement (Nova Scotia) Act*, before the coming into force of this Section, that exploration agreement shall, for the purposes of this Act, be referred to as an exploration licence and shall, subject to this Part, have effect in accordance with its terms and conditions.

(2) Where a declaration of significant discovery was made pursuant to Section 44 of the *Offshore Oil and Gas Act*, and is in force on the coming into force of this Section, it continues in force as if it was made pursuant to Section 77 of this Act.

(3) Where, on the coming into force of this Section, an exploration agreement is continuing in force pursuant to subsection (4) of Section 16 of the *Offshore Oil and Gas Act*, it is and is deemed to be a significant discovery licence

issued pursuant to this Part on the coming into force of this Section and is subject to this Act. 1987, c. 3, s. 129.

Federal interest

130 (1) In this Section, “federal interest” means an interest within the meaning of the federal Implementation Act.

(2) Notwithstanding any other provision of this Part, but subject to the regulations, a federal interest that would be in force at the time of the coming into force of this Section but for the fact that it is in relation to Crown reserve lands to which this Act applies is, subject to subsection (3) and (4), an interest for the purposes of this Act.

(3) An interest referred to in subsection (2) is retroactive to the date on which it would have been effective as a federal interest had it been in relation to frontier lands.

(4) An interest referred to in subsection (2) is subject to the same terms and conditions as would have applied had it been in relation to frontier lands and Division X of Part II of the federal Implementation Act apply with such modifications as the circumstances require. 1987, c. 3, s. 130.

Interests replace previous rights

131 (1) Subject to Section 129, the interests provided for pursuant to this Part replace all petroleum rights or prospects thereof acquired or vested in relation to any portion of the offshore area prior to the coming into force of this Section.

(2) No party shall have any right to claim or receive any compensation, damages, indemnity or other form of relief from Her Majesty in right of the Province or from any servant or agent thereof for any acquired, vested or future right or entitlement or any prospect thereof that is replaced or otherwise affected by this Part, or for any duty or liability imposed on that party by this Part. 1987, c. 3, s. 131.

Reservation abrogated

132 For greater certainty, the reservation to Her Majesty in right of the Province of a Crown share in any interest granted or entered into pursuant to the *Offshore Oil and Gas Act* prior to the coming into force of this Section is abrogated as of the day this Section comes into force. 1987, c. 3, s. 132.

PART III

Interpretation of Part

133 In this Part,

(a) “Chief Conservation Officer” means the person designated as the Chief Conservation Officer pursuant to Section 137;

(aa) “Chief Safety Officer” means the person designated as the Chief Safety Officer pursuant to Section 137;

(b) “Committee” means the Oil and Gas Committee established by Section 138;

(c) “lease” means a production licence issued pursuant to Part II;

(d) “pipeline” means any pipe or any system or arrangement of pipes by which petroleum or water incidental to the drilling for or production of petroleum is conveyed from any wellhead or other place at which it is produced to any other place, or from any place where it is stored, processed or treated to any other place, and includes all property of any kind used for the purpose of, or in connection with or incidental to, the operation of a pipeline in the gathering, transporting, handling and delivery of petroleum and without restricting the generality of the foregoing, includes offshore installations or vessels, tanks, surface reservoirs, pumps, racks, storage and loading facilities, compressors, compressor stations, pressure measuring and controlling equipment and fixtures, flow controlling and measuring equipment and fixtures, metering equipment and fixtures, and heating, cooling and dehydrating equipment and fixtures, but does not include any pipe or any system or arrangement of pipes that constitutes a distribution system for the distribution of gas to ultimate consumers;

(e) “well” means any opening in the ground, not being a seismic shot hole, that is made, to be made or is in the process of being made, by drilling, boring or other method,

(i) for the production of petroleum,

(ii) for the purpose of searching for or obtaining petroleum,

(iii) for the purpose of obtaining water to inject into an underground formation,

(iv) for the purpose of injecting gas, air, water or other substance into an underground formation, or

(v) for any purpose, if made through sedimentary rocks to a depth of at least four hundred and ninety-five feet. 1987, c. 3, s. 133; 1992, c. 12, s. 6.

Purpose of Part

133A The purpose of this Part is to promote, in respect of the exploration for and exploitation of petroleum,

(a) safety, particularly by encouraging persons exploring for and exploiting petroleum to maintain a prudent regime for achieving safety;

(b) the protection of the environment;

(ba) accountability in accordance with the “polluter pays” principle;

- (c) the conservation of petroleum resources; and
- (d) joint production arrangements. 1992, c. 12, s. 7; 2014, c. 43, s. 10.

Designation by Minister

133B The Minister may designate a member of the Oil and Gas Administration Advisory Council established by the *Canada Oil and Gas Operations Act*. 1992, c. 12, s. 7.

Approval by Minister

133C The Minister may approve the establishment of the Offshore Oil and Gas Training Standards Advisory Board pursuant to the *Canada Oil and Gas Operations Act*. 1992, c. 12, s. 7.

Conditions for activity in offshore area

134 No person shall carry on any work or activity related to the exploration or drilling for or the production, conservation, processing or transportation of petroleum in the offshore area unless

- (a) that person is the holder of an operating licence issued pursuant to clause (a) of subsection (1) of Section 135;
- (b) that person is the holder of an authorization issued, before the commencement of operations, pursuant to clause (b) of said subsection (1) for each such work or activity; and
- (c) where it is required, that person is authorized or entitled to carry on business in the place where he proposes to carry on the work or activity. 1987, c. 3, s. 134; 1992, c. 12, s. 8.

Prohibition in Sable Island National Park Reserve of Canada

134A No person shall carry on any work or activity related to the drilling for petroleum, including exploratory drilling for petroleum, in Sable Island National Park Reserve of Canada or within one nautical mile seaward of its low-water mark. 2013, c. 15, s. 2.

Prohibition in offshore area in Schedule IV

134AA (1) The Minister and the federal Minister may jointly issue a written notice prohibiting the exploration and drilling for and the production, conservation and processing of petroleum in that portion of the offshore area described in Schedule IV, and the transportation of petroleum produced in that portion of the offshore area from the date in the notice until the thirty-first day of December, 2022.

(2) Upon review of the environmental and socio-economic impact of exploration and drilling activities in that portion of the offshore area described in Schedule IV and any other relevant factors, the Minister and the federal Minister may jointly issue one or successive written notices extending the prohibition period established pursuant to subsection (1) in all or any part of that portion of the offshore area described in Schedule IV.

(3) Each prohibition extension notice issued pursuant to subsection (2) shall be for a specified period of no more than ten years.

(4) No person shall for the duration of the prohibition period established pursuant to subsection (1) or (2) engage in the prohibited activities in the area described in Schedule IV or in any part of it that is specified in the joint prohibition notice issued pursuant to subsection (1) or the extension notice issued pursuant to subsection (2). 2015, c. 36, s. 4.

134B *repealed 2015, c. 36, s. 5.*

Exemption from payment into fund

134C The owner of an interest in lands in the offshore area described in Schedule IV is, in respect of those lands, exempt from the payment of any amount required to be paid into the Environmental Studies Research Fund pursuant to Part VII of the *Canada Petroleum Resources Act* during the periods referred to in Section 134AA. 1988, c. 56, s. 2; 2014, c. 43, s. 11.

Delegation of powers

134D The Board may delegate any of the Board's powers under Section 135, 135B, 135C, 136A, 136B, 159A or 160 to any person, and the person shall exercise those powers in accordance with the terms of the delegation. 2014, c. 43, s. 12.

Operating licence or authorization

135 (1) The Board may, on application made in the form and containing the information fixed by it and in the prescribed manner, issue

- (a) an operating licence; and
- (b) subject to Section 45, an authorization with respect to each work or activity proposed to be carried on.

(2) An operating licence expires on the thirty-first day of March immediately after the day on which it is issued and may be renewed for successive periods not exceeding one year each.

(3) An operating licence is subject to any requirements that are determined by the Board or that are prescribed and to any deposits that are prescribed.

(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.

(4) An authorization is subject to such approvals as the Board determines or as may be granted in accordance with the regulations and such

requirements and deposits as the Board determines or as may be prescribed, including

- (a) requirements relating to liability for loss, damage, costs or expenses;
- (b) requirements for the carrying out of environmental programs or studies; and
- (c) requirements for the payment of expenses incurred by the Board in approving the design, construction and operation of production facilities and production platforms, as those terms are defined in the regulations.

(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.

(5) The Board may suspend or revoke an operating licence or an authorization for failure to comply with, contravention of or default in respect of

- (a) a requirement, approval 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;
- (aa) a fee or charge payable in accordance with regulations made under Section 30A;
- (b) a requirement undertaken in a declaration referred to in subsection (1) of Section 136A;
- (c) subsection (3) of Section 136A, subsection (2) of Section 136B, subsection (4) or (5) of Section 159A or subsection (1C), (1D) or (5) of Section 160;
- (ca) any provision of Part IIIA; or
- (d) any applicable regulation. 1992, c. 12, s. 10; 2013, c. 16, s. 9; 2014, c. 43, ss. 13, 35.

Authorizations in Sable Island National Park Reserve of Canada

135A (1) If the Board receives an application for an authorization with respect to a work or activity proposed to be carried on in Sable Island National Park Reserve of Canada, it shall, within sixty days after the day on which it received the application, provide a copy of the application to the Parks Canada Agency.

(2) The Parks Canada Agency shall, within sixty days after the day on which it received the copy of the application, advise the Board in writing about any potential impact of the proposed work or activity on the management of the surface of Sable Island National Park Reserve of Canada.

(3) Before deciding whether to issue the authorization, the Board shall consider any advice that it receives under subsection (2).

(4) If the Board issues the authorization, it may include in it terms and conditions, including mitigation or remedial measures, to address the potential impact of the proposed work or activity on the management of the surface of Sable Island National Park Reserve of Canada. 2013, c. 15, s. 3.

Decision statement

135AA (1) Where an application for an authorization under clause (b) of subsection (1) of Section 135 or an application made under subsection (2) of Section 136 is in respect of a physical activity described in subsection (2), the Board shall issue the decision statement referred to in section 54 of the *Canadian Environmental Assessment Act, 2012* in respect of the physical activity within twelve months after the day on which the applicant has, in the Board's opinion, provided a complete application.

(2) The physical activity in question is a physical activity that

- (a) is carried out in the offshore area;
- (b) is designated by regulations made under paragraph (a) of section 84 of the *Canadian Environmental Assessment Act, 2012* or in an order made under subsection (2) of section 14 of that Act;
- (c) is one for which the Board is the responsible authority as defined in subsection (1) of section 2 of that Act; and
- (d) is one in relation to which an environmental assessment was not referred to a review panel under section 38 of that Act,

and includes any physical activity that is incidental to the physical activity described in clauses (a) to (d).

(3) Where the Board requires the applicant to provide information or undertake a study with respect to the physical activity, the period that is taken by the applicant, in the Board's opinion, to comply with the requirement is not included in the calculation of the period referred to in subsection (1).

(4) The Board shall, without delay, make public

- (a) the date on which the twelve-month period referred to in subsection (1) begins; and
- (b) the dates on which the period referred to in subsection (3) begins and ends. 2014, c. 43, s. 14.

Participant funding program

135AB The Board may establish a participant funding program to facilitate the participation of the public in the environmental assessment as defined in subsection (1) of section 2 of the *Canadian Environmental Assessment Act, 2012* of any

physical activity described in subsection (2) of Section 135AA that meets the condition set out in paragraph (a) of subsection (1) of section 58 of that Act and that is the subject of an application for an authorization under clause (b) of subsection (1) of Section 135 or an application made under subsection (2) of Section 136. 2014, c. 43, s. 14.

Right of entry

135AC (1) Subject to subsection (2), any person may, for the purpose of exploring for or exploiting petroleum, enter on and use any portion of the offshore area in order to carry on a work or activity authorized pursuant to clause (b) of subsection (1) of Section 135.

(2) Where a person occupies a portion of the offshore area under a lawful right or title, other than an authorization pursuant to clause (b) of subsection (1) of Section 135 or an interest as defined in Part II, no person may enter on or use that portion for a purpose referred to in subsection (1) without the consent of the occupier or, where consent has been refused, except in accordance with the terms and conditions imposed by a decision of an arbitrator made in accordance with the regulations.

(3) With respect to Sable Island National Park Reserve of Canada, the surface access rights provided for under this Section are limited to the following:

- (a) access to existing wellheads for the purposes of safety and environmental protection;
- (b) petroleum exploration activities with a low impact on the environment, including seismic, geological or geophysical programs;
- (c) emergency evacuation capacity for offshore workers;
- and
- (d) the operation, maintenance and inspection of emergency facilities, including helicopter landing and fuel storage facilities. 1992, c. 12, s. 10; 2013, c. 15, ss. 3, 4; 2014, c. 43, s. 14.

Matters to be considered

135B The Board shall, before issuing an authorization for a work or activity referred to in clause (b) of subsection (1) of Section 135, consider the safety of the work or activity by reviewing, in consultation with the Chief Safety Officer, the system as a whole and its components, including its structures, facilities, equipment, operating procedures and personnel. 1992, c. 12, s. 10.

Spill-treating agent use restricted

135BA The Board shall not permit the use of a spill-treating agent in an authorization issued under clause (b) of subsection (1) of Section 135 unless the Board determines, taking into account any prescribed factors and any factors the

Board considers appropriate, that the use of the spill-treating agent is likely to achieve a net environmental benefit. 2014, c. 43, s. 15.

Compliance with requirements

135C The Board shall, before issuing an authorization for a work or activity referred to in clause (b) of subsection (1) of Section 135, ensure that the applicant has complied with the requirements of subsections (1) or (2) of Section 159A and subsections (1) or (1A) of Section 160 in respect of that work or activity. 2014, c. 43, s. 16.

Consent of Ministers

136 (1) No approval that is

(a) applicable to an authorization pursuant to clause (b) of subsection (1) of Section 135 to carry on work or activity in relation to developing a pool or field, and

(b) prescribed by the regulations for the purposes of this subsection,

shall be granted, except with the consent of both Ministers, unless the Board, on application submitted in accordance with subsection (2), has approved a development plan relating to the pool or field pursuant to clauses (a) and (b) of subsection (4).

(2) For the purposes of subsection (1), an application for the approval of a development plan shall be submitted to the Board in the form and containing the information fixed by the Board, at such time and in such manner as may be prescribed by the regulations, together with the proposed development plan in the form and containing the information described in subsection (3).

(3) A development plan relating to the proposed development of a pool or field submitted pursuant to this Section shall be set out in two parts, containing

(a) in Part I, a description of the general approach of developing the pool or field, and in particular, information, in such detail as may be prescribed, with respect to

(i) the scope, purpose, location, timing and nature of the proposed development,

(ii) the production rate, evaluations of the pool or field, estimated amounts of petroleum proposed to be recovered, reserves, recovery methods, production monitoring procedures, costs and environmental factors in connection with the proposed development, and

(iii) the production system and any alternative production systems that could be used for the development of the pool or field; and

(b) in Part II, all technical or other information and proposals, as may be prescribed, necessary for a comprehensive review and evaluation of the proposed development.

(4) After reviewing an application and development plan submitted by any person pursuant to this Section the Board may, subject to such requirements as the Board deems appropriate or as may be prescribed, approve

(a) subject to Sections 31 to 37, Part I of the development plan, and

(b) Part II of the development plan.

(5) Where a development plan has been approved pursuant to subsection (4), no amendment of Part I or II of the development plan shall be made unless it is approved by the Board in accordance with clause (a) or (b) of subsection (4), as the case may be.

(6) Subsections (2) to (5) apply, with such modifications as the circumstances require, with respect to a proposed amendment to a development plan. 1987, c. 3, s. 136; 1992, c. 12, s. 11.

Conditions for authorization

136A (1) Subject to subsection (2), no authorization pursuant to clause (b) of subsection (1) of Section 135 shall be issued unless the Board has received, from the applicant for the authorization, a declaration in the form fixed by the Board that states that

(a) the equipment and installations that are to be used in the work or activity to be authorized are fit for the purposes for which they are to be used, the operating procedures relating to them are appropriate for those uses, and the personnel who are to be employed in connection with them are qualified and competent for their employment; and

(b) the applicant shall ensure, so long as the work or activity that is authorized continues, that the equipment and installations continue to be fit for the purposes for which they are used, the operating procedures continue to be appropriate for those uses, and the personnel continue to be so qualified and competent.

(2) *repealed 2013, c. 16, s. 10.*

(3) Where the equipment, an installation, the operating procedures or any of the personnel specified in the declaration changes and no longer conforms to the declaration, the holder of the authorization shall provide the Board with a new declaration as soon as possible after the change occurs.

(4) The Board or any delegate of the Board is not liable to any person by reason only of having issued an authorization in reliance on a declaration made pursuant to this Section. 1992, c. 12, s. 12; 2013, c. 16, s. 10.

Certificate by certifying authority

136B (1) No authorization pursuant to clause (b) of subsection (1) of Section 135 shall be issued with respect to any prescribed equipment or installation, or any equipment or installation of a prescribed class, unless the Board has received, from the applicant for the authorization, a certificate issued by a certifying authority in the form fixed by the Board.

(2) The holder of an authorization shall ensure that the certificate referred to in subsection (1) remains in force for so long as the equipment or installation to which the certificate relates is used in the work or activity in respect of which the authorization is issued.

(3) A certificate referred to in subsection (1) shall state that the equipment or installation in question

(a) is fit for the purposes for which it is to be used and may be operated safely without posing a threat to persons or to the environment in the location and for the time set out in the certificate; and

(b) is in conformity with all of the requirements and conditions that are imposed for the purposes of this Section by subsection (4) of Section 135, whether they are imposed by regulation or by the Board.

(4) A certificate referred to in subsection (1) is not valid if the certifying authority

(a) has not complied with any prescribed procedure or any procedure that the Board may establish; or

(b) is a person or an organization that has participated in the design, construction or installation of the equipment or installation in respect of which the certificate is issued, to any extent greater than that prescribed.

(5) An applicant shall permit the certifying authority to have access to the equipment and installations in respect of which the certificate is required and to any information that relates to them.

(6) For the purposes of this Section, “certifying authority” has the meaning assigned by the regulations.

(7) The Board or any delegate of the Board is not liable to any person by reason only of having issued an authorization in reliance on a certificate issued pursuant to this Section. 1992, c. 12, s. 12.

Designations of Chief Safety Officer and Chief Conservation Officer

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. 2013, c. 16, s. 11.

Exemption from Regulations Act

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*. 2013, c. 16, s. 11.

Title to petroleum

137B (1) Subject to subsection (2), title to petroleum produced during an extended formation flow test vests in the person who conducts the test in accordance with an authorization pursuant to clause (b) of subsection (1) of Section 135, with every approval and requirement subject to which such an authorization is issued and with any applicable regulation, whether or not the person has a production licence issued pursuant to Part II.

(2) Title to petroleum referred to in subsection (1) is conditional on compliance with the terms of the authorization, approval or regulation, including the payment of royalties or other payment in lieu of royalties.

(3) This Section applies only in respect of an extended formation flow test that provides significant information for determining the best recovery system for a reservoir or for determining the limits of a reservoir or the productivity of a well producing petroleum from a reservoir and that does not adversely affect the ultimate recovery from a reservoir. 1992, c. 12, s. 13.

Oil and Gas Committee

138 (1) The Board may establish a committee, for the purpose of this Act and the federal Implementation Act, to be known as the Oil and Gas Committee, consisting of not more than five members, not more than three of whom may be employees in the public service of the Province or of Canada.

(2) The members of the Committee shall be appointed by the Board to hold office for a term of three years and one member shall be designated as chairman for such term as may be fixed by the Board.

(3) A retiring chairman or retiring member may be reappointed to the Committee in the same or another capacity. 1987, c. 3, s. 138.

Qualifications for appointment, staff and remuneration

139 (1) The Board shall appoint as members of the Committee at least two persons who appear to the Board to have specialized, expert or technical knowledge of petroleum.

(2) The members and employees of the Board and the Chief Conservation Officer are not eligible to be members of the Committee.

(3) The Board shall provide the Committee with such officers, clerks and employees as may be necessary for the proper conduct of the affairs of the Committee, and may provide the Committee with such professional or technical assistance for temporary periods or for specific work as the Committee may request, but no such assistance shall be provided otherwise than from the staff of the Board except with the approval of the Minister and the federal Minister.

(4) The members of the Committee who are not employees of the public service of Canada or of the Province shall be paid such remuneration as may be authorized by the Board.

(5) The members of the Committee are entitled to be paid reasonable travelling and living expenses while absent from their ordinary place of residence in the course of their duties. 1987, c. 3, s. 139.

Conflict of interest

140 No member of the Committee shall have a pecuniary interest of any description, directly or indirectly, in any property in petroleum to which this Part applies or own shares in any company engaged in any phase of the petroleum industry in Canada in an amount in excess of five per cent of the issued shares thereof and no member who owns any shares of any company engaged in any phase of the petroleum industry in Canada shall vote when a question affecting such a company is before the Committee. 1987, c. 3, s. 140.

Practice and procedure, including quorum

141 (1) A majority of the members, including one member who is not an employee in the public service of the Province or of Canada, constitutes a quorum of the Committee.

(2) The Committee may make general rules not inconsistent with this Part regulating its practice and procedure and the places and times of its sittings. 1987, c. 3, s. 141.

Inquiry

142 (1) Where, pursuant to this Part, the Committee is charged with a duty to hold an inquiry or to hear an appeal, the Committee has full jurisdiction to inquire into, hear and determine the matter of any such inquiry or appeal and to make any order, or give any direction that pursuant to this Part the Committee is authorized to make or give or with respect to any matter, act or thing that by this

Part may be prohibited or approved by the Committee or required by the Committee to be done.

(2) For the purpose of any inquiry, hearing or appeal, or the making of any order pursuant to this Part the Committee has, regarding the attendance, swearing and examination of witnesses, the production and inspection of documents, the entry upon and inspection of property, the enforcement of its orders and regarding other matters necessary or proper for the due exercise of its jurisdiction pursuant to this Part, all such powers, rights and privileges as are vested in a superior court of record.

(3) The finding or determination of the Committee upon any question of fact within its jurisdiction is binding and conclusive. 1987, c. 3, s. 142.

Delegation by Committee

143 (1) The Committee may authorize and depute any member thereof to inquire into such matter before the Committee as may be directed by the Committee and to report the evidence and findings, if any, thereon to the Committee, and when such report is made to the Committee, it may be adopted as a finding of the Committee or otherwise dealt with as the Committee considers advisable.

(2) Where an inquiry is held by a member pursuant to subsection (1) the member has all the powers of the Committee for the purpose of taking evidence or acquiring information for the purposes of the report to the Committee. 1987, c. 3, s. 143.

Reference to Committee

144 The Board may at any time refer to the Committee for a report or recommendation any question, matter or thing arising pursuant to this Part or relating to the conservation, production, storage, processing or transportation of petroleum. 1987, c. 3, s. 144.

Enforceability of order

145 (1) Any order made by the Committee may, for the purpose of enforcement thereof, be made an order of the Supreme Court of Nova Scotia and shall be enforced in like manner as any order of that Court.

(2) To make such decision or order referred to in subsection (1) an order of the Supreme Court of Nova Scotia, the chairman may make a certified copy of such decision or order, upon which shall be made the following endorsement, signed by the chairman:

“Make the within an order of the Supreme Court of Nova Scotia

Dated this day of A.D., 19.

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Chairman”

and the chairman may forward such certified copy, so endorsed, to a prothonotary of such Court, who shall on receipt thereof enter the same as a record and it shall thereupon become and be an order of the Supreme Court and enforceable as any rule, order, decree or judgment thereof.

(3) When an order of the Committee has been made an order of the Supreme Court of Nova Scotia, any order of the Committee, or of the Board pursuant to Section 183, rescinding or replacing the first-mentioned order of the Committee, is and is deemed to cancel the order of the Court and may in like manner be made an order of the Court. 1987, c. 3, s. 145; 2015, c. 36, s. 6.

Regulations

146 (1) Subject to Section 6, the Governor in Council may, for the purposes of safety and the protection of the environment, and accountability as well as for the production and conservation of oil and gas resources, make regulations

(a) defining “oil” and “gas” for the purposes of Sections 146 to 180, “installation” and “equipment” for the purposes of Sections 136A and 136B and “serious” for the purposes of Section 162;

(b) concerning the exploration and drilling for, and the production, processing and transportation of, petroleum and works and activities related to such exploration, drilling, production, processing and transportation;

(ba) concerning the measures to be taken in preparation for or in the case of a spill, as defined in subsection (1) of Section 157, including measures concerning the use of a spill-treating agent;

(bb) concerning the process for the determination of net environmental benefit;

(bc) concerning the variation or revocation of an approval referred to in subsection (1) of Section 158A;

(c) authorizing the Board, or any person, to make such orders as may be specified in the regulations, and to exercise such powers and perform such duties as may be necessary for

(i) the management and control of petroleum production,

(ii) the removal of petroleum from the offshore area, and

(iii) the design, construction, operation or abandonment of pipeline within the offshore area;

(d) concerning arbitration for the purposes of subsection (2) of Section 135AC, including the costs of or incurred in relation to such arbitrations;

(e) concerning the approvals to be granted as conditions of authorizations issued pursuant to clause (b) of subsection (1) of Section 135;

(f) concerning certificates for the purposes of Section 136B;

(g) prohibiting the introduction into the environment of substances, classes of substances and forms of energy, in prescribed circumstances;

(h) authorizing the discharge, emission or escape of petroleum for the purposes of subsection (1) of Section 157 in such quantities, at such locations, under such conditions and by such persons as may be specified in the regulations;

(ha) establishing the requirements for a pooled fund for the purposes of subsection (1A) of Section 160;

(hb) concerning the circumstances under which the Board may make a recommendation for the purposes of subsection (1) of Section 160A and the information to be submitted with respect to that recommendation;

(hc) concerning the creation, conservation and production of records; and

(i) prescribing anything that is required to be prescribed for the purposes of this Part.

(2) Unless otherwise provided in this Part, regulations made pursuant to subsection (1) may incorporate by reference the standards or specifications of any government, person or organization, either as of a fixed time or as amended from time to time. 1987, c. 3, s. 146; 1992, c. 12, s. 14; 2014, c. 43, s. 17.

Amendment of Schedule

146A (1) The Governor in Council may, by order, amend Schedule V or VI to add, amend or remove a reference to an Act or regulation of the Province, or to a provision of an Act or regulation of the Province.

(2) The order shall be made on the recommendation of the Minister and every minister of the Executive Council responsible for the administration of the provision. 2014, c. 43, s. 18.

Powers of Chief Safety Officer and Chief Conservation Officer

147 (1) Subject to subsection (2), the Chief Safety Officer and Chief Conservation Officer may

(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 pro-

vide 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.

(2) The Chief Safety Officer alone may exercise the powers referred to in clause (a) or (b) of subsection (1) if the regulatory requirement referred to in that clause does not relate to protection of the environment or conservation, and the Chief Conservation Officer alone may exercise those powers if the regulatory requirement does not relate to safety.

(3) No person contravenes the regulations if that person acts in compliance with an authorization or exemption pursuant to subsection (1) or (2). 1992, c. 12, s. 15; 2013, c. 16, s. 12.

Publication of guidelines

148 The Board may issue and publish, in any manner the Board considers appropriate, guidelines and interpretation notes with respect to the application and administration of Sections 45, 135 and 136 and subsection (1A) of Section 160 and any regulations made under Sections 30A and 146. 2014, c. 43, s. 19.

149 *repealed 2013, c. 16, s. 13.*

Orders by Chief Conservation Officer re production

150 (1) Where the Chief Conservation Officer on reasonable grounds is of the opinion that

(a) with respect to an interest in any portion of the off-shore area, the capability exists to commence, continue or increase production of petroleum; and

(b) a production order would stop waste,

the Chief Conservation Officer may order the commencement, continuation or increase of production of petroleum at such rates and in such quantities as are specified in the order.

(2) Where the Chief Conservation Officer on reasonable grounds is of the opinion that an order pursuant to this subsection would stop waste, the Chief Conservation Officer may order a decrease or the cessation or suspension of production of petroleum for any periods specified in the order.

(3) Subsections (2) to (4) of Section 152 and Section 154 apply, with such modifications as the circumstances require, to an order made pursuant to

subsection (1) or (2) as if it were an order made pursuant to subsection (1) of Section 152.

(4) A person subject to an order made pursuant to subsection (1) or (2) shall, on request, afford the Chief Conservation Officer or a person designated by the Chief Conservation Officer access to premises, files and records for all reasonable purposes related to the order. 1987, c. 3, s. 150; 1992, c. 12, s. 17.

Offence

151 (1) Subject to subsection (5) of Section 191, any person who commits waste is guilty of an offence pursuant to this Part, but a prosecution may be instituted for such an offence only with the consent of the Board.

(2) In this Part, “waste”, in addition to its ordinary meaning, means waste as understood in the petroleum industry and in particular, but without limiting the generality of the foregoing, includes

- (a) the inefficient or excessive use or dissipation of reservoir energy;
- (b) the locating, spacing or drilling of a well within a field or pool or within part of a field or pool or the operating of any well that, having regard to sound engineering and economic principles, results or tends to result in a reduction in the quantity of petroleum ultimately recoverable from a pool;
- (c) the drilling, equipping, completing, operating or producing of any well in a manner that causes or is likely to cause the unnecessary or excessive loss or destruction of petroleum after removal from the reservoir;
- (d) the inefficient storage of petroleum above ground or underground;
- (e) the production of petroleum in excess of available storage, transportation or marketing facilities;
- (f) the escape or flaring of gas that could be economically recovered and processed or economically injected into an underground reservoir; or
- (g) the failure to use suitable artificial, secondary or supplementary recovery methods in a pool when it appears that such methods would result in increasing the quantity of petroleum, ultimately recoverable under sound engineering and economic principles. 1987, c. 3, s. 151.

Order to cease operations re waste

152 (1) Where the Chief Conservation Officer, on reasonable grounds, is of the opinion that waste, other than waste as defined in clause (f) or (g) of subsection (2) of Section 151, is being committed, the Chief Conservation Officer may,

subject to subsection (2), order that all operations giving rise to such waste cease until the Chief Conservation Officer is satisfied that the waste has stopped.

(2) Before making any order pursuant to subsection (1), the Chief Conservation Officer shall hold an investigation at which interested persons shall be given an opportunity to be heard.

(3) Notwithstanding subsection (2), the Chief Conservation Officer may, without an investigation, make an order pursuant to this Section requiring all operations to be shut down if in the opinion of the Chief Conservation Officer it is necessary to do so to prevent damage to persons or property or to protect the environment, but as soon as possible after making any such order and in any event within fifteen days thereafter, the Chief Conservation Officer shall hold an investigation at which interested persons shall be given an opportunity to be heard.

(4) At the conclusion of an investigation made pursuant to subsection (3), the Chief Conservation Officer may set aside, vary or confirm the order made, or make a new order. 1987, c. 3, s. 152; 1992, c. 12, s. 18.

Delegation by Chief Conservation Officer

153 (1) For the purpose of giving effect to an order made pursuant to Section 152, the Chief Conservation Officer may authorize such persons as may be necessary to enter the place where the operations giving rise to the waste are being carried out and take over the management and control of those operations and any works connected therewith.

(2) A person authorized pursuant to subsection (1) to take over the management and control of operations shall manage and control those operations and do all things necessary to stop the waste and the cost thereof shall be borne by the person who holds any interest that is subject to Part II or any lease issued pursuant to Part II, and until paid constitutes a debt recoverable by action in any court of competent jurisdiction as a debt due to the Board. 1987, c. 3, s. 153.

Appeal from order of Chief Conservation Officer

154 (1) A person aggrieved by an order of the Chief Conservation Officer after an investigation pursuant to Section 152 may appeal to the Committee to have the order reviewed.

(2) After hearing the appeal the Committee may

(a) set aside, confirm or vary the order made by the Chief Conservation Officer;

(b) order such works to be undertaken as may be considered necessary to prevent waste, the escape of petroleum or any other contravention of this Part or the regulations; or

(c) make such other or further order as the Committee considers appropriate. 1987, c. 3, s. 154.

Application to Committee by Chief Conservation Officer

155 (1) When the Chief Conservation Officer, on reasonable grounds, is of the opinion that waste as defined in clause (f) or (g) of subsection (2) of Section 151 is occurring in the recovery of petroleum from a pool, the Chief Conservation Officer may apply to the Committee for an order requiring the operators within the pool to show cause at a hearing to be held on a day specified in the order why the Committee should not make a direction in respect thereof.

(2) On the day specified in the order made pursuant to subsection (1), the Committee shall hold a hearing at which the Chief Conservation Officer, the operators and other interested persons shall be given an opportunity to be heard. 1987, c. 3, s. 155.

Order following hearing

156 (1) If, after the hearing mentioned in Section 155, the Committee is of the opinion that waste as defined in clause (f) or (g) of subsection (2) of Section 151 is occurring in the recovery of petroleum from a pool, the Committee may, by order,

(a) direct the introduction of a scheme for the collection, processing, disposition or reinjection of any gas produced from such pool; or

(b) direct repressurizing, recycling or pressure maintenance for the pool or any part of the pool and for, or incidental to such purpose, direct the introduction or injection into that pool, or part thereof, of gas, water or other substance,

and the order may further direct that the pool or part thereof specified in the order be shut in if the requirements of the order are not met or unless a scheme is approved by the Committee and in operation by a date fixed by the order.

(2) Notwithstanding subsection (1), the Committee may permit the continued operation of a pool or any part of a pool after the date fixed by an order made pursuant to subsection (1) if in the opinion of the Committee a scheme for the repressurizing, recycling or pressure maintenance or the processing, storage or disposal of gas is in course of preparation, but any such continuation of operations is subject to any conditions imposed by the Committee. 1987, c. 3, s. 156.

Interpretation of Sections 154 to 162 and exception from liability

157 (1) In Sections 158 to 162, “spill” means a discharge, emission or escape of petroleum, other than one the authorization of which is approved under Section 158B, the regulations or any other law of the Province or that constitutes a discharge from a vessel to which Part 8 or 9 of the *Canada Shipping Act, 2001* applies or from a ship to which Part 6 of the *Marine Liability Act* (Canada) applies.

(2) In Section 159, “actual loss or damage” includes loss of income, including future income, and, with respect to any Aboriginal peoples of Canada, loss of hunting, fishing and gathering opportunities, but does not include

loss of income recoverable under subsection (3) of section 42 of the *Fisheries Act* (Canada).

(3) In Sections 159 to 160 and 162, “debris” means any installation or structure that was put in place in the course of any work or activity required to be authorized under clause (b) of subsection (1) of Section 135 and that has been abandoned without an authorization that may be required by or under this Part, or any material that has broken away or been jettisoned or displaced in the course of any of that work or activity.

(4) Her Majesty in right of the Province incurs no liability whatever to any person arising out of the authorization by regulations made by the Governor in Council of any discharge, emission or escape of petroleum. 1987, c. 3, s. 157; 1992, c. 12, s. 19; 2014, c. 43, s. 20.

Spills

158 (1) No person shall cause or permit a spill on or from any portion of the offshore area.

(2) Where a spill occurs in any portion of the offshore area, any person who at the time of the spill is carrying on any work or activity related to the exploration for or development or production of petroleum in the area of the spill shall, in the manner prescribed by the regulations, report the spill to the Chief Conservation Officer.

(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.

(4) Where the Chief Conservation Officer is satisfied, on reasonable grounds, that

(a) a spill has occurred in any portion of the offshore area and immediate action is necessary in order to effect any reasonable measures referred to in subsection (3); and

(b) such action is not being taken or will not be taken pursuant to subsection (3),

the Chief Conservation Officer may take such action or direct that it be taken by such persons as may be necessary.

(5) For the purposes of subsection (4), the Chief Conservation Officer may authorize and direct such persons as may be necessary to enter the place where the spill has occurred and take over the management and control of any work or activity being carried on in the area of the spill.

(6) A person authorized and directed to take over the management and control of any work or activity pursuant to subsection (5) shall manage and control that work or activity and take all reasonable measures in relation to the spill that are referred to in subsection (3).

(7) Any costs incurred pursuant to subsection (6) shall be borne by the person who obtained an authorization pursuant to clause (b) of subsection (1) of Section 135 in respect of the work or activity from which the spill emanated and until paid constitute a debt recoverable by action in any court of competent jurisdiction as a debt due to the Board.

(7A) Where a person, other than a person referred to in subsection (7), takes action pursuant to subsection (3) or (4), the person may recover from Her Majesty in right of the Province the costs and expenses reasonably incurred by that person in taking the action.

(8) Section 154 applies, with such modifications as the circumstances require, to any action or measure taken or authorized or directed to be taken pursuant to subsections (4) to (6) as if it were taken or authorized or directed to be taken by order pursuant to subsection (1) of Section 152 and as if such order were not subject to an investigation.

(9) No person required, directed or authorized to act pursuant to this Section is personally liable in respect of any act or omission in the course of complying with this Section unless it is shown that that person did not act reasonably in the circumstances. 1987, c. 3, s. 158; 1992, c. 12, s. 20; 2013, c. 16, s. 14.

Exception for spill-treating agent

158A (1) The provisions referred to in Schedule V do not apply to the deposit of a spill-treating agent and those referred to in Schedule VI do not apply in respect of any harm that is caused by the spill-treating agent or by the interaction between the spill-treating agent and the spilled oil, if

- (a) the authorization issued under clause (b) of subsection (1) of Section 135 permits the use of the spill-treating agent;
- (b) other than in the case of a small-scale test that meets the prescribed requirements, the Chief Conservation Officer approves in writing the use of the agent in response to the spill and it is used in accordance with any requirements set out in the approval;
- (c) the agent is used for the purposes of subsection (3) or (4) of Section 158; and
- (d) the agent is used in accordance with the regulations.

(2) The provisions referred to in Schedule VI continue to apply to the holder of an authorization referred to in clause (a) of subsection (1) in respect of any harm that is caused by the spill or, notwithstanding subsection (1), by the interaction between the spill-treating agent and the spilled oil.

(3) Other than in the case of a small-scale test, the Chief Conservation Officer shall not approve the use of a spill-treating agent unless the Officer determines, taking into account any prescribed factors and any factors the Officer considers appropriate, that the use of the spill-treating agent is likely to achieve a net environmental benefit. 2014, c. 43, s. 21.

Approval for research

158B (1) For the purpose of a particular research project pertaining to the use of a spill-treating agent in mitigating the environmental impacts of a spill, the Minister may grant approval to the federal Minister for the Minister of the Environment for Canada to authorize, and establish conditions for, the deposit of a spill-treating agent, oil or oil surrogate.

(2) The Minister shall not grant approval to the federal Minister for the Minister of the Environment for Canada to authorize the deposit of an oil surrogate unless the Minister of the Environment for Canada has determined that the oil surrogate poses fewer safety, health or environmental risks than oil.

(3) Where the conditions set out in the authorization are met, the provisions referred to in Schedules V and VI do not apply in respect of the spill-treating agent, oil and oil surrogate required for the research project. 2014, c. 43, s. 21.

Liability for spill

159 (1) Where any discharge, emission or escape of petroleum that is authorized by regulation, or any spill, occurs in any portion of the offshore area,

(a) all persons to whose fault or negligence the spill or the authorized discharge, emission or escape of petroleum is attributable or who are by law responsible for others to whose fault or negligence the spill or the authorized discharge, emission or escape of petroleum is attributable are jointly and severally liable, to the extent determined according to the degree of the fault or negligence proved against them, for

(i) all actual loss or damage incurred by any person as a result of the spill or the authorized discharge, emission or escape of petroleum or as a result of any action or measure taken in relation to the spill or the authorized discharge, emission or escape of petroleum,

(ii) the costs and expenses reasonably incurred by the Board or Her Majesty in right of the Province or Canada or any other person in taking any action or measure in relation to the spill or the authorized discharge, emission or escape of petroleum, and

(iii) all loss of non-use value relating to a public resource that is affected by a spill or the authorized discharge, emission or escape of petroleum or as a result of any action or

measure taken in relation to the spill or the authorized discharge, emission or escape of petroleum; and

(b) the person who is required to obtain an authorization under clause (b) of subsection (1) of Section 135 in respect of the work or activity from which the spill or the authorized discharge, emission or escape of petroleum emanated is liable, without proof of fault or negligence, up to the applicable limit of liability that is set out in subsection (2B) for the actual loss or damage, the costs and expenses and the loss of non-use value described in subclauses (i) to (iii) of clause (a).

(2) Where, as a result of debris or as a result of any action or measure taken in relation to debris, there is a loss of non-use value relating to a public resource or any person incurs actual loss or damage or, where the Board or Her Majesty in right of the Province or Canada reasonably incurs any costs or expenses in taking any action or measure in relation to debris,

(a) all persons to whose fault or negligence the debris is attributable or who are by law responsible for others to whose fault or negligence the debris is attributable are jointly and severally liable, to the extent determined according to the degree of the fault or negligence proved against them, for that loss, actual loss or damage, and for those costs and expenses; and

(b) the person who is required to obtain an authorization under clause (b) of subsection (1) of Section 135 in respect of the work or activity from which the debris originated is liable, without proof of fault or negligence, up to the applicable limit of liability that is set out in subsection (2B), for that loss, actual loss or damage, and for those costs and expenses.

(2A) A person who is required to obtain an authorization under clause (b) of subsection (1) of Section 135 and who retains, to carry on a work or activity in respect of which the authorization is required, the services of a contractor to whom clause (a) of subsection (1) or clause (a) of subsection (2) applies is jointly and severally liable with that contractor for any actual loss or damage, costs and expenses and loss of non-use value described in subclauses (i) to (iii) of clause (a) of subsection (1) and subsection (2).

(2B) For the purposes of clause (b) of subsection (1) and clause (b) of subsection (2), the limit of liability is one billion dollars.

(2C) Subject to Section 6, the Governor in Council may, by regulation, increase the amount referred to in subsection (2B).

(2D) Where a person is liable under clause (b) of subsection (1) or clause (b) of subsection (2) with respect to an occurrence and the person is also liable under any other Act, without proof of fault or negligence, for the same occurrence, the person is liable up to the greater of the applicable limit of liability that is

set out in subsection (2B) and the limit up to which the person is liable under the other Act and, where the other Act does not set out a limit of liability, the limits set out in subsection (2B) do not apply.

(2E) Only Her Majesty in right of the Province or Canada may bring an action to recover a loss of non-use value described in subsections (1) and (2).

(3) All claims under this Section may be sued for and recovered in any court of competent jurisdiction in Canada and shall rank, firstly, in favour of persons incurring actual loss or damage, described in subsections (1) and (2), without preference, secondly, without preference, to meet any costs and expenses described in those subsections and, lastly, to recover a loss of non-use value described in those subsections.

(4) Subject to subsection (2E), nothing in this Section suspends or limits

(a) any legal liability or remedy for an act or omission by reason only that the act or omission is an offence pursuant to this Part or gives rise to liability pursuant to this Section;

(b) any recourse, indemnity or relief available at law to a person who is liable under this Section against any other person; or

(c) the operation of any applicable law or rule of law that is not inconsistent with this Section.

(5) Proceedings in respect of claims pursuant to this Section may be instituted within three years after the day when the loss, damage, costs or expenses occurred but in no case after six years after the day the spill or the discharge, emission or escape of petroleum occurred or, in the case of debris, after the day the installation or structure in question was abandoned or the material in question broke away or was jettisoned or displaced. 1987, c. 3, s. 159; 1992, c. 12, s. 21; 2014, c. 43, s. 22.

Proof of financial resources

159A (1) An applicant for an authorization under clause (b) of subsection (1) of Section 135 for the drilling for or development or production of petroleum shall provide proof, in the prescribed form and manner, that it has the financial resources necessary to pay the limit of liability referred to in subsection (2B) of Section 159 and, where the Board considers it necessary, the Board may determine a greater amount and require proof that the applicant has the financial resources to pay that greater amount.

(2) An applicant for an authorization under clause (b) of subsection (1) of Section 135 for any other work or activity shall provide proof, in the prescribed form and manner, that it has the financial resources necessary to pay an amount that is determined by the Board.

(3) When the Board determines an amount under subsection (1) or (2), the Board is not required to consider any potential loss of non-use value relating to a public resource that is affected by a spill or the authorized discharge, emission or escape of petroleum or as a result of debris.

(4) The holder of an authorization under clause (b) of subsection (1) of Section 135 shall ensure that the proof referred to in subsections (1) and (2) remains in force for the duration of the work or activity in respect of which the authorization is issued.

(5) The holder of an authorization under clause (b) of subsection (1) of Section 135 shall also ensure that the proof referred to in subsection (1) remains in force for a period of one year beginning on the day on which the Board notifies the holder that it has accepted a report submitted by the holder indicating that the last well in respect of which the authorization is issued is abandoned, and the Board may reduce that period and may decide that the proof that is to remain in force during that period is proof that the holder has the financial resources necessary to pay an amount that is less than the amount referred to in subsection (1) and that is determined by the Board. 2014, c. 43, s. 23.

Financial responsibility

160 (1) An applicant for an authorization under clause (b) of subsection (1) of Section 135 shall provide proof of financial responsibility in the form of a letter of credit, guarantee or indemnity bond or in any other form satisfactory to the Board,

(a) in the case of the drilling for or development or production of petroleum in the offshore area, in the amount of one hundred million dollars or, where the Board considers it necessary, in a greater amount that the Board determines; or

(b) in any other case, in an amount that is satisfactory to, and determined by, the Board.

(1A) An applicant to which clause (a) of subsection (1) applies may, rather than provide proof of financial responsibility in the amount referred to in that clause, provide proof that it participates in a pooled fund that is established by the oil and gas industry, that is maintained at a minimum of two hundred and fifty million dollars and that meets any other requirements that are established by regulation.

(1B) Subject to Section 6, the Governor in Council may, by regulation, increase the amount referred to in subsection (1A).

(1C) The holder of an authorization under clause (b) of subsection (1) of Section 135 shall ensure that the proof of financial responsibility referred to in subsection (1) or (1A) remains in force for the duration of the work or activity in respect of which the authorization is issued.

(1D) The holder of an authorization under clause (b) of subsection (1) of Section 135 shall also ensure that the proof referred to in clause (a) of subsection (1) or subsection (1A) remains in force for a period of one year beginning on the day on which the Board notifies the holder that it has accepted a report submitted by the holder indicating that the last well in respect of which the authorization is issued is abandoned, and the Board may reduce that period and may decide—other than in the case of a holder that participates in a pooled fund—that the proof that is to remain in force during that period is for an amount that is less than the amount referred to in clause (a) of subsection (1) and that is determined by the Board.

(2) The Board may require that moneys in an amount not exceeding the amount prescribed for any case or class of cases, or determined by the Board in the absence of regulations, be paid out of the funds available under the letter of credit, guarantee or indemnity bond or other form of financial responsibility provided under subsection (1), or be paid out of the pooled fund referred to in subsection (1A), in respect of any claim for which proceedings may be instituted under Section 159, whether or not those proceedings have been instituted.

(3) Where payment is required pursuant to subsection (2), it shall be made in such manner, subject to such conditions and procedures and to or for the benefit of such persons or classes of persons as may be prescribed by the regulations for any case or class of cases, or as may be required by the Board in the absence of regulations.

(4) Where a claim is sued for pursuant to Section 159, there shall be deducted from any award made pursuant to the action on that claim any amount received by the claimant pursuant to this Section in respect of the loss, damage, costs or expenses claimed.

(5) The holder of an authorization under clause (b) of subsection (1) of Section 135 that is liable for a discharge, emission or escape of petroleum that is authorized by regulation or for any spill or debris in respect of which a payment has been made under subsection (2) out of the pooled fund, shall reimburse the amount of the payment in the prescribed manner. 1987, c. 3, s. 160; 1992, c. 12, s. 22; 2014, c. 43, s. 24.

Approval of lesser amount

160A (1) The Minister may, by order, on the recommendation of the Board and with the federal Minister's approval, approve an amount that is less than the amount referred to in subsection (2B) of Section 159 or clause (a) of subsection (1) of Section 160 in respect of an applicant for, or a holder of, an authorization under clause (b) of subsection (1) of Section 135.

(2) Where the Minister approves an amount that is less than the amount referred to in subsection (2B) of Section 159 in respect of an applicant for an authorization under clause (b) of subsection (1) of Section 135, that applicant, for the purposes of subsection (1) of Section 159A, shall only provide proof that it has

the financial resources necessary to pay the adjusted amount approved by the Minister.

(3) No applicant for an authorization under clause (b) of subsection (1) of Section 135 contravenes clause (a) of subsection (1) of Section 160 if that applicant provides proof of financial responsibility in the amount that is approved by the Minister under this Section. 2014, c. 43, s. 25.

Committee respecting Sections 159 and 160

161 (1) A committee, consisting of members appointed by each Government and by representatives of the petroleum industry and of the fisheries industry, is established by the joint operation of this Act and the federal Implementation Act to review and monitor the application of Sections 159 and 160 and any claims and the payment thereof made pursuant to those Sections.

(2) The committee referred to in subsection (1) may be dissolved only by the joint operation of an Act of the Legislature and an Act of Parliament.

(3) The Board shall promote and monitor compensation policies for fishermen sponsored by the fishing industry respecting damages of a non-attributable nature. 1987, c. 3, s. 161.

Inquiry

162 (1) Where a spill or debris or an accident or incident, related to any activity to which this Part applies, occurs or is found in any portion of the offshore area and results in death or injury or danger to public safety or the environment, the Board may direct an inquiry to be made and may authorize any person it deems qualified to conduct the inquiry.

(1A) Where a spill or debris or an accident or incident related to any activity to which this Part applies occurs or is found in any portion of the offshore area and is serious, as defined by regulation, the Board shall direct that an inquiry referred to in subsection (1) be made and shall ensure that the person who conducts the inquiry is not employed by the Board.

(2) For the purposes of an inquiry pursuant to subsection (1), a person authorized by the Board pursuant to that subsection has and may exercise all the powers, privileges and immunities of a person appointed as a commissioner pursuant to the *Public Inquiries Act*.

(3) The person or persons authorized to conduct an inquiry pursuant to subsection (1) shall ensure that, as far as practicable, the procedures and practices for the inquiry are compatible with investigation procedures and practices followed by any appropriate federal authorities, and for such purposes may consult with any such authorities concerning compatible procedures and practices.

(4) As soon as possible after the conclusion of an inquiry pursuant to subsection (1), the person or persons authorized to conduct the inquiry shall

submit a report to the Board, together with the evidence and other material that was before the inquiry.

(5) A report made pursuant to subsection (4) shall be published by the Board within thirty days after the Board has received it.

(6) The Board may supply copies of a report published pursuant to subsection (5) in such manner and on such terms as the Board considers proper. 1987, c. 3, s. 162; 1992, c. 12, s. 23.

Interpretation of Sections 163 to 180

163 In Sections 163 to 180,

(a) “pooled spacing unit” means the area that is subject to a pooling agreement or a pooling order;

(b) “pooled tract” means the portion of a pooled spacing unit defined as a tract in a pooling agreement or a pooling order;

(c) “pooling agreement” means an agreement to pool the interests of owners in a spacing unit and to provide for the operation or the drilling and operation of a well thereon;

(d) “pooling order” means an order made pursuant to Section 165 or as altered pursuant to Section 167;

(e) “royalty interest” means any interest in, or the right to receive a portion of, any petroleum produced and saved from a field or pool or part of a field or pool or the proceeds from the sale thereof, but does not include a working interest or the interest of any person whose sole interest is as a purchaser of petroleum from the pool or part thereof;

(f) “royalty owner” means a person, including Her Majesty, who owns a royalty interest;

(g) “spacing unit” means the area allocated to a well for the purpose of drilling for or producing petroleum;

(h) “tract participation” means the share of production from a unitized zone that is allocated to a unit tract pursuant to a unit agreement or unitization order or the share of production from a pooled spacing unit that is allocated to a pooled tract pursuant to a pooling agreement or pooling order;

(i) “unit agreement” means an agreement to unitize the interests of owners in a pool or a part thereof exceeding in area a spacing unit, or such an agreement as varied by a unitization order;

(j) “unit area” means the area that is subject to a unit agreement;

(k) “unit operating agreement” means an agreement, providing for the management and operation of a unit area and a unitized zone, that is entered into by working interest owners who are parties to a unit agreement with respect to that unit area and unitized zone, and includes a unit operating agreement as varied by a unitization order;

- (l) “unit operation” means those operations conducted pursuant to a unit agreement or a unitization order;
- (m) “unit operator” means a person designated as unit operator pursuant to a unit operating agreement;
- (n) “unit tract” means the portion of a unit area that is defined as a tract in a unit agreement;
- (o) “unitization order” means an order of the Committee made pursuant to Section 173;
- (p) “unitized zone” means a geological formation that is within a unit area and subject to a unit agreement;
- (q) “working interest” means a right, in whole or in part, to produce and dispose of petroleum from a pool or part of a pool, whether such right is held as an incident of ownership of an estate in fee simple in the petroleum or pursuant to a lease issued pursuant to Part II, agreement or other instrument, if the right is chargeable with and the holder thereof is obligated to pay or bear, either in cash or out of production, all or a portion of the costs in connection with the drilling for, recovery and disposal of petroleum from the pool or part thereof;
- (r) “working interest owner” means a person who owns a working interest. 1987, c. 3, s. 163.

Pooling of interests

164 (1) Where one or more working interest owners have leases issued pursuant to Part II or separately owned working interests within a spacing unit, the working interest owners and the royalty owners who own all of the interests in the spacing unit may pool their working interests and royalty interests in the spacing unit for the purpose of drilling for or producing, or both drilling for and producing, petroleum if a copy of the pooling agreement and any amendment thereto has been filed with the Chief Conservation Officer.

(2) The Board may, on behalf of Her Majesty, enter into a pooling agreement on such terms and conditions as it deems advisable and, notwithstanding any enactment, the pooling agreement is binding on Her Majesty. 1987, c. 3, s. 164.

Pooling order

165 (1) In the absence of a pooling agreement a working interest owner in a spacing unit may apply for a pooling order directing the working interest owners and royalty owners within the spacing unit to pool their interests in the spacing unit for the purpose of drilling for and producing, or producing, petroleum from the spacing unit.

(2) An application pursuant to subsection (1) shall be made to the Board which shall refer the application to the Committee for the purpose of holding a hearing to determine whether a pooling order should be made and at such hearing the Committee shall afford all interested parties an opportunity to be heard.

(3) Prior to a hearing held pursuant to subsection (2), the working interest owner making application shall provide the Committee, and such other interested parties as the Committee may direct, with a proposed form of pooling agreement, and the working interest owners who have interests in the spacing unit to which the proposed pooling agreement relates shall provide the Committee with such information as the Committee deems necessary.

(4) After a hearing pursuant to subsection (2), the Committee may order that all working interest owners and royalty owners who have an interest in the spacing unit shall be deemed to have entered into a pooling agreement as set out in the pooling order.

(5) Every pooling order shall provide

(a) for the drilling and operation of a well on the spacing unit or, where a well that is capable of or that can be made capable of production has been drilled on the spacing unit before the making of the pooling order, for the future production and operation of that well;

(b) for the appointment of a working interest owner as operator to be responsible for the drilling, operation or abandoning of the well whether drilled before or after the making of the pooling order;

(c) for the allocation to each pooled tract of its share of the production of the petroleum from the pooled spacing unit that is not required, consumed or lost in the operation of the well, which allocation shall be on a prorated area basis unless it can be shown to the satisfaction of the Committee that such basis is unfair, whereupon the Committee may make an allocation on some other more equitable basis;

(d) in the event that no production of petroleum is obtained, for the payment by the applicant of all costs incurred in the drilling and abandoning of the well;

(e) where production has been obtained, for the payment of the actual costs of drilling the well, whether drilled before or after the making of the pooling order, and for the payment of the actual costs of the completion, operation and abandoning of the well; and

(f) for the sale by the operator of any petroleum allocated pursuant to clause (c) to a working interest owner where the working interest owner thereof fails to take in kind and dispose of such production, and for the deduction out of the proceeds by the operator of the expenses reasonably incurred in connection with such sale.

(6) A pooling order may provide for a penalty for a working interest owner who does not, within the time specified in the order, pay the portion of the costs attributable to that person as that person's share of the cost of drilling and

completion of the well, but such penalty shall not exceed an amount equal to one half of that working interest owner's share of such costs.

(7) If a working interest owner does not, within the time specified therefor in the pooling order, pay the share of the costs of the drilling, completing, operating and abandoning of the well, the portion of the costs and the penalty, if any, are recoverable only out of that person's share of production from the spacing unit and not in any other manner. 1987, c. 3, s. 165.

Deemed pooling agreement

166 Where a pooling order is made, all working interest owners and royalty owners having interests in the pooled spacing unit shall, upon the making of the pooling order, be deemed to have entered into a pooling agreement as set out in the pooling order and that order shall be deemed to be a valid contract between the parties having interests in the pooled spacing unit, and all its terms and provisions, as set out therein or as altered pursuant to Section 167, are binding upon and enforceable against the parties thereto, including Her Majesty. 1987, c. 3, s. 166.

Hearing of application to vary

167 (1) The Committee shall hear any application to vary, amend or terminate a pooling order where such application is made by the owners of over twenty-five per cent of the working interests in the pooled spacing unit, calculated on a prorated area basis, and may, in its discretion, order a hearing on the application of any working interest owner or royalty owner.

(2) After a hearing held pursuant to subsection (1), the Committee may vary or amend the pooling order to supply any deficiency therein or to meet changing conditions and may vary or revoke any provision that the Committee deems to be unfair or inequitable or it may terminate the pooling order.

(3) Where a pooling order is varied or amended, no change shall be made that will alter the ratios of tract participations between the pooled tracts as originally set out in the pooling order. 1987, c. 3, s. 167.

Pooling agreement required

168 (1) No person shall produce any petroleum within a spacing unit in which there are two or more leases issued pursuant to Part II or two or more separately owned working interests unless a pooling agreement has been entered into in accordance with Section 164 or in accordance with a pooling order made pursuant to Section 165.

(2) Subsection (1) does not prohibit the production of petroleum for testing in any quantities approved by the Chief Conservation Officer. 1987, c. 3, s. 168.

Unit agreement

169 (1) Any one or more working interest owners in a pool or part thereof exceeding in area a spacing unit, together with the royalty owners, may enter into a unit agreement and operate their interests pursuant to the terms of the unit agreement or any amendment thereto if a copy of the agreement and any amendment has been filed with the Chief Conservation Officer.

(2) The Board may enter into a unit agreement binding on Her Majesty, on such terms and conditions as it may deem advisable, and the provisions of any enactment in conflict with the terms and conditions of the unit agreement stand varied or suspended to the extent necessary to give full effect to the terms and conditions of the unit agreement.

(3) Where a unit agreement filed pursuant to this Section provides that a unit operator shall be the agent of the parties thereto with respect to their powers and responsibilities pursuant to this Part, the performance or non-performance thereof by the unit operator shall be deemed to be the performance or non-performance by the parties otherwise having those powers and responsibilities pursuant to this Part. 1987, c. 3, s. 169.

Application by Chief Conservation Officer to require agreements

170 (1) Notwithstanding anything in this Part, where, in the opinion of the Chief Conservation Officer, the unit operation of a pool or part thereof would prevent waste, the Chief Conservation Officer may apply to the Committee for an order requiring the working interest owners in the pool or part thereof to enter into a unit agreement and a unit operating agreement in respect of the pool or part thereof, as the case may be.

(2) Where an application is made by the Chief Conservation Officer pursuant to subsection (1), the Committee shall hold a hearing at which all interested persons shall be afforded an opportunity to be heard.

(3) If, after the hearing mentioned in subsection (2), the Committee is of the opinion that unit operation of a pool or part thereof would prevent waste, the Committee may, by order, require the working interest owners in the pool or part thereof to enter into a unit agreement and a unit operating agreement in respect of the pool or part thereof.

(4) If in the time specified in the order referred to in subsection (3), being not less than six months after the date of the making of the order, the working interest owners and royalty owners fail to enter into a unit agreement and a unit operating agreement approved by the Committee, all drilling and producing operations within the pool or part thereof in respect of which the order was made shall cease until such time as a unit agreement and a unit operating agreement have been approved by the Committee and filed with the Chief Conservation Officer.

(5) Notwithstanding subsection (4), the Committee may permit the continued operation of the pool or part thereof after the time specified in the

order referred to in subsection (3) if it is of the opinion that a unit agreement and unit operating agreement are in the course of being entered into, but any such continuation of operations shall be subject to any conditions prescribed by the Committee. 1987, c. 3, s. 170.

Application for unitization order

171 (1) One or more working interest owners who are parties to a unit agreement and a unit operating agreement and own in the aggregate sixty-five per cent or more of the working interests in a unit area may apply for a unitization order with respect to the agreements.

(2) An application pursuant to subsection (1) shall be made to the Board which shall refer the application to the Committee for the purpose of holding a hearing thereon in accordance with Section 173.

(3) An application pursuant to subsection (1) may be made by the unit operator or proposed unit operator on behalf of the working interest owners referred to in subsection (1). 1987, c. 3, s. 171.

Contents of application and agreements

172 (1) An application for a unitization order shall contain

- (a) a plan showing the unit area that the applicant desires to be made subject to the order;
- (b) one copy each of the unit agreement and the unit operating agreement;
- (c) a statement of the nature of the operations to be carried out; and
- (d) a statement showing
 - (i) with respect to each proposed unit tract, the names and addresses of the working interest owners and royalty owners in that tract, and
 - (ii) the tracts that are entitled to be qualified as unit tracts pursuant to the provisions of the unit agreement.

- (2)** The unit agreement referred to in subsection (1) shall include
- (a) a description of the unit area and the unit tracts included in the agreement;
 - (b) an allocation to each unit tract of a share of the production from the unitized zone not required, consumed or lost in the unit operation;
 - (c) a provision specifying the manner in which and the circumstances under which the unit operation shall terminate; and

(d) a provision specifying that the share of the production from a unit area that has been allocated to a unit tract shall be deemed to have been produced from that unit tract.

(3) The unit operating agreement referred to in subsection (1) shall make provision for the

(a) contribution or transfer to the unit, and any adjustment among the working interest owners, of the investment in wells and equipment within the unit area;

(b) charging of the costs and expenses of the unit operation to the working interest owners;

(c) supervision of the unit operation by the working interest owners through an operating committee composed of their duly authorized representatives and for the appointment of a unit operator to be responsible, under the direction and supervision of the operating committee, for the carrying out of the unit operation;

(d) determination of the percentage value of the vote of each working interest owner; and

(e) determination of the method of voting upon any motion before the operating committee and the percentage value of the vote required to carry the motion. 1987, c. 3, s. 172.

Referral to Committee

173 (1) Where an application made pursuant to Section 171 is referred by the Board to the Committee, the Committee shall hold a hearing thereon at which all interested persons shall be afforded an opportunity to be heard.

(2) If the Committee finds that

(a) at the date of the commencement of a hearing referred to in subsection (1)

(i) the unit agreement and the unit operating agreement have been executed by one or more working interest owners who own in the aggregate sixty-five per cent or more of the total working interests in the unit area, and

(ii) the unit agreement has been executed by one or more royalty owners who own in the aggregate sixty-five per cent or more of the total royalty interests in the unit area; and

(b) the unitization order applied for would accomplish the more efficient or more economical production of petroleum from the unitized zone,

the Committee may order

(c) that the unit agreement be a valid contract enuring to the benefit of all the royalty owners and working interest owners in

the unit area and binding upon and enforceable against all such owners; and

(d) that the unit operating agreement be a valid contract enuring to the benefit of all the working interest owners in the unit area and binding upon and enforceable against all such owners,

and subject to Section 174, the unit agreement and the unit operating agreement have the effect given them by the order of the Committee.

(3) In a unitization order the Committee may vary the unit agreement or the unit operating agreement by adding provisions or by deleting or amending any provision thereof. 1987, c. 3, s. 173.

Effective date of orders

174 (1) Subject to subsection (2), a unitization order becomes effective on the day that the Committee determines in the order, but that day shall be not less than thirty days after the day on which the order is made.

(2) Where a unit agreement or unit operating agreement is varied by the Committee in a unitization order, the effective date prescribed in the order shall be a date not less than thirty days following the day the order is made, but the order becomes ineffective if, before the effective date, the applicant files with the Committee a notice withdrawing the application on behalf of the working interest owners or there are filed with the Committee statements in writing objecting to the order and signed

(a) in the case of the unit agreement by

(i) one or more working interest owners who own in the aggregate more than twenty-five per cent of the total working interests in the area and were included within the group owning sixty-five per cent or more of the total working interests as described in subclause (i) of clause (a) of subsection (2) of Section 173, and

(ii) one or more royalty owners who own in the aggregate more than twenty-five per cent of the total royalty interests in the unit area and were included within the group owning sixty-five per cent or more of the total royalty interests as described in subclause (ii) of clause (a) of subsection (2) of Section 173; or

(b) in the case of the unit operating agreement, by one or more working interest owners who own in the aggregate more than twenty-five per cent of the total working interests in the unit area and were included within the group owning sixty-five per cent or more of the total working interests as described in subclause (i) of clause (a) of subsection (2) of Section 173.

(3) Where a unitization order becomes ineffective pursuant to subsection (2), the Committee shall forthwith revoke the order. 1987, c. 3, s. 174; 1992, c. 12, s. 24.

Order not invalidated

175 A unitization order is not invalid by reason only of the absence of notice or of any irregularities in giving notice to any owner in respect of the application for the order or any proceedings leading to the making of the order. 1987, c. 3, s. 175.

Amendment of unitization order

176 (1) A unitization order may be amended upon the application of a working interest owner, but before amending a unitization order the Committee shall hold a hearing at which all interested parties shall have an opportunity to be heard.

(2) If the Committee finds that, at the date of the commencement of a hearing of an application for the amendment of a unitization order, one or more working interest owners who own, in the aggregate, sixty-five per cent or more of the total working interests and one or more royalty interest owners who own, in the aggregate, sixty-five per cent or more of the total royalty interests in the unit area have consented to the proposed amendment, the Committee may amend the unitization order in accordance with the amendment proposed. 1987, c. 3, s. 176.

Ratios not affected by order

177 No amendment shall be made pursuant to Section 176 that will alter the ratios between the tract participations of those tracts that were qualified for inclusion in the unit area before the commencement of the hearing, and, for the purposes of this Section, the tract participations shall be those indicated in the unit agreement when it became subject to a unitization order. 1987, c. 3, s. 177.

Compliance with agreement

178 After the date on which a unitization order comes into effect and while the order remains in force, no person shall carry on any operations within the unit area for the purpose of drilling for or producing petroleum from the unitized zone, except in accordance with the provisions of the unit agreement and the unit operating agreement. 1987, c. 3, s. 178.

Calculation of interest percentage

179 The percentages of interests referred to in subsection (1) of Section 171, subsection (2) of Section 173, subsection (2) of Section 174 and subsection (2) of Section 176 shall be determined,

- (a) as to royalty interests, on a prorated area basis; and
- (b) as to working interests, on the basis of tract participations shown in the unit agreement. 1987, c. 3, s. 179.

Conflict between order and agreement

180 (1) A pooled spacing unit that has been pooled pursuant to a pooling order and on which a well has been drilled may be included in a unit area as a single unit tract and the Committee may make such amendments to the pooling order as it deems necessary to remove any conflict between the provisions of the pooling order and the provisions of the unit agreement, or the unit operating agreement or the unitization order, if any.

(2) Where a pooled spacing unit is included in a unit area pursuant to subsection (1), the provisions of the unit agreement, the unit operating agreement and the unitization order, if any, prevail over the provisions of the pooling order in the event of a conflict.

(3) Notwithstanding subsection (2),

(a) the share of the unit production that is allocated to the pooled spacing unit shall in turn be allocated to the separately owned tracts in the pooled spacing unit on the same basis and in the same proportion as production actually obtained from the pooled spacing unit would have been shared pursuant to the pooling order;

(b) the costs and expenses of the unit operation that are allocated to the pooled spacing unit shall be shared and borne by the owners of the working interests therein on the same basis and in the same proportion as would apply pursuant to the pooling order; and

(c) the credits allocated pursuant to a unit operating agreement to a pooled spacing unit for adjustment of investment for wells and equipment thereon shall be shared by the owners of the working interests therein in the same proportion as would apply to the sharing of production pursuant to the pooling order. 1987, c. 3, s. 180.

Decision of Committee final

181 (1) Except as provided in Sections 181 to 184, every decision or order of the Committee is final and conclusive.

(2) Any minute or other record of the Committee or any document issued by the Committee in the form of a decision or order shall, for the purposes of this Section, be deemed to be a decision or order of the Committee. 1987, c. 3, s. 181.

Stated case

182 (1) The Committee may, of its own motion or at the request of the Board, state a case, in writing, for the opinion of the Nova Scotia Court of Appeal upon any question that in the opinion of the Committee is a question of law or of the jurisdiction of the Committee.

(2) The Nova Scotia Court of Appeal shall hear and determine the case stated, and remit the matter to the Committee with the opinion of the Court thereon. 1987, c. 3, s. 182; 2015, c. 36, s. 7.

Variation of Committee decision

183 The Board may, at any time in its discretion, either upon petition of any interested person or of its own motion, vary or rescind any decision or order of the Committee made pursuant to this Part, whether such order is made *inter partes* or otherwise and any order that the Board makes with respect thereto becomes a decision or order of the Committee and, subject to Section 184, is binding upon the Committee and upon all parties. 1987, c. 3, s. 183.

Appeal from Committee upon leave to Supreme Court

184 (1) An appeal lies from a decision or order of the Committee to the Supreme Court of Nova Scotia upon a question of law, in the manner prescribed, upon leave therefor being obtained from that Court, upon application made within one month after the making of the decision or order sought to be appealed from or within such further time as that Court may allow.

(2) Where leave to appeal is granted pursuant to subsection (1), any order of the Committee in respect of which the appeal is made shall be stayed until the matter of the appeal is determined.

(3) After the hearing of the appeal the Court shall certify its opinion to the Committee and the Committee shall make any order necessary to comply with that opinion.

(4) Any order made by the Committee pursuant to subsection (3), unless that order has already been dealt with by the Board pursuant to Section 183, shall be subject to that Section. 1987, c. 3, s. 184; 2015, c. 36, s. 8.

Officers

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. 2013, c. 16, s. 15.

Powers of officers

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. 2013, c. 16, s. 15.

Written report verifying compliance

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. 2013, c. 16, s. 15.

Living quarters

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. 2013, c. 16, s. 15.

Certificate of appointment or designation

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. 2013, c. 16, s. 15.

Assistance

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 offshore area; and

(b) suitable accommodation and food at the marine installation or structure. 2013, c. 16, s. 15.

Prohibition

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. 2013, c. 16, s. 15.

Warrant

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. 2013, c. 16, s. 15.

Care of item seized

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. 2013, c. 16, s. 15.

Order to cease or restrict operation

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.

(5) The person carrying out the operation to which an order pursuant to subsection (1) makes reference or any person having a pecuniary interest in that operation may by notice in writing request the Chief Safety Officer to refer it, in the manner prescribed, to the Supreme Court of Nova Scotia for review, and thereupon the Chief Safety Officer shall do so.

(6) The Supreme Court of Nova Scotia shall inquire into the need for the order.

(7) Where an order has been referred to the Supreme Court of Nova Scotia pursuant to this Section, the burden of establishing that the order is not needed is on the person who requested that the order be so referred.

(8) The Supreme Court of Nova Scotia may confirm or set aside the order, and the decision of the Supreme Court is final and conclusive.

(9) No person shall continue an operation in respect of which an order has been made pursuant to this Section, except in accordance with the terms of the order or until the order has been set aside by the Supreme Court of Nova Scotia pursuant to this Section. 1992, c. 12, s. 25; 2013, c. 16, s. 16; 2015, c. 36, s. 9.

Inconsistent orders

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. 2013, c. 16, s. 17.

Installation manager

190B (1) Every holder of an authorization pursuant to clause (b) of subsection (1) of Section 135 with respect to a work or activity for which a prescribed installation is to be used shall put in command of the installation a manager who meets any prescribed qualifications, and the installation manager is responsible for the safety of the installation and the persons at it.

(2) Subject to this Act and any other Act of the Legislature, an installation manager has the power to do such things as are required to ensure the safety of the installation and the persons at it and, more particularly, may

- (a) give orders to any person who is at the installation;
- (b) order that any person who is at the installation be restrained or removed; and
- (c) obtain any information or documents.

(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. 1992; c. 12, s. 25; 2013, c. 16, s. 18.

Offences and penalties

191 (1) Every person is guilty of an offence who

- (a) contravenes this Part or the regulations;
- (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;
- (d) produces any petroleum from a pool or field under the terms of a unit agreement within the meaning of Part III, or any amended unit agreement, before the unit agreement or amended unit agreement is filed with the Chief Conservation Officer;
- (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.

(2) Every person who is guilty of an offence pursuant to subsection (1) is liable on summary conviction to a fine not exceeding one million dollars or to imprisonment for a term not exceeding five years, or to both.

(3) In addition to the principles and factors that the court is otherwise required to consider, including those set out in sections 718.1 to 718.21 of the *Criminal Code* (Canada), the court shall consider the following principles when sentencing a person who is found guilty of an offence under this Part:

(a) the amount of the fine should be increased to account for every aggravating factor associated with the offence, including the aggravating factors set out in subsection (4); and

(b) the amount of the fine should reflect the gravity of each aggravating factor associated with the offence.

(4) The aggravating factors are the following:

(a) the offence caused harm or risk of harm to human health or safety;

(b) the offence caused damage or risk of damage to the environment or to environmental quality;

(c) the offence caused damage or risk of damage to any unique, rare, particularly important or vulnerable component of the environment;

(d) the damage or harm caused by the offence is extensive, persistent or irreparable;

(e) the offender committed the offence intentionally or recklessly;

(f) the offender failed to take reasonable steps to prevent the commission of the offence;

(g) by committing the offence or failing to take action to prevent its commission, the offender increased the offender's revenue or decreased the offender's costs or intended to increase the offender's revenue or decrease the offender's costs;

(h) the offender has a history of noncompliance with federal or provincial legislation that relates to safety or environmental conservation or protection; and

(i) after the commission of the offence, the offender

(i) attempted to conceal its commission,

(ii) failed to take prompt action to prevent, mitigate or remediate its effects, or

(iii) failed to take prompt action to reduce the risk of committing similar offences in the future.

(4A) The absence of an aggravating factor set out in subsection (4) is not a mitigating factor.

(4B) For the purposes of clauses (b) to (d) of subsection (4), “damage” includes loss of use value and non-use value.

(4C) Where the court is satisfied of the existence of one or more of the aggravating factors set out in subsection (4) but decides not to increase the amount of the fine because of that factor, the court shall give reasons for that decision.

(4D) 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.

(5) No person commits an offence pursuant to subsection (1) of Section 151 by reason of committing waste as defined in clause (f) or (g) of subsection (2) of Section 151 unless that person has been ordered by the Committee to take measures to prevent the waste and has failed to comply. 1987, c. 3, s. 191; 1992, c. 12, s. 26; 2013, c. 16, s. 19; 2014, c. 43, ss. 26, 36.

Offence by corporation

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. 2013, c. 16, s. 20.

No default imprisonment

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. 2013, c. 16, s. 20.

192B to 192E *repealed 2014, c. 43, s. 37.*

Orders

193 (1) Where a person is found guilty 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 action that the court considers appropriate to remedy or avoid any harm to the environment that results or may result from the act or omission that constituted the offence;

(c) 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;

(d) directing the offender to carry out environmental effects monitoring in the manner established by the Board or directing the offender to pay, in the manner specified by the court, an amount of money for the purposes of environmental effects monitoring;

(e) directing the offender to make changes to the offender's environmental management system that are satisfactory to the Board;

(f) directing the offender to have an environmental audit conducted by a person of a class and at the times specified by the Board and directing the offender to remedy any deficiencies revealed during the audit;

(g) directing the offender to pay to Her Majesty in right of Canada, for the purpose of promoting the conservation, protection or restoration of the environment, or to pay into the Environmental Damages Fund—an account in the accounts of Canada—an amount of money that the court considers appropriate;

(h) 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;

(i) directing the offender to publish, in the manner specified by the court, the facts relating to the commission of the offence and the details of the punishment imposed, including any orders made under this subsection;

(j) directing the offender to submit to the Chief Safety Officer, on application by the Chief Safety Officer within three years after the conviction, any information with respect to the offender's activities that the court considers appropriate in the circumstances;

(k) directing the offender to notify, at the offender's own cost and in the manner specified by the court, any person aggrieved or affected by the offender's conduct of the facts relating to the commission of the offence and of the details of the punishment imposed, including any orders made under this subsection;

(l) 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;

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

(n) directing the offender to pay, in the manner specified by the court, an amount of money to environmental, health or other groups to assist in their work;

(o) directing the offender to pay, in the manner specified by the court, an amount of money to an educational institution including for scholarships for students enrolled in studies related to the environment;

(p) 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;

(q) prohibiting the offender from taking measures to acquire an interest or from applying for any new licence or other authorization under this Act during any period that the court considers appropriate.

(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 requiring the publication of facts relating to the offence and the details of the punishment, the Board may, in the manner that the court directed the offender, publish those facts and details and recover the costs of publication from the offender.

(4) Where the Board incurs publication costs under subsection (3), the costs constitute a debt due to the Board and may be recovered in any court of competent jurisdiction. 2014, c. 43, ss. 27, 37.

Variation of order

193A (1) Subject to subsection (2), where a court has made, in relation to an offender, an order under Section 193, the court may, on application by the offender or the Board, require the offender to appear before it and, after hearing the offender and the Board, vary the order in one or more of the following ways that the court considers appropriate because of a change in the offender's circumstances since the order was made:

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

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

(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. 2014, c. 43, s. 27.

Single application

193B Where an application made under subsection (1) of Section 193A in relation to an offender has been heard by a court, no other application may be made under Section 193A in relation to the offender except with leave of the court. 2014, c. 43, s. 27.

Judgment of Supreme Court

193C 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 193 or subsection (1) of Section 193A, 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 them in that Court in civil proceedings. 2014, c. 43, s. 27.

Continuing offence

194 Where an offence pursuant to this Part is committed on more than one day or is continued for more than one day, it shall be deemed to be a separate offence for each day on which the offence is committed or continued. 1987, c. 3, s. 194.

195 *repealed 1992, c. 12, s. 27.*

Limitation period

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. 2013, c. 16, s. 21.

Copy of order as proof

197 In any prosecution for an offence pursuant to this Part, a copy of any order or other document purporting to have been made pursuant to this Part or the regulations, and purporting to have been signed by the person authorized by this Part or the regulations to make that order or document is, in the absence of any evidence to the contrary, proof of the matters set out therein. 1987, c. 3, s. 197.

Jurisdiction for hearing

198 Any complaint or information in respect of an offence pursuant to this Part may be heard, tried or determined by a justice 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. 1987, c. 3, s. 198.

Right of action by Board

199 (1) Notwithstanding that a prosecution has been instituted in respect of an offence pursuant to this Part, the regulations or any order made pursuant to this Part or the regulations, the Board may commence and maintain an action to enjoin the committing of any contravention of this Part, the regulations or any order made pursuant to this Part or the regulations.

(2) No civil remedy for any act or omission is suspended or affected by reason that the act or omission is an offence pursuant to this Part. 1987, c. 3, s. 199.

Multiple offences

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. 2013, c. 16, s. 22.

Administrative Monetary Penalties

Powers

Regulations

199B (1) Subject to Section 6, the Governor in Council may make regulations

(a) designating as a violation that may be proceeded with in accordance with this Part

(i) the contravention of any specified provision of this Part or of any of its regulations,

(ii) the contravention of any direction, requirement, decision or order, or of any direction, requirement, decision or order of a specified class of directions, requirements, decisions or orders, made under this Part, or

(iii) the failure to comply with any term or condition of

(A) an operating licence or authorization, or a specified class of operating licences or authorizations, issued under this Part, or

(B) any approval or exemption or a specified class of approvals or exemptions, granted under this Part;

(b) respecting the determination of, or the method of determining, the amount payable as the penalty, which may be different for individuals and other persons, for each violation; and

(c) respecting the service of documents required or authorized under Section 199G, 199L or 199O, including the manner and proof of service and the circumstances under which documents are considered to be served.

(2) The amount that may be determined under any regulations made under clause (b) of subsection (1) as the penalty for a violation shall not be more than twenty-five thousand dollars, in the case of an individual, and one hundred thousand dollars, in the case of any other person. 2014, c. 43, s. 28.

Powers of Board

199C The Board may

(a) establish the form of notices of violation;

(b) designate persons or classes of persons who are authorized to issue notices of violation;

(c) establish, in respect of each violation, a short-form description to be used in notices of violation; and

(d) designate persons or classes of persons to conduct reviews under Section 199N. 2014, c. 43, s. 28.

Violations

Violation by person

199D (1) Every person who contravenes or fails to comply with a provision, direction, requirement, decision or order, or term or condition the contravention of which, or the failure to comply with which, is designated to be a violation by a regulation made under clause (a) of subsection (1) of Section 199B commits a violation and is liable to a penalty of an amount to be determined in accordance with the regulations.

(2) The purpose of the penalty is to promote compliance with this Part and not to punish. 2014, c. 43, s. 28.

Violation by corporation

199E Where a corporation commits a violation, any director, officer, or agent or mandatory of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the violation is a party to the violation and is liable to a penalty of an amount to be determined in accordance with the regulations, whether or not the corporation has been proceeded against in accordance with this Part. 2014, c. 43, s. 28.

Violation by employee, agent or mandatory

199F In any proceedings under this Part against a person in relation to a violation, it is sufficient proof of the violation to establish that it was committed by an employee, or agent or mandatory, of the person, whether or not the employee, or agent or mandatory is identified or proceeded against in accordance with this Part. 2014, c. 43, s. 28.

Notice of violation

199G (1) Where a person designated under clause (b) of Section 199C believes on reasonable grounds that a person has committed a violation, the designated person may issue a notice of violation and cause it to be served on the person.

(2) The notice of violation shall

- (a) name the person that is believed to have committed the violation;
- (b) set out the relevant facts surrounding the violation;
- (c) set out the amount of the penalty for the violation;
- (d) inform the person of the person's right, under Section 199L, to request a review with respect to the amount of the penalty or the facts of the violation, and of the prescribed period within which that right is to be exercised;

(e) inform the person of the manner of paying the penalty set out in the notice; and

(f) inform the person that, where the person does not pay the penalty or exercise the person's right referred to in clause (d), the person will be considered to have committed the violation and that the person is liable to the penalty set out in the notice. 2014, c. 43, s. 28.

Rules About Violations

No due diligence

199H (1) A person named in a notice of violation does not have a defence by reason that the person

(a) exercised due diligence to prevent the commission of the violation; or

(b) reasonably and honestly believed in the existence of facts that, if true, would exonerate the person.

(2) Every rule and principle of the common law that renders any circumstance a justification or excuse in relation to a charge for an offence under this Part applies in respect of a violation to the extent that it is not inconsistent with this Part. 2014, c. 43, s. 28.

Continuing violation

199I A violation that is committed or continued on more than one day constitutes a separate violation for each day on which it is committed or continued. 2014, c. 43, s. 28.

Violation precludes offence

199J (1) Proceeding with any act or omission as a violation under this Part precludes proceeding with it as an offence under this Part, and proceeding with it as an offence under this Part precludes proceeding with it as a violation under this Part.

(2) For greater certainty, a violation is not an offence and, accordingly, Section 4 of the *Summary Proceedings Act* does not apply in respect of a violation. 2014, c. 43, s. 28.

Limitation period

199K No notice of violation is to be issued more than two years after the day on which the matter giving rise to the violation occurred. 2014, c. 43, s. 28.

Reviews

Request for review

199L A person who is served with a notice of violation may, within thirty days after the day on which it is served, or within any longer period that the Board allows, make a request to the Board for a review of the amount of the penalty or the facts of the violation, or both. 2014, c. 43, s. 28.

Correction of error

199M At any time before a request for a review in respect of a notice of violation is received by the Board, a person designated under clause (b) of Section 199C may cancel the notice of violation or correct an error in it. 2014, c. 43, s. 28.

Conduct of review

199N (1) On receipt of a request made under Section 199L, the Board shall conduct the review or cause the review to be conducted by a person designated under clause (d) of Section 199C.

(2) The Board shall conduct the review if the notice of violation was issued by a person designated under clause (d) of Section 199C. 2014, c. 43, s. 28.

Determination of review

199O (1) The Board or the person conducting the review shall determine, as the case may be, whether the amount of the penalty for the violation was determined in accordance with the regulations or whether the person committed the violation, or both.

(2) The Board or the person conducting the review shall render a determination and the reasons for it in writing and cause the person who requested the review to be served with a copy of them.

(3) Where the Board or the person conducting the review determines that the amount of the penalty for the violation was not determined in accordance with the regulations, the Board or the person, as the case may be, shall correct the amount of the penalty.

(4) Where the Board or the person conducting the review determines that the person who requested the review committed the violation, the person who requested the review is liable to the penalty as set out in the notice issued under Section 199G or as set out in the determination if the amount of the penalty was corrected under subsection (3).

(5) A determination made under this Section is final and binding and, subject to review by the Supreme Court of Nova Scotia, is not subject to appeal or to review by any court. 2014, c. 43, s. 28.

Standard of proof

199P Where the facts of a violation are reviewed, the person who issued the notice of violation shall establish, on a balance of probabilities, that the person named in it committed the violation identified in it. 2014, c. 43, s. 28.

Responsibility**Where penalty paid**

199Q Where a person pays the penalty set out in a notice of violation, the person is considered to have committed the violation and proceedings in respect of it are ended. 2014, c. 43, s. 28.

Where penalty not paid

199R A person that neither pays the penalty imposed under this Part nor requests a review in the period referred to in Section 199L is considered to have committed the violation and is liable to the penalty. 2014, c. 43, s. 28.

Recovery of Penalties**Recovery of penalty**

199S (1) A penalty constitutes a debt due to Her Majesty in right of the Province and may be recovered in the Supreme Court of Nova Scotia.

(2) No proceedings to recover the debt are to be instituted more than five years after the day on which the debt becomes payable. 2014, c. 43, s. 28.

Certificate of non-payment

199T (1) The Board may issue a certificate of non-payment certifying the unpaid amount of any debt referred to in subsection (1) of Section 199S.

(2) Registration in the Supreme Court of Nova Scotia of a certificate of non-payment issued under subsection (1) has the same effect as a judgment of that court for a debt of the amount specified in the certificate and all related registration costs. 2014, c. 43, s. 28.

General**Presumed authenticity of notice**

199U In the absence of evidence to the contrary, a document that appears to be a notice issued under subsection (1) of Section 199G is presumed to be authentic and is proof of its contents in any proceeding in respect of a violation. 2014, c. 43, s. 28.

Publication

199V The Board may make public the nature of a violation, the name of the person who committed it and the amount of the penalty. 2014, c. 43, s. 28.

REGULATIONS

Regulations

200 Subject to Section 6, the Governor in Council may make such regulations not inconsistent with this Part as may be deemed necessary for carrying out the purposes of this Part, and, without limiting the generality of the foregoing, may make regulations defining and distinguishing more particularly for the purposes of this Part the expressions “oil” and “gas”. 1987, c. 3, s. 200.

APPLICATION

Application of Part

201 This Part applies to every interest or right in petroleum acquired or vested before the coming into force of this Section and is binding on Her Majesty in right of the Province, a province or Canada. 1987, c. 3, s. 201.

TRANSITIONAL

Deemed licence or authorization

202 (1) Where an operating licence was issued pursuant to Section 5 of the *Oil and Gas Production and Conservation (Nova Scotia) Act*, and is in force on the coming into force of this Section, it is and is deemed to be an operating licence issued by the Board pursuant to this Part.

(2) Where, prior to the coming into force of this Section, authorization for any work or activity or approval of a development plan was given pursuant to Section 5 of the *Oil and Gas Production and Conservation (Nova Scotia) Act* or any regulation made pursuant to that Act, the authorization or approval is and is deemed to be given by the Board pursuant to this Part. 1987, c. 3, s. 202.

PART IIIA

OCCUPATIONAL HEALTH AND SAFETY

INTERPRETATION

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 (l) of subsection (1);

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

(c) prescribing a class of ships or vessels for the purposes of subclause (vi) of clause (l) 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. 2013, c. 16, s. 23.

HER MAJESTY

Her Majesty

202B This Part is binding on Her Majesty in right of the Province, a province or Canada. 2013, c. 16, s. 23.

APPLICATION

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. 2013, c. 16, s. 23.

Occupational Health and Safety Act

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. 2013, c. 16, s. 23.

Canada Labour Code

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. 2013, c. 16, s. 23.

Canadian Human Rights Act

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. 2013, c. 16, s. 23.

Non-smokers' Health Act (Canada)

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. 2013, c. 16, s. 23.

Nova Scotia social legislation

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. 2013, c. 16, s. 23.

Marine installation or structure, workboat, dive site

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, permanently 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. 2013, c. 16, s. 23.

PURPOSE

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. 2013, c. 16, s. 23.

ALLOCATION OF RESPONSIBILITY

Responsibility and specific obligation

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. 2013, c. 16, s. 23.

DUTIES OF OPERATORS

Occupational health and safety policy

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. 2013, c. 16, s. 23.

Reasonable health and safety measures

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. 2013, c. 16, s. 23.

Workplace safety

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 sub-clauses (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. 2013, c. 16, s. 23.

Transport safety

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). 2013, c. 16, s. 23.

Occupational health and safety management system

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. 2013, c. 16, s. 23.

Code of practice

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. 2013, c. 16, s. 23.

Occupational disease, accident or incident

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. 2013, c. 16, s. 23.

DUTIES OF EMPLOYERS

Reasonable health and safety measures

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. 2013, c. 16, s. 23.

Workplace safety

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 subclauses (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. 2013, c. 16, s. 23.

Occupational health and safety program

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.

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

- (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. 2013, c. 16, s. 23.

Code of practice

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. 2013, c. 16, s. 23.

Hazardous substances

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. 2013, c. 16, s. 23.

Information respecting controlled product

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. 2013, c. 16, s. 23.

DUTIES OF SUPERVISORS

Reasonable measures

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. 2013, c. 16, s. 23.

Duties

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. 2013, c. 16, s. 23.

DUTIES OF EMPLOYEES

Reasonable measures

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. 2013, c. 16, s. 23.

Duties

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. 2013, c. 16, s. 23.

During transport

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. 2013, c. 16, s. 23.

No personal liability

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. 2013, c. 16, s. 23.

DUTIES OF SUPPLIERS AND PROVIDERS OF SERVICES**Reasonable measures by supplier**

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. 2013, c. 16, s. 23.

Duties of supplier

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.
- 2013, c. 16, s. 23.

Reasonable measures by provider of services

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. 2013, c. 16, s. 23.

Duties of provider of services

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. 2013, c. 16, s. 23.

DUTIES OF OWNERS, INTEREST HOLDERS AND CORPORATE OFFICIALS

Reasonable measures by owner

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. 2013, c. 16, s. 23.

Reasonable measures by interest holder

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. 2013, c. 16, s. 23.

Reasonable measures by corporate official

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. 2013, c. 16, c. 23.

COMMUNICATION OF INFORMATION

Duties of operator

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. 2013, c. 16, s. 23.

Duties of employer

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. 2013, c. 16, s. 23.

Information required to be communicated by Chief Safety Officer

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. 2013, c. 16, s. 23.

Inspection report

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. 2013, c. 16, s. 23.

Trade secrets and personal information

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. 2013, c. 16, s. 23.

Requests for information

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. 2013, c. 16, s. 23.

COMMITTEES AND COORDINATOR

Occupational health and safety workplace committee

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. 2013, c. 16, s. 23.

Workplace committee composition and rules

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. 2013, c. 16, s. 23.

Occupational health and safety coordinator

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. 2013, c. 16, s. 23.

Special committee

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. 2013, c. 16, s. 23.

Response to committee recommendations

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 com-

mittee, 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. 2013, c. 16, s. 23.

WORKPLACE MONITORING

Procedure

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. 2013, c. 16, s. 23.

REPORTING OF OCCUPATIONAL HEALTH AND SAFETY CONCERNS

Procedure

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. 2013, c. 16, s. 23.

RIGHT TO REFUSE

Procedure

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. 2013, c. 16, s. 23.

Refusal to perform 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. 2013, c. 16, s. 23.

Reasonably equivalent work

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. 2013, c. 16, s. 23.

Work stoppage

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. 2013, c. 16, s. 23.

Refusal of transport

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. 2013, c. 16, s. 23.

Reasonably equivalent work

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. 2013, c. 16, s. 23.

PREGNANT OR NURSING EMPLOYEES

Risk to health

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. 2013, c. 16, s. 23.

Modified work or reassignment request

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. 2013, c. 16, s. 23.

Employer to examine request

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. 2013, c. 16, s. 23.

REPRISALS AND COMPLAINTS

Reprisal action

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. 2013, c. 16., s. 23.

Complaint

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. 2013, c. 16, s. 23.

OHS officer to enquire into complaint

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. 2013, c. 16, s. 23.

Complaint not justified

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. 2013, c. 16, s. 23.

Powers of OHS officer

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. 2013, c. 16, s. 23.

Application for determination by employer or provider of services

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. 2013, c. 16, s. 23.

Application dismissed

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. 2013, c. 16, s. 23.

Application allowed

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. 2013, c. 16, s. 23.

ACTIVITIES OF BOARD

Powers

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. 2013, c. 16, s. 23.

Publication

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*. 2013, c. 16, s. 23.

AUTHORIZATION

Approval process

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. 2013, c. 16, s. 23.

SUBSTITUTIONS

At workplace

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 off-shore 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. 2013, c. 16, s. 23.

For transport

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. 2013, c. 16, s. 23.

ADMINISTRATION AND ENFORCEMENT

Occupational health and safety officer

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. 2013, c. 16, s. 23.

Special officer

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. 2013, c. 16, s. 23.

Powers of OHS officer

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. 2013, c. 16, s. 23.

Duties of OHS officer

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. 2013, c. 16, s. 23.

Living quarters

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. 2013, c. 16, s. 23.

Duty to assist OHS officer

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 offshore 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.
2013, c. 16, s. 23.

False statement

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. 2013, c. 16, s. 23.

Obstruction

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. 2013, c. 16, s. 23.

OHS officer to be accompanied

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. 2013, c. 16, s. 23.

Warrant and search

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. 2013, c. 16, s. 23.

Care of item seized

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. 2013, c. 16, s. 23.

NON-DISTURBANCE OF SCENE

Serious injury or death

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). 2013, c. 16, s. 23.

DISCLOSURE OF INFORMATION

Relating to duties

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 functions under this Part, information that the officer, Board, person or committee may require to carry out the duties or functions. 2013, c. 16, s. 23.

Relating to activities under order or warrant

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. 2013, c. 16, s. 23.

Identify of informant

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. 2013, c. 16., s. 23.

Trade secrets and privileged information

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. 2013, c. 16., s. 23.

OHS information

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. 2013, c. 16, s. 23.

Board records

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. 2013, c. 16, s. 23.

Public interest

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. 2013, c. 16, s. 23.

PROCEEDINGS

Testimony and evidence

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. 2013, c. 16, s. 23.

No action lies

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. 2013, c. 16, s. 23.

ORDERS AND DECISIONS

Regarding person

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. 2013, c. 16, s. 23.

Regarding activity

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. 2013, c. 16, s. 23.

Copy of order to be served

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. 2013, c. 16, s. 23.

Notice of compliance

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. 2013, c. 16, s. 23.

Priority of orders and decisions

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. 2013, c. 16, s. 23.

POSTING AND PROVIDING OF CERTAIN DOCUMENTS**Procedure**

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. 2013, c. 16, s. 23.

REVIEW AND APPEALS

Application for review by Chief Safety Officer

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. 2013, c. 16, s. 23.

Review process

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. 2013, c. 16, s. 23.

Appeal to Labour Board

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.
2013, c. 16, s. 23.

Time with pay

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. 2013, c. 16, s. 23.

ENFORCEMENT OF MONETARY ORDERS AND DECISIONS

Order of Supreme Court

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. 2013, c. 16, s. 23.

Enforcement

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. 2013, c. 16, s. 23.

OFFENCES AND PENALTIES

Offence

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. 2013, c. 16, s. 23.

Party to 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. 2013, c. 16, s. 23.

No imprisonment for default

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. 2013, c. 16, s. 23.

Sentencing options

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. 2013, c. 16, s. 23.

Variation of order

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. 2013, c. 16, s. 23.

No further application without leave

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. 2013, c. 16, s. 23.

Judgment

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. 2013, c. 16, s. 23.

Order to comply

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. 2013, c. 16, s. 23.

Separate offences

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. 2013, c. 16, s. 23.

Summary proceeding

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. 2013, c. 16, s. 23.

Signed copy deemed proof

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. 2013, c. 16, s. 23.

Jurisdiction

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. 2013, c. 16, s. 23.

Board may commence action to enjoin

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. 2013, c. 16, s. 23.

Several offences

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. 2013, c. 16, s. 23.

ADVISORY COUNCIL

Established

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. 2013, c. 16, s. 23.

Auditor

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. 2013, c. 16, s. 23.

Inquiry into occupational health and safety matters

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. 2013, c. 16, s. 23.

DOCUMENTS IN ELECTRONIC OR OTHER FORM

Interpretation

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. 2013, c. 16, s. 23.

Exception

202DT No provision of this Part or of the regulations made under this Part requires an electronic document to be created or provided. 2013, c. 16, s. 23.

Satisfaction of document form requirement

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. 2013, c. 16, s. 23.

REGULATIONS

Governor in Council 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. 2013, c. 16, s. 23.

PART IV

RELATED AND OTHER AMENDMENTS

Health Services Tax Act

Health Services Tax Act amended203 to 205 *amendments*

Income Tax Act

Income Tax Act amended206 *amendment*

PART V

GENERAL

Canada-Nova Scotia Oil and Gas Agreement (Nova Scotia) Act repealed**207 Chapter 2 of the Acts of 1984, the *Canada-Nova Scotia Oil and Gas Agreement (Nova Scotia) Act*, is repealed.** 1987, c. 3, s. 207.**Offshore Oil and Gas Act repealed****208 Chapter 8 of the Acts of 1984, the *Offshore Oil and Gas Act*, is repealed.** 1987, c. 3, s. 208.**Oil and Gas Production and Conservation (Nova Scotia) Act repealed****209 Chapter 9 of the Acts of 1984, the *Oil and Gas Production and Conservation (Nova Scotia) Act*, is repealed.** 1987, c. 3, s. 209.**Proclamation****210** This Act comes into force on and not before such day as the Governor in Council orders and declares by proclamation. 1987, c. 3, s. 210.

Proclaimed (except ss. 104-120)	-	January 4, 1990
In force (except ss. 104-120)	-	January 5, 1990
Proclaimed (ss. 104-120)	-	September 27, 1990
In force (ss. 104-120)	-	October 1, 1990

SCHEDULE I

LIMITS OF THE OFFSHORE AREA

(Except where otherwise indicated, all latitudes and longitudes referred to in this Schedule are determined according to NAD 27)

The inner limit of the offshore area is the low water mark of Nova Scotia, except that

- (a) in the vicinity of Chignecto Bay, the inner limit is a straight line from the most southwesterly point on the low water mark at Cape Chignecto (N.S.) to a point at latitude $45^{\circ} 24' 10''$ and longitude $65^{\circ} 03' 31''$, being on a line between that point at Cape Chignecto (N.S.) and Martin Head (N.B.);
- (b) in the vicinity of Minas Channel, the inner limit is a straight line from the most southwesterly point on the low water mark at Cape Chignecto (N.S.) to the most northwesterly point on the low water mark at Long Point (N.S.);
- (c) in the vicinity of St. Mary's Bay, the inner limit is a straight line from the most southerly point on the low water mark at Long Island (N.S.) to the low water mark at the nearest point on the mainland, being approximately two kilometres southwesterly of Meteghan (N.S.);
- (d) in the vicinity of Chedabucto Bay, the inner limit is a straight line from the most easterly point on the low water mark at Glasgow Head (N.S.) to the most southwesterly point on the low water mark at Red Point (N.S.);
- (e) in the vicinity of St. George's Bay, the inner limit is a straight line from the most easterly point on the low water mark at Cape George Point (N.S.) to the most westerly point on the low water mark at McKays Point (N.S.); and
- (f) in any bay where a straight closing line of ten kilometres or less may be drawn between points on the low water mark of the bay so that the area of the bay landward of the closing line is greater than that of a semi-circle whose diameter is the closing line, the inner limit is the closing line; and for the purposes of this paragraph,
 - (i) "bay" includes harbour, port, cove, sound, channel, basin or other inlet,
 - (ii) the closing line shall be drawn in such manner as to enclose a maximum area of the bay, and
 - (iii) the area of the bay shall be calculated as including any islands or parts of islands lying landward of the closing line and as excluding any area above the low water mark along the coast of the bay.

The outer limit of the offshore area is as follows:

Commencing at the most northerly point of the boundary between the Provinces of Nova Scotia and New Brunswick in the mouth of Tidnish River, the limit runs

northerly in a straight line to a point at latitude $46^{\circ} 01' 10''$ and longitude $64^{\circ} 02' 34''$, being approximately on the middle thread of Baie Verte;

thence easterly in a straight line to a point at latitude $46^{\circ} 02' 18''$ and longitude $63^{\circ} 49' 09''$, being approximately the midpoint between Coldspring Head (N.S.) and Cape Tormentine (N.B.);

thence northeasterly in a straight line to a point at latitude $46^{\circ} 04' 30''$ and longitude $63^{\circ} 39' 34''$, being approximately the midpoint between Coldspring Head (N.S.) and MacIvors Point (P.E.I.);

thence southeasterly in a straight line to a point at latitude $45^{\circ} 59' 45''$ and longitude $63^{\circ} 19' 41''$, being approximately the midpoint between Cape Cliff (N.S.) and Rice Point (P.E.I.);

thence southeasterly in a straight line to a point at latitude $45^{\circ} 55' 38''$ and longitude $63^{\circ} 05' 06''$, being approximately the midpoint between Cape John (N.S.) and Prim Point (P.E.I.);

thence southeasterly in a straight line to a point at latitude 45° 51' 30" and longitude 62° 43' 30", being approximately the midpoint between Caribou Island (N.S.) and Wood Islands (P.E.I.);

thence northeasterly in a straight line to a point at latitude 45° 53' 51" and longitude 62° 33' 31", being approximately the midpoint between the Pictou Island (N.S.) and the most southerly point of Cape Bear peninsula (P.E.I.);

thence northeasterly in a straight line to a point at latitude 45° 56' 43" and longitude 62° 13' 06", being approximately the midpoint between Livingstone Cove (N.S.) and Murray Head (P.E.I.);

thence northeasterly in a straight line to a point at latitude 46° 19' 09" and longitude 61° 41' 56", being approximately the midpoint between Sight Point (N.S.) and East Point (P.E.I.);

thence northeasterly in a straight line to a point at latitude 46° 50' 24" and longitude 61° 24' 01", being in the direction of the midpoint between White Capes (N.S.) and Ile d'Entree (Que.), but terminating at an east-west line through the midpoint between Cable Head (P.E.I.) and Cap du Sud (Que.);

thence northeasterly in a straight line to a point at latitude 47° 00' 35" and longitude 61° 21' 05", being approximately the midpoint between White Capes (N.S.) and the south-east corner of the Ile du Havre Aubert (Que.);

thence northeasterly in a straight line to a point at latitude 47° 19' 46" and longitude 60° 59' 34", being approximately the midpoint between Cape St. Lawrence (N.S.) and Pointe de l'Est (Que.);

thence northeasterly in a straight line to a point at latitude 47° 25' 24" and longitude 60° 45' 49", being approximately the midpoint between St. Paul Island (N.S.) and Pointe de l'Est (Que.);

thence northeasterly in a straight line to a point, delimited in the award of the arbitration tribunal in conclusion of the second phase of arbitration between the provinces of Nova Scotia and Newfoundland and Labrador on March 26, 2002, at latitude 47° 45' 41.8" and longitude 60° 24' 12.5" (NAD 83);

thence, as delimited in the award of March 26, 2002, southeasterly along a geodesic line to a point at latitude 47° 25' 31.7" and longitude 59° 43' 37.1" (NAD 83);

thence, as delimited in the award of March 26, 2002, southeasterly along a geodesic line to a point at latitude 46° 54' 48.9" and longitude 59° 00' 34.9" (NAD 83);

thence, as delimited in the award of March 26, 2002, southeasterly along a geodesic line to a point at latitude 46° 22' 51.7" and longitude 58° 01' 20.0" (NAD 83);

thence, as delimited in the award of March 26, 2002, southeasterly along the following geodesic lines, but only as far as the point of intersection between one of those lines and the outer edge of the continental margin as determined by international law:

along a geodesic line from the previous point to a point at latitude 46° 17' 25.1" and longitude 57° 53' 52.7" (NAD 83),

thence along a geodesic line to a point at latitude 46° 07' 57.7" and longitude 57° 44' 05.1" (NAD 83),

thence along a geodesic line to a point at latitude 45° 41' 31.4" and longitude 57° 31' 33.5" (NAD 83),

thence along a geodesic line to a point at latitude 44° 55' 51.9" and longitude 57° 10' 34.0" (NAD 83),

thence along a geodesic line to a point at latitude 43° 14' 13.9" and longitude 56° 23' 55.7" (NAD 83),

thence along a geodesic line to a point at latitude 42° 56' 48.5" and longitude 56° 16' 52.1" (NAD 83),

thence along a geodesic line to a point at latitude 42° 03' 46.3" and longitude 55° 54' 58.1" (NAD 83),

thence along a geodesic line to a point at latitude 41° 45' 00.8" and longitude 55° 47' 31.6" (NAD 83),

thence along a geodesic line to a point at latitude 41° 42' 24.7" and longitude 55° 46' 23.8" (NAD 83),

thence along a geodesic line to a point at latitude 41° 06' 19.2" and longitude 55° 36' 10.9" (NAD 83),

thence along a geodesic line to a point at latitude 40° 58' 21.7" and longitude 55° 34' 23.3" (NAD 83),

thence along a geodesic line on an azimuth of 166° 19' 50"-[;]

thence in a general westerly direction along the outer edge of the continental margin to its intersection with the southeasterly production of the geodetic line from point C to point D of the Single Maritime Boundary between Canada and the United States of America, said Boundary constituted by the Judgment of the Chamber of the International Court of Justice at The Hague on 12 October 1984;

thence northwesterly along the production of said geodetic line to point D of said Single Maritime Boundary and being at latitude 40° 27' 05" and longitude 65° 41' 59" as shown in said Judgment;

thence northwesterly along the geodetic line from point D to point C being a portion of said Single Maritime Boundary, point C being at latitude 42° 31' 08" and longitude 67° 28' 05" as shown in said Judgment;

thence northwesterly along the geodetic line from point C to point B being a portion of said Single Maritime Boundary, point B being at latitude 42° 53' 14" and longitude 67° 44' 35" as shown in said Judgment;

thence northerly along the geodetic line running from point B to point A to the point where the Boundary intersects a straight line drawn on an azimuth of 225° 00' 00" from a point at latitude 44° 25' 03" and longitude 66° 38' 47", being approximately the midpoint between Whipple Point on Brier Island (N.S.) and Southwest Head on Grand Manan Island (N.B.);

thence northeasterly in a straight line to that point at latitude 44° 25' 03" and longitude 66° 38' 47";

thence northeasterly in a straight line to a point at latitude 44° 26' 09" and longitude 66° 32' 32", being approximately the midpoint between Brier Island (N.S.) and White Head Island (N.B.);

thence northeasterly in a straight line to a point at latitude 44° 50' 16" and longitude 66° 11' 39", being approximately the midpoint between Gullivers Head (N.S.) and Point Lepreau (N.B.);

thence northeasterly in a straight line to a point at latitude 45° 00' 14" and longitude 65° 43' 36", being approximately the midpoint between the west promontory of Parkers Cove (N.S.) and Cape Spencer (N.B.);

thence northeasterly in a straight line to a point at latitude 45° 22' 19" and longitude 65° 05' 31", being approximately the midpoint between Isle Haute (N.S.) and Martin Head (N.B.);

thence northeasterly in a straight line to a point at latitude 45° 24' 10" and longitude 65° 03' 31", being a point on the inner limit.

1987, c. 3, Sch. I; N.S. Reg. 11/2004, ss. 2, 3.

SCHEDULE II

LIMITS OF THE BAY OF FUNDY

(All latitudes and longitudes referred to in this Schedule are determined according to N.A.D. 27 datum.)

Commencing at a point on the low water mark on the northwest side of Brier Island (N.S.), being the intersection of the low water mark and the parallel of latitude 44° 15' 00", the limits run

west along the parallel of latitude 44° 15' 00" to a point being the intersection of that parallel of latitude and a straight line drawn on a azimuth of 225° 00' 00" from a point at latitude 44° 25' 03" and longitude 66° 38' 47";

thence along the outer and inner limits of the offshore area, as described in Schedule I, in the Bay of Fundy to the point of commencement.

1987, c. 3, Sch. II.

SCHEDULE III

LIMITS OF SABLE ISLAND

(All latitudes and longitudes referred to in this Schedule are determined according to N.A.D. 27 datum.)

Commencing at a point at latitude 44° 01' 00" and longitude 60° 35' 00", the limits run

northeasterly in a straight line to a point at latitude 44° 03' 00" and longitude 60° 25' 00";

thence southeasterly in a straight line to a point at latitude 43° 58' 00" and longitude 60° 00' 00";

thence easterly along the parallel of latitude 43° 58' 00" to a point at longitude 59° 50' 00";

thence northeasterly in a straight line to a point at latitude 44° 09' 00" and longitude 59° 29' 00";

thence southwesterly in a straight line to a point at latitude 43° 56' 00" and longitude 59° 42' 00";

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thence southwesterly in a straight line to a point at latitude 43° 53' 00" and longitude 60° 04' 00";

thence northwesterly in a straight line to a point at latitude 43° 57' 00" and longitude 60° 25' 00";

thence northwesterly in a straight line to the point of commencement.

1987, c. 3, Sch. III.

SCHEDULE IV

AREA REFERRED TO IN SECTION 134AA

(All latitudes and longitudes referred to in this Schedule are determined according to the NAD 27 datum. All parallels of latitude referred to in this Schedule are to be determined in such manner that they are parallel with boundaries of grid areas as provided in the Canada Oil and Gas Land Regulations in force on May 13, 1988.)

COMMENCING at the intersection of latitude 42° 30' 00" N and the geodetic line from point C to point D of the Single Maritime Boundary between Canada and the United States of America, at approximate longitude 67° 27' 05" W, said Boundary constituted by the judgment of the Chamber of the International Court of Justice at The Hague on October 12, 1984, said point C being at latitude 42° 31' 08" N and longitude 67° 28' 05" W and said point D being at latitude 40° 27' 05" N and longitude 65° 41' 59" W as shown in said judgment;

THENCE easterly along latitude 42° 30' 00" N to longitude 66° 30' 00" W;

THENCE south along longitude 66° 30' 00" W to latitude 42° 25' 00" N;

THENCE easterly along latitude 42° 25' 00" N to longitude 65° 45' 00" W;

THENCE south along longitude 65° 45' 00" W to latitude 42° 20' 00" N;

THENCE easterly along latitude 42° 20' 00" N to longitude 65° 37' 30" W;

THENCE south along longitude 65° 37' 30" W to latitude 42° 10' 00" N;

THENCE easterly along latitude 42° 10' 00" N to longitude 65° 30' 00" W;

THENCE south along longitude 65° 30' 00" W to latitude 42° 05' 00" N;

THENCE easterly along latitude 42° 05' 00" N to longitude 65° 22' 30" W;

THENCE south along longitude 65° 22' 30" W to latitude 41° 50' 00" N;

THENCE westerly along latitude 41° 50' 00" N to longitude 65° 30' 00" W;

THENCE south along longitude 65° 30' 00" W to latitude 41° 40' 00" N;

THENCE westerly along latitude 41° 40' 00" N to longitude 65° 37' 30" W;

THENCE south along longitude 65° 37' 30" W to latitude 41° 35' 00" N;

THENCE westerly along latitude 41° 35' 00" N to longitude 65° 45' 00" W;

THENCE south along longitude 65° 45' 00" W to latitude 41° 25' 00" N;

THENCE westerly along latitude 41° 25' 00" N to longitude 65° 52' 30" W;

THENCE south along longitude 65° 52' 30" W to latitude 41° 15' 00" N;

THENCE westerly along latitude 41° 15' 00" N to longitude 66° 07' 30" W;

THENCE south along longitude 66° 07' 30" W to latitude 41° 05' 00" N;

THENCE westerly along latitude 41° 05' 00" N to its intersection with said geodetic line from point C to point D, at approximate longitude 66° 13' 33" W;

THENCE northwesterly along said geodetic line to the point of commencement.

1988, c. 56, Sch. IV; 2014, c. 43, s. 31.

SCHEDULE V

(Subsection (1) of Section 146A, subsection (1) of Section 158A and subsection (3) of Section 158B)

PROVISIONS

Item	Column 1 Act	Column 2 Provision
1.	<i>Beaches Act</i>	8(1)(f)
2.	<i>Crown Lands Act</i>	38(1)(c)
3.	<i>Environment Act</i>	67 and 68
4.	<i>Wilderness Areas Protection Act</i>	17(2)(j)

2014, c. 43, s. 32.

SCHEDULE VI

(Subsection (1) of Section 146A, subsection (1) of Section 158A and subsection (3) of Section 158B)

PART 1 - PROVISIONS OF ACTS

Item	Column 1 Act	Column 2 Provision
1.	<i>Endangered Species Act</i>	13(1)(a), (c) and 17(4)
2.	<i>Special Places Protection Act</i>	17
3.	<i>Wilderness Areas Protection Act</i>	17(h) and (i)
4.	<i>Wildlife Act</i>	50(1) and 51

PART 2 - PROVISIONS OF REGULATIONS

Item	Column 1 Regulation	Column 2 Provision
1.	<i>Antigonish Wildlife Management Area Designation and Regulations</i>	2(a)
2.	<i>Beaches Regulations</i>	7(c) and (f)
3.	<i>Chignecto Game Sanctuary Regulations</i>	3(1)
4.	<i>Eastern Shore Islands Wildlife Management Area Designation and Regulations</i>	2(a) and 9
5.	<i>Grassy Island Wildlife Management Area Regulations</i>	4(1)
6.	<i>Louisburg National Park Game Sanctuary Designation and Regulations</i>	1 and 2
7.	<i>Martinique Beach Game Sanctuary Designation and Regulations</i>	1 and 2
8.	<i>Minas Basin Wildlife Management Area Designation and Regulations</i>	3(a)
9.	<i>Pearl Island Wildlife Management Area Designation and Regulations</i>	2(a) and 9
10.	<i>Scatarie Island Wildlife Management Area Designation and Regulations</i>	2(a) and 6
11.	<i>Spectacle Island Game Sanctuary Regulations</i>	3(1)(a) and (b)
12.	<i>The Bird Islands Wildlife Management Area Regulations</i>	4(1)
13.	<i>The Brothers Islands Wildlife Management Area Regulations</i>	4(1)
14.	<i>Upper Clements Game Sanctuary Designation and Regulations</i>	2(5), 3(d) and 11

2014, c. 43, s. 32.