

Electricity Efficiency and Conservation Restructuring (2014) Act

CHAPTER 5 OF THE ACTS OF 2014



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**An Act Respecting Electricity
Efficiency and Conservation**

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Short title

1 This Act may be cited as the *Electricity Efficiency and Conservation Restructuring (2014) Act*. 2014, c. 5, s. 1.

Interpretation

2 In this Act,

(a) “Corporation” means the Efficiency Nova Scotia Corporation established pursuant to the *Efficiency Nova Scotia Corporation Act*;

(b) “first franchise holder” means the body corporate that is granted the first franchise pursuant to Section 79C of the *Public Utilities Act*;

(c) “Fund” means the Electricity Demand-side Management Fund established pursuant to the *Efficiency Nova Scotia Corporation Act*;

(d) “Implementation Date” means January 1, 2015, or such other date or dates prescribed by the regulations;

(e) “Minister” means the Minister of Energy;

(f) “personal information” has the same meaning as in the *Personal Information Protection and Electronic Documents Act* (Canada);

(g) “Review Board” means the Nova Scotia Utility and Review Board established pursuant to the *Utility and Review Board Act*. 2014, c. 5, s. 2.

Conflict with Efficiency Nova Scotia Corporation Act

3 Where there is a conflict between this Act or the regulations and the *Efficiency Nova Scotia Corporation Act* or the regulations made pursuant to that Act, this Act and the regulations prevail. 2014, c. 5, s. 3.

Transfer of business information

4 (1) The Corporation shall, on or before the Implementation Date, transfer to the first franchise holder all of its business information, including any business information that is personal information.

(2) Information transferred pursuant to this Section is subject to the same conditions on the transfer to which it was subject when held by the Corporation.

(3) A transfer to the first franchise holder pursuant to this Section of information that is subject to any privilege, including solicitor-client privilege, does not constitute a waiver of the privilege.

(4) No person has or may maintain any cause of action or claim against Her Majesty in right of the Province, the Minister, the Corporation, Nova Scotia Power Incorporated or the first franchise holder arising from or in relation to any transfer of information by the Corporation to the first franchise holder pursuant to this Section. 2014, c. 5, s. 4.

Assignment of agreements

5 (1) Notwithstanding any agreement to the contrary and subject to the regulations, any agreement to which the Corporation is a party that is in effect immediately before the Implementation Date and not excluded from assignment by the regulations is assigned to the first franchise holder, effective on the Implementation Date.

- (2) Where an agreement is assigned pursuant to subsection (1),
- (a) the assignment is effective notwithstanding any restriction on transfer or assignment provided for in the agreement;
 - (b) the assignment is not subject to any notice requirement in the agreement or otherwise existing at law; and
 - (c) no person has or may maintain any cause of action or claim against Her Majesty in right of the Province, the Minister, the Corporation or the first franchise holder arising from or in relation to the assignment.

(3) Upon the assignment of an agreement pursuant to subsection (1), the first franchise holder has the same rights, privileges and obligations as the Corporation would have had if the Corporation had remained a party to the agreement. 2014, c. 5, s. 5.

Transfer of employees

6 (1) Notwithstanding any agreement to the contrary and subject to the regulations, every person who is an employee of the Corporation immediately before the Implementation Date becomes an employee of the first franchise holder on the Implementation Date and ceases to be an employee of the Corporation.

(2) The continuity of employment of an employee transferred pursuant to this Section is not broken by the operation of this Section.

(3) Every such employee's employment by the first franchise holder is deemed to include the period of employment as an employee of the Corporation.

(4) The first franchise holder is bound by any employment agreement between the Corporation and an employee transferred pursuant to this Section as if the franchise holder were the Corporation. 2014, c. 5, s. 6.

Vesting of assets, liabilities and obligations

7 (1) Subject to the regulations and subsection (3), effective on the Implementation Date,

(a) all of the assets of the Corporation existing immediately before the Implementation Date, including, for greater certainty, the Fund, are vested in the first franchise holder; and

(b) all of the liabilities and obligations of the Corporation existing immediately before the Implementation Date become the liabilities and obligations of the first franchise holder.

(2) Upon the vesting of the Fund in the first franchise holder, the first franchise holder shall wind up the Fund as directed by the Review Board and is responsible for the management of the Fund until it is wound up.

(3) Any claim pursuant to the *Excise Tax Act* (Canada) and any related right of action are not affected by this Section. 2014, c. 5, s. 7.

Assets acquired on or after Implementation Date

8 Any assets of the Corporation acquired on or after the Implementation Date must be transferred to Nova Scotia Power Incorporated for the benefit of the customers of Nova Scotia Power Incorporated as directed by the [Review] Board. 2014, c. 5, s. 8.

Costs payable out of Fund

9 Notwithstanding Sections 28 to 30 of the *Efficiency Nova Scotia Corporation Act*, all costs of the Corporation and the first franchise holder relating to the incorporation of the first franchise holder, the transfer or disclosure of information, the assignment of agreements, the transfer of employees, the vesting of assets, liabilities and obligations in the first franchise holder and the application to the Review Board pursuant to Section 79Q of the *Public Utilities Act* may be paid for by the Corporation out of the Fund. 2014, c. 5, s. 9.

ENS Transition Corporation

10 Notwithstanding Section 6 of the *Efficiency Nova Scotia Corporation Act*, the Corporation shall be known as “ENS Transition Corporation”. 2014, c. 5, s. 10.

Regulations

11 (1) The Governor in Council may make regulations

(a) prescribing an Implementation Date other than January 1, 2015, including different Implementation Dates for different provisions or matters;

(b) respecting the assignment of agreements of the Corporation for the purpose of this Act, including, without limiting the generality of the foregoing, regulations

(i) excluding agreements from the agreements of the Corporation that are assigned to the first franchise holder,

(ii) attaching terms or conditions to any such an assignment or exclusion and consequences for failing to meet such terms or conditions, and

(iii) with respect to any matter or thing the Governor in Council considers necessary or advisable to achieve the assignment of agreements pursuant to this Act;

(c) respecting the transfer of the assets, liabilities and obligations of the Corporation for the purpose of this Act, including, without limiting the generality of the foregoing, regulations

(i) excluding from the transfer to the first franchise holder the assets, liabilities or obligations of the Corporation identified in the regulations,

(ii) attaching terms or conditions to any such transfer or exclusion and consequences for failing to meet such terms or conditions, and

(iii) with respect to any matter or thing the Governor in Council considers necessary or advisable to achieve the transfer of the assets, liabilities or obligations of the Corporation pursuant to this Act;

(d) respecting the transfer of employees from the Corporation to the first franchise holder for the purpose of this Act;

(e) respecting the structure and management of the Corporation;

(f) defining any word or expression used but not defined in this Act;

(g) respecting any matter or thing the Governor in Council considers necessary or advisable to effectively carry out the intent and purpose of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2014, c. 5, s. 11.

Approvals of no effect

12 (1) Effective on and after January 1, 2015, any approval with respect to Demand Side Management Cost Recovery Charges or the Demand Side Management Cost Recovery Rider in Nova Scotia Power Incorporated's rates and tariffs approved by the Review Board in its order dated February 1, 2013, is of no force and effect.

(2) For greater certainty, subsection (1) does not apply to electricity sold by Nova Scotia Power Incorporated before January 1, 2015. 2014, c. 5, s. 12.

Efficiency Nova Scotia Corporation Act amended

13 *amendment*

Efficiency Nova Scotia Corporation Act repealed

14 **Chapter 3 of the Acts of 2009 is repealed.** 2014, c. 5, s. 14.

Public Utilities Act amended

15 *amendment*

Effective date

16 Sections 10 and 14 come into force on such day as the Governor in Council orders and declares by proclamation. 2014, c. 5, s. 16.

s. 10 proclaimed	-	February 3, 2015
s. 10 in force	-	February 3, 2015
s. 14	-	not proclaimed
