2021 **Yar No. 510031**

Supreme Court of Nova Scotia

Between:

Citizens Alliance of Nova Scotia and J.M. by his litigation guardian K.M

Applicant

and

Robert Strang acting as Chief Medical Officer of Health of Nova Scotia and Michelle Thompson acting as Minister of Health and Wellness of Nova Scotia and the Attorney General of Nova Scotia representing His Majesty the King in Right of the Province of Nova Scotia

Respondents

APPLICANT'S BOOK OF DOCUMENTS

VOLUME II of II

MOTION FOR THE OBSERVANCE OF PUBLIC INTEREST STANDING

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APPLICANT'S BOOK OF DOCUMENTS

TAB 1

Health Protection Act

CHAPTER 4 OF THE ACTS OF 2004

as amended by

2010, c. 41, s. 112; 2014, c. 32, ss. 122-126; 2018, c. 33, s. 19;
2019, c. 8, s. 184; 2021, c. 6, ss. 9-26

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CHAPTER 4 OF THE ACTS OF 2004
amended 2010, c. 41, s. 112; 2014, c. 32, ss. 122-126; 2018, c. 33, s. 19; 2019, c. 8, s. 184; 2021, c. 6, ss. 9-26

An Act to Provide for the Protection of Health

Table of Contents

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

Short title

1 This Act may be cited as the *Health Protection Act*. 2004, c. 4, s. 1.

Restrictions on private rights and freedoms limited

2 Restrictions on private rights and freedoms arising as a result of the exercise of any power under this Act shall be no greater than are reasonably required, considering all of the circumstances, to respond to a health hazard, notifiable disease or condition, communicable disease or public health emergency. 2004, c. 4, s. 2.

Interpretation

3 In this Act,

(a) "dwelling" means a building or a portion of a building that is occupied and used as a residence and includes a house, condominium, apartment, cottage, mobile home, trailer or boat that is occupied and used as a residence;

(b) "health hazard" means

(i) a condition of premises,

(ii) a substance, thing, plant, animal or organism other than a human,

(iii) a solid, liquid or gas,

(iv) radiation, noise, vibration or heat, or

(v) an activity,

or combination of any of them, that presents or may present a threat to the public health;

(c) "justice of the peace" does not include a staff justice of the peace or administrative justice of the peace appointed pursuant to the *Justices of the Peace Act*-[;]

(d) "medical officer" means a medical officer of health appointed pursuant to this Act and includes the Chief Medical Officer and the Deputy Chief Medical Officer;

(e) "occupier" means an occupier at common law and includes

(i) a person who is in physical possession of premises, or

(ii) a person who has responsibility for, and control over, the condition of premises, the activities conducted on the premises or the persons allowed to enter the premises,

and, for the purpose of this Act, there may be more than one occupier of the same premises;

(f) "premises" means lands and structures, or either of them, and any adjacent yards and associated buildings and structures, whether of a portable, temporary or permanent nature, and includes

(i) a body of water,

(ii) a motor vehicle or trailer,

(iii) a train or railway car,

(iv) a boat, ship or similar vessel, and

(v) an aircraft;

(g) "public health inspector" means a public health inspector designated pursuant to this Act. 2004, c. 4, s. 3.

PART I

DISEASES AND HEALTH HAZARDS

Interpretation of Part

4 In this Part,

(a) "Chief Medical Officer" means the Chief Medical Officer of Health appointed pursuant to this Part;

(b) "communicable disease" means a disease, due to a specific infectious agent or its toxic products, that arises through the transmission of that agent or its toxic products

(i) directly or indirectly from an infected person or animal, or

(ii) directly or indirectly through the agency of a disease vector, an inanimate object or the environment;

(c) "dangerous disease" means Ebola, Lassa fever, plague, smallpox, severe acute respiratory syndrome or tuberculosis or any other communicable disease designated as a dangerous disease in the regulations;

(d) "Deputy Chief Medical Officer" means the Deputy Chief Medical Officer of Health appointed pursuant to this Part;

(e) "disease vector" means a plant or animal that is a carrier of a communicable disease or a notifiable disease or condition;

(f) *repealed 2014, c. 32, s. 122.*

(g) "examination" includes the taking of a medical history, a physical inspection, palpation, percussion, auscultation of the human body, ancillary laboratory tests and other investigations such as x-rays;

(ga) "health authority" has the same meaning as in the *Health Authorities Act*;

(h) "hospital" means a hospital within the meaning of the *Hospitals Act*;

(i) "institution" means

(i) a child-caring facility within the meaning of the *Children and Family Services Act,*

(ii) a facility within the meaning of the *Early Learning and Child Care Act,*

(iii) any place licensed pursuant to the *Homes for Special Care Act,*

(iv) a hospital,

(v) a correctional facility within the meaning of the *Corrections Act,*

(vi) a place or facility designated as a youth custody facility under subsection 85(2) of the *Youth Criminal Justice Act* (Canada),

(vii) a place or facility designated as a place of temporary detention under subsection 30(1) of the *Youth Criminal Justice Act* (Canada),

(viii) any place that for compensation provides supervisory or personal care to individuals, and

(ix) any other place prescribed in the regulations;

(j) "isolation" means the requirement of any person who has a communicable disease or is infected with an agent of a communicable disease to remain separate from others in such places and under such conditions so as to prevent or limit the direct or indirect transmission of the communicable disease or infectious agent to those who are susceptible to the agent or who may spread the agent to others;

(k) "isolation facility" means a hospital or other place designated by the Minister for the purpose of isolation;

(l) "Minister" means the Minister of Health and Wellness;

Note: *All affairs and matters relating to public health inspectors under clauses 6(1)(c) and (d) and 74(1)(q) reassigned to Minister of Environment under Order in Council 2016-230 dated September 27, 2016.*

(m) "notifiable disease or condition" means a disease or condition designated as a notifiable disease or condition in the regulations;

(n) "personal services facility" means the place of business of a tattooist, esthetician, pedicurist, hairdresser, cosmetologist, barber or person who performs body piercing, or any other place of business of a type prescribed in the regulations as a personal services facility;

(o) "physician" means a duly qualified medical practitioner;

(p) "public health emergency" means an imminent and serious threat to the public health that is posed by a dangerous disease or a health hazard;

(q) "public health laboratory" means a laboratory established or designated by the Minister to carry out laboratory functions required for public health work in the Province;

(r) "public health nurse" means

(i) a public health nurse employed by a health authority, or

(ii) any other individual designated as a public health nurse by the Minister;

(s) "quarantine" means the requirement of any person who has been exposed or may have been exposed to a communicable disease during its period of communicability to restrict that person's activities in order to prevent disease transmission during the incubation period for that disease;

(t) "quarantine facility" means a dwelling or a place designated by the Minister for the purpose of quarantine;

(u) "sanitary facilities" means a room or rooms containing one or more toilets and one or more washbasins. 2004, c. 4, s. 4; O.I.C. 2011-15; 2014, c. 32, s. 122; 2018, c. 33, s. 19.

ADMINISTRATION

Supervision and management of Part

5 The Minister has the general supervision and management of this Part and the regulations. 2004, c. 4, s. 5.

Duties and powers of Minister

6 **(1)** The Minister shall

(a) appoint a Chief Medical Officer of Health, a Deputy Chief Medical Officer of Health and medical officers of health;

(b) establish the qualifications, skills and standards that individuals must have to be appointed pursuant to clause (a);

(c) designate public health inspectors and public health nurses for the purpose of this Part from among employees in the public service of the Province or employees of the Government of Canada or the government of another province of Canada;

(d) establish the qualifications, skills and standards required for a public health inspector to carry out duties and functions under this Part;

(e) establish the qualifications, skills and standards required for a public health nurse to carry out duties and functions under this Part;

(f) publish guidelines, standards and targets for the provision of health-protection programs and services under this Part;

(g) require a health authority or an institution to comply with any guideline, standard or target published pursuant to clause (f);

(h) provide a report to the House of Assembly on an annual basis outlining the progress of the Department of Health and Wellness with respect to the surveillance of and response to health hazards, notifiable diseases or conditions and communicable diseases;

(i) after a public health emergency has ended, direct that a review be conducted and, within one year, report to the House of Assembly on the cause and duration of the emergency and on the measures implemented in response to the emergency.

(2) The Minister may

(a) give directions to the Chief Medical Officer;

(b) direct a health authority or an institution to take action to prevent, eliminate or decrease a risk of a communicable disease, a notifiable disease, a dangerous disease or a health hazard;

(c) subject to the *Public Service Act*, enter into agreements with

(i) the government of Canada or the government of a province of Canada, or a department, agency or body under the jurisdiction of one of those governments,

(ii) the government of the United States of America or the government of a state of the United States of America, or a department, agency or body under the jurisdiction of any of those governments,

(iii) a municipality within the meaning of the *Municipal Government Act*,

(iv) a band council as defined in the *Indian Act* (Canada), or

(v) any other person, organization or other government department in the Province,

in order to carry out the provisions of this Part;

(d) establish and maintain such public health laboratories and other laboratory services as the Minister considers necessary or advisable for properly carrying on public health work in the Province with appropriate equipment and staff;

(e) designate an existing laboratory operated by a health authority as a public health laboratory;

(f) direct a public health laboratory as to its operation and the nature and extent of its work.

(3) No person may be appointed pursuant to clause (1)(a) who is not a physician.

(4) No person may be designated as a public health nurse pursuant to clause (1)(c) who is not a duly qualified registered nurse. 2004, c. 4, s. 6; O.I.C. 2011-15; 2014, c. 32, s. 123.

Medical officers accountable to Minister

7 Medical officers are accountable to the Minister. 2004, c. 4, s. 7.

Medical officers to protect public health

8 (1) Medical officers may take such reasonable actions as they consider necessary in the circumstances to protect the public health including the issuance of public health advisories and bulletins.

(2) A medical officer shall inform the Minister and the Deputy Minister of Health and Wellness of any action carried out pursuant to the authority in subsection (1) either before taking it or as soon as practicable after taking it.

(3) A medical officer may investigate any situation and take such actions as the medical officer considers appropriate to prevent, eliminate or decrease

a risk to the public health if the medical officer is of the opinion that a situation exists anywhere in the Province that constitutes or may constitute a risk to the public health. 2004, c. 4, s. 8; O.I.C. 2011-15.

Powers, duties and functions of Chief Medical Officer

9 **(1)** The Chief Medical Officer may delegate any of the Chief Medical Officer's powers, duties or functions to the Deputy Chief Medical Officer, a medical officer, a public health nurse or a public health inspector and the person to whom the power, duty or function has been delegated has authority to the same extent as if the power, duty or function was being exercised by the Chief Medical Officer.

(2) The Chief Medical Officer may give directions to the Deputy Chief Medical Officer or a medical officer for the purpose of enforcing this Act and the regulations.

(3) The Deputy Chief Medical Officer has all the powers and authority of the Chief Medical Officer in the absence of the Chief Medical Officer, or when the Chief Medical Officer is unable to act. 2004, c. 4, s. 9.

Chief Medical Officer directs and monitors medical officers

10 The Chief Medical Officer is responsible for directing and monitoring the work of the medical officers. 2004, c. 4, s. 10.

Medical officers may direct inspectors and nurses

11 A medical officer may direct a public health inspector or a public health nurse to assist the medical officer in enforcing this Act and the regulations. 2004, c. 4, s. 11.

Immunity from liability

12 The Chief Medical Officer, the Deputy Chief Medical Officer, a medical officer, a public health inspector or a public health nurse has immunity for performance of any duty or any power exercised under this Act that has been exercised in good faith. 2004, c. 4, s. 12.

Epidemiological studies

13 Subject to the *Fatality Investigations Act*, the Chief Medical Officer may carry out epidemiological studies that may include an investigation as to the cause of any communicable disease, notifiable disease, health hazard or illness related to a health hazard, or any death, accident or injury. 2004, c. 4, s. 13.

Duties and powers of Chief Medical Officer

14 **(1)** The Chief Medical Officer shall

(a) develop plans for ongoing surveillance of communicable diseases, notifiable diseases and dangerous diseases; and

(b) develop a communications plan and protocol designed to ensure that information necessary for proper response to the presence of a health hazard, notifiable disease or condition, communicable disease or public health emergency is promptly provided to all necessary and appropriate persons while ensuring that appropriate privacy protections are adhered to.

(2) The Chief Medical Officer may

(a) afford such medical relief to and among persons in need in the Province as in the opinion of the Chief Medical Officer is required for the protection of the public health;

(b) order any person who owns or occupies premises or any organization, corporation or municipality to control disease vectors in the manner prescribed in the regulations. 2004, c. 4, s. 14.

Access to data or records

15 (1) A medical officer may access or order data or records from all possible sources of information, including municipalities, Canadian Blood Services and other government departments, for the purpose of carrying out the duties of the medical officer under this Act and the regulations.

(2) The Chief Medical Officer may share with other jurisdictions or parties any information the Chief Medical Officer considers necessary to carry out the functions and duties of the Chief Medical Officer.

(3) A medical officer may communicate to the public the identity of a person who has a communicable disease if the medical officer reasonably believes that such action is required to protect the public health and that such protection cannot be achieved by any less intrusive means. 2004, c. 4, s. 15.

Disclosure to medical officer

16 (1) *repealed 2010, c. 41, s. 112.*

(2) Any hospital shall, upon request from a medical officer, immediately make full disclosure to the medical officer of all information, records, particulars and documents of whatever description, including x-rays, photographs and laboratory or blood samples, that relate in any way to any matter about which the medical officer has inquired. 2004, c. 4, s. 16; 2010, c. 41, s. 112.

Information privileged

17 (1) The information, records of interviews, reports, statements, notes, memoranda or other data or material prepared by or supplied to or received by a medical officer, public health inspector or public health nurse, in connection with research, studies or evaluations relating to morbidity, mortality or the cause, prevention, treatment or incidence of disease, or prepared by, supplied to or received by any person engaged in such research or study with the approval of the

Minister, are privileged and are not admissible in evidence in any court or before any tribunal, board or agency except as and to the extent that the Minister directs.

(2) Nothing in this Section prevents the publication of reports or statistical compilations relating to research or studies that do not identify individual cases or sources of information or religious affiliations.

(3) A medical officer, a public health nurse or a public health inspector shall not be compelled to give evidence in court or in proceedings of a judicial nature concerning knowledge of any of the matters referred to in subsection (1) gained in the exercise of a power or duty under this Act except as and to the extent that the Minister directs.

(4) Notwithstanding subsections (1) and (3), where a judge of the Supreme Court of Nova Scotia is satisfied, upon application, that it is in the public interest to do so, the judge may order the disclosure of any information or the giving of any evidence for the purpose of an inquiry authorized by the Governor in Council pursuant to the *Public Inquiries Act*. 2004, c. 4, s. 17.

HEALTH HAZARDS

Risk assessments

18 (1) A medical officer may conduct risk assessments in relation to existing or potential health hazards.

(2) A medical officer may monitor or audit potential or existing ~~heath~~ [health] hazards. 2004, c. 4, s. 18.

Duty to report health hazard

19 (1) Every person who is

(a) required by the regulations to report a prescribed health hazard; or

(b) a member of a class of persons that is required by the regulations to report a prescribed health hazard,

shall, where that person has reasonable and probable grounds to believe that a prescribed health hazard exists, forthwith report that belief to a medical officer.

(2) In subsection (1), "prescribed health hazard" means a health hazard of a type prescribed in the regulations. 2004, c. 4, s. 19.

Orders respecting health hazards

20 (1) Where a medical officer reasonably believes that

(a) a health hazard exists or may exist; and

(b) an order is necessary to prevent, remedy, mitigate or otherwise deal with the health hazard,

the medical officer may make any order that the medical officer considers necessary to prevent, remedy, mitigate or otherwise deal with the health hazard.

(2) A medical officer may make an order orally if a delay is likely to increase substantially the hazard to the public health.

(3) Where an order is made orally pursuant to subsection (2), the contents and reasons for the order shall be put into writing and served on each person to whom the order was directed within seventy-two hours after the making of the oral order, but a failure to comply with this subsection does not invalidate the order.

(4) A public health inspector has the same power as a medical officer to make an order under subsections (1) to (3) if the public health inspector reasonably believes that

(a) a health hazard exists or may exist and an order is necessary to prevent, remedy, mitigate or otherwise deal with the health hazard; and

(b) in the time necessary for a medical officer to make an order, a health hazard could arise that presents or may present a serious and imminent threat to the public health or an existing health hazard could worsen and pose a serious and imminent threat to the public health.

(5) Any action taken pursuant to subsection (4) must be the minimum action that the public health inspector reasonably believes necessary to deal with the health hazard and protect the public health.

(6) A public health inspector who takes action under subsection (4) must notify a medical officer about the action taken as soon as practicable. 2004, c. 4, s. 20.

Orders respecting premises

21 (1) A medical officer may make an order under subsection 20(1) against any person that

(a) owns or occupies premises;

(b) is or appears to be responsible for any

(i) condition of premises,

(ii) substance, thing, plant, animal or organism other than a human on the premises,

(iii) solid, liquid or gas on or emanating from the premises, or

(iv) radiation, noise, vibration or heat on or emanating from premises;

(c) is engaged in or administers an activity in or on any premises; or

(d) is a person or class of persons specified in the regulations.

(2) Without limiting the generality of subsection 20(1), an order made under subsection (1) may

(a) require the vacating of premises;

(b) require the owner or occupier of premises to close the premises or a part of the premises or restrict access to the premises;

(c) require the displaying of signage on premises to give notice of an order requiring the closing of the premises;

(d) require the doing of work specified in the order in, on or about premises specified in the order;

(e) require the removal of anything that the order states is a health hazard from the premises or the environs of the premises specified in the order;

(f) require the cleaning or disinfecting, or both, of the premises or the thing specified in the order;

(g) require the destruction of a matter or thing specified in the order;

(h) prohibit or regulate the manufacturing, processing, preparation, storage, handling, display, transportation, sale, offering for sale or distribution of any thing;

(i) prohibit or regulate the use of any premises or thing;

(j) require a person who is the subject of an order made pursuant to subsection 20(1) to investigate the situation, or undertake tests, examination, analysis, monitoring or recording, and provide the medical officer with any information the medical officer requires;

(k) require a person to whom an order made pursuant to subsection 20(1) is directed to isolate, hold or contain a substance, thing, solid, liquid, gas, plant, animal or other organism specified in the order. 2004, c. 4, s. 21.

Requirements respecting orders

22 (1) Actions specified in an order must be necessary to achieve a decrease in the effect of or to eliminate the health hazard.

(2) Actions included in an order shall be framed as clear directions or requirements to terminate or mitigate the health hazard and a medical officer must give reasons for the order in the order.

(3) A medical officer shall give the person or organization to whom an order is directed every reasonable opportunity to comply with the order.

(4) An order may be hand delivered or sent by registered mail to a person or organization to whom the order is directed.

(5) Where an order is served on a person to whom it is directed, that person shall comply with the order forthwith or, where a period of compliance is specified in the order, within the time period specified.

(6) It is sufficient in an order made under Section 20 or 21 to direct the order to a person or class of persons described in the order, and an order under Section 20 or 21 is not invalid by reason only of the fact that a person to whom the order is directed is not named in the order.

(7) A medical officer who makes an order under Section 20 or 21 may require the person to whom the order is directed to communicate the contents of the order to other persons as specified by the medical officer.

(8) An order shall specify the time within which or the date by which the person or persons to whom it is directed must comply with the order. 2004, c. 4, s. 22.

Extension, revocation or amendment of orders

23 A medical officer may

(a) extend an order made under subsection 20(1) for any additional period the medical officer reasonably believes is necessary; or

(b) revoke or amend an order made under subsection 20(1), to the extent that it has not yet been carried out. 2004, c. 4, s. 23.

Power to ensure compliance

24 (1) Where a medical officer has reasonable and probable grounds to believe that a health hazard exists and the person to whom an order is or would be directed

(a) has refused to comply with or is not complying with the order;

(b) is not likely to comply promptly with the order;

(c) cannot be readily identified or located and as a result the order would not be carried out promptly; or

(d) has requested the assistance of the medical officer in complying with the order,

the medical officer may take whatever action the medical officer considers necessary, including providing authority for such persons, materials and equipment to enter upon premises and to use such force as the medical officer considers necessary

to carry out the terms of the order, and the Chief Medical Officer may order the person who failed to comply to pay the costs of taking that action.

(2) Where a person requests assistance from a medical officer in complying with an order made by a medical officer, the officer to whom the request is made shall render such reasonable assistance as is practicable in the circumstances.

(3) Where a medical officer authorizes persons to enter upon premises pursuant to subsection (1), those persons have the authority to act to the same extent as if the act was carried out by the medical officer.

(4) Without limiting the generality of subsection (1), actions under that subsection may include

(a) the displaying of signage on premises to give notice of the existence of a health hazard or of an order made under this Part;

(b) doing any work the medical officer considers necessary in, on or about any premises;

(c) removing any thing from premises or the environs of the premises;

(d) detaining any thing removed from any premises or the environs of any premises;

(e) the delivery of notice to the public through any media a medical officer considers appropriate indicating the risk of the health hazard;

(f) closing premises or a part of premises or restricting access to premises;

(g) cleaning or disinfecting, or both, of any premises or thing; and

(h) destroying any thing found on premises or the environs of premises.

(5) No person shall conceal, alter, deface or remove signage that has been placed or posted pursuant to clause 21(2)(c) or clause (3)(a). 2004, c. 4, s. 24.

Powers respecting serious and imminent threats

25 (1) Notwithstanding any other provision of this Part, a medical officer may take any action under subsection 24(1) if the medical officer reasonably believes that in the time necessary to make an order under Section 20, or allow for compliance, a health hazard could arise that would pose a serious and imminent threat to the public health or that an existing health hazard could worsen and pose a serious and imminent threat to the public health.

(2) A public health inspector has the same power as a medical officer under subsection (1) if the public health inspector reasonably believes that, in the time necessary for a medical officer to take action, a health hazard could arise or an existing health hazard could worsen.

(3) Any action taken under this Section must be the minimum action that the person taking it reasonably believes necessary to deal with the health hazard and protect the public health.

(4) A public health inspector who takes action pursuant to subsection (2) shall notify a medical officer about the action taken as soon as practicable.

(5) After any action is taken under Section 24, the Chief Medical Officer may order any person to whom an order was directed or would have been directed under subsection 21(1) by either a medical officer or a public health inspector to pay the costs of taking the action. 2004, c. 4, s. 25.

Recovery of costs

26 (1) Reasonable costs, expenses or charges incurred by a medical officer or public health inspector pursuant to Section 24 or 25 are recoverable by order of the Chief Medical Officer and are payable to the Minister by

(a) the person to whom an order was directed; or

(b) any person who has purchased real property from the person to whom an order was directed from any money that is still owed to the vendor, where the person who purchased the property is directed by the Minister to pay a sum not to exceed the amount owing in respect of the costs, expenses or charges.

(2) A purchaser who pays an amount to the Minister pursuant to clause (1)(b) is discharged from any obligation to pay that amount to the vendor.

(3) In any claim or action under this Section, a certificate purporting to be signed by the Minister setting out the amount of the cost, expense or charge is admissible in evidence and is, in the absence of evidence to the contrary, proof

(a) of the amount of the cost, expense or charge set out in the certificate; and

(b) that the cost, expense or charge was made necessary or caused by the termination or mitigation of the health hazard to which the claim or action relates.

(4) Where an order to pay is issued by the Chief Medical Officer pursuant to subsection (1), the order shall be filed with the prothonotary of the Supreme Court of Nova Scotia and, when so filed,

(a) the order is of the same force and effect as if it were a judgment against real property that the person named in the order may then or thereafter own;

(b) a lien is established on the property referred to in clause (a) for the amount stated and it is deemed to be taxes in respect of the real property and may be collected in the same way and in the same priority as taxes under the *Assessment Act*; and

(c) the order may be enforced in the same manner as a judgment of the Supreme Court in civil proceedings. 2004, c. 4, s. 26.

Court may order compliance

27 Where a person has failed to comply with an order made under subsection 22(5), a court may, in addition to any other penalty it may impose, order the person to comply with subsection 22(5). 2004, c. 4, s. 27.

Joint and several liability

28 (1) Where an order made pursuant to Section 20 is directed to more than one person, all persons named in the order are jointly responsible for carrying out the terms of the order and are jointly and severally liable for payment of the costs of doing so, including any costs incurred by a medical officer pursuant to Section 24.

(2) Subsection (1) does not apply to an order where the Chief Medical Officer and the persons responsible for carrying out the terms of the order have agreed to an apportionment of costs. 2004, c. 4, s. 28.

Costs are in addition to penalties

29 Costs recoverable pursuant to Section 26 are in addition to any penalties under this Act and the regulations. 2004, c. 4, s. 29.

Appeal

30 (1) A person to whom an order made pursuant to Section 20 is directed may, within ten days of the order being made, appeal to the Minister, by notice in writing, stating concisely the reasons for the appeal.

(2) The appeal shall be conducted in the manner prescribed by the regulations.

(3) The Minister may dismiss the appeal, allow the appeal or make any decision the medical officer or public health inspector was authorized to make.

(4) A decision of the Minister may, within thirty days of the decision, be appealed on a question of law or on a question of fact, or on a question of law and fact, to a judge of the Supreme Court of Nova Scotia, and the decision of the judge is final and binding on the Minister and the appellant, and the Minister

and the appellant shall take such action as may be necessary to implement the decision.

(5) An appeal taken pursuant to subsection (4) does not operate as a stay of the decision appealed from except in so far as the judge directs. 2004, c. 4, s. 30.

NOTIFIABLE DISEASES OR CONDITIONS

Reporting notifiable disease or condition

31 (1) A physician, a registered nurse licensed pursuant to the *Nursing Act* or a medical laboratory technologist licensed pursuant to the *Medical Laboratory Technology Act* who has reasonable and probable grounds to believe that a person

(a) has or may have a notifiable disease or condition; or

(b) has had a notifiable disease or condition,

shall forthwith report that belief to a medical officer.

(2) A principal of a public school or the operator of a private school under the *Education Act* who has reasonable and probable grounds to believe that a student in the school

(a) has or may have a notifiable disease or condition; or

(b) has had a notifiable disease or condition,

shall forthwith report that belief to a medical officer.

(3) An administrator of an institution who has reasonable and probable grounds to believe that a person who is a resident of the institution

(a) has or may have a notifiable disease or condition; or

(b) has had a notifiable disease or condition,

shall forthwith report that belief to a medical officer.

(4) An individual or member of a class of individuals, under such circumstances as prescribed by the regulations, who has reasonable and probable grounds to believe that a person

(a) has or may have a notifiable disease or condition; or

(b) has had a notifiable disease or condition,

shall forthwith report that belief to a medical officer.

(5) A physician, registered nurse licensed pursuant to the *Nursing Act* or an administrator of an institution who believes that an illness is serious and is occurring at a higher rate than is normal, shall forthwith report that belief to a medical officer.

(6) A physician signing a death certificate who has reasonable and probable grounds to believe that the person who died suffered from a notifiable disease or condition at the time of death shall forthwith report that belief to a medical officer. 2004, c. 4, s. 31; 2019, c. 8, s. 184.

COMMUNICABLE DISEASES

Powers respecting communicable diseases

32 (1) Where a medical officer is of the opinion, upon reasonable and probable grounds, that

(a) a communicable disease exists or may exist or that there is an immediate risk of an outbreak of a communicable disease;

(b) the communicable disease presents a risk to the public health; and

(c) the requirements specified in the order are necessary in order to decrease or eliminate the risk to the public health presented by the communicable disease,

the medical officer may by written order require a person to take or to refrain from taking any action that is specified in the order in respect of a communicable disease.

(2) In an order made under this Section, a medical officer may specify the time or times when or the period or periods of time within which the person to whom the order is directed must comply with the order.

(3) Without limiting the generality of subsection (1), an order made under this Section may

(a) require the owner or occupier of premises to close the premises or a part of the premises or to restrict access to the premises;

(b) require the displaying of signage on premises to give notice of an order requiring the closing of the premises;

(c) require any person that the order states has been exposed or may have been exposed to a communicable disease to quarantine himself or herself from other persons;

(d) require any person who has a communicable disease or is infected with an agent of a communicable disease to isolate himself or herself from other persons;

(e) require the cleaning or disinfecting, or both, of the premises or any thing specified in the order;

(f) require the destruction of any matter or thing specified in the order;

(g) require the person to whom the order is directed to submit to an examination by a physician who is acceptable to a medical officer and to deliver to the medical officer a report by the physician

as to whether or not the person has a communicable disease or is or is not infected with an agent of a communicable disease;

(h) require the person to whom the order is directed in respect of a communicable disease to place himself or herself forthwith under the care and treatment of a physician who is acceptable to a medical officer;

(i) require the person to whom the order is directed to conduct himself or herself in such a manner as not to expose another person to infection.

(4) An order under this Section is subject to such conditions as determined by the medical officer and set out in the order.

(5) Where an order made under this Section is to be carried out by a physician or other health professional, the failure of the person subject to such an order to consent does not constitute an assault or battery against that person by the physician or other health professional should the order be carried out. 2004, c. 4, s. 32.

Communication of order

33 (1) A medical officer who makes an order under Section 32 may require the person to whom the order is directed to communicate the contents of the order to other persons specified by the medical officer.

(2) An order made under Section 32 may be directed to a person who

(a) resides or is present in premises;

(b) owns or is the occupier of premises;

(c) owns or is in charge of any thing; or

(d) is engaged in or administers an enterprise or activity,

in the Province.

(3) An order made under Section 32 may be made with respect to a class of persons who reside or are present in the Province.

(4) Where a class of persons is the subject of an order made under subsection (3), notice of the order shall be delivered to each member of the class if it is practicable to do so in a reasonable amount of time.

(5) Where delivery of notice of an order to each member of a class of persons is likely to cause a delay that could, in the opinion of the medical officer, significantly increase the risk to the health of any person, the medical officer may deliver a general notice to the members of the class through any communications media that the medical officer considers appropriate, and the medical officer shall post the order at an address or at addresses that is or are most likely to bring the notice to the attention of the members of the class.

(6) A notice under subsection (5) must contain sufficient information to allow members of the class to understand to whom the order is directed, the terms of the order and where to direct inquiries. 2004, c. 4, s. 33.

Requirements for a report

34 In an order made under Section 32, a medical officer may specify

(a) that a report will not be accepted as complying with the order unless it is a report by a physician specified or approved by the medical officer; and

(b) the period of time within which the report mentioned in this Section must be delivered to the medical officer. 2004, c. 4, s. 34.

Reasons required

35 An order made under Section 32 is not effective unless the reasons for the order are set out in the order. 2004, c. 4, s. 35.

Oral order

36 (1) Where the delay necessary to put an order made under Section 32 in writing will or is likely to increase substantially the risk presented by a communicable disease to the public health, a medical officer may make an order orally and Section 35 does not apply.

(2) Where an oral order is made under subsection (1), the contents of the order and the reasons for the order shall be put into writing and served on each person to whom the order was directed within seventy-two hours after the making of the oral order, but a failure to comply with this subsection does not invalidate the order. 2004, c. 4, s. 36.

Power to ensure compliance

37 (1) Where a medical officer has grounds to issue an order pursuant to subsection 32(1) and has reasonable and probable grounds to believe that the person to whom an order is or would be directed under subsection 33(2)

(a) has refused to or is not complying with the order;

(b) is not likely to comply with the order promptly;

(c) cannot be readily identified or located and as a result the order would not be carried out promptly; or

(d) has requested the assistance of the medical officer in eliminating or decreasing the risk to health presented by the communicable disease,

the medical officer may take whatever action the medical officer considers necessary, including providing authority for such persons, materials and equipment to enter upon any premises and to use such force as the medical officer considers necessary to carry out the terms of the order, and the Chief Medical Officer may order a

person who fails to comply to pay the costs of taking any actions necessary to comply with clauses 32(3)(a), (b), (e) or (f).

(2) Where a person requests assistance from a medical officer in complying with an order made by a medical officer, the officer to whom the request is made shall render such reasonable assistance as is practicable in the circumstances.

(3) Where a medical officer authorizes persons to enter upon premises pursuant to subsection (1), such persons have the authority to act to the same extent as if the act were carried out by the medical officer.

(4) Without limiting generality of subsection (1), actions under this Section may include

(a) the displaying of signage on premises to give notice of the existence of a communicable disease or of an order made pursuant to this Part;

(b) the delivery of notice to the public through any communications media the medical officer considers appropriate indicating the risk of the communicable disease;

(c) the cleaning or disinfecting, of any thing or any premises;

(d) the destruction of any thing found on the premises or the environs of the premises; and

(e) closing the premises or part of the premises or restricting access to the premises. 2004, c. 4, s. 37.

Court may ensure compliance

38 (1) Where, upon application by a medical officer, a judge of the provincial court is satisfied that

(a) a person has failed to comply with an order by a medical officer made under to Section 32 that

(i) the person quarantine himself or herself from other persons,

(ii) the person isolate himself or herself from other persons,

(iii) the person submit to an examination by a physician who is acceptable to the medical officer,

(iv) the person place himself or herself under the care and treatment of a physician who is acceptable to the medical officer, or

(v) the person conduct himself or herself in such a manner as not to expose another person to infection,

the judge may order that the person who has failed to comply with the order of the medical officer

(b) be taken into custody and be admitted to and detained in a quarantine facility named in the order;

(c) be taken into custody and be admitted to, detained and treated in an isolation facility named in the order;

(d) be examined by a physician who is acceptable to the medical officer to ascertain whether or not the person is infected with an agent of a communicable disease; or

(e) where found on examination to be infected with an agent of a communicable disease, be treated for the disease.

(2) Where an order made by a judge pursuant to subsection (1) is to be carried out by a physician or other health professional, the failure of the person subject to such an order to consent does not constitute an assault or battery against that person by the physician or other health professional should the order be carried out.

(3) A physician or other health professional carrying out an order pursuant to subsection (1) may obtain such assistance from a peace officer or other person as the physician or health professional reasonably believes is necessary.

(4) A judge shall not name an isolation facility or quarantine facility in an order under this Section unless the judge is satisfied that the isolation facility or quarantine facility is able to provide detention, care and treatment as required for the person who is the subject of the order. 2004, c. 4, s. 38.

Authority to apprehend and isolate or quarantine

39 **(1)** An order made under Section 38 is authority for any person to

(a) locate and apprehend the person who is the subject of the order; and

(b) deliver the person who is the subject of the order to the isolation facility or quarantine facility named in the order or to a physician for examination.

(2) An order made under Section 38 may be directed to a police force that has jurisdiction in the area where the person who is the subject of the order may be located, and the police force shall do all things reasonably able to be done to locate, apprehend and deliver the person to an isolation or quarantine facility in the jurisdiction where the person was apprehended or to an isolation or quarantine facility specified in the order.

(3) A person who apprehends a person who is the subject of an order pursuant to subsection (2) shall promptly

(a) inform the person of the reasons for the apprehension and of the person's right to retain and instruct counsel without delay; and

(b) tell the person where the person is being taken.

(4) An order made under clause 38(1)(c) is authority to detain the person who is the subject of the order in the isolation facility named in the order and to care for and examine the person and to treat the person for the communicable disease in accordance with generally accepted medical practice for a period of not more than four months from and including the day that the order was issued.

(5) An order made under clause 38(1)(b) is authority to detain the person who is the subject of the order in the quarantine facility named in the order and to care for and examine the person for the incubation period of the communicable disease as determined by the judge.

(6) In the case of an order made under clause 38(1)(c),

(a) where a hospital is named as the isolation facility, the person authorized by the by-laws of the hospital shall designate a physician to have responsibility for the treatment of the person named in the order or, where the by-laws do not provide the authorization, the chief executive officer of the hospital or a person delegated by the chief executive officer shall designate a physician who is acceptable to the medical officer to have responsibility for the person named in the order;

(b) where an institution is named as the isolation facility, the administrator of the institution shall designate a physician who is acceptable to the medical officer to have responsibility for the person named in the order; or

(c) where the isolation facility is not a hospital or an institution, the chief executive officer of the provincial health authority, as defined by the *Health Authorities Act*[,] shall designate a physician who is acceptable to the medical officer to have responsibility for the person named in the order. 2004, c. 4, s. 39; 2014, c. 32, s. 124.

Duty of treating physicians

40 A physician responsible for treating a person pursuant to subsection 38(1) shall report in respect of the treatment and the condition of the person to a medical officer. 2004, c. 4, s. 40.

Monitoring person and reporting condition

41 In the case of an order made under clause 38(1)(b),

(a) a medical officer shall designate a public health inspector or a public health nurse to be responsible for the monitoring of the person named in the order; and

(b) the designated public health inspector or public health nurse shall report in respect of the condition of the person to the medical officer. 2004, c. 4, s. 41.

Duty to report

42 Where ordered by a medical officer, a physician, public health inspector or public health nurse shall report to the medical officer on any matter in the manner, at the times and with the information specified by the medical officer in the order. 2004, c. 4, s. 42.

Court may extend detention and treatment

43 (1) Where, upon an application by a medical officer, a judge of the provincial court is satisfied that

(a) a person continues to be infectious and contagious; and

(b) the discharge of the person from the isolation facility would present a significant risk to the public health,

the judge may, by order, extend the period of detention and treatment ordered pursuant to clause 38(1)(c) for not more than four months and, upon further applications by the medical officer, the judge may extend the period of detention and treatment for further periods each of which is not for more than four months.

(2) A person detained in accordance with an order made under this Section shall be released from detention and discharged from the isolation facility or quarantine facility upon the certificate of a medical officer.

(3) A medical officer shall monitor the treatment and condition of a detained person and shall issue a certificate authorizing the release and discharge of the person as soon as the medical officer is of the opinion that the person is no longer infectious or contagious or that the release and discharge of the person will not present a significant risk to the public health. 2004, c. 4, s. 43.

Exceptions to public hearings

44 (1) An application referred to in subsection 38(1) or subsection 43(1) shall be heard in public unless

(a) the judge hearing the application is satisfied that

(i) matters involving public security may be disclosed,

(ii) the possible disclosure of intimate financial or personal matters of any person outweighs the desirability of holding the hearing in public, or

(iii) a medical officer is of the opinion that the person in respect of whom the application is made is infectious and to conduct the hearing in public would be a risk to the public health; or

(b) the person in respect of whom the application is made requests otherwise and the judge hearing the application is satisfied that it is appropriate in the circumstances to conduct the hearing in private.

(2) Any party to an application under subsection 38(1) or subsection 43(1) may appeal from the decision or order to the Nova Scotia Court of Appeal.

(3) The filing of a notice of appeal does not apply to stay the decision or order appealed from unless a judge of the court to which the appeal is taken so orders. 2004, c. 4, s. 44.

Withdrawal from treatment or failure to continue

45 Where a medical officer has made an order pursuant to Section 32 requiring a person to be placed under the care and treatment of a physician or to take other action specified in the order and the person withdraws from the care and treatment or fails to continue the specified action, Section 38 applies *mutatis mutandis* and the person is deemed to have failed to comply with an order of the medical officer. 2004, c. 4, s. 45.

Apprehension and detention where disease dangerous

46 A medical officer may apprehend and detain an individual where that individual has failed to comply with an order that was issued in relation to a dangerous disease and the medical officer reasonably believes that the individual poses a significant and imminent threat to the public health if not apprehended and detained. 2004, c. 4, s. 46.

Rights of detainee

47 (1) An individual apprehended and detained pursuant Section 46 shall be informed of the individual's right to counsel.

(2) An individual apprehended and detained pursuant to Section 46 shall not be held for longer than seventy-two hours unless a hearing is held within that time period and an order is made under Section 38. 2004, c. 4, s. 47.

Persons found to have communicable disease in detention facilities

48 (1) In this Section,

(a) "correctional facility" has the same meaning as in clause 3(b) of the *Corrections Act;*

(b) "lock-up facility" has the same meaning as in clause 3(b) of the *Corrections Act;*

(c) "place of temporary detention" means a place or facility designated as a place of temporary detention under subsection 30(1) of the *Youth Criminal Justice Act* (Canada);

(d) "youth custody facility" means a place or facility designated as a place of secure custody under subsection 85(2) of the *Youth Criminal Justice Act* (Canada).

(2) A medical officer by order may require the superintendent of a correctional facility, a youth custody facility, a lock-up facility or a place of temporary detention to take such action as is specified in the order to prevent the infection of others by a person who is detained in the correctional facility, youth custody facility, lock-up facility or place of temporary detention and who has been examined and found to be infected with an agent of a communicable disease. 2004, c. 4, s. 48.

General immunization program

49 The Minister may order a general immunization program in the Province or any part of the Province for the purpose of preventing the spread of a communicable disease. 2004, c. 4, s. 49.

Medical officer may require further information

50 A medical officer may require any person to provide further information on any report of a notifiable disease or condition at times determined by the medical officer. 2004, c. 4, s. 50.

Death from dangerous disease

51 In the case of a death of a person from a dangerous disease, access to the body of that person and the care, handling and transport of the body of that person shall be carried out in the manner directed by a medical officer unless otherwise provided for in the regulations. 2004, c. 4, s. 51.

Disinterment

52 (1) No person shall disinter or remove a buried human body except at the instance of the Attorney General unless with the written permission of the medical officer for the place in which the body is buried.

(2) The disinterment, removal, transportation and reinterment of a human body shall be carried out in the manner directed by a medical officer unless otherwise provided for in the regulations. 2004, c. 4, s. 52.

PUBLIC HEALTH EMERGENCIES

Declaration of emergency

53 (1) Where the Chief Medical Officer reasonably believes that a public health emergency exists in the Province, and reasonably believes that the public health emergency cannot be mitigated or remedied without the implementation of special measures pursuant to this Section, the Chief Medical Officer shall recommend to the Minister that a public health emergency be declared for all or part of the Province and the Minister may declare a public health emergency for all or part of the Province.

(2) Where the Minister has declared a public health emergency, the Chief Medical Officer may implement special measures to mitigate or remedy the emergency including

(a) establishing a voluntary immunization program for the Province or any part of the Province;

(b) preparing a list of individuals or classes of individuals to be given priority for active and passive immunizing agents, drugs, medical supplies or equipment;

(c) ordering the closing of any educational setting or place of assembly;

(d) prohibiting or limiting access to certain areas of the Province or evacuating persons from an area of the Province;

(e) ensuring that necessities are provided to a person who is quarantined if the person has no alternative means of obtaining such necessities;

(f) ordering construction of any work or the installation of facilities required for this Section, including sanitary facilities;

(g) procuring first right at a reasonable cost to active and passive immunizing agents, drugs, medical supplies or equipment from any organization or corporation;

(h) confiscating active and passive immunizing agents, drugs, medical supplies or equipment from wholesalers, health authorities, pharmacies, physicians, institutions or any other persons or classes of persons prescribed in the regulations; and

(i) any other measure the Chief Medical Officer reasonably believes is necessary for the protection of public health during the public health emergency.

(3) Where the Chief Medical Officer determines that a public health emergency has ended, the Chief Medical Officer shall advise the Minister and the Minister may make a declaration to that effect. 2004, c. 4, s. 53; 2014, c. 32, s. 125.

Minister may provide grant

54 Where the Minister considers it appropriate to do so, the Minister may provide a grant to any person to

(a) assist that person to comply with special measures implemented by the Chief Medical Officer; or

(b) reimburse that person for costs that person incurred in complying with special measures implemented by the Chief Medical Officer. 2004, c. 4, s. 54.

Possession of premises for temporary isolation or quarantine facility

55 (1) The Minister, in the circumstances mentioned in subsection (3), may, by order, require the owner or occupier of any premises to deliver possession of all or any specified part of the premises to the Minister to be used as an isolation or quarantine facility or as part of an isolation or quarantine facility.

(2) An order made under subsection (1) shall set out an expiry date for the order that is not more than twelve months after the day of its making and the Minister may, by a further order, extend the order for a further period of not more than twelve months.

(3) The Minister may make an order in writing under subsection (1) where the Chief Medical Officer certifies to the Minister that

(a) there exists or there is an immediate risk of an outbreak of a dangerous disease anywhere in the Province; and

(b) the premises are needed for use as an isolation or quarantine facility or as part of an isolation or quarantine facility in respect of the dangerous disease.

(4) An order made under subsection (1) may require delivery of possession of the premises on a date specified in the order.

(5) The Minister need not hold or afford to any person an opportunity for a hearing or afford to any person an opportunity to make submissions before making an order under subsection (1). 2004, c. 4, s. 55.

Order for possession of premises

56 (1) Where a judge of the Supreme Court of Nova Scotia is satisfied on evidence upon oath that

(a) there exists or there is an immediate risk of an outbreak of a dangerous disease anywhere in the Province;

(b) premises are needed for use as an isolation or quarantine facility or as part of an isolation or quarantine facility in respect of the dangerous disease; and

(c) the owner or occupier of the premises

(i) has refused to deliver possession of the premises to the Minister in accordance with an order under subsection 55(1),

(ii) is not likely to comply with an order under subsection 55(1), or

(iii) cannot be readily identified or located and as a result an order under subsection 55(1) cannot be carried out promptly,

the judge may make an order directing a peace officer for the area in which the premises are located, or any other person whom the judge considers suitable, to put and maintain the Minister and any person designated by the Minister in possession of the premises, by force if necessary.

(2) An order made under this Section shall be executed at reasonable times as specified in the order.

(3) A judge may receive and consider an application for an order under this Section without notice to and in the absence of the owner or the occupier of the premises.

(4) The Minister shall, before restoring the possession of premises to the owner or occupier, cleanse and disinfect it and put it in the same state of repair as it was in when possession was taken, and shall give notice to the owner or occupier that this has been done. 2004, c. 4, s. 56.

Compensation

57 (1) The occupier of premises used or occupied pursuant to Section 55 or 56 is entitled to compensation from Her Majesty in right of the Province for the use and occupation of the premises and, in the absence of agreement as to the compensation, the Nova Scotia Utility and Review Board, upon application in accordance with the rules governing the practice and procedure of that Board, shall determine the compensation in accordance with the *Expropriation Act*.

(2) Except in respect of proceedings before the Nova Scotia Utility and Review Board in accordance with subsection (1), the *Expropriation Act* does not apply to proceedings under this Section. 2004, c. 4, s. 57.

POWER TO ENTER

Powers of entry to administer or investigate

58 (1) When reasonably required to administer or determine compliance with this Act or the regulations or to investigate a potential health hazard or communicable disease, a medical officer may enter any premises, other than a dwelling, at any reasonable time, and may

(a) make any inspection, investigation, examination, test, analysis or inquiry that the medical officer considers necessary;

(b) detain or cause to be detained any motor vehicle, trailer, train, railway car, aircraft, boat, ship or similar vessel;

(c) require any substance, thing, solid, liquid, gas, plant, animal or other organism to be produced for inspection, examination, testing or analysis;

(d) seize or take samples of any substance, thing, solid, liquid, gas, plant, animal or other organism, other than samples of human bodily substances;

(e) require any person to

(i) provide the medical officer with information, including personal information, personal health information or proprietary or confidential business information, and

(ii) produce any document or record, including a document or record containing personal information, personal health information or proprietary or confidential business information,

and examine or copy the information, document or record, or take it to copy or retain as evidence;

(f) take photographs or videotapes of premises, or any condition, process, substance, thing, solid, liquid, gas, plant, animal or other organism located in or on the premises;

(g) bring any machinery, equipment or other thing into or onto the premises;

(h) use any machinery, equipment or other thing located in or on the premises;

(i) require that any machinery, equipment or other thing be operated, used or dismantled in or on the premises under specified conditions;

(j) make or cause an excavation to be carried out in or on the premises.

(2) Where

(a) an owner or occupier of premises denies entry or access to, through or over the premises to a medical officer or there are reasonable grounds for believing that the owner or occupier may deny entry or access to, through or over the premises to a medical officer;

(b) an owner or occupier of premises obstructs a medical officer in the exercise of powers under subsection (1);

(c) an owner or occupier of premises refuses to produce any substance, thing, solid, liquid, gas, plant, animal or other organism for the purpose of inspection, examination, test or inquiry;

(d) there are reasonable grounds to believe that the owner or occupier of premises may prevent a medical officer from carrying out powers under subsection (1) or may deny access to any thing as a result of which the medical officer may be unable to carry out powers under subsection (1); or

(e) no person is present to grant access to premises that are locked or otherwise inaccessible,

a medical officer may apply to a justice of the peace for a warrant under Section 59.

(3) Notwithstanding subsection (1), a medical officer may enter and inspect a dwelling with the consent of the owner or occupier of the dwelling. 2004, c. 4, s. 58.

Warrant for entry into premises or dwelling

59 **(1)** Where a justice of the peace is satisfied on the evidence upon oath that

(a) there are reasonable and probable grounds for believing that it is necessary to

(i) enter and have access to, through or over any premises,

(ii) make examinations, tests, and inquiries,

(iii) make, take and remove samples other than samples of human bodily substances, or to make, take and remove copies or extracts related to an examination, investigation, test or inquiry,

or to do any of such things, for the purpose of this Part or the regulations, the enforcement of any Section of this Part or the regulations, the exercise of a power or the carrying out of a duty under this Part or the regulations or the carrying out of a direction given under this Part; and

(b) a medical officer, a public health inspector or public health nurse or a person acting under a direction given by a medical officer

(i) has been denied entry to the premises,

(ii) has been instructed to leave the premises,

(iii) has been obstructed, or

(iv) has been refused production of any substance, thing, solid, liquid, gas, plant, animal or other organism related to an examination, investigation, test or inquiry,

by the owner or occupier of the premises, or with respect to premises or a dwelling

(v) entry has been refused or there are reasonable grounds to believe that entry will be refused,

(vi) the owner or occupier of the premises or the occupant of the dwelling is temporarily absent, or

(vii) the premises or dwelling is unoccupied,

the justice of the peace may at any time issue a warrant authorizing the medical officer, a public health inspector, a public health nurse and any person who is acting under a direction given by a medical officer, or any of them, to carry out any action

under subsection 58(1), by force if necessary, together with such peace officers as they call upon to assist them.

(2) A warrant issued under this Section shall state the date on which it expires, which must be a date not later than fifteen days after the warrant is issued.

(3) A justice of the peace may receive and consider an application for a warrant under subsection 58(2) without notice to and in the absence of the owner or occupier of the premises or the occupier of the dwelling.

(4) A warrant may be made subject to any conditions that are specified in it. 2004, c. 4, s. 59.

Entry without warrant in public health emergency

60 Where the Minister has declared a public health emergency, a medical officer may

(a) enter and inspect any premises, including a dwelling, at any time and without a warrant; and

(b) take such action under this Act and the regulations as the medical officer reasonably believes is necessary to prevent, control or deal with the public health emergency. 2004, c. 4, s. 60.

Entry by public health inspector

61 (1) A public health inspector

(a) has the same powers as a medical officer under subsections 58(1), (2) and (3) and Section 59; and

(b) has the same powers as a medical officer under Section 60 if

(i) a medical officer has authorized the public health inspector to exercise the powers, or

(ii) the public health inspector reasonably believes that immediate action is necessary and there is no time to locate a medical officer.

(2) A public health nurse has the same powers as a medical officer under clauses 58(1)(a) and (e) and subsection 58(3) for the purposes of investigating a suspected case of a communicable disease or exposure to a health hazard.

(3) In exercising a power under this Part, a medical officer, public health inspector or public health nurse may use such reasonable force or obtain such assistance from a peace officer or other person as the medical officer, public health inspector or public health nurse reasonably believes is necessary. 2004, c. 4, s. 61.

Removal of documents

62 **(1)** Where a medical officer, public health nurse or public health inspector removes documents or records from premises for the purposes of clause 58(1)(e) and makes a copy or extract of them or any part of them, the medical officer, public health nurse or public health inspector shall give a receipt to the occupier for the documents or records removed.

(2) Where documents or records are removed from premises, the documents or records shall be returned to the occupier as soon as possible after the making of the copies or extracts.

(3) A copy or extract of any document or record related to an inspection, examination, test or inquiry and purporting to be certified by a person referred to in subsection (1) is admissible in evidence in any action, proceeding or prosecution as proof, in the absence of evidence to the contrary, of the original without proof of the appointment, designation, authority or signature of the person purporting to have certified the copy. 2004, c. 4, s. 62.

Other persons may accompany

63 A medical officer, public health inspector or public health nurse may be accompanied by other persons for any purpose mentioned in subsection 58(1) and those persons may carry out inspections, examinations, tests and inquiries and take such samples or do such other things as directed by the medical officer, public health inspector or public health nurse. 2004, c. 4, s. 63.

Minister may make recommendations respecting emergency measures

64 The Minister may make recommendations to the member of the Executive Council to whom is assigned the administration of the *Emergency* ~~Measures~~ [*Management*] *Act* respecting matters relating to public health emergencies that should be included in emergency measures plans made or required to be made under that Act. 2004, c. 4, s. 64.

GENERAL

Duty to assist

65 **(1)** An owner or occupier of premises and any employees or agents of the owner or occupier shall give all reasonable assistance to a medical officer, public health nurse or public health inspector to enable the medical officer, public health nurse or public health inspector to exercise powers or carry out duties and functions under this Part and the regulations, and shall furnish the medical officer, public health nurse or public health inspector with such information that the medical officer, public health nurse or public health inspector reasonably requires for purposes referred to in subsection 58(1).

(2) A medical officer, public health inspector, public health nurse or other person who is exercising powers or performing duties or functions under this Part may call for the assistance of any constable, police officer or other peace

officer and, where called for such assistance, it is the duty of the constable, police officer or peace officer to render the assistance. 2004, c. 4, s. 65.

Hindering or obstructing

66 (1) No person shall hinder or obstruct a medical officer, public health nurse or public health inspector in the exercise of powers or carrying out of duties or functions under this Part and the regulations.

(2) A refusal of consent to enter a private dwelling is not and shall not be considered to be hindering or obstructing within the meaning of subsection (1), except where a warrant has been obtained or entry is carried out pursuant to Section 60. 2004, c. 4, s. 66.

False or misleading statements

67 No person shall knowingly make a false or misleading statement, either orally or in writing, to a medical officer, public health nurse or public health inspector while the medical officer, public health nurse or public health inspector is exercising powers or carrying out duties or functions under this Part or the regulations. 2004, c. 4, s. 67.

Analysts

68 The Minister may designate persons as analysts for the purpose of this Part. 2004, c. 4, s. 68.

Certificate of analyst

69 (1) Subject to this Section, a certificate of an analyst stating that the analyst has analyzed or examined a sample submitted to the analyst by a medical officer, public health nurse or public health inspector and stating the result of the analysis or examination is admissible in evidence in a prosecution with respect to an offence under this Part or the regulations and, in the absence of evidence to the contrary, is proof of the statements contained in the certificate without proof of the appointment, authority or signature of the person purporting to have signed the certificate.

(2) A party against whom a certificate of an analyst is produced under subsection (1) may, with leave of the court, require the attendance of the analyst for purposes of cross-examination.

(3) A certificate shall not be received in evidence under subsection (1) unless the party intending to produce it has given reasonable notice of the intention, together with a copy of the certificate, to any party against whom it is intended to be produced. 2004, c. 4, s. 69.

Copy of order as evidence

70 A copy of an order purporting to be made by a medical officer, public health nurse or a public health inspector is, without proof of the office or signature

of the medical officer, public health nurse or a public health inspector, as the case may be, receivable in evidence as proof, in the absence of evidence to the contrary, of the making of the order and of its contents for all purposes in any action, proceeding or prosecution. 2004, c. 4, s. 70.

Offences and penalties

71 (1) Every person who fails to comply with this Part or the regulations or with an order made pursuant to this Part or the regulations is guilty of an offence and is liable on summary conviction to

(a) in the case of a corporation, a fine not exceeding ten thousand dollars; or

(b) in the case of an individual, a fine not exceeding two thousand dollars or to imprisonment for a term of not more than six months, or both.

(2) Where an offence under this Part or the regulations is committed or continued on more than one day, the person who committed the offence is liable to be convicted for a separate offence for each day on which the offence is committed or continued.

(3) Notwithstanding subsection (1), a person who is guilty of a second or subsequent offence, other than by virtue of subsection (2), is liable to

(a) in the case of a corporation, a fine of not exceeding fifty thousand dollars; or

(b) in the case of an individual, a fine not exceeding ten thousand dollars or to imprisonment for a period of not more than one year, or both. 2004, c. 4, s. 71.

Offences by employees, agents or corporations

72 (1) In a prosecution for an offence under this Part or the regulations, 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, unless the accused establishes that the offence was committed without the knowledge or consent of the accused.

(2) Where a corporation commits an offence under this Part or the regulations, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the violation of this Part or the regulations is guilty of the offence and is liable to the punishment provided for the offence, whether or not the corporation has been prosecuted.

(3) Unless otherwise provided in this Part, no person shall be convicted of an offence under this Part or the regulations if the person establishes that the person exercised all due diligence to prevent the commission of the offence. 2004, c. 4, s. 72.

Prohibition on sale of immunizing agents

73 **(1)** No person shall sell any active or passive immunizing agent that has been provided free of charge to that person by the Minister.

(2) Every person who contravenes subsection (1) and a director or officer of a corporation who authorizes, permits or concurs in such a contravention by the corporation is guilty of an offence and, notwithstanding Section 71, is liable on summary conviction to a penalty of not more than five thousand dollars. 2004, c. 4, s. 73.

Regulations

74 **(1)** The Governor in Council may make regulations

(a) prescribing the duties of the Chief Medical Officer and the Deputy Chief Medical Officer;

(b) respecting the detection, investigation, prevention, reduction, control and removal of health hazards;

(c) requiring persons or classes of persons to report prescribed health hazards;

(d) prescribing health hazards that must be reported to a medical officer;

(e) classifying persons, organizations, premises, places, animals, plants and things, or any of them, for the purpose of this Part and the regulations;

(f) establishing standards and requirements in relation to this Part and the regulations;

(g) exempting any person, organization, premises, institution, food, substance, thing, plant, gas, heat, radiation or class of them for any provision of this Part and the regulations and prescribing conditions that apply in respect of such an exemption;

(h) establishing standards and requirements for the construction, equipment, facilities, including sanitary facilities, establishment and maintenance of recreational camps;

(i) establishing standards and requirements in respect of industrial or construction camps or other places where labour is employed and requiring owners and operators of such camps, works or other places to comply with such standards and requirements;

(j) respecting the detention, isolation, examination, disposition or destruction of any animal that has or may have a disease or a condition that may adversely affect the health of any person;

(k) requiring the immunization of domestic animals against any disease that may adversely affect the health of any person;

(l) requiring the reporting of cases of animals that have or may have diseases that may adversely affect the health of any person;

(m) prescribing the classes of persons who must make and receive reports concerning animals that have or may have diseases that adversely affect the health of any person;

(n) respecting the procurement, storage, distribution, use and availability of drugs, medical supplies and equipment, and active and passive immunizing agents;

(o) requiring the payment of fees for active and passive immunizing agents;

(p) respecting the immune status of employees who work in hospitals and institutions;

(q) respecting certificates or other means of identification for medical officers, public health nurses and public health inspectors;

(r) governing the handling, transportation, burial, disinterment and reinterment of bodies of persons who have died of a communicable disease or who had a communicable disease at the time of death;

(s) specifying additional persons or classes of persons who must report the existence or the probable existence of a notifiable disease or condition, specifying circumstances under which such a report must be made and specifying to whom the report is to be made;

(t) respecting the reporting of communicable diseases, notifiable diseases or conditions and dangerous diseases;

(u) respecting the control and classification of communicable diseases, notifiable diseases or conditions and dangerous diseases, including control of disease vectors;

(v) designating a disease or condition as a notifiable disease or condition or as a dangerous disease;

(w) requiring the evacuation of persons from localities where there are a large number of cases of a communicable disease or a dangerous disease;

(x) respecting the isolation or quarantine of persons having or who have been exposed to a communicable disease or a dangerous disease;

(y) requiring the mandatory reporting of immunizations;

(z) respecting the establishment, operation and maintenance of personal service facilities;

(aa) prescribing places of business or classes of places as personal service facilities;

(ab) prescribing places as institutions;

(ac) respecting any matter related to the health or safety of persons in, on or about public pools, including standards and requirements to protect the health and safety of such persons;

(ad) establishing responsibilities, guidelines and standards for public health laboratories;

(ae) respecting appeals of orders made respecting health hazards;

(af) respecting the determination of costs associated with actions taken by medical officers where orders are not complied with;

(ag) establishing standards and requirements regarding the health or safety of persons in, on or about recreational waters;

(ah) establishing standards and requirements regarding the health or safety of persons at exhibitions, fairs, festivals, and mass gatherings;

(ai) respecting a public health emergency;

(aj) prescribing persons or classes of persons for the purpose of clause 53(2)(h);

(ak) establishing reporting requirements for a health authority;

(al) incorporating and adopting by reference, in whole or in part, a written standard, rule, regulation, guideline, code or document as it reads on a prescribed day or as it is amended from time to time;

(am) establishing standards for confidentiality of records or information obtained by a medical officer pursuant to this Part.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act*. 2004, c. 4, s. 74; 2014, c. 32, s. 126.

PART II

FOOD SAFETY

Interpretation of Part

75 In this Part,

(a) "administrator" means an inspector who is appointed as an administrator by the Minister for the purpose of this Part;

(b) "food" means a raw or processed substance, ice, beverage, milk or milk product, used or intended to be used for human consumption and an ingredient that may be mixed with food for human consumption;

(c) "food establishment" means any premises, including a mobile, stationary, temporary or permanent facility or location and the surroundings under control of the same person, in which food is processed, manufactured, prepared, labelled, served, sold, offered for sale or distributed free of charge, dispensed, displayed, stored or distributed, but does not include a dwelling except a dwelling used for commercial food preparation;

(d) "inspector" means a person appointed as an inspector by the Minister;

(e) "Minister" means the Minister of Environment and Climate Change;

(f) "permit" means a permit issued pursuant to this Part;

(g) "prepare" includes cut, wrap, package, freeze, cure or smoke. 2004, c. 4, s. 75; O.I.C. 2006-121; O.I.C. 2016-230; 2021, c. 6, s. 9.

Supervision and management of Part

76 The Minister has the general supervision and management of this Part and the regulations. 2004, c. 4, s. 76.

Delegation of Minister's duties or functions

77 The Minister may delegate to any person, any duty or function conferred on the Minister under this Part. 2004, c. 4, s. 77.

Administrator

78 The administrators and inspectors necessary for the administration and enforcement of this Part and the regulations shall be appointed in accordance with the *Civil Service Act*. 2004, c. 4, s. 78; 2021, c. 6, s. 10.

Qualifications and powers of administrator

79 (1) An administrator must have a Certified Public Health Inspector designation from the Canadian Institute of Public Health Inspectors or an equivalent designation, together with such other qualifications, as are prescribed in the regulations.

(2) An administrator has all the powers of a public health inspector under Part I. 2004, c. 4, s. 79; 2021, c. 6, s. 11.

Personnel

80 The Minister may engage, upon such terms and conditions as the Minister considers necessary, the services of such professional or technical persons to assist in the efficient carrying out of the intent and purpose of this Part and the regulations. 2004, c. 4, s. 80.

Establishment or operation of food establishment

81 No person shall establish or operate a food establishment except in accordance with this Part and the regulations. 2004, c. 4, s. 81.

Permit required

82 (1) No person shall operate a food establishment, unless exempted by an administrator, without first having obtained a permit from an administrator.

(2) An application for a permit in respect of a food establishment shall be made to an administrator in accordance with the regulations.

(3) Subject to this Part and the regulations, an administrator shall issue a permit in respect of a food establishment to an applicant upon payment of the prescribed fee. 2004, c. 4, s. 82; 2021, c. 6, s. 12.

Closure order

82A Where a person operates a food establishment without having obtained a permit or an exemption under Section 82, an administrator may order the closure of the food establishment or take any other action the administrator considers appropriate. 2021, c. 6, s. 13.

Where permit is not to be issued or may be revoked

83 (1) An administrator shall not issue or renew a permit, or may suspend or revoke a permit, in respect of a food establishment to an applicant where the administrator is of the opinion that

(a) the past conduct of the applicant or, where the applicant is a corporation, of any of its officers or directors, affords reasonable grounds to believe that the operation of the food establishment would not be carried on in accordance with this Part and the regulations;

(b) the applicant does not have or will not have available all premises, facilities and equipment necessary to operate a food establishment in accordance with this Part and the regulations;

(c) the applicant is not complying or will not be able to comply with this Part and the regulations; or

(d) the operation of the food establishment represents or would represent a risk to human health.

(2) Any condition that is injurious to human health or, in the opinion of an administrator, is potentially injurious to human health is deemed a risk under this Part. 2004, c. 4, s. 83; 2021, c. 6, s. 14.

Investigation may be requested

84 An inspector or an administrator may request a medical officer to investigate pursuant to Part I if a food-related health hazard exists or may exist. 2004, c. 4, s. 84; 2021, c. 6, s. 15.

Appeal

85 (1) Where an applicant or permit holder has received notification that an administrator has refused to grant or renew a permit or has suspended or revoked a permit, the permit holder may appeal to the Minister, by notice in writing, stating concisely the reasons for the appeal.

(2) An appeal must be conducted in the manner prescribed by the Minister.

(3) The Minister may dismiss an appeal, allow the appeal or make any decision the administrator was authorized to make.

(4) The decision of the Minister is final and binding on the appellant and the Minister, and the appellant shall take such action as may be necessary to implement the decision. 2004, c. 4, s. 85; 2021, c. 6, s. 16.

Designation of types or classes of food establishments

86 An administrator may designate types or classes of food establishments for which permits are issued under Section 82. 2004, c. 4, s. 86; 2021, c. 6, s. 17.

Terms and conditions on permit

87 An administrator may amend, add or impose terms and conditions on a permit. 2004, c. 4, s. 87; 2021, c. 6, s. 18.

Permit holder shall comply with terms and conditions

88 A person to whom a permit is issued shall comply with all terms and conditions of the permit. 2004, c. 4, s. 88.

Construction and maintenance of food establishment

89 A food establishment must be constructed and maintained in such a manner that no condition exists that is injurious to human health or that, in the opinion of an administrator, is potentially injurious to human health. 2004, c. 4, s. 89; 2021, c. 6, s. 19.

Control of contamination

90 A food establishment must have appropriate maintenance, cleaning and sanitation programs to control physical, chemical and microbiological contamination of food, equipment, utensils and other facilities in the food establishment. 2004, c. 4, s. 90.

Unwholesome, stale or decayed food

91 **(1)** No person shall sell or offer for sale, or have in that person's possession for the purpose of sale, any unwholesome, stale or decayed article of food, and any such article may be seized and destroyed by an inspector with the approval of a medical officer.

(2) Notwithstanding subsection (1), an inspector may seize an article of the type described in that subsection and may destroy it without the approval of a medical officer where the inspector reasonably believes that the article poses a serious and imminent threat to the public health. 2004, c. 4, s. 91.

Restrictions on diseased persons

92 No person who is infected with a disease or condition prescribed in the regulations or is known to be a carrier of such a disease shall participate in any way in the storage, production, manufacture, transportation, preparation, dispensing, serving, keeping for sale or sale of milk, milk products and other food, except as prescribed by the regulations. 2004, c. 4, s. 92.

Entry and inspection without warrant

93 **(1)** An administrator or an inspector may, at any reasonable time, for the purpose of carrying out the administrator's duties or inspector's duties, as the case may be, under this Part or the regulations,

(a) enter without a warrant any premises where there are reasonable and probable grounds to believe that the premises are a food establishment and that records relating to the food establishment are to be found in the premises; and

(b) inspect the premises and any food or records relating to food.

(2) Notwithstanding subsection (1), an administrator or an inspector shall not enter any part of a dwelling without the consent of the occupier unless pursuant to a warrant. 2004, c. 4, s. 93; 2021, c. 6, s. 20.

Hindering or obstructing

94 No person shall hinder or obstruct an administrator or an inspector in the performance of that person's duties, provide an administrator or an inspector with false information or refuse to provide an administrator or an inspector with information required for the purpose of this Part and the regulations. 2004, c. 4, s. 94; 2021, c. 6, s. 21.

Use of force

95 Where an administrator or an inspector is empowered, authorized or required by any of the provisions of this Part or of the regulations to do any act, matter or thing, the administrator or the inspector may use such force as is reasonably necessary. 2004, c. 4, s. 95; 2021, c. 6, s. 22.

Administrator or inspector may call for assistance

96 An administrator or an inspector may, in the performance of duties under this Part, call for the assistance of any constable, police officer or other peace officer and, where called for such assistance, it is the duty of the constable, police officer or peace officer to render the assistance. 2004, c. 4, s. 96; 2021, c. 6, s. 23.

Certificate of appointment as proof

97 The production by an inspector of a certificate of appointment purporting to be signed by the Minister is admissible in evidence as proof of the appointment without further proof of the signature or authority of the Minister. 2004, c. 4, s. 97.

Offences by employees or agents

98 In a prosecution for a violation of this Part or the regulations, 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, unless the accused establishes that the offence was committed without the knowledge or consent of the accused. 2004, c. 4, s. 98.

Prima facie proof respecting food or packaging

99 Proof that food, or a package containing food, bore

(a) a name and address purporting to be the name and address of the person by whom it was produced, processed or prepared; or

(b) a registered number or brand mark purporting to be the registered number or brand mark of the establishment where it was produced, processed or prepared,

is *prima facie* proof that the food was produced, processed or prepared and that the food or package was marked by the person whose name or address appeared on the food product or package or by the person operating the food establishment whose registered number or brand mark appeared on the package, as the case may be. 2004, c. 4, s. 99.

Other persons may accompany

100 An administrator or an inspector in carrying out any duties or exercising any powers under this Part or the regulations may be accompanied by any persons considered by the administrator or the inspector, as the case may be, to be necessary to enable the administrator or inspector to carry out those duties and exercise those powers. 2004, c. 4, s. 100; 2021, c. 6, s. 24.

Agreements between the Province and Canada

101 (1) Subject to the *Public Service Act*, the Minister may enter into agreements with the Government of Canada for

(a) the performance by the Government of Canada, on behalf of the Province, of functions and duties under this Part and the regulations that are the responsibility of the Province;

(b) the performance by the Province, on behalf of the Government of Canada, of functions and duties that are the responsibility of the Government of Canada under an Act of the Parliament of Canada.

(2) The Minister may enter into agreements for the more efficient carrying out of the object and purpose of this Part and the regulations. 2004, c. 4, s. 101.

Offences

102 (1) A person who contravenes this Part or the regulations, and a director or officer of a corporation who authorizes, permits or concurs in such a contravention by the corporation, is guilty of an offence and upon summary conviction is liable for a first offence to a fine of not more than two thousand dollars or to imprisonment for a term of not more than six months, or to both, and for a subsequent offence to a fine of not more than ten thousand dollars or to imprisonment for a term of not more than one year, or to both.

(2) Notwithstanding subsection (1), a corporation that is convicted of an offence is liable for a first offence to a fine of not more than ten thousand dollars and for a subsequent offence to a fine of not more than fifty thousand dollars. 2004, c. 4, s. 102.

Conflict with Part

103 (1) Where the provisions of any Act or by-law or regulation of a regional municipality, town, municipality of a county or district or other local body are in conflict with this Part or the regulations, this Part and the regulations prevail to the extent of the conflict.

(2) Notwithstanding subsection (1), a by-law or regulation referred to in subsection (1) may impose or prescribe higher or more stringent standards or requirements than those provided for by this Part or the regulations where an enactment authorizes the by-law or regulation to impose or prescribe such standards or requirements. 2004, c. 4, s. 103.

Duties and powers of Minister and privilege

104 (1) Clause 6(h) applies *mutatis mutandis* to the Minister.

(2) Section 17 applies *mutatis mutandis* to the Minister, the administrators and the inspectors. 2004, c. 4, s. 104; 2021, c. 6, s. 25.

Regulations

105 (1) The Governor in Council may make regulations

(a) prescribing the powers and duties of administrators and inspectors or any class of administrators or inspectors;

(b) prescribing the qualifications of administrators;

(c) providing for the exemption from this Part or the regulations, or any part thereof, of any person or any class of persons or of any food product and prescribing the terms and conditions of the exemption;

(d) prescribing the manner of and the devices to be used in the operation of food establishments;

(e) prescribing the facilities and equipment to be provided and maintained at food establishments and the operation of food establishments;

(f) respecting cleanliness and sanitation of food establishments;

(g) requiring and governing the detention and disposal of any food at a food establishment and prescribing the procedures for the detention and disposal of food;

(h) respecting the transportation and delivery of food from a food establishment;

(i) prescribing the records to be made and kept by the operator of a food establishment;

(j) providing for the issue, renewal, suspension, reinstatement or revocation of or refusal to issue or renew permits and prescribing the fees payable for permits or the renewal of permits;

(k) providing for the inspection of food establishments and of vehicles in which food is transported;

(l) prohibiting the sale or delivery of milk, milk products or any other food from a food establishment if conditions in that food establishment are unsanitary or if the person in charge of the food establishment refuses to permit the food establishment to be inspected by an inspector;

(m) respecting how milk or cream must be pasteurized;

(n) respecting the temperature to which milk or cream must be subjected and in respect of the time during which such temperature must be maintained, the period during which such milk or cream must be cooled and the temperature to and the manner in which such milk or cream must be cooled;

(o) respecting the provision of safe and potable water supplies, for the control of sources of water and systems of distribution, and respecting the prevention of contamination or pollution of water that is used for human consumption;

(p) providing for inspection of premises before the issue of permits;

(q) providing for the keeping of records of permits and for inspection of those records by any person;

(r) prescribing conditions to which permits may be subject;

(s) governing appeals;

(t) prescribing terms and conditions under which food may be inspected at any food establishment and the fees payable for inspection;

(u) prescribing standards for any class or variety of food;

(v) providing for the taking of samples at a food establishment at the expense of the owner for the purpose of testing;

(w) providing for the labelling of food at a food establishment;

(x) extending the period during which food or things may be retained by an inspector;

(y) respecting the detention of food or things seized pursuant to this Part and for preserving or safeguarding the food or things;

(z) prescribing diseases or conditions for the purpose of Section 92;

(aa) establishing the circumstances under which a person described in Section 92 may return to work;

(ab) incorporating and adopting by reference, in whole or in part, a written standard, rule, regulation, guideline, code or document as it reads on a prescribed day or as it is amended from time to time;

(ac) respecting any matter the Governor in Council considers necessary or advisable for the administration of a system of administrative penalties;

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

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act*. 2004, c. 4, s. 105; 2021, c. 6, s. 26.

PART III

GENERAL

Regulations

106 **(1)** The Governor in Council may make regulations

(a) prescribing forms for the purpose of this Act and the regulations;

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

(c) further defining any word or expression defined in this Act;

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

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act*. 2004, c. 4, s. 106.

Exception from freedom of information legislation

107 Sections 15, 16, 31, 40, 42 and 50, clause 58(1)(e), clauses 74(1)(p), (s), (t) and (y) and Section 104 apply notwithstanding the *Freedom of Information and Protection of Privacy Act*. 2004, c. 4, s. 107.

Cosmetology Act amended

108 *amendment*

Dairy Industry Act amended

109 *amendment*

Education Act amended

110 *amendments*

Fatality Investigations Act amended

111 *amendment*

Freedom of Information and Protection of Privacy Act amended

112 *amendment*

Health Act amended

113 *amendments*

Health Authorities Act amended

114 *amendment*

Health Services and Insurance Act amended

115 *amendment*

Municipal Government Act amended

116 *amendment*

Registered Barbers Act amended

117 *amendment*

Summary Proceedings Act amended

118 *amendment*

Proclamation

119 This Act comes into force on such day as the Governor in Council orders and declares by proclamation. 2004, c. 4, s. 119.

Proclaimed (except s. 113(2))	-	October 14, 2005
In force (except s. 113(2))	-	November 1, 2005
s. 113(2)	-	not proclaimed

TAB 2

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Self-Represented Litigants, Active Adjudication and the Perception of Bias: Issues in Administrative Law

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Self-represented Litigants, Active Adjudication and the Perception of Bias: Issues in Administrative Law

This paper advocates for a more active role for adjudicators, one in which they provide direction to parties and actively shape the hearing process. Active adjudication can be an important access to justice tool. Without some direction and assistance from the adjudicator, growing numbers of self-represented litigants cannot meaningfully access administrative justice. Importantly, however, as the role of the adjudicator shifts, so too must our understanding of the notion of impartiality. If it is unfair to expect self-represented litigants to navigate the hearing process without adjudicative assistance and direction, it is also unfair to insist on a vision of impartiality that prevents adjudicators from actively managing the hearing process. To that end, the author develops the notion of "substantive impartiality" to show how existing legal principles can accommodate a more active role for the administrative adjudicator. The author also makes practical recommendations and suggests how administrative tribunals can help self-represented litigants understand the principles and procedures related to bias allegations.

L'auteure soumet que les adjudicateurs doivent jouer un rôle plus actif, ce qui comprend donner des directives aux parties et intervenir pour donner forme au processus d'audience. L'adjudication active peut constituer un important mécanisme d'accès à la justice. Sans directives ni aide de la part de l'adjudicateur, un nombre croissant de parties qui se représentent elles-mêmes ne peuvent avoir un accès raisonnable à la justice administrative. Il importe de souligner cependant que lorsque le rôle de l'adjudicateur change, notre vision du concept d'impartialité doit aussi changer. Il n'est pas juste de s'attendre à ce que des parties qui se représentent elles-mêmes puissent participer au processus d'audience sans aide ou sans directives, tout comme il n'est pas juste d'insister sur une vision de l'impartialité qui empêche les arbitres de gérer activement ce processus. À cette fin, l'auteure élabore le concept d'« impartialité substantive » (substantive impartiality) pour illustrer comment les principes de droit existants peuvent accueillir un rôle plus actif pour l'arbitre administratif. L'auteure formule également des recommandations plus pratiques et propose des façons pour les tribunaux administratifs d'aider les litigants qui se représentent eux-mêmes à comprendre les procédures et les principes associés à l'impartialité.

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Introduction

This piece draws on my own experience as a human rights adjudicator, at a tribunal in which many parties represent themselves.[1] As they engage in litigation, I have noticed that self-represented parties often form their own views of the appropriate role of adjudicators and whether those adjudicators are fairly considering the case. At times, the views formulated by self-represented litigants fit awkwardly within the existing legal paradigm. The resulting disparity between how the law defines the role of the adjudicator, however ambiguously, and how some self-represented litigants view that role can lead to a host of issues, including fairness concerns, bias allegations, and hearing management problems.

These issues are particularly important in light of both growing numbers of self-represented litigants and recent trends towards more active adjudication. For a number of administrative tribunals, self-

1. Social Justice Tribunals Ontario, "2013–2014 Annual Report," (SJTO, 2015), online: <www.sjto.gov.on.ca/documents/sjto/2013-14%20Annual%20Report.pdf?171751>. This statistic refers to representation at the time of mediation. The Human Rights Tribunal of Ontario (Tribunal) does not publish statistics regarding representation at later stages of the proceeding. The Tribunal was revamped in 2008 and designed with self-represented litigants in mind. Indeed, the Ontario *Human Rights Code*, RSO 1990, c H.19, s 40 [*HRC*] explicitly provides for "active adjudication" and the Tribunal rules and adjudicative approach encourage fair, just and expeditious resolution of human rights applications.

representation is the norm.[2] In the hopes of making administrative justice more accessible for these litigants, many administrative tribunals have been reconsidering how they operate, and this can include rethinking the role of the adjudicator.[3] In this piece, I argue that active adjudication is an important tool to promote both fairness and efficiency in administrative justice. However, as the role of the adjudicator shifts, so too must our understanding of the notion of impartiality. As the adjudicative model adjusts to meet the needs of increasing numbers of self-represented litigants, the legal boundaries that define the adjudicator's role must adjust commensurately.

In a number of tribunals, the adjudicative model has begun to shift from a more traditional,[4] passive approach to one in which decision-makers

2. . This has also been the case in some levels of court. See, e.g., André Gallant, "The Tax Court's Informal Procedure and Self-Represented Litigants: Problems and Solutions" (2005) 53:2 Can Tax J 333. In Anne-Marie Langan, "Threatening the Balance of the Scales of Justice: Unrepresented Litigants in the Family Courts of Ontario" (2005) 30:2 Queen's LJ 825 at 826-827, the author cites data compiled by the Ontario Ministry of the Attorney General, which show that in 2003, 43.2% of applicants in the Family Court Division of the Ontario Court of Justice were not represented by counsel when they first filed with the court. The average percentage of unrepresented litigants in Ontario family courts between 1998 and 2003 was 46%.

3. Michelle Flaherty, "Self-Represented Litigants: A Sea Change in Adjudication" in Graham Mayeda & Peter Oliver, eds, *Principles and Pragmatism: Essays in Honour of Louise Charron* (Markham: LexisNexis Canada, 2014) 323; Cynthia Gray, "Reaching Out or Overreaching: Judicial Ethics and Self-Represented Litigants" (2007) 27:1 J National Assoc Administrative L Judiciary 97; Stephan Landsman, "Pro Se Litigation" (2012) 8 Annual Rev L & Social Science 231; Samantha Green & Lorne Sossin, "Administrative Justice and Innovation: Beyond the Adversarial/Inquisitorial Dichotomy" in Laverne Jacobs & Sasha Baglay, eds, *The Nature of Inquisitorial Processes in Administrative Regimes: Global Perspectives* (Burlington, VT: Ashgate, 2013) 71. There has also been a growing discussion about the role of judges dealing with self-represented litigants and the importance of access to justice more generally. See *Hryniak v Mauldin*, 2014 SCC 7 at para 27, [2014] 1 SCR 87; *Trial Lawyers Association of British Columbia v British Columbia (AG)*, 2014 SCC 59, [2014] 3 SCR 31; "Courts and the Self-Represented: The Road Ahead," Editorial, (2001) 84:6 Judicature 300; Bonnie Rose Hough & Justice Laurie D Zelon, "Self-Represented Litigants: Challenges and Opportunities for Access to Justice" (2008) 47:3 Judges' J 30; Marla N Greenstein, "Judges' Responsibilities to Pro Se Litigants" (2008) 47:3 Judges' J 46; Jona Goldschmidt, "Judicial Assistance to Self-Represented Litigants: Lessons from the Canadian Experience" (2008–2009) 17:3 MSU-DCL J Intl L & Prac 601. Gray, *supra* note 3; National Self-Represented Litigants Project, *Working With Self-Represented Litigants: Ideas and Suggestions From the Bench* (Windsor, ON: University of Windsor, 2014), online: NSRLP <representingyourselfcanada.com>

4. I refer to the passive style of adjudication in which decision-makers determine outcomes based on the evidence, as it is presented by the parties or their representatives as the "traditional" model of adjudication. As approaches to adjudication have varied over time, it is perhaps a misnomer to refer to any particular adjudicative style as "traditional." However, for the purposes of this piece, "traditional" refers to the passive model of adjudication in which decision-makers play a passive role and determine the legal issues based on the evidence presented by the parties or their representatives. This approach has been the most prominent approach to adjudication in recent times and would generally be understood by lawyers practicing today as the typical or traditional model of adjudication. See, e.g., the *HRC*, *supra* note 1, s 43(3), which identifies a number of "non-traditional" adjudicative tools, which contemplate a more directive and active role for adjudicators.

more actively adjudicate cases and direct the course of the proceedings.[5] In many instances, this shift arises out of recognition that, without some assistance and direction from the adjudicator, many self-represented parties cannot meaningfully access the justice system.[6] However, engaging in more active and directive styles of adjudication is not without pitfalls. Adjudicators must walk a very fine line. The jurisprudence tells us that although we assist parties so that they can access the legal process, we must not help (or be perceived to help) them *too much*. Decisions are overturned both because a decision-maker has failed to provide a sufficient level of assistance[7] and because the decision-maker has provided a level of assistance that gives rise to a reasonable apprehension of bias.[8] The challenge is to find the sweet spot that lies between enough help to ensure meaningful access to adjudication but not so much help as to create a reasonable apprehension of bias. As we shall see in the jurisprudence, adjudicators sometimes struggle as they apply legal principles to define their role. Not surprisingly, understanding the role of the adjudicator presents even more of a challenge for the self-represented litigant, for whom the applicable principles can seem both legalistic, but also flexible to the point of arbitrariness.

This paper begins by describing the shift in adjudicative approach and setting out recent developments that have led adjudicators to play a more active role in shaping the hearing process and assisting self-represented litigants. Next, I consider the challenge of defining the scope and content of the impartiality obligations in light of these new approaches to adjudication. Finally, I look at the jurisprudential treatment of bias applications by self-represented litigants and consider whether any trends emerge from this jurisprudence, both in terms of what self-represented

5. While the focus of this piece is administrative tribunals, it is worth noting that similar measures are also being considered and adopted in some courts. For example, judges are also assisting self-represented litigants by explaining the rules to them, applying them with more flexibility, and raising evidentiary and substantive issues: Engler, *infra* note 23.

6. Lorne Sossin & Jamie Baxter, "Ontario's Administrative Tribunal Clusters: A Glass Half-Full or Half-Empty for Administrative Justice?" (2012) 12:1 OUCLJ 157; Michael Gottheil & Doug Ewart, "Improving Access to Justice through International Dialogue: Lessons for and from Ontario's Cluster Approach to Tribunal Efficiency and Effectiveness" (Paper delivered at the 2010 Australian Conference of Planning and Environmental Courts and Tribunals) [unpublished], online: ELTO <www.elto.gov.on.ca>.

7. *Kainz v Potter* (2006), 33 RFL (6th) 62 (Ont Sup Ct); *Audmax Inc v Ontario (Human Rights Tribunal)*, 2011 ONSC 35, 328 DLR (4th) 506; *Toronto-Dominion Bank v Hylton*, 2010 ONCA 752, 270 OAC 98.

8. *Limoges v Investors Group Financial Services Inc*, 2003 ABQB 757, 125 ACWS (3d) 255 [*Limoges*]; *Tran v Financial Debt Recovery Ltd* (2001), 40 CCLT (3d) 106 (Ont Sup Ct) [*Tran*].

litigants perceive to be partial treatment by adjudicators and how these concerns can be addressed.

I. *Active adjudication: Its role in ensuring fair hearings for self-represented litigants*

Many administrative tribunals contend with significant numbers of self-represented litigants. This reality has influenced much about how those tribunals were designed and how they operate, including the formulation of their rules and the development of their administrative and adjudicative practices. Indeed, as many administrative tribunals have already recognized, access to justice issues must be considered from the perspective of litigants, including those who are self-represented.[9] Their perception is key because, as Roderick Macdonald put it, "the law requires citizens to come to it, not the reverse."[10] Litigants who view the administrative justice system as unfair or inaccessible may question the legitimacy of the outcome or may elect not to engage with the justice system at all.[11]

How do self-represented litigants perceive the justice system and do they feel they can meaningfully access it? Recent empirical research shows that most self-represented litigants approach legal proceedings with a great deal of anxiety and trepidation.[12] They perceive themselves to be disadvantaged by their lack of legal training and feel lost, excluded, and isolated within the legal process.[13] They are uncomfortable and fear being the only person in the room without legal training, the only one who does not grasp procedural steps or legal jargon. The effect can be devastating: self-represented litigants often feel that the rules prevent them from telling their story and, as a result, many self-represented litigants exit the justice system with diminished confidence in its fairness and the legitimacy of its outcomes.[14]

Self-represented litigants are also highly sensitive to fairness issues and often perceive the justice system, with its rules and formalities, as

9. Gottheil & Ewart, *supra* note 6.

10. Roderick A Macdonald, "Access to Justice in Canada Today: Scope, Scale and Ambitions" in Julia Bass, WA Bogart & Frederick H Zemans, eds, *Access to Justice for a New Century: The Way Forward* (Toronto: Law Society of Upper Canada, 2005) 19 at 27.

11. The Right Honourable Beverley McLachlin, "The Challenges We Face" (Remarks delivered at the Empire Club of Canada, Toronto, 8 March 2007) [unpublished], online: SCC <www.scc-csc.gc.ca/>.

12. Julie Macfarlane, *The National Self-Represented Litigants Project: Identifying and Meeting the Needs of Self-Represented Litigants: Final Report* (2013), Report prepared for the Law Foundation of Ontario, the Law Foundation of Alberta, and the Law Foundation of British Columbia/Legal Services Society of British Columbia at 96, online: LSUC <www.lsuc.on.ca>.

13. *Ibid.*

14. Gray, *supra* note 3 at 106-107.

designed to favour represented parties. Self-represented litigants are concerned about any differential treatment by an adjudicator, even where that treatment is, at its root, designed to assist them. Particularly where they both have legal training or experience, the adjudicator and counsel appear to share a paradigm and have a similar vision of the legal issues or the steps in the proceeding. This can lead self-represented litigants to suspect collusion between the adjudicator and counsel.

The reverse is also true: represented parties express discomfort or dissatisfaction with a process in which they perceive the adjudicator to be assisting the unrepresented party.[15] They often feel adjudicators give too much leeway to self-represented parties or become so involved in the presentation of their cases as to create a reasonable apprehension of bias.[16] Counsel and decision-makers have expressed frustration at having to deal with self-represented parties because they lack knowledge and fail to adhere to procedural and substantive rules. Some lament that proceedings involving self-represented litigants take longer to wend their way through the legal process, which drains adjudicative and other resources.[17]

1. *The challenge of passive adjudication*

Traditionally, our justice system has been adversarial in nature; it relies on each party to present the material evidence, identify the key legal issues, and provide submissions.[18] This model of adjudication assumes that the parties understand the complex and nuanced rules governing the framing and presentation of their respective cases.[19] In essence, it assumes that each party will have legal representation or, at the very least, the means, knowledge and ability to effectively represent themselves.[20] Passive approaches to adjudication, typical of much of our justice system, can be ineffective where parties do not have legal representation or the ability to navigate complex legal rules and systems on their own.

15. See Lorne D Bertrand et al, "Self-Represented Litigants in Family Law Disputes: Views of Alberta Lawyers" (2012), Report prepared for the Canadian Research Institute for Law and the Family at 12, online: <www.crilf.ca>.

16. See, e.g., *Shemou v ING Insurance Co of Canada*, [2007] OFSCD No 157.

17. See, e.g., Gary Joseph, "Don't Encourage Self-Represented Litigants," Letter to the Editor, *The Law Times* (3 June 2013), online: Law Times <www.lawtimesnews.com/201306033257/letters-to-the-editor/don-t-encourage-self-represented-litigants>.

18. Flaherty, *supra* note 3; Landsman, *supra* note 3 at 232; Green & Sossin, *supra* note 3 at 73; MacDonald, *supra* note 10 at 59.

19. Traditionally, the adversarial model has been contrasted with the non-adversarial or inquisitorial process. Green and Sossin describe the standard inquisitorial process in Canada as one in which the decision-maker plays a truth-seeking role and is more concerned with investigations and findings than adjudication. Typically, the decision-maker possesses powers to obtain evidence, testimony, and other relevant information. See Green & Sossin, *supra* note 3 at 74-75.

20. Landsman, *supra* note 3 at 232.

Importantly, the adversarial model becomes less effective where (as is increasingly the case) parties represent themselves. Where the law, the rules of procedure, and the legal processes are unintelligible or unfamiliar to one or more of the litigants, cases stop being a dialogue between informed and experienced participants within a framework designed to test evidence and facilitate truth seeking. Instead, cases turn into a frustrating exercise in imposing legal norms on parties who do not grasp their significance, and who see them as arbitrary, unfair, or simply unintelligible.[21]

Self-represented litigants encounter an array of challenges within our legal system.[22] Where they cannot understand and apply legal principles or navigate legal processes, self-represented litigants are at a distinct disadvantage compared with represented parties. Passive adjudication can perpetuate that disadvantage. Without some form of direction and assistance, many self-represented litigants do not appreciate the legal tests or standards they must meet. This, in turn, makes it difficult for them to determine what evidence they should present and which arguments might advance their case. Litigation can become akin to donning a blindfold and hoping for the best. The legal outcome of proceedings may depend on whether the litigants have mastered legal rules and processes rather than whether their case has merit.[23]

2. *Rethinking the adjudicative role*

Much of the early discourse on access to justice focussed on providing access to counsel. However, legislators and courts have shown little willingness to fund widespread legal assistance or to create a right to counsel.[24] Self-representation is here to stay. Rather than think of self-representation as part of the problem, reality demands that we consider self-represented litigants as an important part of any solution to the problem of access to justice. Indeed, the historical roots of many parts of our administrative justice system lie in a desire to make justice accessible

21. Flaherty, *supra* note 3.

22. Macfarlane, *supra* note 12.

23. Paula Hannaford-Agor & Nicole Mott, "Research on Self-Represented Litigation: Preliminary Results and Methodological Considerations" (2003) 24:2 Justice System J 163 at 178; Russell Engler, "And Justice for All—Including the Unrepresented Poor: Revisiting the Roles of the Judges, Mediators, and Clerks" (1999) 67:5 Fordham L Rev 1987 at 1987. While it is beyond the scope of this paper to do so, the fact that I am advocating for active adjudication does call out for a more detailed consideration of the shortcomings of passive adjudication. More specifically, it bears looking at the harms active adjudication is designed to address, particularly in the case of self-represented litigants. I intend to consider some of these issues in a subsequent work.

24. *British Columbia (AG) v Christie*, 2007 SCC 21, [2007] 1 SCR 873. See also Carissima Mathen, "Access to Charter Justice and the Rule of Law" (2008) 25 NJCL 191.

to people who could not afford to bring their disputes to court.[25] However, our administrative justice system has tended to import some of the features of the court system. Over the years, we have fallen very easily into a pattern of using the judicial model of adjudication as the basis for our understanding of a fair hearing. As we have seen, however, this judicial model of adjudication is not effective in contexts where representation is the exception rather than the norm. Increasing numbers of self-represented litigants calls into question whether the judicial model of adjudication is the most appropriate way to adjudicate administrative law matters.

An example may help illustrate why change is necessary. Self-represented litigants often view similar fact and good character evidence as their "smoking gun" and are sometimes unwilling or unable to understand that it is not admissible under the rules of evidence. Procedural and evidentiary rulings that may be obvious to counsel and adjudicators can seem fundamentally unfair to self-represented litigants. There are legitimate reasons for the law to treat good character and similar fact evidence the way it does. The difficulty arises in conveying those reasons to self-represented litigants in a way that is intelligible to them, and that does not undermine their confidence in the proceeding or the administrative justice system as a whole.

I and other adjudicators to whom I have spoken have often faced circumstances where a self-represented litigant arrives at a hearing with a number of friends and neighbours, whom he says can testify as to their own negative experiences with the respondent. This litigant is convinced that the evidence of these witnesses will compellingly establish that the respondent has discriminated against others and therefore also discriminated against him. Typically, at some early stage of the hearing, an adjudicator will hold that this evidence is inadmissible, and that the tribunal's role is to determine his complaint (not those of the complaints of the individuals in entourage). While this type of ruling is generally appropriate, it can be off-putting for the self-represented litigant and can set a difficult tone for the remainder of the hearing. Among other things, the ruling may embarrass the litigant in front of his friends and neighbours and may leave him feeling that his most important evidence has been excluded for reasons that simply do not make sense to him.

A case from my own adjudicative experience with the Human Rights Tribunal of Ontario may illustrate how active adjudication can help

25. Lorne Sossin, "Access to Administrative Justice and Other Worries" in Colleen M Flood & Lorne Sossin, eds, *Administrative Law in Context*, 2nd ed (Toronto: Emond Montgomery Publications, 2013) 211.

address some of these perceptions. In my matter, the respondent and all seven applicants were self-represented[26] and the case cried out for an innovative and interventionist approach to adjudication. Had I adopted a passive approach, entering the hearing room and simply advising the parties to "Please begin," the hearing might have taken several days. More importantly, it is not clear to me that (without direction and assistance) those parties could have presented their case in a way that I could have meaningfully adjudicated it.

An important feature of the Human Rights Tribunal of Ontario is that its enabling statute allows the Tribunal to adopt "alternatives to traditional adjudicative or adversarial procedures" in order to "facilitate fair, just and expeditious resolutions of the merits of matters before it."[27] While the legislation does not define "alternatives to traditional adjudicative or adversarial procedures," it specifically authorizes the Tribunal to (among other things) question witnesses, determine the order of evidence, and define and narrow issues.[28]

In this particular case, I began the hearing by setting out my understanding of the legal issues. I invited the parties to make submissions to clarify or reformulate those issues. I then explained to the parties how I intended to conduct the hearing and I gave them an opportunity to make comments and pose questions about the proposed hearing process. After some discussion and clarification, all parties consented to the non-traditional hearing approach I had proposed.

Rather than inviting witnesses to testify one at a time, I held a roundtable discussion and dealt with each of the factual issues chronologically. After this discussion, in which I often posed questions to the witnesses, the opposing party had an opportunity to pose additional questions. Each witness had a chance to provide evidence on each issue. The hearing took approximately two hours. Although all of the parties may not be satisfied with the decision, I believe they left the hearing satisfied that they were

26. *Gilbert v 2093132 Ontario*, 2011 HRTO 672.

27. *HRC*, *supra* note 1, s 41.

28. *Ibid*, s 43(3). Although similar, these powers are different from case management. Case management aims to expedite the legal process by streamlining a case and imposing time limits for litigation. It offers parties an opportunity to narrow or consolidate issues or to settle so that resources are most efficiently allocated (Ontario, Attorney General, "Fact Sheet: Civil Case Management under Rule 77 of the *Rules of Civil Procedure*," (Ministry of the Attorney General, 2015), online: <www.attorneygeneral.jus.gov.on.ca/>). Effective case management can certainly be a feature of active adjudication. However, active adjudication may be much broader than case management and can (for example) involve a narrowing of issues by the adjudicator (rather than the parties), more interventionist adjudicative involvement in the presentation of the evidence, and the questioning of the witness.

treated fairly, that they were heard, and that their case would be evaluated based on its merits.[29]

This is but one example of what appears to be a growing trend in administrative adjudication. Increasing numbers of self-represented litigants within the administrative justice system call for innovation in adjudication. They also raise a host a questions:

- What impact should the rising numbers of self-represented litigants have on the role of the administrative decision-makers?
- What steps should administrative decision-makers take to address the needs of self-represented litigants?
- Are there ways to ensure that self-represented litigants can meaningfully access the administrative justice system?
- Can we do this in a way that ensures that all parties (whether or not they are represented) are treated fairly?
- Finally, how can we do this in a way that recognizes the particular needs of self-represented litigants but that all parties perceive to be fair and impartial?

It would be an overstatement to suggest that administrative tribunals and decision-makers have responded to these issues in a cohesive or universal way. However, I posit that there have been two main and overlapping trends: adjudicative assistance and active adjudication. Each of these trends involves a shift away from passive adjudication and, potentially, each raises issues about the perceived impartiality of the adjudicator. While we will consider each of these trends in turn, it is important to note that it is not always possible to draw a crisp line between what is meant by adjudicative assistance and active adjudication. In hearing any given case, an adjudicator may employ one or both of these approaches.

3. *Adjudicative assistance for the self-represented litigant*

Adjudicative assistance involves providing information, taking steps or giving directions to help one or both of the parties meaningfully access the adjudicative process.[30] Importantly, in this sense, "assistance" is not about helping one or the other party succeed; rather, it is about ensuring that all parties (whether represented or not) have a fair opportunity to present their case. Indeed, it is critical to distinguish between the two. Situations where the adjudicator guides the parties, helping them to understand

29. I note that this type of approach will not be appropriate in every circumstance. It may be particularly suitable where at least one party is unrepresented, where the adjudicator has subject matter expertise, and where more traditional forms of adjudication would make it difficult for one or more of the parties to present its case.

30. *Davids v Davids* (1999), 125 OAC 375 at para 36 [*Davids*].

and apply the legal and procedural rules, which I have referred to as "assistance," is properly part of the adjudicator's role. On the other hand, it is not appropriate for the adjudicator to give the impression he or she is advocating for or against a particular party—this could lead to a finding of bias.

Of course, in providing assistance, the adjudicator may also take on a more active role; however, he or she will not necessarily take control of or direct the hearing process. Parties may be left to control and present their own case, but they will receive some measure of assistance as they do so.[31] For example, an adjudicator may assist a self-represented party by explaining the rules of evidence, by applying those rules with greater flexibility, or by alerting the party to an issue it had not raised on its own. There have been a number of significant decisions, including from appellate courts, directing adjudicators to provide some measure of assistance to self-represented litigants.[32] This jurisprudence has led to a key, albeit incremental shift in the role of the adjudicator. It also raises important issues about impartiality.

The trend towards adjudicative assistance arose out of fairness concerns and a realization that, absent some help, many self-represented parties cannot navigate the legal system or present their case in a way that it can be meaningfully adjudicated. For example, can a hearing really be

31. See *Universal Workers Union v Ontario (Human Rights Commission)* (2006), 39 Admin LR (4th) 285 (Ont Sup Ct) [*Universal Workers*]. This case involved allegations of discrimination by a member against his union. Partway into the hearing, the Tribunal allowed the applicant to amend the pleadings to include several additional allegations. The Tribunal then directed parties to present the evidence of specific witnesses whom those parties would not otherwise have chosen to call. The union objected, arguing that procedural fairness entitled it to present its own case, without interference from the Tribunal. The Divisional Court agreed and quashed the Tribunal's order directing parties to present specific witnesses. It held that the principles of procedural fairness contemplate an adversarial model and that the Tribunal had breached those principles by adopting an inquisitorial approach to the hearing. It is noteworthy that, in reaching this conclusion, the Divisional Court relied on *R v Swain*, [1991] 1 SCR 933, a criminal law case, where the Supreme Court of Canada explained that the criminal justice system is an adversarial one. See also *R v Switzer*, 2014 ABCA 129, 572 AR 311. In *Universal Workers*, the Divisional Court integrated this principle into administrative law without further analysis. It is also noteworthy that *Universal Workers* pre-dates the amendments to the *HRC*, *supra* note 1, which specifically provide for non-traditional adjudicative methods. It is unclear how more inquisitorial measures would be dealt with post-amendment, particularly as the *HRC* now gives the Tribunal powers that are, essentially, inquisitorial in nature. Section 43 authorizes the Tribunal to require a party to produce documents, information, evidence and witnesses who are reasonably within the party's control. Despite these statutory powers, the Tribunal has not tended to be inquisitorial or to direct parties to adduce evidence they would not otherwise have called.

32. Flaherty, *supra* note 3. See *Davids*, *supra* note 30 at para 36. See also *Baziuk v BDO Dunwoody Ward Mallette* (1979), 13 CPC (4th) 156 at para 18 (Ont Ct J (Gen Div)); *Barrett v Layton* (2004), 69 OR (3d) 384 (Sup Ct) [*Barrett*]; *Manitoba (Director of Child and Family Services) v JA*, 2006 MBCA 44, 205 Man R (2d) 50; *R v Rice*, 2011 ONSC 5532, 97 WCB (2d) 338; *R v McGibbon* (1988), 31 OAC 10.

fair if the self-represented party cannot frame the issues in dispute in terms of the legal test or cannot appreciate what she needs to prove in order to be successful?[33] These considerations have led adjudicators to provide assistance to litigants, ranging from help that is purely procedural in nature (explaining the rules of procedure and how the hearing will unfold) to that which is more substantive (including identifying issues that have not been raised by the parties).

Indeed, the jurisprudence now recognizes that an adjudicator plays some role, if not in leveling the playing field for self-represented litigants, then at least in creating a climate in which they can present their cases to the best of their abilities. Clearly, adjudicators cannot and should not be a substitute for representation. No matter how much assistance they receive from the adjudicator, self-represented litigants will never have the same advantages as parties that are expertly represented. Arguably, this illustrates the limitations of active adjudication and calls out for a broader rethinking of how we approach adjudication: can a complex rule-based system ever be fully accessed without expert representation, no matter how hard adjudicators work at improving strategies?[34]

Although they cannot fully compensate for representation, adjudicators should be mindful of the role they can play in addressing some of the needs and challenges faced by self-represented litigants. It is often unclear what exactly this role is in practice and there has been considerable debate as to the scope and type of assistance an adjudicator can provide.[35] It can be difficult to determine how much help is too much, as a great deal depends on the context, the nature of the case, and the abilities of the litigants. As I will discuss in more detail, notions of fairness and impartiality are important factors that can help determine the appropriate limits on adjudicative assistance.

4. *Active adjudication*

Generally speaking, active adjudication involves the adjudicator actively shaping or directing the hearing process. Rather than leaving the presentation of the case entirely to the parties, the active adjudicator provides some measure of direction. An active adjudicator might, for example, dispense with opening statements, frame the legal issues for the parties and then invite them to comment or make submissions on how the

33. Macdonald, *supra* note 10; *Barrett*, *supra* note 32.

34. I hope to address this issue in future research about alternatives for dispute resolution in the administrative setting, including mediation-adjudication. By shifting our approach to determining issues away from reliance on complex rules, we may enhance parties' ability to meaningfully and fairly present their cases.

35. Flaherty, *supra* note 3.

legal issues have been framed. An active adjudicator might also direct the order in which the parties will present evidence.

For example, where one or more of the parties is self-represented, I generally do away with opening statements. In part, I and others do this because self-represented litigants often have great difficulty distinguishing between an opening statement and evidence. It can be impossible for them to talk about their case, even in general terms, without effectively providing evidence (even though they are not under oath). Instead, I begin hearings by summarizing my understanding of the legal and factual issues in dispute based on the pleadings. I then invite the parties to provide clarifications or make submissions on issues they feel I have misunderstood or not identified. The practice often makes for a more efficient hearing: it avoids the need to explain the subtle difference between argument and evidence to self-represented litigants. It also helps both parties frame the issues and understand what they need to establish in order to succeed.

Active adjudication can have the overall impact of assisting one or more of the parties, particularly those who are self-represented and might have difficulty navigating a legal process without such direction. However, although it may be the corollary effect, the objective of active adjudication is not necessarily to help any particular party access justice, but rather to create a process that is fair and accessible to all parties. Active adjudication attempts to eliminate or at least mitigate some of what has traditionally made lawyers indispensable to the proper functioning of the hearing. Arguably, the advantages of active adjudication extend beyond self-represented litigants: active adjudication can lead to a more efficient and timely proceeding in which each party has nevertheless had a fair opportunity to present its case.[36]

Active adjudication can take on different degrees, ranging from the adjudicator who provides directions concerning the order of the proceeding to one who raises legal issues and takes the lead in questioning witnesses. The degree of adjudicator involvement or activity will depend on factors such as the tribunal's statutory powers, the style of the adjudicator, the

36. Gottheil & Ewart, *supra* note 6. Consider, for example, cases where one party is represented and the other is not. Active adjudication can help the parties frame the issues in the case, manage the evidence and administer the proceeding in a way that avoids unnecessarily prolonged hearings, which in turn can limit the legal costs of the opposing party and be a more efficient use of adjudicative resources.

needs of the parties, the issues at stake, and the nature of the proposed evidence.[37]

Lorne Sossin describes active adjudication as a sort of midway point between the adversarial and inquisitorial models of adjudication.[38] As we have seen, the adversarial model is characterized by minimal adjudicative intervention and control of the proceeding by the parties. Conversely, under an inquisitorial model, the tribunal controls the proceeding and takes the lead in eliciting information. Inquisitorial decision-makers often have a range of statutory powers that allow them to call evidence and engage in independent fact-finding.[39] Active adjudication has many features of the adversarial model, but also some of the characteristics of an inquiry-based process. For example, as with the adversarial process, the parties to an active adjudication remain responsible for adducing evidence. An active adjudicator does not engage in independent fact-finding. An active adjudicator may take the lead in questioning witnesses, although parties retain the ability to ask questions also, subject to adjudicative direction regarding the order of witnesses and the scope of questioning.

In some cases, the ability to actively adjudicate will flow explicitly from statute. As we have seen, this is the case with the Ontario *Human Rights Code*, which specifically contemplates "alternatives to traditional adjudicative or adversarial procedures."[40] Among the tribunal's statutory powers are the ability to define or narrow the issues required to dispose of an application and limit the evidence and submissions of the parties on such issues, determine the order in which the issues and evidence in a proceeding will be presented, and conduct examinations in chief or cross-examinations of a witness.[41]

In other cases, a tribunal may move towards active adjudication of its own initiative and without any specific grant of statutory authority. The Environmental Review Tribunal (ERT) is a good example of this. It has no specific statutory power to actively adjudicate.[42] Moreover, it is

37. See Green & Sossin, *supra* note 3 at 74. See also Ontario, Attorney General, *Report of the Ontario Human Rights Review, 2012*, by Andrew Pinto (Queen's Printer for Ontario, 2012) at 66-67 [Pinto].

38. Green & Sossin, *supra* note 3 at 71.

39. An inquisitorial model is more common under the civil law tradition. Common law examples include commissions of public inquiry and coroner's inquests: *ibid* at 74-75.

40. *HRC*, *supra* note 1, s 43(3)

41. The *HRC* also gives the Tribunal latitude to deviate from the *Statutory Powers Procedure Act*, RSO 1990, c S.22 [*SPPA*], legislation that sets out procedural requirements that administrative tribunals must comply with when conducting an oral hearing. Section 42(1) of the *HRC* states that the provisions of the *SPPA* apply unless they conflict with a provision of the *HRC*, the regulations or the Tribunal rules.

42. See s 142.1 of the *Environmental Protection Act*, RSO 1990, c E.19, as amended.

bound by Ontario's *Statutory Powers Procedure Act.* The *SPPA* sets out an adversarial adjudication paradigm, along with a series of procedural requirements that must be adhered to in any oral hearing held by the ERT. The ERT introduced active adjudication by amending its rules of procedure in a number of ways that continue to comply with the *SPPA*, but also support a more active approach to adjudication.[43]

Active adjudication has the advantage of being flexible and easily adaptable to the nature of the question and the needs and relative abilities of the parties. However, with flexibility comes uncertainty. While rules of procedure, guidelines and practice directions can alert parties to a tribunal's use of active adjudication, it is sometimes difficult for even the adjudicator to gauge just how actively she will be involved in the case until the hearing process begins. For example, a party appearing before the ERT or the Human Rights Tribunal of Ontario may expect some degree of active adjudication. However, that party cannot necessarily anticipate just how active the adjudication will be. Will the tribunal member question witnesses or will that be left to the parties and their representatives? Should the parties ensure that all witnesses are present at the outset of the hearing, just in case the tribunal directs them to testify in a particular order? This uncertainty can pose challenges for all parties, who may feel uncomfortable with the process and how to prepare for it.

Represented parties, in particular, have expressed concern that active adjudication may be problematic, particularly as it might compromise adjudicators' impartiality.[44] Indeed, when the Ontario *Human Rights Code* amendments came into effect in 2008, some members of the legal community questioned whether active adjudication "would tip into unfairness by Tribunal members directing how hearings should proceed

43. For a more detailed discussion, see Gottheil & Ewart, *supra* note 6. The ERT's rules state that the Tribunal may: identify and narrow issues, determine the order in which evidence will be presented; question witnesses; and, limit the time allotted for the parties' questioning of witnesses, as well as the time permitted for making submissions in Rules 179-185. The purpose of this paper is not to discuss in depth the procedural fairness issues that may arise in active adjudication. However, it bears noting that, although the ERT rules have not been the subject of judicial review, courts have upheld active adjudicative practices introduced through rules of procedure in other cases (see *Canada (Citizenship and Immigration) v Thamotharem*, 2007 FCA 198, [2008] 1 FCR 385 [*Thamotharem*]). See also Leonard Marvy & David A Wright, "'Master of Its Own House': Procedural Fairness and Deference to Ontario Labour Relations Board Procedure: Case Comment on *International Brotherhood of Electrical Workers, Local 1739 v. International Brotherhood of Electrical Workers* and *Amalgamated Transit Union Local 113 v. Ontario Labour Relations Board*" (2008) 21 Can J Admin L & Prac 361.
44. Pinto, *supra* note 37 at 66.

in an improper or biased manner."[45] However, in a review of the Ontario human rights system, conducted three years after the amendments, Andrew Pinto found "little evidence of this" and, in fact, recommended that the Tribunal make even more use of active adjudication.[46]

Pinto does not explain why active adjudication appears to be working at the Human Rights Tribunal of Ontario. I posit that it has much to do with the parties' perception that the Tribunal's more active and directive approach allows it to fairly determine disputes. A number of factors likely informed and led to the success of the Tribunal's approach: its adjudicators have human rights expertise; the overwhelming number of parties appearing before the Human Rights Tribunal of Ontario are unrepresented; and, traditional adjudicative methods would often be ineffective in this context.

The concerns initially expressed about the Human Rights Tribunal of Ontario's active adjudication have turned out to be largely theoretical. The reviewer found that parties (whether represented or not) have not tended to perceive the Tribunal's more active role as unfair or biased. The reviewer's positive assessment of active adjudication appears to be based on an absence of complaints, and while this approach served the reviewer's purpose, it does not give much guidance to adjudicators or parties. It is important to get beyond the complaint test and begin to assess, in a principled manner, whether adjudicators' expanding roles and non-traditional adjudicative practices raise concerns about unfairness or impartiality.

II. *Substantive impartiality*

We have seen that some administrative adjudicators are moving away from the traditional passive, adversarial model of adjudication and becoming more active and directive participants in the legal proceeding. How is this more active and directive role to be reconciled with the decision-maker's duty to determine cases fairly and impartially? How much direction and assistance can adjudicators provide before crossing the line and descending into the so-called arena of litigation? Does the existing legal test for impartiality accommodate the changing adjudicative role?

45. *Ibid.* See also Accessibility for Ontarians with Disabilities Act Alliance, "Analysis of the November 2012 Final Report of the Andrew Pinto Review of Ontario's New System for Enforcing Human Rights in Ontario: Damning Findings of a Human Rights Enforcement System in Trouble, Wrongly Papered Over as a 'Qualified Success'" (AODA, 12 November 2012) at 26, online: <www.aoda.ca>.

46. Pinto, *supra* note 37 at 66.

The impartiality of the adjudicator is a cornerstone of the legal system and a key component of procedural fairness.[47] Procedural fairness has two dimensions: the right to a hearing and the right to have that hearing conducted by an impartial decision-maker. There are a number of different ways in which a decision-maker may become partial—she may have a personal stake in the outcome of the case, the tribunal itself may not be sufficiently independent, or the decision-maker may behave or make comments that suggest she is not approaching the dispute with an open mind.[48] This piece focuses on a different aspect of impartiality, namely, whether an adjudicator will be perceived as biased because she is assisting the parties or directing the conduct of the hearing. In this section, we will consider whether decision-makers can maintain their impartiality while providing direction and adjudicating actively.

Impartiality has been characterized as a "legal boundary," a line that decision-makers may not cross without undermining the fairness of the proceedings.[49] Not only does an impartial process lead to more legitimate legal outcomes, it is also necessary to foster credibility in the administrative justice system and to promote voluntary compliance with decisions. Decision-makers' authority rests on the public's confidence in the decision-making process and the legal system in general.[50] To believe in the system and be prepared to accept decisions with which they may disagree, parties must feel that their cases are being determined fairly, by an open-minded adjudicator who has no personal interest in the outcome.[51]

47. Canadian Judicial Council, *Ethical Principles for Judges* (Ottawa: CJC, 1998) at 30, online: CJC <www.cjc-ccm.gc.ca/cmslib/general/news_pub_judicialconduct_Principles_en.pdf> [CJC, *Ethical Principles*]. See also *Wewaykum Indian Band v Canada*, 2003 SCC 45 at paras 57-59, [2003] 2 SCR 259 [*Wewaykum*]; Aharon Barak, "A Judge on Judging: The Role of a Supreme Court in a Democracy" (2002) 116:1 Harv L Rev 19 at 55. The focus of this paper is the impartiality of the administrative decision-maker, specifically in relation to the trend towards a more active and directive role of the adjudicator.

48. Lorne Sossin, "An Intimate Approach to Fairness, Impartiality and Reasonableness in Administrative Law" (2002) 27:2 Queen's LJ 809 [Sossin, "Intimate Approach"].

49. *Baker v Canada (Citizenship and Immigration)*, [1999] 2 SCR 817 at para 45 [*Baker*]; Sossin, "Intimate Approach," *supra* note 48 at 817.

50. Jula Hughes & Philip Bryden, "Refining the Reasonable Apprehension of Bias Test: Providing Judges Better Tools for Addressing Judicial Disqualification" (2013) 36:1 Dal LJ 171 at 175.

51. Barak, *supra* note 47 at 59; *Reference re Remuneration of Judges of the Provincial Court of Prince Edward Island*, [1997] 3 SCR 3; *Provincial Court Judges' Assn of New Brunswick v New Brunswick (Minister of Justice)*, 2005 SCC 44, [2005] 2 SCR 286; *Wewaykum*, *supra* note 47 at para 57; Gray, *supra* note 3 at 99; Richard Zorza, "The Disconnect Between the Requirements of Judicial Neutrality and Those of the Appearance of Neutrality when Parties Appear *Pro Se*: Causes, Solutions, Recommendations, and Implications" (2004) 17:3 Geo J Leg Ethics 423 at 426 [Zorza, "The Disconnect"]. Hughes & Bryden, *supra* note 50 at 179-180.

The legal test for impartiality is a long-standing one.[52] It was set out as follows by de Grandpré J., writing in dissent, in *Committee for Justice and Liberty v. National Energy Board*:

> [T]he apprehension of bias must be a reasonable one, held by reasonable and right minded persons, applying themselves to the question and obtaining thereon the required information...[T]hat test is "what would an informed person, viewing the matter realistically and practically—and having thought the matter through—conclude. Would he think that it is more likely than not that [the decision-maker], whether consciously or unconsciously, would not decide fairly."[53]

Built into this legal test is a strong presumption that the decision-maker is impartial. The party alleging bias has the onus of demonstrating a reasonable apprehension of bias and the standard for doing so is high.[54] The legal test focuses on the perceptions of a reasonable person rather than proof of actual bias. As Bryden and Hughes explain, there are many reasons for this, including the importance of the repute of the public justice system and the practical and evidentiary difficulties associated with establishing actual bias.[55]

The application of the test is highly contextual and fact specific.[56] For an administrative decision-maker, the requisite level of impartiality (i.e, the extent of the procedural protections required) depends on a number of factors, including the nature and function of the tribunal.[57] Indeed, the legal test for impartiality is broadly framed around a standard of "reasonableness." This standard invites consideration of an array of contextual factors. While the test has the advantage of being applicable to a range of circumstances, its flexibility also leads to variability in outcomes. Particularly in borderline cases, where there are valid arguments for and against recusal, decision-makers may apply the same legal test, but reach different "reasonable" conclusions.[58]

52. See Philip Bryden & Jula Hughes, "The Tip of the Iceberg: A Survey of the Philosophy and Practice of Canadian Provincial and Territorial Judges Concerning Judicial Disqualification" (2011) 48:3 Alta L Rev 569 at 570; Hughes & Bryden, *supra* note 50 at 172.

53. *Committee for Justice and Liberty v National Energy Board*, [1978] 1 SCR 369.

54. *Wewaykum*, *supra* note 47 at para 174 and Adam M Dodek, "Constitutional Legitimacy and Responsibility: Confronting Allegations of Bias After *Wewaykum Indian Band v. Canada*" (2004) 25 SCLR (2d) 165 at 171.

55. Hughes & Bryden, *supra* note 50 at 176. See also *Wewaykum*, *supra* note 47 at paras 62-68.

56. *Wewaykum*, *supra* note 47 at paras 62-68.

57. *Baker*, *supra* note 49. This paper focuses on administrative tribunals that are adjudicative in function and that typically hold hearings before determining the cases before them.

58. Hughes & Bryden, *supra* note 50.

Some jurisdictions have created adjudicative guidelines regarding impartiality.[59] Although they are conceptually helpful, these guidelines provide limited practical guidance to decision-makers. In assessing impartiality, adjudicators are left with broad principles and contextual factors, but few hard or fast answers. As the Supreme Court of Canada explained in *Wewaykum*, there are no shortcuts to a contextual analysis.[60]

Until relatively recently, adjudicators understood the principle of impartiality to impose a strict prohibition on assisting or directing any party, including self-represented litigants.[61] This vision of impartiality has played an important role in shaping traditional adjudicative roles. It helps explain why, despite some of the recent trends emerging in the jurisprudence, many adjudicators remain most comfortable playing a passive role.[62]

Like many of our legal rules and processes, however, the traditional interpretation of "impartiality" arose from an era and mindset where representation was the norm. Our notion of impartiality was framed in a time of closer adherence to a passive and adversarial model of adjudication. However, as self-representation becomes the new norm, the ongoing validity of this approach is called into question. To put it differently: if it is unfair to expect self-represented litigants to navigate the hearing process without adjudicative assistance and direction, it is also unfair to insist on a vision of impartiality that prevents adjudicators from intervening with direction or assistance.

There is a natural tension between the traditional view of impartiality and the more active and directive role many adjudicators are adopting. The tension is perhaps most apparent in matters involving self-represented litigants, where an obligation to assist or a tendency to direct most often arises.[63] Self-represented litigants may cry foul because they do not like or agree with the help or direction that is being provided. They may also complain that the level of adjudicative assistance does not go far enough.[64]

59. See, e.g., CJC, *Ethical Principles*, *supra* note 47 at 20: "[s]triking this balance may be particularly challenging when one party is represented by a lawyer and another is not. While doing whatever is possible to prevent unfair disadvantage to the unrepresented party, the judge must be careful to preserve his or her impartiality." See also Goldschmidt, *supra* note 3 at 608.

60. *Wewaykum*, *supra* note 47 at para 77.

61. Engler, *supra* note 23 at 1989 and Richard Zorza, "An Overview of Self-Represented Litigation Innovation, Its Impact, and an Approach for the Future: An Invitation to Dialogue" (2009) 43:3 Fam LQ 519 at 529. See Denning LJ in *Jones v National Coal Board*, [1957] 2 All ER 155 at 159 (CA), citing *Yuill v Yuill*, [1945] 1 All ER 183 (CA). Goldschmidt, *supra* note 3 at 602. See also Landsman, *supra* note 3 at 245.

62. Gray, *supra* note 3 at 98.

63. CJC, *Ethical Principles*, *supra* note 47.

64. *Child and Family Services of Winnipeg v JA*, 2004 MBCA 184, 247 DLR (4th) 490 [*JA*].

In wading more actively into the litigation, adjudicators also risk that the opposing party will allege bias because it feels the adjudicator has gone too far to compensate for the absence of counsel.[65] As the Manitoba Court of Appeal put it, "balanc[ing] the sometimes competing imperatives of helping a litigant who is in need of assistance while maintaining impartiality is a recurring dilemma for [adjudicators at all levels]."[66]

The traditional legal test supports a vision of impartiality that is both principled and consistent with the changing adjudicative role. Rather than focusing on the tension between impartiality, on the one hand, and active adjudication and adjudicative assistance on the other, it is more helpful to conceive of all of these issues in terms of fairness. Indeed, fairness is the nodal point where impartiality and non-traditional adjudication meet. The same fairness concerns that have begun to reshape the role of adjudicators are also at the very heart of the doctrine of impartiality.[67]

As William Lucy has explained, there is a nexus between these two notions. In his view, impartiality does not refer simply to the attitude and role of the adjudicator, it incorporates the process through which determinations are made.[68] In other words, procedures that favour the represented litigant undermine the impartiality of the decision-making process. Or, as Lucy puts it, "procedural impartiality" increases the likelihood that the adjudicator will reach a merits-based or "impartial" outcome. The objective, then, is to strive for both an impartial adjudicator and an impartial decision-making process. Arguably, this is best achieved through an expanded role for the adjudicator, one in which she may play an active role to mitigate the procedural advantage generally enjoyed by represented parties.

In defining the role of the adjudicator, the governing principle should be "what is fair for all of the parties in the circumstances?" Answering this question involves considering both: the level of adjudicative assistance and direction the parties need in order to meaningfully present their case (procedural impartiality); and what, in the particular circumstances, reasonably gives rise to an apprehension that the decision-maker is biased or partial (attitude of the adjudicator). Reconciling these issues under the unifying principle of fairness leads to what I have termed the "substantive impartiality model."[69] In an earlier paper, I explained that substantive

65. See Bertrand et al, *supra* note 15. See also *Barrett*, *supra* note 32.
66. *JA*, *supra* note 64 at para 32.
67. *Baker*, *supra* note 49 at 45. *Newfoundland Telephone Co v Newfoundland (Board of Commissioners of Public Utilities)*, [1992] 1 SCR 623 at 625.
68. William Lucy, "The Possibility of Impartiality" (2005) 25:1 Oxford J Leg Stud 3 at 8, 23.
69. Flaherty, *supra* note 3 at 331.

impartiality borrows from the notion of substantive equality, a principle developed under section 15 of the *Charter of Rights and Freedoms*. Substantive equality does not require identical treatment of all individuals; rather, it allows for different treatment of differently situated individuals, as their particular needs and circumstances require. Similarly, substantive impartiality is not necessarily about treating parties the same, but instead about treating them fairly, or, in this context, providing self-represented litigants with the meaningful assistance and direction they need to navigate within the legal system.[70]

Although they do not articulate impartiality issues in terms of substantive impartiality or, as Lucy suggested, procedural impartiality, courts have shown a willingness to consider the needs of self-represented litigants as they assess impartiality. Arguably, a substantive impartiality approach fits naturally within the existing legal test because fairness considerations—including the fact that a self-represented litigant may not have meaningful access to adjudication without some assistance—are part of a contextual analysis of impartiality.

Indeed, a number of trends emerging from the case law are consistent with the notion of substantive impartiality. First, we have seen a shift away from equating impartiality to adjudicative passivity.[71] While adjudicators will almost always respect at least the traditional notion of impartiality, there is increasing recognition that it can get in the way of a fair hearing. Second, fairness has emerged as the guiding principle that shapes adjudicative approaches and assessments of impartiality. When they seek out the delicate balance between assistance and direction and impartiality, courts are guided by principles of fairness. For example, in *Barrett v. Layton*, the represented party asked the judge to recuse herself because she had provided "counsel-like assistance" to the unrepresented party. In that case, the judge had drawn the self-represented litigant's attention to certain aspects of her defence (which had been drafted by her then counsel) and suggested the litigant might wish to address these issues in cross-examination.[72]

70. *Ibid* at 329.

71. See, e.g., *Noronha v 1174364 Ontario Ltd*, 2009 HRTO 1292 [*Noronha*]. *Noronha* has been cited for the proposition that the Tribunal's active case management does not give rise to a reasonable apprehension of bias. See *Sebhatu v Starwood Canada Corp*, 2012 HRTO 329; *Ihasz v Ontario (Minister of Revenue)*, 2013 HRTO 333; *Restrepo Benitez v Canada (Citizenship and Immigration)*, 2006 FC 461, [2007] 1 FCR 107; *Hundal v Canada (Citizenship and Immigration)*, 2003 FC 884, 29 Imm LR (3d) 197; *Rajaratnam v Canada (Citizenship and Immigration)*, 2005 FC 1663, 144 ACWS (3d) 724; *Thamotharem*, *supra* note 43. For a discussion about the apparent conflict between engagement and impartiality in the US context, see Zorza, "The Disconnect," *supra* note 51.

72. *Barrett*, *supra* note 32 at 389.

The court's conclusion that this type of assistance did not give rise to a reasonable apprehension of bias was grounded in a fairness analysis. The court explained that a fair hearing must ensure "that an unrepresented person is not denied a trial on the merits by her lack of knowledge of either the trial process or procedural and substantive law, or by the stress of appearing in court, or by a combination of these factors." According to the court, drawing the self-represented litigant's attention to certain aspects of her defence allowed for a meaningful adjudication of the claim, without compromising the fairness of the process for either party.[73]

Third, although framed in terms of procedural fairness rather than impartiality, active adjudicative methods have generally withstood scrutiny on judicial review. For example, cases challenging the Ontario Labour Relations Board's statutory powers, including its ability to determine a case following a "consultation" rather than a formal hearing, have been unsuccessful. It is also significant that courts have held that directive and active adjudication methods employed by that Board met the requirements of procedural fairness.[74]

Fourth, although now in a position to play a more active and directive role, adjudicators must nevertheless employ these techniques in a way that preserves the appearance of impartiality. To put this differently, while active adjudication and adjudicative assistance are not necessarily problematic in and of themselves, these techniques can be employed in a way that creates a reasonable apprehension of bias.[75] As the Court of Appeal explained in *Lennox*:

> A trial judge is expected and entitled to take reasonable steps to ensure that the issues are clear, that evidence is presented in an organized and efficient manner and that the trial runs smoothly and proceeds in a timely manner. Trial judges are also entitled to intervene in the trial where there is need for clarification. However, there is a point at which judicial "intervention becomes interference and is improper."[76]

Consider the example of *Limoges v. Investors Group Financial Services Inc.*[77] Although this was a civil case of wrongful dismissal, not an administrative law matter, it nevertheless helps illustrate the distinction between permissible levels of adjudicative assistance and behaviour that gives rise to an apprehension of bias. In *Limoges*, the plaintiff was

73. *Ibid* at 391. See also *Tran*, *supra* note 8; *Lennox v Arbor Memorial Services Inc* (2001), 56 OR (3d) 795 (CA) [*Lennox*].
74. Wright & Marvy, *supra* note 43 at 361; *Noronha*, *supra* note 71.
75. *Limoges*, *supra* note 8.
76. *Lennox*, *supra* note 73 at para 13.
77. *Limoges*, *supra* note 8.

employed as a sales representative for approximately three years. She signed a contract stipulating that her status was that of an independent contractor and that her remuneration would be based solely on commissions from sales. After a period of probation during which she did not meet many of the company's performance benchmarks, the plaintiff's job was terminated, allegedly for cause. She sued for wrongful dismissal and unpaid commissions, representing herself at the trial.

The trial judge took a number of steps that might be characterized as assisting the plaintiff. At the beginning of the trial, the judge advised the plaintiff that her suit would best be cast as an action for unjust enrichment rather than wrongful dismissal. He then granted the plaintiff some procedural latitude, adjourning the trial to allow the plaintiff to call a witness. The judge did this although the plaintiff had not taken any steps to ensure that witness' attendance and even though the issue on which she would testify had been in dispute from the outset of the proceedings. Finally, the judge allowed the plaintiff to call two witnesses before her own cross-examination. In effect, the plaintiff's witnesses were allowed to present their evidence in the course of the plaintiff's own direct testimony.

The reviewing court did not take specific issue with any of these assistive measures. It recognized that such measures are sometimes appropriate, noting that strict compliance with the rules of evidence and procedure is not always necessary or efficacious, particularly where one or both of the parties is self-represented.[78] The problem in *Limoges*, and what gave rise to an apprehension of actual bias, was many of the statements the trial judge made during the course of the hearing. As the reviewing court explained:

> This was a remarkable trial. The trial judge chose to ignore the rules of evidence and procedure. In addition, he failed to observe even the most basic legal principles designed to ensure a fair trial and to maintain the impartiality of the tribunal. More specifically, the trial judge made critical findings of fact before the defendant could present its evidence, or even cross-examine the plaintiff and her witnesses. He then used those premature and poorly conceived findings to threaten the defendant with punitive costs if it did not settle with the plaintiff immediately. When the defendant refused to accede to this suggestion, the trial judge denigrated

78. *Ibid* at para 22.

> the testimony of the defendant's corporate officer before he had heard it all. The trial judge's many departures from appropriate judicial conduct rendered this hearing unfair.[79]

In sum, we can conceive of adjudicative behaviour as lying along a spectrum, with clearly permissible behaviour at one end and clearly impermissible behaviour at the other. Conduct that falls between those two points is more difficult to assess. Although the jurisprudence provides a framework for the analysis, with "reasonableness" and "fairness" as the basis of the assessment, these are flexible terms that can accommodate a range of outcomes.

Some measure of uncertainty is inevitable, perhaps particularly in these early days of more active and directive adjudication and before a more significant body of jurisprudence develops on the issue. This uncertainty may mean that adjudicators are reluctant to embrace their "new" role, for fear of being deemed biased or unfair by a reviewing court.[80] For some, wading into the hearing to shape or direct it is akin to sticking one's neck out and inviting a judicial review. As one adjudicator put it to me, active adjudication "gives us one more opportunity to get something wrong."

My discussion to date has focused on active adjudication as a means of ensuring a fair hearing, particularly where representation is unbalanced. We cannot ignore, however, that for administrative tribunals, active adjudication is also a way of bringing about efficiencies. From the perspective of an administrative tribunal, active adjudication can mean shorter hearings and more efficient use of adjudicator resources. This may lead to institutional pressure on members to adjudicate actively. In the end, this too will be about balancing fairness concerns with the interests in conducting an expeditious hearing.

III. *Self-represented litigants: Towards a better understanding of impartiality*

While the legal test for impartiality is deeply enshrined in our jurisprudence and well-known to counsel, it is far from intuitive to many self-represented litigants. Indeed, the legal test for impartiality is among the legal rules and processes that many self-represented litigants struggle to understand and apply. There is often a disconnect between what self-represented litigants

79. *Ibid* at para 6. The Ontario Court of Appeal made similar comments in the recent case of *Hazelton Lanes Inc v 1707590 Ontario Ltd*, 2014 ONCA 793, 326 OAC 301. In that case, the trial judge was found (among other things) to have made comments and interjections indicating that he had prejudged the credibility of a witness. The trial judge also made findings and gave directions that gave rise to a reasonable apprehension of bias.

80. Gray, *supra* note 3 at 98. See also Jona Goldschmidt, "How Are Courts Handling Pro Se Litigants?" (1998) 82:1 Judicature 13 at 15.

expect of adjudicators and how counsel and the adjudicators themselves see their role.[81] This disconnect may cause the self-represented litigant to question the fairness of the process and the legitimacy of the legal outcome. It can lead self-represented litigants to unreasonably claim bias, which can not only delay the adjudicative process, but can personalize the proceeding and make it more difficult for all of the parties involved.

Those who are legally trained understand and expect that adjudicators will exercise discretion in making their rulings. For self-represented litigants, however, the exercise of adjudicative discretion can feel unfair, akin to sand shifting beneath their feet. This may be particularly the case for a litigant who stayed up half the night the night before a hearing to learn a set of rules only to find that that they are applied quite differently than they may have expected or understood. For example, those of us who are legally trained take for granted that procedural fairness influences how rules will be applied. While the rules may require that all documents be disclosed in advance of the hearing, adjudicators regularly admit documents that were not disclosed in accordance with the rules.[82] For the self-represented litigant, this can seem unfair

Self-represented litigants often view the fact that adjudicators rule on allegations of their own impartiality as a perpetuation of the unfairness. As Hughes and Bryden explain, "a party who has unsuccessfully challenged the judge's impartiality is forced to accept what appears to be the highly subjective assessment of a judge whose impartiality, at least in the eyes of that party, is already suspect."[83] It is difficult for self-represented litigants to understand that an adjudicator determining a recusal application is not acting as the judge in his or her own case.[84] Indeed, the case law is rife with examples of self-represented litigants who ask adjudicators to recuse themselves based on a misconception of the notion of bias.[85] In *Murray v. New Brunswick (Police Commission)*[86] Robertson J.A. spoke of a category of self-represented litigants who "operate...on the mistaken assumption that if he or she is unsuccessful on any ruling it is because

81. *McPhee v Canadian Union of Public Employees*, 2008 NSCA 104, 270 NSR (2d) 265 [*McPhee*].
82. Generally, parties would be given a reasonable time to review any such documents and, in some circumstances, it is appropriate to adjourn the hearing to give them an opportunity to do so.
83. Hughes & Bryden, *supra* note 50 at 180.
84. Grant Hammond, *Judicial Recusal: Principles, Process and Problems* (Portland, OR: Hart Publishing, 2009). Hughes & Bryden, *supra* note 50.
85. See, e.g., *Noronha*, *supra* note 71; *McPhee*, *supra* note 81, *Bialy v Public Service Alliance of Canada*, 2012 PSLRB 125; *Boshra v Canada (AG)*, 2012 FC 681, 410 FTR 240; *Doncaster v Chignecto-Central Regional School Board*, 2013 NSCA 59, 330 NSR (2d) 82; *Petty v Johnston*, 2001 ABQB 383, 105 ACWS (3d) 67; *Ross v Charlottetown (City of)*, 2008 PESCAD 6, 276 Nfld & PEIR 162; *Zivkovic v Zivkovic*, 2009 ABQB 542, 2009 AJ No 1019 (QL).
86. *Murray v New Brunswick (Police Commission)* (2012), 389 NBR (2d) 372.

of bias on the part of the decision-maker." In some cases, this approach appears to be tactical. In others, however, it seems to stem from a genuine misunderstanding of the notion of impartiality.

Jurists are familiar with the reasonableness and fairness standards as an analytical framework. However, the concept sits less comfortably with self-represented litigants: many see themselves as the embodiment of the reasonable litigant and are astonished that their concerns about the partiality of the adjudicator are deemed to be "unreasonable." The ongoing debate about what knowledge and experience should be attributed to the "reasonable person" can be particularly difficult for a self-represented litigant to grasp.[87]

To address some of the confusion and misperceptions about bias, administrative tribunals should consider adopting rules or issuing practice directions and information points for litigants wishing to raise bias allegations. Few tribunals have done so, despite the significant numbers of ultimately unfounded bias applications that tend to be brought by self-represented litigants. The challenge in constructing general guidelines arises from the flexibility of the test for impartiality, the importance of contextual factors, and the variability in "reasonable" outcomes. Nevertheless, as we have seen, some general principles do arise out of the jurisprudence. Simply making these principles known to self-represented litigants may reduce the number of frivolous recusal motions and the resulting delays and costs.

Importantly, this is not to suggest that adjudicators should engage in a discussion of these principles with litigants who are contemplating bringing bias applications. I am proposing something quite different—that administrative tribunals proactively educate parties about bias, outside the context of any particular litigation. Tribunals could prepare and make available general statements about bias, which will help all parties understand the applicable principles and processes.

Rules or practice directions of this nature could:

1. Make clear that the litigant must raise bias concerns at the earliest opportunity and that she may be deemed to have waived this right at a later stage in the proceeding. It is not generally appropriate to raise issues of bias only after the hearing is complete and the tribunal's decision has been issued.

87. Hughes & Bryden, *supra* note 50; Sossin, "Intimate Approach," *supra* note 48 at 821.

2. Explain that the adjudicator herself will be tasked with determining the bias allegation.[88] Explaining to litigants that this is the normal procedure may help to dispel fairness concerns and, at a minimum, the role of the adjudicator will not come as a surprise to them. The litigant will understand that all parties who raise issues of bias are treated in this manner.
3. Set out the legal test for impartiality and explain (in general terms) how it has been applied. For example, the practice direction should explain that just because one disagrees with the adjudicator's decision does not mean that he or she was biased. The practice direction might provide some examples from the tribunal (or from the reviewing court's) case law of where bias was and was not established.
4. Explain that, in order to ensure fairness for both parties, the adjudicator may provide some degree of assistance to litigants, particularly if they are self-represented. It should explain that its objective is not to help a party succeed, but to ensure that both parties have access to a fair hearing. Again, the practice direction could refer to examples from the jurisprudence and explain that the adjudicator's involvement will be assessed based on whether it gives rise to a reasonable apprehension of bias.
5. To the extent that the tribunal uses active adjudication, the practice direction should explain that using this model of adjudication does not necessarily lead to a reasonable apprehension of bias, although the adjudicator's comments and behaviour will be assessed on the basis of whether they reasonably gave rise to an apprehension of bias.

Conclusion

The increasing presence of self-represented litigants and emerging trends in adjudicative roles call out for a rethinking of the notion of impartiality. The role of the adjudicator and the principles that define that role must be alive to the needs and reality of increasing numbers of self-represented litigants. If, as the courts have held, it is unfair to expect self-represented litigants to navigate legal processes without assistance and direction, it is also unfair to adopt on a vision of impartiality that prevents adjudicators from providing that help and direction.

88. Some have suggested that this approach should be rethought and that, in some circumstances, it is appropriate to refer allegations of bias to another adjudicator for decision. For a critical discussion of this issue see Hammond, *supra* note 84 at 82-84.

Increasingly, a contextual and "substantive" approach to impartiality is emerging from the jurisprudence. Impartiality is no longer about treating all parties with the same neutral passivity. Instead it is about fairness and the needs of the particular litigants—we now recognize that adjudicators are not biased simply because they provide self-represented litigants with the assistance and direction they need to present their case to the best of their ability.[89] While this is an important shift, it comes with challenges of its own. In particular, although the jurisprudence tells us that some measure of assistance and direction is generally deemed to be appropriate,[90] it can be difficult to assess just how much direction or assistance is too much. Determining what creates a reasonable apprehension of bias is a challenging issue for jurists and courts, especially as they grapple with emerging trends in adjudication. The issue can be especially difficult for self-represented litigants.

While there are no bright lines that delineate impermissible adjudicative conduct, some broad principles have emerged from the jurisprudence. Many of these principles are nuanced and others are still in the process of unfolding. It is important to help self-represented litigants understand at least the basic principles that govern adjudicative behaviour and the obligation to remain impartial. Educating self-represented litigants about bias may not only reduce the number of frivolous bias motions and the resulting delays and waste of adjudicative resources, it may also improve litigants' confidence in the administrative justice system. Informing litigants of the process for raising bias and explaining some of the applicable principles may enhance their confidence in the process and the sense that they have been treated fairly. To this end, administrative tribunals should consider preparing practice directions, rules, or information points about impartiality, which address the process and timing for raising allegations of bias, and provide examples from the jurisprudence to illustrate some of the basic principles.

89. Flaherty, *supra* note 3 at 329.

90. Freya Kristjanson & Sharon Naipaul, "Active Adjudication or Entering the Arena: How Much is Too Much?" (2011) 24 Can J Admin L & Prac 201.

TAB 3

RESTATED ORDER #3 OF THE CHIEF MEDICAL OFFICER OF HEALTH UNDER SECTION 32 of the *HEALTH PROTECTION ACT* 2004, c. 4, s. 1.

October 1, 2021

TO: 1.) All persons residing in or present in the Province of Nova Scotia;

2.) All not-for-profit and for-profit businesses and organizations operating or carrying on business in Nova Scotia;

3.) Such other persons or entities as may be identified by the Chief Medical Officer of Health or otherwise as set out in this Order.

ORDER made pursuant to Section 32 of the *Health Protection Act* (Nova Scotia)

WHEREAS Section 32 of the *Health Protection Act* states:

32 (1) Where a medical officer is of the opinion, upon reasonable and probable grounds, that:

(a) a communicable disease exists or may exist or that there is an immediate risk of an outbreak of a communicable disease;

(b) the communicable disease presents a risk to the public health; and

(c) the requirements specified in the order are necessary in order to decrease or eliminate the risk to the public health presented by the communicable disease,

the medical officer may by written order require a person to take or to refrain from taking any action that is specified in the order in respect of a communicable disease.

WHEREAS COVID-19 has been identified as a communicable disease that presents a risk to public health as defined under s.4(b) of the *Health Protection Act*, and;

WHEREAS I am the Chief Medical Officer of Health for the Province of Nova Scotia and am of the opinion, upon reasonable and probable grounds, that

(a) a communicable disease (COVID-19) exists; and that there is an immediate risk of an outbreak of the communicable disease;

(b) the communicable disease presents a risk to the public health; and

(c) the requirements specified in the order are necessary to decrease or

eliminate the risk to the public health presented by the communicable disease, and;

WHEREAS as the Chief Medical Officer of Health, I have determined it necessary to issue this Order to the Class of Persons to decrease the risk to public health presented by COVID-19.

Please be advised that:

I, Dr. Robert Strang, Chief Medical Officer of Health, **order** the following:

PART I
DEFINITIONS

1. In this Order,

“fully vaccinated” means receipt of 1 dose of a vaccine authorized as a 1 dose vaccine series such as Janssen plus 14 days, or 2 doses of a vaccine authorized as a 2 dose vaccine series such as Pfizer, Moderna or AstraZeneca plus 14 days, or a complete series of any other World Health Organization authorized series of COVID-19 vaccine such as Sinopharm or Sinovac plus 14 days.

“illegal public gathering” means a gathering that does not comply with the gathering restrictions of this Order, including the attendance limits applicable to indoor and outdoor informal gatherings and masking requirements applicable to indoor public places.

"informal gathering” means a gathering of persons except where hosted by a business or organization.

“mask” means a commercial medical or non-medical mask or a home-made mask made as per the PHAC instructions located at: https://www.canada.ca/en/public-health/services/diseases/2019-novel-coronavirus-infection/prevention-risks/sew-no-sew-instructions-non-medical-masks-face-coverings.html, that covers the nose and mouth.

“not fully vaccinated” means no receipt of any vaccine dose or receipt of 1 dose of a vaccine authorized as a 2 dose vaccine series such as Pfizer, Moderna or AstraZeneca plus 14 days.

“public place” means the part of the following places accessible to the public, insofar as it is enclosed:

(a) a retail business, a shopping centre, or a building or room of a business where personal care services are provided;

(b) a restaurant or a liquor licensed establishment, including the kitchen and preparatory space of a restaurant or a liquor licensed establishment;

(c) a place of worship or faith gathering;

(d) a place where activities or services of a cultural or entertainment nature are offered;

(e) a place where sports are played, fitness, recreational or leisure activities are carried on;

(f) a rental hall or other place used to hold events, including conventions and conferences, or to hold receptions;

(g) a place where municipal or provincial government services are available to the public;

(h) a common area, including an elevator, of a tourist accommodation establishment;

(i) a lobby, reception area or elevator in an office building;

(j) a common area or public space on a university or college campus;

(k) a train or bus station, a ferry terminal, or an airport;

(m) common areas of a multi-residential building;

(n) all common areas of private indoor workplaces;

(o) private indoor workplaces where there are:

(i) interactions with the public; or

(ii) areas with poor ventilation.

“retail business” means a business operating on an ongoing basis at a fixed location primarily selling goods or products for use or consumption by individual purchasers.

“rotational worker” means a person who lives in Nova Scotia and travels to work in another Canadian province or territory outside Atlantic Canada on a regular schedule.

“self-isolate” means the requirement of any person who has COVID-19 to remain separate from others in such places and under such conditions to prevent or limit the direct or indirect transmission of COVID-19.

“self-quarantine” means the requirement of any person who has been exposed or may have been exposed to COVID-19 during its period of communicability to restrict that person’s activities in order to prevent disease transmission during the incubation period for this disease.

“vaccine” means a vaccine against COVID-19 that has been approved by either the Public Health Agency of Canada or the World Health Organization.

“vehicles providing transportation to the public” means:

(i) any municipally operated public transit, including municipally operated buses and ferries;

(ii) any public passenger vehicle licensed under the *Motor Carrier Act*, including community transit vehicles, commercial vehicles (shuttle vans), and vehicles providing charters and/or tours;

(iii) any school buses licensed under the *Motor Carrier Act* and any vehicles of any capacity operated by private schools recognized by the Minister of Education and Early Childhood Development;

(iv) commuter vehicles and courtesy vehicles as defined under the *Motor Carrier Act*, vans, mini-buses, or buses of any passenger capacity providing services to the public;

(v) any vehicles serving residents and staff of facilities listed in section 20.1; and

(vi) taxicabs regulated by municipalities under the authority of the *Motor Vehicle Act*.

PART II
ENTRY, ISOLATION AND QUARANTINE REQUIREMENTS

2. Effective 8:00a.m. October 4, 2021, all persons are prohibited from entering Nova Scotia, except as stated herein or set out elsewhere in this Order:

(a) persons travelling to Nova Scotia from another Canadian province or territory; and

(b) persons travelling to Nova Scotia from outside Canada who are eligible to enter Canada in accordance with the Federal Orders in Council 2021-0904, 2021-0903 and 2021-0902, as amended.

2.1 Where any person travels into Nova Scotia in contravention of this Order, a peace officer is hereby authorized and directed to return that person to an interprovincial border and require the person to leave the Province immediately or at such a time as may be

directed, and in doing so, may exercise authority under section 46 of the *Health Protection Act*.

2.2 Effective 8:00a.m. October 4, 2021, all persons seeking entry into Nova Scotia must:

(a) apply through the Nova Scotia Safe Check-in form and complete daily digital check-ins, located at: https://travel-declaration.novascotia.ca/en, except:

(i) persons who reside in Nova Scotia, New Brunswick, Newfoundland and Labrador, or Prince Edward Island (the "Atlantic Provinces") and are required to travel between Nova Scotia and one of the Atlantic Provinces on a regular ongoing basis to work, attend a school or post-secondary institution, or access essential veterinary services, and adheres to the COVID-19 Protocol for Atlantic Travel Protocol located at: https://novascotia.ca/coronavirus/docs/COVID-19-Protocol-for-Atlantic-Canada-Travel.pdf;

(ii) persons who reside in the Atlantic Provinces and are required to travel between Nova Scotia and one of the Atlantic Provinces on an occasional basis for work, school, or to complete other tasks that cannot be accomplished virtually ("quick trips"), and adhere to the Atlantic Travel Protocol, located at: https://novascotia.ca/coronavirus/docs/COVID-19-Protocol-for-Atlantic-Canada-Travel.pdf;

(iii) persons who reside in the Atlantic Provinces and are traveling for child custody drop offs, pick ups or frequent routine visits and adhere to the COVID-19 Protocol for Self-isolation Related to Child Custody located at: https://novascotia.ca/coronavirus/docs/COVID-19-Protocol-for-child-custody-en.pdf;

(iv) professional truck drivers;

(v) persons who have received compassionate exceptions;

(vi) essential healthcare workers who travel to and from Nova Scotia and another province or territory to carry out their work duties on an ongoing regular basis or on a locum basis; and

(vii) persons travelling to Nova Scotia from outside Canada in accordance with section 2(c) who submitted their travel information to the Federal Government via the ArriveCAN application,

(b) disclose to the Chief Medical Officer of Health or his delegate information related to their COVID-19 vaccination, including:

(i) whether they received a COVID-19 vaccine;

(ii) the brand name or other information that identifies the vaccine that was administered;

(iii) the dose received, and

(c) if they are fully vaccinated, provide the Chief Medical Officer of Health or his delegate proof of COVID-19 vaccination issued by the government or non-governmental entity that administered the COVID-19 vaccine, which must contain the following:

(i) the name of the person who received the vaccine;

(ii) the name of the government or the name and civic address of the non-governmental entity that administered the vaccine;

(iii) the brand name or any other information that identifies the vaccine that was administered; and

(iv) the dates on which the vaccine was administered.

3.1 Effective 8:00a.m. October 4, 2021 the following requirements apply to all persons residing in or present Nova Scotia:

(a) persons have travelled outside Nova Scotia to another Canadian province or territory and who are not fully vaccinated:

(i) must self-quarantine on the day of entry into Nova Scotia, and continuing thereafter for 14 days; and

(ii) not cease self-quarantine unless they have completed at least 7 days of self-quarantine and they have received a negative COVID-19 test result on day 6 or 7, at which time they may exit self-quarantine,

(b) persons who are identified as a close contact of a person who has been diagnosed with COVID-19 and who are not fully vaccinated, including persons identified as a close contact who have received a World Health Organization approved vaccine other than Pfizer, Moderna or AstraZeneca but have not received an additional dose of Pfizer or Moderna:

(i) must self-quarantine on the first day of close contact, and continuing thereafter for 14 days; and

(ii) must not cease self-quarantine unless they have completed at least 7 days of self-quarantine and they have received a negative COVID-19 test result on day 6 or 7, at which time they may exit self-quarantine but from day 8 to day 14 must exclude themselves from congregate high risk

settings, specifically LTC, shelters, acute care facilities (except to receive essential medical care), and correctional facilities, and further must avoid contact with immunocompromised persons,

(c) persons who are identified as a person diagnosed with COVID-19, or have been tested for COVID-19 due to the presence of symptoms or as directed by public health and are awaiting their test results:

(i) must self-quarantine or self-isolate on the first day of symptoms, testing, diagnosis, and continuing thereafter for 10 consecutive days or as directed by a Medical Officer of Health.

3.2 Those persons required to self-quarantine or self-isolate in accordance with sections 3.1(a), (b) or (c):

(i) must, during their period of self-quarantine or self-isolation, conduct themselves in such a manner as not to in any way expose any other person to infection or potential infection from COVID-19; and

(ii) must remain in their residence or residence grounds and otherwise remove themselves from the presence of others in public while they may be infectious during the quarantine or isolation period, so that all precautions necessary to protect others are in place. Specifically, such persons must not enter any buildings, public transportation, or other enclosed spaces (other than their residence) where other people are present; and

(iii) must follow all infection control instructions given to them on the Government of Nova Scotia's website, at: https://novascotia.ca/coronavirus/, or given to them by Telehealth 811 staff, public health staff or any other staff of a healthcare facility to which they may seek or receive treatment; and

(iv) after the mandatory period of self-quarantine or self-isolation period has lapsed, they may cease self-isolation or self-quarantine if they do not exhibit symptoms of COVID-19.

3.3 Notwithstanding:

(a) section 3.1 (c), persons who receive a negative COVID-19 test result after being referred for testing by the online assessment tool due to the presence of COVID-like symptoms may cease self-quarantine on the date of receipt of the negative test result;

(b) sections 3.1 (a), (b) and (c), persons who are required to self-isolate or self-quarantine may leave their residence to undergo COVID-19 testing as directed by a Medical Officer of Health;

(c) sections 3.1 (a) and (b), persons who are required to self-isolate or self-quarantine may leave their residence for 1 outing per day for outdoor exercise within walking/running distance of their home or isolation site for a maximum of 1 hour,

(d) section 3.1(a), persons travelling to or returning to Nova Scotia from a Canadian province or territory must adhere to the following:

(i) persons who are fully vaccinated before arriving in Nova Scotia are not required to self-quarantine on arrival in Nova Scotia;

(ii) persons who are not fully vaccinated before arriving in Nova Scotia must self-quarantine for up to 14 days on arrival in Nova Scotia and must not cease self-quarantine until they have completed at least 7 days of self-quarantine and they have received a negative result from COVID-19 test done on day 6 or 7, at which time they may exit self-quarantine; and

(iii) persons who have had COVID-19, have recovered from it in the last 12 weeks before entering Nova Scotia, have a letter from public health in a Canadian province or territory confirming their date of recovery and are not fully vaccinated must self-quarantine for 7 days on arrival into Nova Scotia but are not required to be tested,

(e) persons travelling to Nova Scotia from outside Canada who eligible to enter Canada in accordance with the Federal Orders in Council 2021-0904, 2021-0903 and 2021-0902, as amended:

(i) who are fully vaccinated (the “fully vaccinated person” as set out in the Federal Orders in Council 2021-0904, 2021-0903 and 2021-0902) are not required to self-quarantine on arrival in Nova Scotia; and

(ii) who are not fully vaccinated are required to self-quarantine on arrival in Nova Scotia in accordance with Federal Quarantine requirements.

4. Notwithstanding sections 2, 3.1 and 3.3, persons who are well and showing no symptoms of COVID-19 may enter Nova Scotia for the purposes of facilitating child sharing between parents under an order or agreement providing for joint custody, and in such instances, both the persons facilitating custody and children who are fully vaccinated are exempt from the requirement to self-quarantine.

5. Further to section 4, parents and children entering or leaving Nova Scotia for the purposes of facilitating child sharing arrangements must adhere to the self-quarantine requirements established by the Chief Medical Officer of Health, located at: https://novascotia.ca/coronavirus/docs/COVID-19-Protocol-for-child-custody.pdf.

6. Notwithstanding sections 2, 3.1 and 3.3, individuals who are well and showing no symptoms of COVID-19 and are engaged in a legal proceeding in Nova Scotia, whether the accused, victim, witness, party or lawyer in such proceeding, may enter Nova Scotia for participation in the legal proceeding and are exempt from self-quarantine if the person is fully vaccinated and adheres to the COVID-19 Protocol for Exempt Travelers established by the Chief Medical Officer of Health, located at: https://novascotia.ca/coronavirus/docs/COVID-19-Protocol-for-exempt-travellers-en.pdf.

7. An employer or contractor of any Temporary Foreign Worker entitled to enter Nova Scotia pursuant to the Federal Orders in Council 2021-0903 and 2021-0902, as amended, must first, before the Temporary Foreign Worker enters Nova Scotia, satisfy me, as Chief Medical Officer of Health, that the employer or contractor has made adequate provision for compliance with the Federal Quarantine requirements applicable to the Temporary Foreign Workers in the Agriculture and Seafood Sector.

7.1 In addition, the employer or contractor and the Temporary Foreign Worker must, for the duration of the entire work period in Nova Scotia:

(a) adhere to all applicable terms and conditions of this Order; and

(b) adhere to the COVID-19 Protocol for Temporary Foreign Workers employed in Agriculture and Seafood Sectors established by the Chief Medical Officer of Health, located at: https://novascotia.ca/coronavirus/docs/COVID-19-Protocolfortemporaryforeignworkers-agriculture-and-seafood-sectors-en.pdf.

(c) comply with any direction issued by me, as Chief Medical Officer of Health, or a Medical Officer of Health with respect to the Temporary Foreign Worker and their employment in Nova Scotia.

7.2 For greater certainty, a Temporary Foreign Worker in the Agriculture and Seafood Sector, on arrival in Nova Scotia, is required to quarantine in accordance with the Federal Quarantine requirements unless they are assessed as exempt from quarantine in accordance with Federal Order in Council 2021-0904.

8. Notwithstanding sections 2, 3.1 and 3.3, persons who are required to travel to Nova Scotia or outside Nova Scotia for essential health services, with accompanying support persons as permitted by health authority policy, are exempt from the requirement to self-quarantine but must adhere to the COVID-19 Protocol for Exempt Travelers established by the Chief Medical Officer of Health, located at: https://novascotia.ca/coronavirus/docs/COVID-19-Protocol-for-exempt-travellers-en.pdf.

9. Notwithstanding sections 2, 3.1 and 3.3, rotational workers must adhere to the self-quarantine and COVID-19 testing requirements established by the Chief Medical Officer of Health, located at: https://novascotia.ca/coronavirus/docs/COVID-19-Directive-on-Exceptions-for-Rotational-Workers.pdf.

10. Notwithstanding sections 2, 3.1 and 3.3, specialized workers who are:

(a) needed for urgent work on critical infrastructure that cannot be done by individuals from within the Province and such work is crucial to the functioning of the Province; or

(b) needed for urgent work that cannot be done by individuals from within the Province and are necessary to preserve the viability of one or more Nova Scotia businesses,

are permitted to enter Nova Scotia from any Canadian province or territory outside Atlantic Canada. A list of critical infrastructure included in this definition is available at: https://www.publicsafety.gc.ca/cnt/ntnl-scrt/crtcl-nfrstrctr/esf-sfe-en.aspx.

10.1 Specialized workers permitted to enter Nova Scotia in accordance with section 10 must adhere to self-quarantine and COVID-19 testing requirements established by the Chief Medical Officer of Health, located at: https://novascotia.ca/coronavirus/docs/COVID-19-Directive-on-Exceptions-for-Specialized-Workers.pdf.

11. Notwithstanding sections 2, 3.1 and 3.3, fish harvesters required to enter Nova Scotia from any Canadian province or territory to perform the commercial or licensed activity of catching fish and other seafood for market or other approved activities, excluding recreational fishing, must adhere to self-quarantine requirements established by the Chief Medical Officer of Health, located at: https://novascotia.ca/coronavirus/docs/COVID-19-Protocol-for-fish-harvesters-en.pdf.

12. Notwithstanding sections 3.1 and 3.3, workers who are essential to the movement of people and goods, and who must enter Nova Scotia as part of their duty requirements, are exempt from the requirement to self-quarantine, particularly:

(a) healthy workers in the trade and transportation sector who are employed in the movement of goods and people across the Nova Scotia border by land, air, or water, including truck drivers, crew, maintenance and operational workers on any plane, train or ship;

(b) Canadian Military and Defence Team personnel, Coast Guard, RCMP, Canadian Border Services Agency, and Canadian Security Intelligence Service;

(c) first responders, including police, fire, EHS paramedic workers;

(d) essential healthcare workers who travel to and from Nova Scotia and another province or territory to carry out their work duties on an ongoing regular basis or on a locum basis; and

(e) airline crew employed in the movement of people and goods and who are required to travel to Nova Scotia or from Nova Scotia to carry out their work duties,

but must adhere to the COVID-19 Protocol for Exempt Travelers established by the Chief Medical Officer of Health, located at: https://novascotia.ca/coronavirus/docs/COVID-19-Protocol-for-exempt-travellers-en.pdf.

12.1 Persons exempt under section 12 must follow all public health recommendations, closely self-monitor and must self-isolate or self-quarantine should they exhibit any COVID-19 symptoms as set out in the online assessment.

PART III
GATHERING RESTRICTIONS
AND
MASKS REQUIREMENTS

13. Effective 8:00a.m. October 4, 2021, except where otherwise stated in this Order the gathering restrictions and mask requirements apply to all persons present and residing in Nova Scotia.

13.2 Persons may gather together for informal gatherings up to a maximum of 25 persons indoors and 50 persons outdoors, and they are not required to wear a mask unless they are in a public place where masks are required.

13.3 The person limit rule set out in section 13.2 does not apply to the following municipal, provincial and federal entities and their contractors when carrying out their work duties:

(a) First responders, including police and fire services;

(b) Compliance and Building Officials;

(c) Officials engaged in Housing and Homelessness initiatives;

(d) Parks and Recreation staff; and

(e) Enforcement or compliance officers authorized by their statutory appointments or delegated authority to inspect, investigate and/or enforce provincial legislation while carrying out their powers pursuant to the relevant statutory authority.

13.4 Persons are prohibited from:

(a) organizing an illegal in-person gathering, including requesting, inciting, or inviting others to attend an illegal public gathering;

(b) promoting an illegal public gathering via social media or otherwise; or

(c) attending an illegal public gathering of any nature, whether indoors or outdoors.

14. All persons must wear a mask that covers their nose and mouth:

(a) while present in a public place; and

(b) while travelling on vehicles providing transportation to the public.

14.1 Notwithstanding section 14(a), a person is exempt from the requirement to wear a mask in a public place if the person:

(a) is less than 2 years of age or age 2 to 4 years and their caregiver cannot persuade them to wear a mask;

(b) for whom the wearing of a mask is not possible because of the person's medical condition;

(c) is reasonably accommodated by not wearing a mask in accordance with the *Nova Scotia Human Rights Act*;

(d) is in the public place receiving care or being provided a service or while participating in a physical or other activity requiring the mask be removed, in which case the person may remove the mask for the duration of the care, service or activity;

(e) removes the mask momentarily for identification or ceremonial purposes;

(f) is in a courtroom, jury room or secured area in a courthouse, or room where a proceeding or meeting of an administrative tribunal established by legislation is being held;

(g) is an officiant or performer in the course of performing activities requiring vocalization such as talking or singing at the event or activity; or
(h) is 12 years of age or less, attending a day camp, overnight camp, or childcare centre.

14.2 Notwithstanding section 14(b),

(a) the following persons are exempt from the requirement to wear a mask while travelling on vehicles providing transportation to the public:

(i) a person is less than 2 years of age or age 2 to 4 years and their caregiver cannot persuade them to wear a mask;

(ii) a person for whom the wearing of a mask is not possible because of the person's medical condition;

(iii) a person who is reasonably accommodated by not wearing a mask in accordance with the *Nova Scotia Human Rights Act*; and

(b) a person may remove the mask momentarily for identification purposes when boarding any public transit.

14.3 For greater certainty, the requirement to wear a mask, as set in sections 14(a) and (b), is the minimum standard that persons and businesses must adhere to, and where the business's plan approved in accordance with section 16.3 of this Order imposes a greater standard, then that standard applies.

14.4 Directors, caregivers, staff and visitors of childcare facilities and family childcare homes regulated under the *Early Learning and Child Care Act* must wear a mask unless subject to one of the exemptions as set out in section 14.1.

PART IV
LONG TERM CARE FACILITIES
AND
OTHER VULNERABLE POPULATIONS

15. Effective 8:00a.m. October 4, 2021, except where otherwise stated in this Order, the restrictions on long term care facilities and other vulnerable populations apply to all persons present and residing in Nova Scotia.

15.1 Subject to section 15.2, all for-profit or not-for-profit Department of Seniors and Long Term Care funded long-term care facilities licensed under the *Homes for Special Care Act* must comply with Schedule "A", "COVID-19 Management Long term Care Facilities Directive Under the Authority of the Chief Medical Officer of Health", dated December 21, 2020, as amended from time to time and located at: https://novascotia.ca/dhw/ccs/documents/COVID-19-Management-in-Long-Term-Care-Facilities-Directive.pdf;

15.2 All long term care facilities licenced by the Department of Seniors and Long Term Care under the *Homes for Special Care Act*, and all residents of such facilities must comply with the process for isolating COVID-19 positive long term care residents set out in Schedule "A", "COVID-19 Management Long Term Care Facilities Directive Under the Authority of the Chief Medical Officer of Health", dated December 21, 2020, as amended from time to time and located at: https://novascotia.ca/dhw/ccs/documents/COVID-19-Management-in-Long-Term-Care-Facilities-Directive.pdf.

15.3 All long term care facilities licensed by the Department of Seniors and Long Term Care under the *Homes for Special Care Act* are open to visitors, designated caregivers, contracted service providers and volunteers, in accordance with the terms and conditions set out in Schedule “A”, “COVID-19 Management Long Term Care Facilities Directive Under the Authority of the Chief Medical Officer of Health”, dated December 21, 2020, as amended from time to time and located at: https://novascotia.ca/dhw/ccs/documents/COVID-19-Management-in-Long-Term-Care-Facilities-Directive.pdf.

15.4 All residents in homes licensed by the Minister of Community Services under the *Homes for Special Care Act* may have visitors so long as approved by the home in which they reside and comply with all general public health measures required under this Order.

15.5 All residents in homes licensed by the Minister of Seniors and Long Term Care are permitted to have community access in accordance with the terms and conditions set out in Schedule “A”, “COVID-19 Management Long Term Care Facilities Directive Under the Authority of the Chief Medical Officer of Health”, dated December 21, 2020, as amended from time to time and located at: https://novascotia.ca/dhw/ccs/documents/COVID-19-Management-in-Long-Term-Care-Facilities-Directive.pdf.

15.6 All residents in homes licensed by the Minister of Community Services under the *Homes for Special Care Act* are permitted to have community access as long as they comply with all general public health measures required under this Order.

15.7 For greater clarity, nothing in this Order prevents the:

(a) discharge of a COVID-19 patient from a hospital to a long-term care or residential care facility;

(b) transfer of a COVID-19 patient from community to a long-term care or residential care facility; or

(c) return of a COVID-19 patient who has left a long-term care or residential care facility for healthcare services back to that facility after receiving treatment at a hospital.

PART V
BUSINESSES, ORGANIZATIONS AND PROFESSIONS

16. Effective 8:00a.m. October 4, 2021, except where otherwise stated in this Order, the restrictions on businesses, organizations and professions apply to all established businesses, organizations and professions carrying on business and operating in Nova Scotia.

16.1 The *Occupational Health and Safety Act*, 1996, c.7, s.1, is hereby incorporated by reference and must be followed by all employers, contractors, constructors, suppliers, owners and employees and each shall take every precaution that is reasonable in the circumstances to ensure the health and safety of all persons at or near a workplace.

16.2 All not-for-profit and for-profit businesses and organizations operating or carrying on business in Nova Scotia may not carry out COVID-19 Point of Care Screening Tests (PCTs) unless the business or organization:

(a) has obtained prior approval from the Office of the Chief Medical Officer of Health; and

(b) complies with any direction issued by me, as Chief Medical Officer of Health.

16.3 All not for-profit, for-profit businesses, organizations and professions named in this Part shall, as a requirement of their ongoing operations, develop and comply with a Workplace COVID-19 Prevention Plan, as amended from time to time, and this Plan must address the following:

(a) how to work and interact with customers or clients;

(b) cleaning;

(c) equipment;

(d) preparing employees to return to work;

(e) preparing for customers or clients; and

(f) monitoring and communicating of plan,

for similar businesses or health professionals and must be made available for review by the Chief Medical Officer of Health.

16.4 All businesses or regulated health professionals that are a member of an association may adopt their association's Workplace COVID-19 Prevention Plan or their own, which must be made available for review by the Chief Medical Officer of Health.

16.5 In the case of conflict between a Workplace COVID-19 Prevention Plan and this Order, the more stringent provision applies.

16.6 Regulated and unregulated health professions practicing may continue to practice and provide services within their scope of practice if they have a Workplace COVID-19 Prevention Plan.

16.7 Businesses and organizations that host discretionary, non-essential events and activities, as set out in the COVID-19 Protocol for Proof of Full Vaccination for Events and Activities, located at: https://novascotia.ca/coronavirus/docs/COVID-19-Protocol-for-proof-full-vaccination-events-activities-en.pdf, must:

(a) verify proof of full vaccination from each patron/participant before they engage in the activity or event, and each volunteer who hosts, leads or organizes the event or activity unless they have been granted an exception in accordance with the Protocol;

(b) only retain information collected under subsection (a) if the patron/participant or volunteer provides their consent and destroy it on the earlier of their withdrawal of consent or termination of this Order; and

(c) only use the information collected under (a) for the purpose of confirming that the patron/participant or volunteer is fully vaccinated prior to engaging in the event or activity in compliance with this Order and may not use it for any other purpose.

PART VI
EXCEPTIONS

17. Under exceptional circumstances and under the authority granted to me as the Chief Medical Officer of Health under Part I of the *Health Protection Act*, I may exercise discretion to grant an exception to any term and condition of this Order.

PART VII
PENALITIES

18. Any direction provided by a medical officer of health to a person, business, organization or other entity pertaining to COVID-19 and the terms and conditions of this Order must be followed.

19. Failure to comply with this health protection order may be considered a breach of this Order issued under the *Health Protection Act* and may result in penalties under the *Act*.

This Order remains in effect until notice is provided by myself, as Chief Medical Officer of Health, under the authority granted under Part I of the *Health Protection Act* and will be updated from time to time.

Signed:

Dr. Robert Strang
Chief Medical Officer of Health
Nova Scotia Department of Health and Wellness

cc The Honourable Tim Houston, Premier of Nova Scotia
Laura Lee Langley, Deputy to the Premier and Clerk of Executive Council
Michelle Thompson, Minister of Health and Wellness
Jeannine Lagassé, Deputy Minister of Health and Wellness
Dr. Shelley Deeks, Deputy Chief Medical Officer of Health
Tina M. Hall, Legal Counsel, Nova Scotia Dept. of Justice

TAB 4

Motor Vehicle Act

CHAPTER 293 OF THE REVISED STATUTES, 1989

as amended by

1990, c. 36; 1993, cc. 30, 31; 1994, cc. 24, 25; 1994-95, c. 6, s. 65; 1994-95, c. 12; 1994-95, c. 18, s. 3; 1995-96, cc. 20, 22, 23; 1996, cc. 34, 35; 1997, c. 5; 1998, c. 32; 1999, c. 4, s. 26; 1999, c. 11; 2000, c. 14; 2001, c. 12, ss. 2-21; 2001, c. 44, ss. 1-10; 2002, c. 5, s. 33; 2002, c. 10, ss. 10-21; 2002, c. 20, ss. 1-3, 5-12; 2002, c. 30, s. 14; 2003 (2nd Session), c. 1, ss. 28-34; 2004, c. 6, ss. 21-23; 2004, c. 41; 2004, c. 42, ss. 1-4, 6-16; 2005, c. 8, ss. 9-15; 2005, c. 32, ss. 3, 4; 2005, c. 38, ss. 1, 2; 2005, c. 54; 2006, cc. 35-37; 2007, c. 9, s. 30; 2007, c. 20, ss. 8, 9; 2007, c. 45, ss. 1(b), 4-13, 17-25; 2008, c. 2, s. 27; 2008, c. 21, ss. 1, 2, 8-11; 2008, cc. 22, 23, 61, 62; 2009, c. 5, s. 24; 2009, cc. 20-23; 2010, cc. 20, 21, 59; 2010, c. 61, ss. 4, 6, 7; 2010, cc. 62, 63; 2011, c. 8, s. 17; 2011, c. 22; 2011, c. 35, ss. 10-12; 2011, cc. 46, 67; 2012, c. 52; 2013, c. 3, ss. 9, 10; 2013, c. 4; 2013, c. 10, ss. 10-13; 2014, c. 20; 2014, c. 53, ss. 1-11, 12(b), (c), 13-16; 2015, c. 6, ss. 30, 31; 2015, c. 45, ss. 1-3, 5-10, 13-16, 18, 19; 2015, c. 46; 2016, c. 24, s. 27; 2018, c. 3, ss. 46-64; 2018, c. 15; 2018, c. 38, ss. 4-6; 2021, c. 8, s. 23; 2021, c. 32; 2022, c. 21; 2023, c. 4, ss. 38-40

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CHAPTER 293 OF THE REVISED STATUTES, 1989

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An Act in Relation to the Registration and Identification of Motor Vehicles and the Use of the Public Highways by such Vehicles

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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 *Motor Vehicle Act*. R.S., c. 293, s. 1.

INTERPRETATION

Interpretation

2 In this Act,

(a) "accessible taxicab" means a vehicle with a seating capacity of eight passengers or less, excluding the driver, designed and manufactured, or converted, for the purpose of transporting for compensation passengers with physical disabilities, providing ease of entry to and egress from the vehicle in a safe and dignified manner by means of an on-board lift or ramp, and conforming to all sections of *Canadian Standard Association D409: Motor Vehicles for the Transportation of Persons with Physical Disabilities*;

(aaa) "all terrain vehicle" means a wheeled or tracked vehicle designed for the transportation of persons, property or equipment exclusively on marshland, open country or other unprepared surfaces, but does not include a snow vehicle;

(aaaa) "approved container" means an approved container as defined in section 320.11 of the *Criminal Code* (Canada);

(aaab) "approved drug screening equipment" means approved drug screening equipment as defined in section 320.11 of the *Criminal Code* (Canada);

(aab) "approved instrument" means an approved instrument as defined in section 320.11 of the *Criminal Code* (Canada);

(aac) "approved screening device" means an approved screening device as defined in section 320.11 of the *Criminal Code* (Canada);

(b) "authorized insurer" means an insurance company lawfully authorized or permitted to carry on its business in the Province;

(c) "bicycle" means

(i) a vehicle propelled by human power upon which or in which a person may ride and that has two tandem wheels either of which is 350 millimetres or more in diameter or that has four wheels any two of which are 350 millimetres or more in diameter but does not include a wheelchair, or

(ii) a vehicle propelled by human and mechanical power that is fitted with pedals that are operable at all times to propel the bicycle, that has the same wheel requirements as set out in subclause (i) and that has an attached motor driven by electricity not producing more than 500 watts or with a piston displacement of not more than 50 cubic centimetres and is incapable of providing further assistance when the vehicle attains a speed of thirty kilometres per hour on level ground;

NOTE - *There is no clause between clauses (c) and (cb). Clause (ca) follows immediately after clause (bz).*

(cb) "bicycle lane" means a marked lane on a roadway designated by a traffic sign for the use by bicyclists;

(cc) *not proclaimed in force*

(cd) "Bridges patrol officer" means a person employed as a patrol officer with the Halifax-Dartmouth Bridge Commission and appointed as a special constable pursuant to the *Police Act* to enforce this Act and the by-laws of the Halifax-Dartmouth Bridge Commission on the Bridges as defined in the *Halifax-Dartmouth Bridge Commission Act*, when acting in the course of that employment;

(d) "bus" means a motor vehicle operated by or on behalf of a person carrying on upon a highway the business of a public carrier of passengers for compensation and includes any motor vehicle when used for such purpose that the Department shall determine;

(e) "business district" means a territory contiguous to a highway upon which fifty per cent or more of the frontage for a distance of not less than 100 metres is occupied by business premises and includes a section of a highway so designated by the traffic authority by the erection of appropriate signs;

(f) "certificate" means a certificate issued by the Minister, the Registrar or the Department and includes a certificate of registration;

(g) "commercial motor vehicle" means a motor vehicle having attached thereto a truck or delivery body and includes an ambulance, hearse, casket wagon, fire apparatus, police patrol, motor bus, and other motor vehicles used for the transportation of goods;

(ga) "crossing guard" means a person appointed by a regional municipality, town or municipality of a county or district and employed to direct the movement of children along or across highways going to or from school while so employed;

(h) "crosswalk" means that portion of a roadway ordinarily included within the prolongation or connection of curb lines and property lines at intersections or any other portion of a roadway clearly indicated for pedestrian crossing by lines or other markings on the surface;

(ha) "cyclist" means a person operating a bicycle;

(i) "danger zone" means an area or space upon a highway which is so marked or indicated under the provisions of this Act by the proper signs plainly visible;

(j) "dealer" means a person who carries on or conducts, either for the whole or part of his time, the business of buying, selling or dealing in motor vehicles, trailers or semi-trailers;

(k) "Department" means the Department of Public Works acting directly or through its duly authorized officers and agents;

(l) "driver" means a person driving or in charge of a vehicle and includes the operator of a motor vehicle;

(m) "driver's license" means a license issued under this Act to drive a motor vehicle upon the highway;

(ma) "drug recognition evaluation" means an evaluation, test or analysis in relation to drugs conducted in accordance with section 320.28 of the *Criminal Code* (Canada) and the regulations;

(mb) "electric kick-scooter" means a vehicle that is operated in a standing position and has

(i) two wheels placed along the same longitudinal axis, a steerable wheel placed at the front of the vehicle and non-steerable wheel at the rear,

(ii) wheels with a diameter of not less than one hundred and eighty-five millimetres and not greater than four hundred and thirty millimetres,

(iii) a platform for standing between the two wheels,

(iv) a steering handlebar that acts directly on the steerable wheel, and

(v) an electric motor not exceeding five hundred watts that provides a maximum speed of thirty-two kilometres per hour;

(n) "essential parts" means all integral parts and body parts, the removal, alteration or substitution of which will tend to conceal the identity or substantially alter the appearance of the vehicle;

(o) "examiner" means a person appointed by the Minister to examine into and pass upon the qualifications of a person applying for a driver's license;

(p) "farm tractor" means a motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines and other

implements of husbandry and not so constructed as to carry a load other than a part of the weight of a vehicle and load drawn by it, and includes such a motor vehicle equipped front or rear with attachments designed and used for agricultural purposes, loaded or without a load;

(pa) "farm wagon" means a trailer equipped with two axle groups of which the front axle group is steerable and designed and used to carry farm products or farm supplies;

(q) "fictitious number plate" means a number plate not furnished and issued by the Department or not furnished and issued for the current registration year, or which is attached to a vehicle other than that for which it was issued by the Department but does not include number plates on foreign vehicles lawfully operated in the Province or number plates issued to an owner of a vehicle and being used on a vehicle within thirty days of purchase of that vehicle;

(r) "foreign vehicle" means a motor vehicle, trailer or semi-trailer which is brought into the Province otherwise than in the ordinary course of business by or through a manufacturer or dealer and which has not been registered in the Province;

(s) "garage" means a place or premises where motor vehicles are received for housing, storage or repairs for compensation;

(t) "hack" means a horse-drawn vehicle used to transport passengers for compensation;

(u) "highway" means

(i) a public highway, street, lane, road, alley, park, beach or place including the bridges thereon, and

(ii) private property that is designed to be and is accessible to the general public for the operation of a motor vehicle;

(ua) "implement of husbandry" means a vehicle, with or without motive power, that is designed and used for agricultural purposes, and includes

(i) farm machinery,

(ii) a farm wagon,

(iii) a trailer when towed by a farm tractor or when towed unloaded by any other motor vehicle to or from a farm equipment dealer or repair facility or to or from a field or farm, and

(iv) a farm tractor;

(v) "intersection" means the area embraced within the prolongation or connection of the lateral curb lines or, if none, then of the lateral boundary lines of two or more highways which join one another at an angle, whether or not one highway crosses the other;

(w) *repealed 1994, c. 24, s. 1.*

(x) "licensed dealer" means a dealer licensed under this Act;

(y) "licensed garage" means a garage licensed under this Act;

(ya) "licensed learner" means a person who has been issued a driver's license of the following classes as set out in regulations made pursuant to Section 66:

(i) class 6, when operating a motor vehicle other than a motorcycle or farm tractor,

(ii) class 7, when operating a motor vehicle other than a farm tractor,

(iii) class 8, when operating a motor vehicle other than a farm tractor if the person is at least sixteen years of age;

(z) "local authority" means a council of a city or town;

(aa) "metal tires" means tires the surface of which in contact with the highway is wholly or partly of metal or other hard, non-resilient material;

(ab) "Minister" means the Minister of Public Works;

(aba) "mobile-communication support employee" means a person employed with the Department of Service Nova Scotia with employment duties that include providing mobile-radio communication equipment and support to assist first responders, when acting in the course of that employment;

(ac) "motorcycle" means a motor vehicle having

(i) a design to travel on not more than three wheels in contact with the ground,

(ii) a seat height unladen greater than 700 millimetres above the level surface on which the motor vehicle stands,

(iii) a wheel-rim diameter greater than 250 millimetres,

(iv) a wheelbase greater than 1 metre, and

(v) a capability of maintaining a speed of seventy kilometres per hour when laden;

(ad) "motor vehicle" means a vehicle, as herein defined, which is propelled or driven otherwise than by muscular power and does not include a bicycle, personal transporter or an electric kick-scooter;

(ada) "newly licensed driver" means a person who holds a driver's license issued pursuant to this Act that authorizes the person to operate a motor vehicle subject to the conditions set out in subsection (5) of Section 70A;

(ae) "non-resident" means a person who is not a resident of the Province;

(aea) "novice driver" means a person who has the status of a novice driver under Section 70C;

(af) "number plate" includes any proof of registration issued by the Department and required to be affixed to a motor vehicle or trailer;

(afa) "nurse practitioner" means a registered nurse as defined in the *Registered Nurses Act*, whose name appears on the nurse practitioner roster pursuant to the regulations made under that Act and whose registration is not suspended or revoked;

(afb) "occupational therapist" means a person licensed to practise occupational therapy under the *Occupational Therapists Act* and whose licence is not suspended or revoked;

(ag) "official traffic signals" means signals not inconsistent with this Act, placed or erected by authority of a public body or official having jurisdiction, for the purpose of directing, warning or regulating traffic;

(ah) "official traffic signs" means signs, markings and devices, other than signals, not inconsistent with this Act, placed or erected by authority of a public body or official having jurisdiction, for the purpose of guiding, directing, warning or regulating traffic;

(ai) "one-way street" means a highway designated and marked by the Department or traffic authority upon which vehicles may be operated in one direction only;

(aj) "operator" means a person driving a motor vehicle on the highway or who has the care or control of the motor vehicle on a highway whether in motion or not;

(ak) "optometrist" means a person licensed to practise optometry under the *Optometry Act* and whose licence is not suspended or revoked;

(al) "owner's permit" means a permit issued to a registered owner of a motor vehicle;

(am) "parking" means the standing of a vehicle whether occupied or not, upon a roadway, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading, or in obedience to traffic regulations or traffic signs or signals;

(an) "peace officer" includes a police officer as herein defined;

(ao) "pedestrian" means a person afoot and includes a person in a wheelchair and a person riding on a motorized cart designed for and being used to transport golfers and equipment over a golf course while travelling from one part of it to another in a crosswalk marked for the purpose on the roadway and approved by a traffic authority appointed pursuant to this Act;

(aoa) "pedestrian-activated beacon" means a flashing amber light activated by a pedestrian to indicate to drivers of vehicles on a roadway that the pedestrian is crossing, or waiting or about to cross, the roadway;

(ap) "permit" means a permit issued under this Act;

(aq) "person" includes a body corporate or politic, and party;

(aqa) "personal transporter" means a self-balancing electric vehicle with two side-by-side wheels and designed for the personal transportation of a single person and, for greater certainty, includes a Segway;

(aqb) "physical coordination test" means a physical coordination test in accordance with clause (a) of subsection (1) of section 320.27 of the *Criminal Code* (Canada);

(ar) "pneumatic tires" means tires inflated with compressed air;

(as) "pole trailer" means a vehicle without motive power that is designed to be drawn by another vehicle and to be attached to the towing vehicle by means of a reach or pole, or by being boomed or otherwise secured to the towing vehicle and is ordinarily used for transporting poles, pipes, structural members or other long or irregularly shaped loads which are capable of sustaining themselves as beams between the supporting connections;

(at) "police" or "police officer" means a member of the Royal Canadian Mounted Police, a police officer appointed by a city, town or municipality, a police officer appointed by the Attorney General, or a motor vehicle inspector;

(au) "private road or driveway" means a road or driveway not open to the use of the public for purposes of vehicular traffic;

(av) "proof of financial responsibility" means a certificate of insurance or certificate of the Superintendent of Insurance for the Province given pursuant to Section 236;

(aw) "provincial highway" means a highway outside the limits of a city or incorporated town;

(awa) "public-safety officer" means

(i) a Bridges patrol officer,

(ii) a mobile-communication support employee,

(iii) a sheriff, or

(iv) a person in a class of persons prescribed by the regulations;

(awb) "public-safety vehicle" means a vehicle operated by a public-safety officer;

(awba) "qualified medical practitioner" means a medical practitioner as defined in the *Medical Act*;

(ax) "reconstructed vehicle" means a vehicle assembled or constructed largely by means of new or used essential parts, derived from other vehicles or which, if originally otherwise constructed, has been materially altered by the removal of essential parts or by the addition or substitution of new or used essential parts, derived from other vehicles;

(ay) "registered owner" means a person in whose name a vehicle is registered under this Act;

(aya) "registered psychologist" means a person whose name is on the Register of Psychologists established under the *Psychologists Act* and whose registration is not suspended or cancelled;

(az) "registered weight" means the weight in kilograms stated upon the permit for a vehicle;

(ba) "Registrar" means the Registrar of Motor Vehicles, appointed under this Act and includes the Deputy Registrar of Motor Vehicles appointed under this Act;

(bb) "registration year" means the calendar year unless the Minister otherwise determines or the period ending on the date specified when the vehicle is registered under the staggered system of vehicle registration;

(bc) "residence district" means the territory contiguous to a highway not comprising a business district when the frontage on the highway for a distance of 100 metres or more is mainly occupied by dwellings or by dwellings and business premises and includes any section of a highway so designated by the traffic authority by the erection of appropriate signs;

(bd) "resident" includes a person who

(i) for more than thirty days in any year is employed or engaged in any activity for gain in the Province,

(ii) is attending school or college in the Province,

(iii) is in the Province and whose children attend school in the Province,

(iv) lives in the Province for more than ninety days in any year;

(be) "right of way" means the privilege of the immediate use of the highway;

(bf) "road tractor" means a motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon independently or any part of the weight of a vehicle or load so drawn;

(bg) "roadway" means that portion of a street or highway between the regularly established curb lines or that part improved and intended to be used for vehicular travel;

(bh) "safety zone" means the area or space officially set apart within a highway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone;

(bi) "school bus" means a school bus as defined in the *Motor Carrier Act* and includes a school bus marked or designated as such as provided by regulation;

(bj) "semi-trailer" means a vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests upon or is carried by another vehicle;

(bk) "serial number" includes an identification number assigned to or placed on a vehicle by its manufacturer as a manufacturer's number and vehicle number;

(bka) "sheriff" means a person employed as a sheriff with the Department of Justice with employment duties that include transporting prisoners, providing court security and serving civil processes, when acting in the course of that employment;

(bl) "sidewalk" means that portion of a highway between the curb line and the adjacent property line or any part of a highway especially set aside for pedestrian travel and separated from the roadway;

(bm) "solid rubber tire" means a tire made of rubber other than a pneumatic tire;

(bn) "specially constructed vehicle" means a vehicle which was not originally constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles;

(bo) "state" means any state in the United States of America and includes the District of Columbia;

(bp) "street car" means every device propelled by electricity travelling exclusively upon rails when upon or crossing a street;

(bpa) "supervising driver" means a person who

(i) meets the qualifications to act as a supervising driver set out in subsection (1) of Section 69A, and

(ii) has agreed to supervise a licensed learner or a newly licensed driver who is driving a motor vehicle;

(bq) "taxicab" means a motor vehicle other than a bus used to transport passengers for compensation;

(br) "temporary number" means a number issued by the Department under this Act to be used temporarily until replaced by a permanent number issued in accordance with this Act;

(bs) "traffic" includes pedestrians, herded animals, vehicles, street cars and other conveyances either singly or together while using any street for purposes of travel;

(bt) "traffic control signal" means a device whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and to proceed;

(bu) "trailer" means a vehicle without motive power designed to carry property or passengers wholly on its own structure and to be drawn by a motor vehicle and includes self-contained commercial units, such as com-

pressors, generators, welders or other utility equipment or farm machinery, designed to be drawn by a motor vehicle;

(bua) "transit bus" means a motor vehicle operated by or subsidized by a municipality or a regional transit authority;

(bv) "Treasurer" means the Minister of Finance and Treasury Board;

(bw) "trolley coach" means a motor vehicle operated with electricity as the motive power through contact with overhead wires;

(bx) "truck" includes a motor vehicle designed, used or maintained primarily for the transportation of goods, materials or property;

(by) "truck tractor" means a motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn;

(bz) "used vehicle" means a motor vehicle which has been sold, bargained, exchanged, or given away or of which title has been transferred from the person who first acquired it from the manufacturer or importer, dealer or agent of the manufacturer or importer, and so used as to have become what is commonly known as "second-hand" within the ordinary meaning thereof;

(ca) "vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting a motorized wheelchair and devices moved by human power or used exclusively upon stationary rails or tracks. R.S., c. 293, s. 2; 1994, c. 24, s. 1; 1994-95, c. 12, s. 1; 1995-96, c. 23, s. 1; 2001, c. 12, s. 2; 2002, c. 20, s. 1; 2004, c. 42, s. 1; 2006, c. 35, s. 1; 2007, c. 45, s. 1; 2008, c. 21, s. 1; 2010, c. 59, s. 1; 2011, c. 35, s. 10; O.I.C. 2013-348; 2014, c. 20, s. 1; 2014, c. 53, s. 1; 2015, c. 45, s. 1; 2015, c. 46, s. 1; 2018, c. 3, s. 46; O.I.C. 2019-149; O.I.C. 2021-209; 2022, c. 21, s. 1; O.I.C. 2023-148; revision corrected.

Owner of vehicle

2A (1) Subject to subsections (2) and (3), in this Act, "owner" of a vehicle means

(a) where a permit is issued for the vehicle, the person who holds the permit for the vehicle; or

(b) where no permit is issued for the vehicle, the person who holds the certificate of registration for the vehicle.

(2) Where this Act or the regulations requires that the owner of a vehicle be notified that the vehicle may be sold under the authority of this Act, "owner" means any person who holds a permit for the vehicle and any person who holds a certificate of registration for the vehicle.

(3) In this Act, where no permit and no certificate of registration have been issued for a vehicle or for the purpose of obtaining a certificate of registration for a vehicle, the owner of the vehicle is any person who, alone or jointly with one or more others, has the right to transfer property in the vehicle.

(4) For greater certainty, where a person who is the owner of a vehicle enters into an agreement under which the person transfers an interest in the vehicle to a creditor to secure payment or performance of an obligation, the person transferring the interest rather than the creditor is the owner of the vehicle. 2011, c. 35, s. 11.

Registrar of Motor Vehicles

3 The Minister shall appoint a person to be Registrar of Motor Vehicles for the Province, who shall perform such duties as are prescribed by this Act, and the Registrar shall receive such remuneration as is determined in accordance with the *Civil Service Act*. R.S., c. 293, s. 3.

Deputy Registrar of Motor Vehicles

4 (1) The Minister may appoint a person in the public service to be Deputy Registrar of Motor Vehicles who shall perform such functions and duties as are prescribed by the Minister.

(2) In the absence or incapacity of the Registrar or when the office of Registrar is vacant, the Deputy Registrar shall perform the functions and duties and shall have the powers and authorities of the Registrar.

(3) The Deputy Registrar may, upon the direction of the Minister or Registrar, perform the functions or duties or exercise the powers and authorities of the Registrar. R.S., c. 293, s. 4.

Director of Highway Safety

5 (1) The Minister may appoint a person in the public service to be Director of Highway Safety who shall perform such functions and duties are conferred upon him by or under this Act or are prescribed by the Minister.

(2) The Director of Highway Safety shall have and exercise the functions and powers of the Registrar under Sections 205, 227, 231, 232, 239, 264 and 280, clause (c) of Section 281 and Sections 282, 283, 284, 286, 289 and 290, and any certificate or document issued by the Director has the same force and effect for all purposes as if it had been signed or executed by the Registrar. R.S., c. 293, s. 5; revision corrected.

Motor vehicle inspectors

6 (1) The Minister may appoint motor vehicle inspectors whose duty it shall be to enforce this Act.

(2) An inspector shall be furnished with a certificate of appointment and, on inspecting any document or vehicle, the inspector shall, if requested, produce the certificate of appointment.

(3) The owner or person who has the charge, management or control of any vehicle inspected pursuant to this Act shall give an inspector all reasona-

ble assistance to enable the inspector to carry out the duties and functions of an inspector.

(4) No person shall, while an inspector is exercising the powers or carrying out the duties and functions of an inspector,

(a) fail to comply with any reasonable request of the inspector;

(b) knowingly make false or misleading statements, either verbally or in writing, to the inspector; or

(c) otherwise obstruct or hinder the inspector. R.S., c. 293, s. 6; 1996, c. 34, s. 1.

Speedometer testers and engineers

7 (1) The Minister of Justice may appoint one or more qualified persons as testers of the speedometers on motor vehicles and of other devices used for or in connection with establishing the speed of vehicles.

(2) In any prosecution under this Act, a certificate purporting to be issued by a tester appointed under subsection (1), bearing a date thereon not more than thirty days before or after the date of an alleged offence charged in the information or complaint, signed by the tester, and stating therein the results of a test of the speedometer on the motor vehicle or other device mentioned therein, is admissible in evidence as *prima facie* proof of the accuracy of the speedometer or other device as stated in the certificate on the date of the alleged offence in the information or complaint.

(3) Where markings for the purpose of indicating distances are painted on a highway, a certificate purporting to be signed by an engineer employed by the Department and certifying the measured distance between such markings shall be admitted in evidence as *prima facie* proof of the facts stated therein without proof of the signature or official character of the person signing the certificate. R.S., c. 293, s. 7; R.S., c. 376, s. 4; O.I.C. 93-352.

7A *not proclaimed in force*

Medical Advisory Committee

7B (1) There shall be a Medical Advisory Committee composed of such medical doctors, optometrists, psychologists and other licensed healthcare professionals appointed by the Minister as the Minister considers necessary for the functions and duties assigned to the Committee pursuant to this Act.

(2) The Minister may

(a) set the term of appointment; and

(b) determine the remuneration,

of the members of the Medical Advisory Committee.

(3) The Medical Advisory Committee shall perform the duties and functions assigned to it by this Act.

(4) The Medical Advisory Committee or a member of the Committee shall, when requested by the Registrar, provide any information, recommendations and opinions required by the Registrar for the purpose of this Act.

(5) Subject to subsection (6), no person shall disclose

(a) any information related to a request that is referred to the Medical Advisory Committee by the Registrar; or

(b) any information, recommendations or opinions provided to the Registrar by the Committee.

(6) A person may disclose information described in subsection (5) if the disclosure is required to

(a) administer this Act or the regulations; or

(b) carry out a responsibility imposed or exercise a power conferred by this Act or the regulations. 2011, c. 67, s. 1.

Motor Vehicle Appeal Board

7C (1) There shall be a Motor Vehicle Appeal Board composed of three or more persons appointed by the Minister.

(2) The Minister may

(a) set the term of appointment; and

(b) determine the remuneration,

of the members of the Motor Vehicle Appeal Board.

(3) The Minister may designate a member of the Motor Vehicle Appeal Board as Chair.

(4) The Motor Vehicle Appeal Board shall perform the duties and functions assigned to it by this Act.

(5) The Motor Vehicle Appeal Board shall hear appeals with respect to

(a) decisions by the Registrar, pursuant to subsection (2) of Section 279, to suspend or revoke a driver's license or privilege of obtaining a driver's license suspended pursuant to clause (a), (b), (d), (e) or (f) of subsection (1) of Section 279;

(b) decisions by the Registrar pursuant to Section 279B to sustain orders of suspension issued pursuant to Section 279A; or

(c) orders to impound motor vehicles issued by the Registrar pursuant to Section 291A.

(6) The Motor Vehicle Appeal Board is not required to hold an oral hearing unless the appellant requests an oral hearing at the time of filing the appeal and pays the fee prescribed by the regulations.

(7) An appeal to the Motor Vehicle Appeal Board may be conducted in writing or, at the request of the appellant, may be conducted in person.

(8) Where an appeal to the Motor Vehicle Appeal Board is conducted in person, the hearing must be conducted *in camera* and may be attended by

(a) the appellant and the appellant's representative, if any; and

(b) any person granted permission by the Board to attend.

(9) No person other than the appellant or the appellant's representative shall publicly disclose

(a) any information concerning the appellant that is referred to or heard by the Motor Vehicle Appeal Board for the purpose of the appeal; or

(b) the appeal decision of the Board.

(10) A decision of the Motor Vehicle Appeal Board is final and not subject to any further appeal or review.

(11) The Minister may make regulations respecting appeals to the Motor Vehicle Appeal Board, including regulations

(a) prescribing the form and manner of filing an appeal;

(b) prescribing the fees for filing an appeal;

(c) prescribing the manner or place for conducting an appeal;

(d) respecting requirements for evidence provided for an appeal;

(e) setting the quorum for the Board;

(f) respecting the form of appeal decisions; and

(g) respecting such other matters as are necessary for the administration of appeals.

(12) The exercise of the authority contained in subsection (11) is regulations within the meaning of the *Regulations Act*. 2011, c. 67, s. 1.

Division of Act

8 It is hereby expressly declared that the division of this Act into Parts is for convenience only. R.S., c. 293, s. 8.

Certain exemptions for trolley coaches

9 Sections 47, 48, 108, clause (d) of Section 143, subsection (6) of Section 189, Sections 250 to 254 and Sections 273 to 276 do not apply to any motor vehicle that is a trolley coach. R.S., c. 293, s. 9.

PART I

REGISTRATION OF VEHICLES

Classification of vehicles

10 (1) Subject to the approval of the Governor in Council, the Minister may make regulations dividing vehicles into various classes, prescribing conditions governing the registration and operation of each class, providing for the number of number plates to be affixed to each vehicle in each class, providing for the location of the number plates to be affixed to each vehicle in each class and providing penalties for violation of such regulations.

(2) Such regulations upon publication in the Royal Gazette shall have the same force and effect as if the regulations were contained in this Act. R.S., c. 293, s. 10.

Prohibited vehicles

11 The Department shall not register, and no person shall operate on a highway, a miniature motor vehicle, an all terrain vehicle, an air-cushioned vehicle, a "go-kart", a "mini-bike", a motorized vehicle designed to be driven exclusively or chiefly on snow or ice or both, or any motorized vehicle of a like nature. R.S., c. 293, s. 11.

Serial numbers

12 (1) The Department shall not register a new vehicle where the serial number of the vehicle indicates that it is of a different model year than the model year shown in the application for registration of the vehicle.

(2) Notwithstanding subsection (1), where there is a serial number for the chassis and the body of a vehicle indicating a different model year, the later year shall be shown as the model year for the vehicle. R.S., c. 293, s. 12; 1994-95, c. 12, s. 2.

Registration by owner

13 (1) Every owner of a motor vehicle, trailer or semi-trailer intended to be operated upon a highway in the Province shall, before the same is so operated, apply to the Department for and obtain the registration thereof, except as provided in Sections 23(6), 26 and 30 or regulations made under Section 25.

(2) Notwithstanding subsection (1), a non-resident who becomes a resident and who is the owner of a motor vehicle, trailer or semi-trailer that is licensed or registered in his home province or country may operate the same upon highways in the Province for a period of thirty days from the date upon which he became a resident of the Province or ninety days where residency is determined pursuant to subclause (iv) of clause (bd) of Section 2.

(2A) Notwithstanding subsections (1) and (2), a non-resident who becomes a resident and who is the owner of a motor vehicle, trailer or semi-trailer that is licensed or registered in the owner's home province or country may operate the same upon highways in the Province for six months for non-business purposes so long as the owner is a member of His Majesty's Canadian Forces within the Province on a temporary posting for training purposes, and for ninety days thereafter.

(3) The Minister may make and enforce regulations providing that a vehicle may be operated upon the highways under a temporary permit issued by the Department or by a person so authorized by the Department. R.S., c. 293, s. 13; 2004, c. 42, s. 2; 2008, c. 61, s. 1.

Application for registration

14 (1) Application for the registration of a vehicle required to be registered hereunder shall be in such form as the Minister shall determine and shall be accompanied by such evidence as shall satisfy the Registrar that the applicant is the owner of the vehicle.

(2) In the event that the vehicle, for which registration is applied, is a specially constructed, reconstructed or foreign vehicle, that fact shall be stated in the application, and with reference to every foreign vehicle which has been registered theretofore outside of this Province, the owner shall exhibit to the Department the certificate of title or registration or other evidence of former registration as may be in the applicant's possession or control or such other evidence as will satisfy the Department that the applicant is the lawful owner of the vehicle.

(3) No vehicle shall be registered in the name of a person under the age of sixteen years.

(4) Where the vehicle for which registration is applied is a foreign vehicle, the Department may require the owner to surrender the certificate of title or registration, the number plates and any other evidence of former registration as may be in the owner's possession. R.S., c. 293, s. 14.

Registration and appeal from refusal

15 Subject to this Act, the Department when satisfied as to the genuineness and regularity of an application, and that the applicant is entitled thereto, shall register the vehicle therein described and the owner thereof in suitable records under a distinctive registration number hereinafter referred to as the "registration number", provided, however, that the Registrar may refuse or withhold registration

of any vehicle and in case of such refusal or withholding an appeal may be taken to the Minister whose decision shall be final. R.S., c. 293, s. 15.

Permit

16 (1) Subject to this Act, the Department upon registering a vehicle shall issue to the owner a permit which shall contain the registration number assigned to the owner, the name and address of the owner, a description of the registered vehicle including the serial number thereof, such other particulars as may be required by the Department, and a statement that the operation of the vehicle is thereby authorized under this Act, and if the permit is subject to any special conditions authorized under this Act or under any regulations made pursuant to this Act, the permit shall also contain a brief statement of the conditions, and no person shall operate such a vehicle in violation of or contrary to any such special conditions.

(2) Notwithstanding anything in this Act, a permit may be issued under subsection (1) in respect of a commercial motor vehicle for any period less than a registration year and defined by dates that the Governor in Council may approve, and such permit shall state upon the face thereof the date upon which it expires.

(3) Notwithstanding subsection (1), the Department, upon registering a vehicle, may issue to the owner an interim permit under the same terms and conditions as provided for a permit issued pursuant to subsection (1), which shall be valid until a vehicle registration permit is issued pursuant to subsection (1). R.S., c. 293, s. 16.

Non-payment of tax

17 Upon receipt of a report from the Provincial Tax Commissioner that

(a) a person, who has applied for registration of a vehicle required to be registered pursuant to this Act, has not paid the tax required to be paid pursuant to the *Health Services Tax Act* or the *Gasoline and Diesel Oil Tax Act*; or

(b) a person, who holds a permit or registration issued pursuant to this Act, has not paid the tax required to be paid pursuant to the *Health Services Tax Act* or the *Gasoline and Diesel Oil Tax Act* in respect of a vehicle registered pursuant to this Act,

the Registrar shall refuse the application for registration or suspend the permit and registration, as the case may be, until the Commissioner reports that the tax has been paid. R.S., c. 293, s. 17.

Duty to carry permit

18 (1) Subject to subsections (2) and (3), an unexpired permit for a vehicle shall at all times while the vehicle is being operated upon a highway within this Province be in the possession of the driver thereof or carried in the vehicle and subject to inspection by any peace officer.

(2) It shall not be necessary for an unexpired permit for a farm tractor to be in the possession of the driver thereof or carried in the farm tractor.

(3) Where a vehicle is registered in another province of Canada or in a state, an unexpired proof of registration for the vehicle issued by that other province or that state shall at all times while the vehicle is being operated upon a highway within this Province be in the possession of the driver thereof or carried in the vehicle and subject to inspection by any peace officer and subsection (1) does not apply. R.S., c. 293, s. 18; 2004, c. 6, s. 21.

Number plate

19 (1) The Department shall also furnish to every owner whose vehicle is registered the number of number plates assigned to the owner in the regulations.

(2) Every number plate shall have displayed upon it the registration number assigned to the owner and such other matter as the Minister may determine.

(3) The Registrar shall have authority to require the return to the Department by the owner, of all number plates and permits upon the termination of the lawful use thereof, under this Act, and the owner shall return the same forthwith to the Department when so requested. R.S., c. 293, s. 19.

Display of number plate

20 (1) Number plates assigned to an owner and required to be attached to a vehicle shall be attached thereto and displayed as prescribed by the regulations.

(2) Every number plate assigned to an owner and required to be attached to a vehicle shall at all times be securely fastened to the vehicle so as to prevent the plate from swinging and at a height not less than 300 millimetres from the ground, measuring from the bottom of the plate, in a place and position to be clearly visible, and shall be maintained free from foreign materials and in a condition to be clearly legible. R.S., c. 293, s. 20.

Expiry and renewal of registration

21 (1) Every vehicle registration under this Act expires on the date specified or determined by regulation.

(2) A vehicle registration under the staggered system of registration expires on the date specified when the vehicle is registered.

(3) A vehicle registration shall be renewed by the owner upon application and payment of the required fees. R.S., c. 293, s. 21; 1995-96, c. 22, s. 1.

Extension of vehicle registrations

22 **(1)** Notwithstanding Section 21, the Governor in Council may from time to time by order declare that vehicle registrations under this Act shall not expire until a day named in the order.

(2) When the Governor in Council makes an order pursuant to subsection (1) every permit and the number plates relating to a vehicle registration for that year that have not been renewed, suspended, revoked or cancelled or that have not expired through transfer of ownership shall be deemed to be valid until the day named in the order notwithstanding that an expiry date is stated in the permit or other document relating to the vehicle registration or on the number plates.

(3) Where the provisions of this Act are in conflict with the provisions of this Section with respect to the current registration year, the provisions of this Section shall govern. R.S., c. 293, s. 22.

Effect of vehicle transfer

23 **(1)** Whenever a vehicle as registered under the foregoing provisions of this Act is sold or disposed of any permit issued respecting the vehicle shall thereupon terminate and the registration of the vehicle shall be deemed to be suspended from the date of the sale or disposal until the transferee has obtained a permit as provided by subsection (5).

(2) Notwithstanding subsection (1), whenever a vehicle is sold or disposed of the vehicle shall be deemed to be registered under the name of the new purchaser or transferee providing there is displayed valid plates assigned to that person for a period not exceeding thirty days from the time of the sale or the disposition.

(3) Notwithstanding any sale, disposal or transfer of a vehicle, the number plates originally assigned to the seller are to be removed by him and maintained until the expiry date of those number plates for re-assignment to a new vehicle he may purchase unless returned to or required to be returned by the Department.

(4) When a vehicle registered pursuant to this Act is sold, the seller shall complete the notice of sale portion of the certificate of registration and immediately forward it to the Department.

(5) In the event the Department does not receive the notice of sale portion of the certificate of registration properly endorsed, as provided in subsection (4), the Department may register the vehicle provided it is satisfied as to the genuineness and regularity of the transfer.

(6) In the event of the transfer by the operation of law of the title or interest of an owner in and to a vehicle by reason of the bankruptcy of the owner, execution sale, repossession upon default in performing the terms of a conditional sale agreement or otherwise, the registration thereof shall expire and the vehicle shall not be operated upon the highways until and unless the persons entitled thereto

shall apply for and obtain the registration thereof, excepting that trustee or other representative of the owner or a sheriff or other officer repossessing the vehicle under the terms of a conditional sale contract, lease, chattel mortgage or other security or the assignee or other representative of such person may operate or cause to be operated the vehicle upon the highways from the place of repossession or place where formerly kept by the owner to a garage, warehouse or other place of keeping or storage while displaying upon the vehicle the number plates issued to the former owner.

(7) Immediately upon the death of a registered owner, the vehicle is deemed to be registered in the name of the estate of the deceased registered owner for a period of sixty days unless an application for other registration of the vehicle is sooner made.

(7A) Where a registered owner dies intestate or dies leaving an estate that is not subject to a grant of probate, the Department may determine and recognize a person as the personal representative of the deceased registered owner, and the priorities prescribed by clauses (a) to (e) of subsection (1) of Section 32 of the *Probate Act* apply *mutatis mutandis* to the determination.

(7B) Where the Department is unable to determine and recognize a personal representative of a deceased registered owner under subsection (7A), the Department may recognize as the personal representative of the deceased registered owner any person that the Department considers fit to act as the personal representative.

(7C) The personal representative of a deceased registered owner of a vehicle, as recognized by the Department under subsection (7A) or (7B), may apply to the Department for and obtain the registration of the vehicle.

(8) Where no application for registration is sooner made, the vehicle of a deceased registered owner is deemed to be unregistered at the expiration of sixty days following his death and any number plates assigned to the deceased owner shall be returned to the Department.

(9) Subsections (7), (7C) and (8) do not affect the title or interest of any person in the vehicle or the protection provided by the *Insurance Act* upon the death of an insured vehicle owner.

(10) In any proceedings where the question arises as to whether the requirements of subsection (1) have been complied with, the burden of proof that the transferee has complied with the requirements of subsection (1) shall be upon the transferee.

(11) When a vehicle registered under the Act is sold or disposed of or the title or interest of an owner in and to a vehicle is transferred by the operation of law and an application for the registration of the vehicle is made to the Department, the Registrar may refuse to register the vehicle unless the applicant files with the Department proof, in a form satisfactory to the Registrar, that any tax required to be paid under the *Health Services Tax Act* in respect of the vehicle has been paid.

(12) No action or other proceeding for damages shall be instituted against the Registrar, any employee of the Department or His Majesty in Right of the Province for any act done in good faith in the execution or intended execution of a power or duty under this Section or for any alleged neglect or default in the execution in good faith of that power or duty. R.S., c. 293, s. 23; 1994-95, c. 12, s. 3; 2015, c. 45, s. 2.

Notice of transfer by dealer

24 (1) Every dealer, upon transferring a motor vehicle, trailer or semi-trailer, whether by sale, lease or otherwise, to any person other than a dealer, shall immediately give written notice of the transfer to the Department upon the official form provided by the Department.

(2) Every such notice shall contain the date of the transfer, the names and addresses of the transferor and transferee and such description of the vehicle as may be called for in the official form.

(3) The Registrar may direct that the notice be given weekly, monthly or otherwise as he may determine. R.S., c. 293, s. 24.

Exemption and inter-provincial trucking

25 (1) Subject to the approval of the Governor in Council, the Minister may from time to time make regulations exempting from registration such vehicles as he thinks proper and prescribing the restrictions, terms and conditions, if any, under which such vehicles shall be exempt.

(2) Subject to the approval of the Governor in Council, the Minister may from time to time make regulations providing for the implementation of a mileage prorated motor vehicle registration plan for inter-provincial trucking in accordance with agreements made with other jurisdictions.

(3) Whenever the Minister has made regulations under subsection (1) or (2) and any person claims exemption from registration thereunder, the burden of proof that such person is entitled to the exemption shall be upon the person so claiming the exemption. R.S., c. 293, s. 25.

DEALERS' NUMBER PLATES

Dealer number plate

26 (1) A dealer licensed under this Act, and such other persons as the Minister may determine owning or operating any vehicle upon any highway, in lieu of registering each vehicle may obtain from the Department upon application therefor upon the proper official form and payment of the fees required by law and attach to each vehicle one number plate which shall bear thereon a distinctive number, and such other matter as the Minister may determine, and plates so issued may, during the calendar year for which issued, be transferred from one such vehicle to another owned or operated by the dealer, who shall keep a written record of the vehicles

upon which the dealer's number plates are used, which record shall be open to inspection by any peace officer or any officer or employee of the Department.

(2) No dealer in motor vehicles, trailers, or semi-trailers shall cause or permit any such vehicle owned by such person or persons to be operated or moved upon a highway without there being displayed upon the vehicle a number plate or plates issued to such person, either under Section 19 or under this Section except as otherwise provided in Section 30 and subsection (3) of Section 13.

(3) When first taking possession of a vehicle already registered under this Act, any dealer may, without registering the vehicle, operate or move, or cause to be operated or moved, any such vehicle upon a highway if there is in force in respect of the vehicle a valid certificate of registration and if the certificate has been assigned to the dealer and is in possession of the driver of the vehicle and there is displayed a valid dealer number plate assigned to that dealer.

(4) Notwithstanding Section 20, a dealer or person using upon a vehicle a number plate issued under this Section shall attach the plate to the rear of the vehicle. R.S., c. 293, s. 26.

Use of dealer number plate

27 (1) No person shall operate or move upon a highway a vehicle to which a dealer's number plate is attached when the vehicle is being used for the transportation of persons for gain or the transportation of goods or when the vehicle is being rented.

(2) Notwithstanding subsection (1) but subject to all other provisions of this Act, a commercial vehicle to which a dealer's number plate is attached may be operated

(a) for a period not exceeding one day with or without a load for demonstration purposes while the dealer or an agent or employee of the dealer is in the vehicle; or

(b) for the period required to transport the vehicle with or without a load owned by the dealer from the manufacturer's premises to the dealer's premises or from the dealer's premises to the premises of his sub-dealer while the dealer or an agent or employee of the dealer is in the vehicle.

(3) No dealer shall use any dealer's number plate issued to him upon any vehicle unless

(a) the vehicle is a new vehicle and the dealer has filed with the Department a certificate, satisfactory to the Registrar, from the manufacturer of the vehicle or from a dealer not having an established place of business in this Province or from another dealer having authority to issue such a certificate in respect of a vehicle of that make, that the dealer has a franchise or sales contract authorizing him to sell vehicles of that make;

(b) a certificate of registration has been issued in respect of the vehicle and the certificate of registration is in the name of the dealer or has been assigned to the dealer; or

(c) the dealer can show that he has made application in his own name for a certificate of registration in respect of the vehicle. R.S., c. 293, s. 27.

Dealer permit

28 (1) The Department shall issue a dealer's permit in respect to each dealer's number plate.

(2) Every dealer's permit shall state thereon the number of one of the dealer's number plates and it shall be an offence for the driver or person in charge of a vehicle displaying a dealer's number plate to fail to produce, on the request of a peace officer, a dealer's permit bearing the same number as the number plate.

(3) Every dealer's permit shall state thereon the number of the dealer's license, the number of the number plate and such other matter as the Minister may determine and the permit and the plate to which it refers, when not in actual use upon a highway, shall be kept at the place of business for which the dealer's license was issued.

(4) Where the Registrar is satisfied that a dealer's number plate is being used for purposes not related to the business of the dealer or person, the Registrar may, by order, cancel the dealer's permit issued in respect of the dealer's number plate and require the return of the dealer's number plate. R.S., c. 293, s. 28.

Dealer number plate for transporting vehicles

29 (1) The Department may issue dealers' number plates to a person who is engaged in the business of transporting vehicles whether or not the person is a dealer licensed under this Act.

(2) Dealers' number plates issued under subsection (1) may be attached to a vehicle that is being transported with or without load to a point of delivery within the Province.

(3) The provisions of Section 28 and the other provisions of this Act shall apply in respect of each number plate except that, if the person is not a dealer licensed under this Act, the provisions relating to a dealer licensed under this Act shall not apply.

(4) A dealer's permit issued in respect of a dealer's number plate issued under this Section shall, in addition to any matter required to be stated, state that the dealer's number plate may be used only while the vehicle is being transported to a point of delivery within the Province. R.S., c. 293, s. 29.

Temporary numbers and in-transit permits

30 **(1)** Notwithstanding the foregoing provisions of this Act in regard to the issuing and displaying of number plates, the Minister may authorize dealers and other persons designated by him, to issue temporary numbers in a form to be approved by him pending the issue of number plates and a permit as required by this Act, subject to such conditions as the Minister may cause to be stated on the temporary numbers, the owner of any vehicle legally displaying temporary numbers shall be deemed to have complied with this Act in regard to the display of number plates and it shall be an offence for any person to fail to comply with any conditions stated on the temporary numbers.

(2) The Minister may authorize dealers and other persons to issue in-transit permits in a form approved by the Minister and containing such conditions as the Minister prescribes.

(3) Upon payment of the prescribed fee an in-transit permit may be issued in respect of a vehicle that is not registered or for which no permit or number plates have been issued.

(4) Notwithstanding any other provision of this Act, an in-transit permit authorizes the vehicle in respect of which it is issued to be operated or moved on a highway without load for a single trip from a place to another place named in the permit and in accordance with the conditions stated in or on the permit.

(5) The person to whom an in-transit permit is issued shall display it in the lower right hand corner of the windshield of the vehicle in respect of which it was issued and shall remove the permit and destroy it immediately after the vehicle has completed the trip for which the permit was issued.

(6) It is an offence for a person to fail to observe or comply with any provision of this Section or with any provision or condition of an in-transit permit issued to him. R.S., c. 293, s. 30.

Regulations respecting dealer number plates

31 Subject to this Act, the Minister may make regulations governing the withholding, refusal to issue, cancellation and use of dealer's number plates and may delegate to the Registrar such authority as he deems expedient and it shall be an offence against this Act for any person to violate any provision of those regulations. R.S., c. 293, s. 31.

Regulations respecting dealers

32 **(1)** Subject to the approval of the Governor in Council, the Minister may make regulations

(a) defining or classifying dealers or determining who shall be a dealer for the purposes of this Act or the regulations;

(b) prescribing or fixing the standards to be maintained by any dealer in respect of his premises, equipment, service or any of them;

(c) governing the issuing, withholding and revocation of licenses for dealers or any class of dealers;

(d) providing for the bonding of dealers and specifying the amount and terms and conditions of bonds;

(e) for the more effective administration of this Act in relation to the buying, selling or dealing in motor vehicles, trailers or semi-trailers.

(2) Any regulations made under the authority of this Section may be general in their application or may be made applicable to any class or classes of dealers.

(3) It shall be an offence for any person to violate any provision of any such regulation.

(4) Where the regulations made under the authority of this Section relate to a matter for which provision is made in this Act the regulations may provide that the particular Section or Sections of this Act shall not apply. R.S., c. 293, s. 32.

Motor Vehicle Safety Act (Canada) standards

33 No person who deals in new vehicles shall sell or offer to sell a new vehicle that does not conform to standards required under the *Motor Vehicle Safety Act* (Canada). R.S., c. 293, s. 33.

GENERAL PROVISIONS IN REGARD TO REGISTRATION AND NUMBER PLATES

Responsibility respecting errors, custody, loss or damage

34 (1) Any owner or dealer who discovers an error in his permit or number plates shall return the permit or number plates to the Department within twenty-four hours of the discovery.

(2) Every owner or dealer shall be responsible for the custody of the number plates issued to him for the current year and it shall be an offence for him to fail to immediately notify the Department when such number plates are no longer in his possession.

(3) In the event that any number plate or permit issued hereunder is lost, mutilated or has become illegible, the person who is entitled thereto shall make immediate application for and obtain a duplicate or substitute therefor upon furnishing information of such fact satisfactory to the Department and upon payment of the required fees. R.S., c. 293, s. 34.

Finding or removal of number plate

35 (1) Any person who finds any number plate or number plates of any motor vehicle of the current year not issued to him shall immediately deliver them to the Registrar or to a peace officer and the peace officer may deliver the number plate or number plates to any person who he is satisfied is the owner of the motor vehicle for which the number plate or number plates were issued or shall, within twenty-four hours, notify the Registrar that he holds the number plate or number plates.

(2) Any peace officer may remove any number plate or number plates from any motor vehicle when the motor vehicle is apparently abandoned or when the number plate or number plates have been or are being used illegally and shall forward them to the Registrar with a statement of the reason for the removal. R.S., c. 293, s. 35.

Publication of description of plates and numbers

36 (1) The Minister may at any time publish in one or more issues of the Royal Gazette a brief description of the number plates and temporary numbers that will be or have been issued by him in respect of any registration year under this Act.

(2) The production of a copy of the Royal Gazette containing such description shall be *prima facie* evidence of the matters stated in the description. R.S., c. 293, s. 36.

Offences respecting registration

37 (1) It shall be an offence against this Act for any person to commit any of the following acts:

(a) to operate or for the owner thereof to permit the operation upon a highway of any motor vehicle, trailer or semi-trailer which is not registered or which does not have attached thereto and displayed thereon the number plate or plates assigned to the owner by the Department for the current registration year, subject to Sections 26 and 30 and any regulation made under Section 25;

(b) to display or cause or permit to be displayed or to have in possession any permit or registration number plate knowing same to have been cancelled, revoked or suspended;

(c) subject to subsection (2) of Section 23, to display or cause or permit to be displayed upon a vehicle any registration number plate issued in respect of another vehicle or not issued in respect of the vehicle upon which it is so displayed;

(d) to lend or permit the use of, by one not entitled thereto, any permit or registration number plate issued to the person so lending or permitting the use thereof;

(e) to fail or refuse to surrender to the Department, upon demand, any permit or registration number plate which has been suspended, cancelled or revoked as in this Act provided;

(f) to use a false or fictitious name or address in any application for the registration of any vehicle or for any renewal or duplicate thereof, or to make a false statement or to conceal a material fact in any such application;

(g) to operate or have under his control or in his charge any motor vehicle on which motor vehicle there is displayed any fictitious number plate, or any number plate that is defaced or altered or any number plate other than as provided in this Act or in any regulations.

(2) In this Section, "number plate" and "permit" include a number plate or permit issued in respect of a vehicle registered in another province of Canada or in a state. R.S., c. 293, s. 37; 2004, c. 6, s. 22.

Identification or registration

38 **(1)** Notwithstanding any other provision of this Act, the Minister may, subject to the approval of the Governor in Council, make regulations prescribing

(a) the means of identification or proof of registration to be attached to motor vehicles or trailers; and

(b) the method by which and the manner in which the means of identification or proof of registration shall be attached to motor vehicles or trailers.

(2) Every motor vehicle and every trailer while being driven on any highway shall have attached thereto such means of identification or proof of registration thereof as the Minister may prescribe.

(3) The means of identification or proof of registration shall be attached by such method and in such manner as the Minister may from time to time prescribe. R.S., c. 293, s. 38.

PART II

ANTI-THEFT PROVISIONS

Application of Sections 39 to 46

39 Sections 39 to 46 inclusive shall apply to every motor vehicle required to be registered with the Department under this Act except any vehicles owned by the Dominion Government or by the Province or any incorporated city or town and excepting also any traction engine or road roller. R.S., c. 293, s. 39.

Conditions for registration or transfer and operation

40 (1) The Department shall not register a new vehicle or transfer the registration of any motor vehicle, unless and until the owner thereof shall make application for and be granted an official certificate of registration for the vehicle.

(2) The owner of a motor vehicle registered in the Province shall not operate or permit the operation of the vehicle upon any highway without first obtaining a certificate of registration therefor from the Department nor shall any person operate a motor vehicle upon the highways knowing or having reason to believe that the owner has failed to obtain a certificate of registration therefor and any person violating this subsection shall be punished as provided in Section 293. R.S., c. 293, s. 40.

Form of application for registration

41 (1) The application for a certificate of registration shall be made upon the appropriate form furnished or approved by the Department and shall contain a full description of the motor vehicle including the name of the maker, serial number and any distinguishing marks thereon and whether the vehicle is new or used, and the applicant shall also furnish evidence satisfactory to the Registrar that he is the owner of the motor vehicle and such other information as the Department may require.

(2) Whenever a new motor vehicle is purchased from a dealer the application for a certificate of registration shall include a statement of transfer by the dealer.

(3) Every person who makes a false statement in any application for a certificate of registration shall be guilty of an offence against this Act. R.S., c. 293, s. 41.

Certificate of registration

42 (1) The Department when satisfied that the applicant is the owner of a vehicle, shall thereupon issue in the name of the owner a certificate of registration bearing a serial number and the signature of the Registrar or other officer and the seal of the Department and setting forth the date issued and a description of the vehicle as determined by the Department, and the certificate of registration shall also contain, upon the reverse side, forms for assignment of the owner's interest in the motor vehicle.

(2) The certificate shall be good for the life of the vehicle so long as the same is owned or held by the original holder of the certificate.

(3) A certificate of registration shall not be issued to a person under the age of sixteen years. R.S., c. 293, s. 42; 1994-95, c. 12, s. 4.

Transfer of vehicle

43 (1) The owner of a motor vehicle for which a certificate of registration is required hereunder shall not sell or transfer his interest in or to the vehicle

unless he has obtained a certificate of registration thereto nor unless having procured a certificate of registration he in every respect complies with the requirements of this Section and any person who violates this Section shall be guilty of an offence.

(2) Whenever a certificate of registration has been issued in respect of a motor vehicle the owner who sells or transfers his interest in or to the motor vehicle shall execute an assignment of his interest in or to the motor vehicle in the form provided on the reverse side of the certificate of registration for the vehicle and the owner shall deliver the certificate of registration to the purchaser or transferee at the time of delivering the vehicle.

(3) The transferee except as provided in subsection (4) shall thereupon present the certificate endorsed and assigned as aforesaid to the Department and make application for and obtain a new certificate of registration for the vehicle.

(4) When the transferee of a vehicle is a dealer who holds the same for resale, or when the transferee does not drive the vehicle nor permit the vehicle to be driven upon the highways, the transferee shall not be required to forward the certificate of registration to the Department, as provided in subsection (3), but the transferee upon transferring his interest to another person shall execute an assignment of his interest upon the form provided on the reverse side of the certificate of registration and deliver the same to the person to whom the transfer is made.

(5) Whenever the ownership of any motor vehicle passes otherwise than by voluntary transfer, the new owner may obtain a certificate of registration therefor from the Department upon application therefor and payment of the prescribed fee accompanied by such evidence as shall satisfy the Registrar that the applicant is entitled to a certificate of registration, and the Registrar, when satisfied of the genuineness and regularity of the transfer, shall issue a new certificate of registration to the person entitled thereto.

(6) Every person who makes a false statement in an assignment of his interest in or to a motor vehicle shall be guilty of an offence against this Act. R.S., c. 293, s. 43.

Refusal or cancellation of registration

44 (1) If the Registrar determines that an applicant for a certificate of registration of a motor vehicle is not entitled thereto, he may refuse to issue the certificate or to register the vehicle, and in that event, unless the Registrar reverses his decision or his decision is reversed by the Minister, the applicant shall have no further right to apply for a certificate of registration or registration on the statements in the application, and the Registrar may for a like reason after notice and hearing cancel a registration already acquired or revoke any outstanding certificate of registration and the notice shall be served in person or by registered mail.

(2) An appeal shall lie from any refusal of the Registrar to issue a certificate of registration or from any revocation of an outstanding certificate of registration to the Minister whose decision shall be final. R.S., c. 293, s. 44.

Loss of registration or permit

45 In the event of the loss of a certificate of registration or permit, the loss of which is accounted for to the satisfaction of the Department, a duplicate or substitute may be issued. R.S., c. 293, s. 45.

Offence

46 Any person who alters any certificate of registration issued by the Department under this Act or who alters any assignment thereof, or who holds or uses any such certificate or assignment knowing the same to have been altered, or falsified, shall be guilty of an offence. R.S., c. 293, s. 46.

Alteration of vehicle

47 **(1)** Until application therefor has been made to and permission for same has been granted by the Department, no person shall operate a motor vehicle after any of the following alterations have been made:

(a) replacing the chassis by another;

(b) replacing the body by another;

(c) converting the type of the motor vehicle into another type.

(2) When the replacing of the body or chassis of a motor vehicle includes the replacing of the part of the body or chassis bearing the manufacturer's serial number the application shall mention that fact.

(3) No person shall drive or permit to be driven on a highway a motor vehicle manufactured, or modified after its manufacture, such that nitrous oxide may be delivered into the fuel mixture unless

(a) the part of the fuel system that may connect to a canister, bottle, tank or pressure vessel capable of containing nitrous oxide can be clearly seen by looking at the interior or exterior of the motor vehicle;

(b) there is no canister, bottle, tank or pressure vessel connected to that part; and

(c) either

(i) where that part is located inside the passenger compartment, there is no canister, bottle, tank or pressure vessel capable of containing nitrous oxide in the passenger compartment,

or

(ii) that part is completely disconnected from the part of the system that connects to the engine,

(iii) the disconnection can be clearly seen by looking at the interior or exterior of the motor vehicle, and

(iv) the disconnected part cannot be reconnected from inside the passenger compartment. R.S., c. 293, s. 47; 2007, c. 45, s. 4.

Replacement of serial number

48 **(1)** When a vehicle has been altered or rebuilt and its serial number has been removed or when no such number can be found on a vehicle, the Department may authorize that the original number be replaced or reproduced or may assign a special number for the vehicle.

(2) When the Department assigns a special number to a vehicle the owner of the vehicle shall pay the Department a fee of two dollars and fifteen cents and shall stamp the number upon the vehicle as directed by the Department and, upon receipt by the Department of a certificate of a peace officer that he has inspected the vehicle and found the number stamped upon it as directed, the special number shall become the serial number of the vehicle. R.S., c. 293, s. 48; 2013, c. 3, s. 9; 2015, c. 6, s. 30.

Offence

49 Except as provided in Section 48 any person who defaces, destroys or alters the serial number of a vehicle or places or stamps a serial number upon a vehicle shall be guilty of an offence. R.S., c. 293, s. 49.

Serial number on bicycle or personal transporter

50 No person shall deface, destroy or alter the serial or identification number of a bicycle, an electric kick-scooter or a personal transporter. R.S., c. 293, s. 50; 2015, c. 46, s. 2; 2022, c. 21, s. 2.

Vehicle with altered number or stolen vehicle

51 **(1)** No person shall, unless with the written permission of the Registrar, operate or have in his possession or buy, sell, wreck or otherwise deal with any motor vehicle, the serial number of which has been altered, removed or defaced or which shows evidence of any attempt to destroy any marks of identification on such motor vehicle.

(2) Any official of the Department or any peace officer upon discovery of any motor vehicle, the serial number of which has been altered, removed or defaced, shall immediately take the motor vehicle into his custody in the name of the Department, and shall forward to the Registrar a complete report.

(3) The Registrar shall have power to authorize the seizure of any motor vehicle, when in his judgment he has reason to believe that the motor vehicle has been stolen and to retain the same in the name of the Department until such time as the identity of ownership is established.

(4) Whenever a motor vehicle is seized, impounded or taken into custody under this Section or whenever a stolen motor vehicle comes into the pos-

session of the Registrar by seizure or otherwise, the burden of proof as to the ownership of the motor vehicle shall be upon any person who claims ownership, and, after ninety days from the date the motor vehicle was so taken into custody, and no person having established proof of ownership, the motor vehicle shall be deemed to be a stolen motor vehicle, and may be sold as provided in Section 276.

(5) No official of the Department or peace officer shall be personally liable for any act done in the performance of his duty under this Section. R.S., c. 293, s. 51.

Report of vehicle stolen or recovered

52 Every chief of police or peace officer of every jurisdiction, upon receiving information that a motor vehicle has been stolen or unlawfully taken or that a motor vehicle having been stolen or unlawfully taken has been recovered shall immediately report the information to the Department. R.S., c. 293, s. 52.

PART III

DEALERS' LICENSES

Dealer license required

53 (1) No person shall carry on or conduct the business of buying, selling or dealing in motor vehicles, trailers or semi-trailers, either directly or through a sub-dealer or agent, unless he is licensed under this Act and unless he has complied with all the other provisions of this Act and of the regulations.

(2) For the purposes of subsection (1), a person carries on or conducts the business of buying, selling or dealing in motor vehicles, trailers or semi-trailers who in any period of twelve consecutive months sells or trades more than four motor vehicles or more than four trailers or semi-trailers without the permission in writing of the Registrar.

(3) Application for a dealer's license shall be made on such form and shall contain such information as the Department may from time to time prescribe.

(4) Every person who makes a false statement in an application to the Department for any such license shall be guilty of an offence and shall be liable to the penalty mentioned in Section 298. R.S., c. 293, s. 53; 2002, c. 10, s. 10.

Issue and expiry of dealer license

54 (1) The Department upon receiving an application for a dealer's license accompanied by the proper fee may, if satisfied that the applicant is of good character and that he has complied with this Act and all the regulations, issue the license applied for, and every such license shall expire on December thirty-first in the year in which it is issued.

(2) Any licensee before removing any one or more of his places of business or opening any additional place of business shall apply to the Department for and obtain a supplemental license. R.S., c. 293, s. 54.

Form, validity and display of dealer license

55 Every dealer's license shall be in such form as the Minister determines and shall be valid only in the county or counties for which it is issued, and every dealer shall apply for and obtain a separate license for each county in which he maintains an established place of business but may obtain a license in any county, whether the dealer maintains a place of business there or not, and the license shall be conspicuously posted up in the place of business for which it is issued. R.S., c. 293, s. 55.

Dealer record and proof of ownership

56 (1) Every licensed dealer shall maintain a record in form as prescribed by the Department of every motor vehicle, trailer or semi-trailer bought, sold or exchanged by the dealer or received or accepted by the dealer for sale or exchange which record shall contain a description of every said vehicle, including the name of the maker, type, serial number and other distinguishing marks and whether any numbers thereon have been defaced, destroyed, or changed and shall state with reference to each such vehicle the name and address of the person from whom purchased or received and when sold or otherwise disposed of by the dealer the name and address of the person to whom sold or delivered.

(2) Every licensed dealer shall have in his possession and in his name a separate certificate of registration or an assignment thereof or other documentary evidence of interest in or to every motor vehicle in his possession. R.S., c. 293, s. 56.

GARAGE LICENSES

Regulations respecting garage license

57 Subject to the approval of the Governor in Council, the Minister may from time to time make such rules and regulations and prescribe such fees and penalties as he may deem necessary or expedient for the licensing and regulating of garages. R.S., c. 293, s. 57.

Report by garage

58 Every garage keeper shall transmit to the Department within fourteen days on a form prescribed by the Department, a report of all second-hand or used motor vehicles bought, sold, wrecked or junked. R.S., c. 293, s. 58.

Right of entry

59 Any official of the Department, any peace officer or any person authorized by the Registrar may enter into any place where motor vehicles that are expected to be driven on a public highway are stored for the purpose of inspecting the mechanical fitness of the motor vehicle. 1999, c. 11, s. 1.

Regulations respecting dealer license

60 Subject to this Act, the Minister may make regulations governing the issuing, withholding and revocation of dealers' licenses, and the regulations may delegate to the Registrar such authority as the Minister may deem expedient and it shall be an offence to violate such regulations. R.S., c. 293, s. 60.

FOR RENT CARS

Record of rentals

61 (1) Every person engaged in the business of renting motor vehicles without drivers who rents a vehicle without a driver, otherwise than as part of a *bona fide* transaction involving the sale of the motor vehicle, shall maintain a record of the identity of the person to whom the vehicle is rented and the exact time the vehicle is the subject of the rental or in possession of the person renting and having the use of the vehicle and every such record shall be open to inspection by the Registrar, an officer of the Royal Canadian Mounted Police, a chief of police, an inspector of motor vehicles, or by any other person upon signed order of any such official, and it shall be an offence for any such owner to fail to make or have in his possession or to refuse an inspection of the record as required in this Section.

(2) If the Registrar prescribes a form for the keeping of the record provided for in this Section, the owner shall use that form. R.S., c. 293, s. 61.

62 *repealed 2011, c. 35, s. 12.*

DRIVER TRAINING SCHOOLS

Regulations respecting driver training schools

63 (1) Subject to the approval of the Governor in Council, the Minister may make regulations for the licensing and regulation of driver training schools and of persons who for hire provide instruction in the operation of motor vehicles or hold themselves out as being capable and willing to provide such instruction.

(2) Without restricting the generality of subsection (1), the Minister by such regulations may

(a) prescribe the form, content and duration of licenses;

(b) provide for revocation or suspension of licenses;

(c) prescribe fees for licenses;

(d) prescribe standards of competency and of equipment of license holders;

(e) prescribe courses of instruction;

(f) exempt persons or classes of persons from the application of the regulations.

(3) No person shall

(a) conduct a driver training school;

(b) for hire provide, or offer to provide, instruction in the operation of a motor vehicle; or

(c) hold himself out as being capable and willing to provide for hire instruction in the operation of motor vehicles,

contrary to regulations made under this Section. R.S., c. 293, s. 63.

PART IV

DRIVERS' LICENSES

License required to drive on highway

64 Subject to Section 65 and subsection (6) of Section 75, no person shall operate any motor vehicle upon a highway in the Province unless such person has a valid driver's license under the provisions of this Act for the type or class of vehicle being driven. R.S., c. 293, s. 64.

Licensed non-resident

65 (1) A non-resident who is sixteen years of age or over and who has been duly licensed under a law requiring the examination and licensing of drivers in his home province or country and who has in his immediate possession a valid driver's license issued to him in his home province or country shall be permitted without examination or license under this Act to drive a motor vehicle of a type or class authorized to be driven by such license upon the highways of the Province during a period of ninety days from the date such non-resident first entered the Province, and subject to the foregoing may drive a motor vehicle registered in the province or country which issued his driver's license during such period of time and under such conditions as such motor vehicle is exempt from registration in the Province by any regulations made under Section 25.

(2) Any non-resident or other person whose driver's license or right or privilege to operate a motor vehicle in the Province has been suspended or revoked under this Act shall not operate a motor vehicle in the Province under a license, permit or registration certificate issued by any other jurisdiction, or otherwise operate a motor vehicle in the Province during the period of such suspension or revocation.

(3) A non-resident who is sixteen years of age or over and who has a valid driver's license issued to him in his home province or country and who becomes a resident of the Province, may, without examination or license under this Act, drive a motor vehicle of a type or class authorized to be driven by such driver's license upon the highways during a period of ninety days from the date upon which he became a resident of the Province.

(4) A member of His Majesty's Forces who has a valid driver's license issued to him in his home province and who enters the Province, may, without examination or license under this Act, drive a motor vehicle of a type or class authorized to be driven by such a driver's license upon the highways during a period of ninety days from the date on which he first entered the Province.

(5) Notwithstanding subsections (3) and (4), a non-resident who is sixteen years of age or over and who has a valid driver's license issued to that person in that person's home province or country and who becomes a resident of the Province, may, without examination or license under this Act, drive a motor vehicle of a type or class authorized to be driven by such driver's license upon the highways for six months so long as the owner is a member of His Majesty's Canadian Forces within the Province on a temporary posting for training purposes, and for ninety days thereafter.

(6) Subject to the approval of the Governor in Council, the Minister may make regulations

(a) allowing classes of persons

(i) licensed in another jurisdiction to drive a motor vehicle, and

(ii) designated by the regulations,

to drive a motor vehicle upon a highway within the Province without examination or license under this Act; and

(b) prescribing terms and conditions that apply to any such classes.

(7) The regulations made pursuant to subsection (6) may prescribe different terms and conditions for different classes of persons.

(8) The exercise by the Minister of the authority contained in subsection (6) is regulations within the meaning of the *Regulations Act*. R.S., c. 293, s. 65; 2008, c. 61, s. 2; 2009, c. 22.

Regulations

66 **(1)** The Governor in Council may make regulations

(a) prescribing classes of drivers' licenses;

(b) prescribing the form, content and duration of drivers' licenses;

(c) prescribing qualifications of competency and fitness for drivers in the issuance and renewal of drivers' licenses or any class or classes of drivers' licenses;

(d) designating by classification the entitlement of a driver to operate various types, sizes, classes or combinations of vehicles.

(2) The Minister's decision shall be final if any question arises as to whether a person requires a driver's license of one class or another to operate a motor vehicle. R.S., c. 293, s. 66.

Refusal to issue and restoration of driver's license

67 (1) The Department, with the approval of the Minister, may refuse to issue a driver's license to any person.

(1A) The Department may refuse to issue a driver's license to any person whom the Registrar determines to have provided misleading information to the Department in the course of applying for the driver's license.

(2) The Department, with the approval of the Minister, may refuse to issue a driver's license to any person who, being the holder of a license like a driver's license issued to the person in another province or country, refuses to surrender the license to the Department.

(2A) The Department shall not issue a license to a person if a decision has been made to suspend or revoke the person's license in the person's previous jurisdiction of residence and the suspension or revocation has not yet taken place.

(3) The Department shall not issue a driver's license

(a) for the operation of any motor vehicle other than a farm tractor to a person who is under the age of sixteen years; or

(b) for the operation of a farm tractor to a person who is under the age of fourteen years.

(4) The Department shall not issue a driver's license to any person whose driver's license has been revoked under Section 278, or to any person who has been convicted in the Province of any of the offences mentioned in Section 278 until the period of revocation set forth in subsection (5) has elapsed or until any order of prohibition made by a court pursuant to section 320.24 of the *Criminal Code* (Canada) has expired.

(5) No application for restoration of a driver's license or the privilege of obtaining a driver's license shall be made until there has expired from the date of the revocation a period of

(a) *repealed 2013, c. 10, s. 10*.

(aa) six months, where the revocation was for a violation of section 334 of the *Criminal Code* (Canada) respecting theft of gasoline or diesel oil as defined in the *Revenue Act*;

(ab) six months in the case of a first revocation or two years in the case of a subsequent revocation where the revocation was for a violation of the *Criminal Code* (Canada) referred to in clause (da) of subsection (1) of Section 278;

(b) *repealed 2013, c. 10, s. 10*.

(ba) one year in the case of a first revocation, three years in the case of a second revocation and indefinitely in the case of a third or subsequent revocation where

(i) the revocation was for a violation of section 253 or 254 or subsection (4) of section 259 of the *Criminal Code* (Canada), where the disqualification under subsection (4) of section 259 was occasioned by an impairment-related offence involving alcohol that occurred on or after the coming into force of this clause, but before the coming into force of subclause (ii), or

(ii) the revocation was for a violation of subsection (1) or (4) of section 320.14, subsection (1) of section 320.15 or section 320.18 of the *Criminal Code* (Canada), if the prohibition referred to in section 320.18 of that Act was occasioned by an impairment-related offence and the offence involves the operation of a motor vehicle;

(c) two years in the case of a first revocation and five years in the case of a subsequent revocation where

(i) the revocation was for a violation of subsection (1) of section 249, subsection (1) of section 249.1, section 249.2, 249.3 or 249.4 or subsection (1) of section 252 of the *Criminal Code* (Canada) and where the offence involved the operation of a motor vehicle before the coming into force of subclause (ii), or

(ii) the revocation was for a violation of subsection (1) of section 320.13 or subsection (1) of section 320.16 of the *Criminal Code* (Canada) and the offence involved the operation of a motor vehicle;

(ca) five years in the case of a first revocation and indefinitely in the case of a subsequent revocation where

(i) the revocation was for a violation of section 220, 221 or 236, subsection (3) or (4) of section 249, subsection (3) of section 249.1, subsection (1.2) or (1.3) of section 252, subsection (2) of section 255(2) or subsection (2.1), (2.2), (3), (3.1) or (3.2) of section 255 of the *Criminal Code* (Canada) and where the offence involves the operation of a motor vehicle before the coming into force of subclause (ii), or

(ii) the revocation was for a violation of section 220, 221 or 236, subsection (2) or (3) of section 320.13, subsection (2) or (3) of section 320.14, subsection (2) or (3) of section 320.16 or section 320.17 of the *Criminal Code* (Canada) and the offence involves the operation of a motor vehicle;

(d) two years in the case of a first revocation or five years in the case of a subsequent revocation where the revocation was for a violation of section 333.1 of the *Criminal Code* (Canada), for the theft of a motor vehicle in violation of section 334 of the *Criminal Code* (Canada) or for a violation of section 335 of the *Criminal Code* (Canada);

(da) one year in the case of a first revocation or two years in the case of a subsequent revocation where the revocation was for a violation of subsection (1) of Section 287;

(e) except as provided in subsection (9), one year in the case of a first revocation or two years in the case of a subsequent revocation where

(i) the revocation was for a violation of subsection (4) of section 259 of the *Criminal Code* (Canada), if the offence involves the operation of a motor vehicle and the prohibition referred to in that subsection was in relation to an offence other than an impairment-related offence, or subsection (2) of Section 287 of this Act before the coming into force of subclause (ii), or

(ii) the revocation was for a violation of section 320.18 of the *Criminal Code* (Canada), if the offence involves the operation of a motor vehicle and the prohibition referred to in that section was in relation to an offence other than an impairment-related offence, or subsection (2) of Section 287 of this Act,

the new revocation period to be concurrent with any period of revocation provided in this subsection, or any prohibition or suspension which may be in effect at the time of the revocation; or

(f) time determined by the Governor in Council for any offence designated pursuant to clause (d) of subsection (1) of Section 278.

(5A) Notwithstanding clause (ba) of subsection (5), an application may be made for restoration, before the expiry of the time periods referred to in clause (ba) of subsection (5), of a person's driver's license or privilege of obtaining a driver's license by a person where the revocation was

(a) for a violation of

(i) section 253 or 254 of the *Criminal Code* (Canada), if the violation involved alcohol, or

(ii) subsection (4) of section 259 of *Criminal Code* (Canada), if the disqualification under that subsection was occasioned by an impairment-related offence involving alcohol,

before the coming into force of clause (b); or

(b) for a violation of

(i) subsection (1) of section 320.14 or subsection (1) of section 320.15 of the *Criminal Code* (Canada), if the violation involved alcohol, or

(ii) section 320.18 of the *Criminal Code* (Canada), if the prohibition under that subsection was occasioned by an impairment-related offence involving alcohol,

and the Registrar permits the person to participate in an ignition interlock program established by the regulations.

(5B) The driver's license of a person that has been restored upon application pursuant to subsection (5A) is restored only for the purpose of that person's participation in an ignition interlock program established by the regulations and for all other purposes the license remains revoked.

(5C) Where, following a review under Section 279G, the Registrar is satisfied that a child was present at the time of an offence under section 253, 254 or 255 of the *Criminal Code* (Canada), if the offence was committed before the repeal of those provisions, or section 320.14 or 320.15 of that Act and the person is convicted of, pleads guilty to or is found guilty of the offence, an application for restoration of the person's driver's license or privilege of obtaining a driver's license may not be made until twelve months after the end of time period that must otherwise elapse, as set out in this Section, before an application for restoration can be considered under this Section.

(6) For the purpose of clause (a) or (b) of subsection (5), a revocation is a second or subsequent revocation where the driver's license or the privilege of obtaining a driver's license of the applicant was revoked for the same or any other offence mentioned in clause (a) or (b) within the previous five years.

(6A) For the purpose of clause (ba) of subsection (5), a revocation is a second or subsequent revocation where the driver's license or the privilege of obtaining a driver's license of the applicant was revoked for the same or any other offence mentioned in clause (ba) within the previous ten years.

(7) For the purpose of clause (c) of subsection (5), a revocation is a subsequent revocation where the driver's license or the privilege of obtaining a driver's license of the applicant was revoked for the same or another offence mentioned in clause (c) within the previous five years.

(7A) For the purpose of clause (ca) of subsection (5), a revocation is a second or subsequent revocation where the driver's license or the privilege of obtaining a driver's license of the applicant was revoked for the same or any other offence referred to in clause (ca) of subsection (5) within the previous ten years.

(8) For the purpose of clause[s] (ab), (d) and (da) of subsection (5), a revocation is a subsequent revocation where the driver's license or the privilege of

obtaining a driver's license of the applicant was revoked for the same offence within the previous five years.

(9) For the purpose of clause (e) of subsection (5), a revocation is a subsequent revocation where the driver's license or the privilege of obtaining a driver's license of the applicant was revoked for the same or another offence mentioned in clause (e) within the previous five years.

(10) Notwithstanding any other provisions of this Act, the Registrar may restore the driver's license of a person convicted of driving while his license was suspended for a speeding offence under ~~Sections~~ [Section] 102, 103, 104 or 106, upon application made after the expiration, from the date of the conviction for driving while suspended, of a period of thirty days where the speeding suspension was for seven days, or two months where the speeding suspension was for fifteen days, or four months where the speeding suspension was for thirty days.

(11) The Registrar shall require that a person whose driver's license or privilege of obtaining a driver's license has been revoked for an impairment-related offence involving alcohol or suspended pursuant to Section 279A for an impairment-related offence involving alcohol participate in such alcohol rehabilitation program as may be prescribed by regulation made by the Governor in Council before he is entitled to reinstatement of his license.

(11A) The Registrar may require that a person whose driver's license or privilege of obtaining a driver's license has been revoked on one or more occasions for an impairment-related offence involving alcohol participate in such ignition interlock program as may be prescribed by regulation made by the Governor in Council as a condition of the restoration of the person's license.

(12) In this Section, "impairment-related offence" means

(a) an offence under section 253, 254 or 255 of the *Criminal Code* (Canada) committed before those provisions were repealed; or

(b) an offence under section 320.14 or 320.15 of the *Criminal Code* (Canada).

(13) For the purpose of this Section, the Governor in Council may establish and define "alcohol rehabilitation program" and "ignition interlock program" and make regulations concerning the same, including regulations prescribing offences and penalties for breach of the regulations.

(14) Regulations made by the Governor in Council pursuant to this Section may be made applicable to all or any part of the Province.

(15) *repealed 2010, c. 20, s. 1.*

(16) Where a person pleads guilty to or is found guilty of an offence against section 220, 221, 320.13, 320.14, 320.15, 320.16 or 320.17 of the

Criminal Code (Canada) and an order directing that the accused be discharged is made under section 730 of the *Criminal Code* (Canada), this Section applies in the same manner as if the person were convicted of the offence.

(17) Upon application being made to him for restoration of a driver's license by the person whose driver's license was revoked, the Registrar may recommend that such license be restored and that the Department issue such person with a driver's license and, where the revocation was the result of an impairment-related offence, the Registrar may require that the restoration of the driver's license be subject to such conditions and requirements as the Registrar deems necessary.

(18) Before any person applies to the Registrar for restoration of his driver's license he shall cause to be served on the Registrar a notice of his intention to so apply which notice shall state the name and address of the applicant and the date on which his license was revoked, and the notice shall be served at least thirty clear days prior to the application and may be served by sending the same in a prepaid registered letter addressed to the Registrar at Halifax.

(19) to **(21)** *repealed 2001, c. 44, s. 1.*

(21A) *repealed 2014, c. 53, s. 2.*

(22) *repealed 2001, c. 44, s. 1.*

(22A) Notwithstanding subsection (19) of this Act and Section 11 of the *Summary Proceedings Act*, where a driver's license is revoked indefinitely, no application may be made pursuant to this Section for the restoration of the driver's license until ten years has elapsed from the date of the revocation or subsequent conviction for an offence involving the operation of the motor vehicle.

(23) The Department shall not issue a driver's license to any person whose driver's license has been suspended, during the period for which the license was suspended.

(24) The Department shall not issue a driver's license to any person when, in the opinion of the Department, the person is sufficiently illiterate or is afflicted with or suffering from such physical or mental disability or disease as will serve to prevent him from exercising reasonable and ordinary control over a motor vehicle while operating the same upon the highways, nor shall a license be issued to any person who is unable to understand highway warning or direction signs in the English language. R.S., c. 293, s. 67; 1994-95, c. 12, s. 5; 1996, c. 34, s. 2; 1998, c. 32, s. 1; 1999, c. 11, s. 2; 2001, c. 44, s. 1; 2002, c. 20, ss. 2, 12; 2002, c. 30, s. 14; 2004, c. 42, s. 3; 2005, c. 32, s. 3; 2005, c. 38, s. 1; 2005, c. 54, s. 1; 2006, c. 36, s. 1; 2007, c. 45, s. 5; 2008, c. 21, s. 2; 2010, c. 20, s. 1; 2011, c. 22, s. 1; 2013, c. 10, s. 10; 2014, c. 53, s. 2; 2015, c. 45, s. 3; 2018, c. 3, s. 47; revision corrected.

Restoration for non-resident

67A (1) Notwithstanding clause (ba) of subsection (5) of Section 67, application may be made for restoration of a person's driver's license or privilege of obtaining a driver's license by a person where the revocation was for a violation

of subsection (1) of section 320.14 or subsection (1) of section 320.15 of the *Criminal Code* (Canada), where the violation involved alcohol, or section 320.18 of that Act, where the prohibition referred to in section 320.18 of that Act was occasioned by an impairment-related offence, as defined in subsection (12) of Section 67, involving alcohol, before the expiry of the time periods referred to in clause (ba) of subsection (5) of Section 67, and the Registrar may approve the application if the Registrar is satisfied that

(a) the person is not a resident of the Province at the time of the application;

(b) the person has applied for participation in an alcohol ignition interlock program in another province of Canada; and

(c) the province where the person applied has advised the Registrar that it is prepared to accept the person into its alcohol ignition interlock program.

(2) A decision of the Registrar under subsection (1) is final and is not subject to appeal.

(3) A person whose license or privilege of obtaining a license has been restored pursuant to this Section has the status of an unlicensed driver.

(4) Where the Registrar grants a change of status to a person pursuant to this Section and the person is not issued a license in the province of Canada referred to in the application within thirty days of the Registrar's approval of the application, the person's license status in the Province is deemed to be revoked and any conditions of restoration that were applicable before the status was changed to unlicensed continue to apply. 2010, c. 20, s. 2; 2013, c. 10, s. 11; 2018, c. 3, s. 48.

Reinstatement fee

68 (1) An applicant for the restoration of a driver's license or privilege of obtaining a driver's license following a revocation for an impairment-related offence, as defined in Section 67, shall pay a reinstatement fee of one hundred and twenty-four dollars and sixty cents.

(2) In addition to the restoration fee referred to in subsection (1), the applicant may be required to pay the costs of any alcohol rehabilitation program the applicant is required to complete pursuant to this Act.

(3) The costs referred to in subsection (2) are those costs set out in regulations made by the Governor in Council. R.S., c. 293, s. 68; 1994, c. 24, s. 2; 2007, c. 9, s. 30; 2008, c. 2, s. 27; 2009, c. 5, s. 24; 2011, c. 8, s. 17; 2013, c. 3, s. 10; 2015, c. 6, s. 31; 2018, c. 3, s. 49.

Age limits for certain vehicles

69 (1) Notwithstanding any other provisions of this Act, no person, who is under the age of nineteen years, shall drive a motor vehicle while it is in use as a passenger carrying vehicle for hire.

(2) No person, who has attained the age of sixty-five years, shall drive a bus after the last day of the month in which the person attains that age.

(3) Notwithstanding subsection (2), the Registrar may issue a chauffeur's license permitting a person who has attained the age of sixty-five years to operate a bus where that person satisfies any special conditions stated by the Registrar upon the license.

(4) No person who is under the age of sixteen years shall operate a personal transporter on a highway except

(a) a person at least fourteen years of age participating in a tour if the tour operator has the written consent of the person's parent; or

(b) under such circumstances as are prescribed by the regulations.

(5) No person who is under the age of fourteen years shall operate an electric kick-scooter.

(6) A parent or guardian of a person who is under the age of fourteen years shall not permit the person to operate an electric kick-scooter.

(7) The owner of an electric kick-scooter shall not permit a person who is under the age of fourteen years to operate the electric kick-scooter. R.S., c. 293, s. 69; 2015, c. 46, s. 3; 2022, c. 21, s. 3.

Supervising driver

69A (1) A person is qualified to act as a supervising driver for the purpose of this Section and Sections 70 and 70A if the person

(a) holds a valid driver's license for the class of vehicle being driven; and

(b) is not a novice driver.

(2) No person occupying a front seating position of a motor vehicle being operated by a licensed learner or newly licensed driver shall directly or indirectly hold himself or herself out to a peace officer as being a supervising driver unless the person is qualified to act as a supervising driver. 2014, c. 53, s. 3.

Learners class driver's license

70 (1) *repealed 2014, c. 53, s. 4*.

(2) The Department, upon receiving from any person over the age of sixteen years an application for a learners class driver's license, may, in its discretion, issue such a license entitling the applicant, while having the license in the applicant's possession, to drive a motor vehicle upon the highways when accompanied by a person who

(a) is ~~an~~ [a] supervising driver;

(b) *repealed 2014, c. 53, s. 4*.

and

(c) is actually occupying a front seating position and there is no other person in the vehicle.

(3) Notwithstanding subsection (2), more than one examiner may be in a motor vehicle that is being driven by a person who is a licensed learner.

(4) Notwithstanding subsection (2), where a motor vehicle that is being driven by a person who is a licensed learner is equipped with dual brake and clutch controls and the supervising driver accompanying the driver is an instructor approved by the Department, not more than three persons may occupy the back seat of the motor vehicle for the purpose of receiving instructions in driving.

(5) A person who has a learners class driver's license shall not drive a motorcycle on a highway except for the purpose of being examined by an examiner and when the person is within sight of an examiner.

(6) A licensed learner may, while the license is in force, apply to an examiner for a certificate that the licensed learner has qualified for a driver's license

(a) at any time if the person held a class 1, 2, 3, 4 or 5 driver's license as set out in regulations made pursuant to Section 66 or an equivalent license in another province, state or country;

(b) where the person has successfully completed a driver education or training program approved by the Department

(i) at any time after the completion of nine months as a licensed learner, or

(ii) where the person is a licensed learner at the time this subsection comes into force, at any time after the completion of three months as a licensed learner;

(c) at any time after the completion of twelve months as a licensed learner or, where the person is a licensed learner at the time this subsection comes into force, at any time after the completion of six months as a licensed learner.

(6A) For the purpose of clause (b) or (c) of subsection (6), a licensed learner whose driver's license or privilege of obtaining a driver's license has been revoked pursuant to Section 278 or whose driver's license or privilege of obtaining a driver's license has been suspended pursuant to Section 100A, 100B, 205, 227, 278C, 279, 279A, 279C, 279K, 279L, 282 or 283 shall, upon restoration of the driver's license, be required to complete the total period as a licensed learner required pursuant to clause (b) or (c) of subsection (6), as the case may be, from the date of restoration.

(7) A learners class driver's license issued pursuant to this Section expires at the end of the month and year endorsed on the license.

(8) Notwithstanding any other provision of this Act, the holder of a learners class driver's license may drive a motorcycle or a farm tractor on a highway for the purpose of being examined by an examiner and when the person is within sight of an examiner.

(9) Where a licensed driver occupying a motor vehicle operated by a licensed learner on any highway fails on request of a peace officer to produce then and there for the officer's inspection the license issued by the Department, such person is guilty of an offence against this Act.

(10) *repealed 2014, c. 53, s. 4*.

(11) A licensed learner shall not permit any other person to use the driver's license issued to the licensed learner by the Department.

(12) Notwithstanding subsection (2), the Department may issue an interim learners class driver's license to a person under the same terms and conditions as provided for a license issued pursuant to subsection (2), which is valid

(a) for a term of thirty days from the date of issue; or

(b) until a learners class driver's license is issued pursuant to subsection (2),

whichever is the shorter period. 1994, c. 24, s. 3; 2004, c. 42, s. 4; 2014, c. 53, s. 4; 2018, c. 3, s. 50.

Newly licensed driver

70A (1) A person who qualifies for a driver's license of class 1, 2, 3, 4, 5 or 6 as set out in the regulations made pursuant to Section 66, having less than two years experience as a licensed driver, excluding experience while holding a class 7 or 8 driver's license, has the status of a newly licensed driver.

(2) *repealed 2015, c. 45, s. 5*.

(3) A person may apply to have the status of a newly licensed driver removed when the following conditions have been satisfied:

(a) the person has completed two years experience as a licensed driver under this Act, other than as the holder of a class 7 or 8 driver's license, or two years experience as a licensed driver in another province or country recognized by the Department as equivalent experience or a combination of experience as a licensed driver under this Act and as a licensed driver in another province or country; and

(b) the person has successfully completed a driver improvement program recognized by the Department.

(4) A newly licensed driver whose driver's license or privilege of obtaining a driver's license has been revoked pursuant to Section 278 or whose driver's license or privilege of obtaining a driver's license has been suspended pursuant to ~~Sections~~ [Section] 100A, 100B, 205, 227, 278C, 279, 279A, 279C, 279K, 279L, 282 or 283 shall, upon restoration of the driver's license, be required to complete a minimum two-year period as a newly licensed driver from the date of restoration.

(5) A person issued a driver's license as a newly licensed driver in accordance with subsection (1) may drive a motor vehicle upon the highways subject to the following conditions:

(a) every passenger in the vehicle must be in a sitting position with a seat belt available to that passenger;

(b) notwithstanding clause (a), no more than one passenger in addition to the driver, shall occupy a front seating position;

(c) between midnight and five o'clock in the morning only when accompanied by a person who

(i) is a supervising driver,

(ii) holds a valid driver's license of class 1, 2, 3, 4 or 5 as set out in regulations made pursuant to Section 66 and of the class required for the class of vehicle being operated, and

(iii) is actually occupying a front seating position,

and when there is no other person in the vehicle.

(6) A newly licensed driver may apply to the Department for an exemption from the requirements of clause (c) of subsection (5) as prescribed by regulations made by the Governor in Council.

(7) When an exemption is approved pursuant to subsection (6), the Department may impose such operating conditions as it deems necessary.

(8) Any newly licensed driver who fails to comply with the provisions of this Section is guilty of an offence.

(9) The Registrar shall not issue a driver's license that permits a newly licensed driver to operate types, sizes, classes or combinations of vehicles requiring class 1, 2, 3 or 4 driver's licenses as set out in regulations made pursuant to Section 66, except as a learner. 1994, c. 24, s. 3; 1999, c. 11, s. 3; 2011, c. 67, s. 3; 2014, c. 53, s. 5; 2015, c. 45, s. 5; 2018, c. 3, s. 51.

Driver's license for motorcycle as learner

70B (1) The Department may issue a driver's license valid for the operation of a motorcycle as a learner.

(2) While operating a motorcycle under a license issued pursuant to this Section, the driver shall not drive the motorcycle upon a highway

(a) when a person in addition to the driver is riding or being carried on the motorcycle; and

(b) during the period from a half hour after sunset to a half hour before sunrise.

(3) A person may, while the person's driver's license is in force, apply to an examiner for a certificate that the person has qualified for a driver's license valid for the operation of a motorcycle

(a) at any time after holding a license issued pursuant to this Section for not less than three months if the person has completed a motorcycle training program recognized by the Department;

(b) at any time after holding a license issued pursuant to this Section for not less than six months; or

(c) notwithstanding clauses (a) and (b), if a person is not a novice driver and has held a license issued pursuant to this Section for not less than one month, if the person has completed a motorcycle training program recognized by the Department or for not less than three months if such a program has not been completed. 1994, c. 24, s. 3; 2014, c. 53, s. 6.

Novice driver

70C A person has the status of a novice driver if the person

(a) is a licensed learner;

(b) is a newly licensed driver; or

(c) holds a driver's license of class 1, 2, 3, 4, 5 or 6 as set out in the regulations made pursuant to Section 66 and has been the holder of

(i) such a driver's license for less than two years after the day on which the person ceased to be a newly licensed driver, or

(ii) driver's licenses of more than one such class for a combined period of less than two years after the day on which the person ceased to be a newly licensed driver. 2015, c. 45, s. 6.

Application for driver's license and change of address

71 (1) Every application for a driver's license shall be made upon the approved form furnished by the Department and the matters set forth in the application shall if required be verified by the affidavit of the applicant or by a declaration under the *Canada Evidence Act*.

(2) Every application shall state the name, age, and residence address of the applicant, and such other information as such form or the Department may require.

(3) Every person who holds a driver's license shall give notice to the Registrar of any change in his residence address within one month of the change. R.S., c. 293, s. 71.

Disclosure of information for War Amps Key Tag Service

71A (1) The Department may disclose the name and address of every person who is issued a driver's license to The War Amputations of Canada for the purpose of allowing The War Amputations of Canada to conduct its Key Tag Service program.

(2) The disclosure of information pursuant to subsection (1) is subject to such terms and conditions as the Minister considers appropriate.

(3) Where a person requests of the Department that the person's name and address not be disclosed pursuant to subsection (1), the Department shall cease to disclose the person's name and address to The War Amputations of Canada. 2012, c. 52, s. 2.

License to person under eighteen years

72 (1) The Department shall not issue a driver's license to a person under the age of eighteen years unless his application for the license is signed by

(a) a parent or guardian of the applicant having custody of the applicant;

(b) the employer of the applicant if his mother and father are dead and he has no guardian; or

(c) the spouse of the applicant if the spouse is over the age of eighteen years.

(2) Where the person who signs an application for a driver's license pursuant to subsection (1) makes a request in writing to the Registrar, and the person who makes the application is then under the age of eighteen years, the Registrar may cancel any driver's license that has been issued to the person who made the application.

(3) The Registrar may require the person making the request to furnish such information or reasons as the Registrar may require.

(4) While a person who holds a driver's license is under the age of eighteen years, the Department may forward copies of correspondence sent to the driver to the person who signed the application for the license. R.S., c. 293, s. 72; 1994, c. 24. s. 4.

Examination of applicant

73 (1) The Department shall examine every applicant for a driver's license before issuing any such license, except as otherwise provided in subsections (3) and (4).

(2) The Department shall examine the applicant as to his physical and mental qualifications to operate a motor vehicle in such manner as not to jeopardize the safety of persons or property and as to whether any facts exist which would bar the issuance of a license under Section 67.

(2A) Notwithstanding subsection (2) of Section 74, an examination of the applicant's visual acuity or a written examination of the applicant's understanding of traffic rules and traffic signs may be administered by any person whom the Registrar directs to administer the examination.

(3) The Department may, in its discretion, waive the examination of any person applying for the renewal of a driver's license issued under this Act.

(4) The Department may, in its discretion, issue a driver's license under this Act, without examination, to any person applying therefor who is of sufficient age, as required by Section 67 to receive the license applied for and who at the time of the application has a valid unrevoked license of like nature issued to the person in another province or country under a law requiring the licensing and examination of drivers. R.S., c. 293, s. 73; 2015, s. 45, s. 7.

Examiners

74 **(1)** The Minister is hereby authorized to designate or to appoint persons to act for the Department for the purpose of examining applicants for drivers' licenses.

(2) The persons so designated or appointed shall be known as "examiners" and it shall be the duty of every examiner to conduct examinations of applicants for drivers' licenses under this Act and to make a written report of findings and recommendations upon the examination to the Department. R.S., c. 293, s. 74.

Issue of driver's license

75 **(1)** The Department shall issue to every person licensed as a driver a driver's license authorizing the holder of the license to operate a motor vehicle or the class of motor vehicle specified in the license.

(2) Every driver's license shall bear thereon the distinguishing number assigned to the licensee and such other matters as the Minister may determine.

(3) Every driver's license shall be and remain the property of the Crown and shall be returned to the Department by the licensee whenever required by the Minister or the Registrar.

(4) The Department, upon determining after an examination that an applicant is mentally and physically qualified to receive a license, may issue to him a temporary driver's license entitling him while having such license in his immediate possession to drive a motor vehicle or the class of motor vehicle speci-

fied in the license upon the highways for a period of thirty days, before issuance to him of a driver's license.

(5) The Registrar may cause special conditions to be stated upon a driver's license and it shall be an offence for any person to fail to comply with such special conditions when so stated upon the license.

(6) Notwithstanding subsection (1), the Department may issue an interim driver's license to a person under the same terms and conditions as provided for a license issued pursuant to subsection (1), which shall be valid until a driver's license is issued pursuant to subsection (1). R.S., c. 293, s. 75.

Operation of motorcycle on highway

76 Except for the purpose of taking a driving examination, no person shall drive a motorcycle on the highway unless he holds a license which authorizes the operation of a motorcycle. R.S., c. 293, s. 76.

Loss or destruction of driver's license

77 In the event that a driver's license issued under this Act is lost or destroyed, the person to whom the same was issued may obtain a duplicate or substitute thereof upon furnishing proof satisfactory to the Department that the license has been lost or destroyed and upon payment of the prescribed fees. R.S., c. 293, s. 77.

Duties of driver respecting license

78 (1) Every person licensed as a driver shall write his usual signature with pen and ink in the space provided for that purpose on the license issued to him immediately upon receipt of the license, and the license shall not be valid until it is so signed.

(2) Every person shall have a valid driver's license in his immediate possession at all times when driving a motor vehicle and shall display the same at all reasonable times on demand of a peace officer. R.S., c. 293, s. 78.

Expiry and renewal of driver's license

79 Every driver's license shall expire on the date specified or determined by regulation and shall be renewed only upon application and payment of the prescribed fee. R.S., c. 293, s. 79; 1995-96, c. 22, s. 2.

Offences respecting license

80 It shall be an offence for any person to commit any of the following acts:

(a) to display or cause or permit to be displayed or to have in possession any driver's license which is shown to be fictitious or to have been cancelled, revoked, suspended or altered;

(b) to lend or permit the use of, by one not entitled thereto, any driver's license issued to the person so lending or permitting the use thereof;

(c) to display or to represent as one's own any driver's license not issued to the person so displaying the same;

(d) to fail or refuse to surrender to the Department upon demand, any driver's license which has been suspended, cancelled or revoked;

(e) to use a false or fictitious name or give a false or fictitious address in any application for a driver's license, or any renewal or duplicate thereof, or to make a false statement or to conceal a material fact in the application;

(f) to attempt to mislead a peace officer by falsely representing that he is licensed under this Act as a driver when he is not so licensed. R.S., c. 293, s. 80.

Seizure of license pending prosecution

81 Where a peace officer has reason to believe that a person has committed an offence mentioned in Section 80 and that the commission of the offence involves a driver's license, the peace officer may seize the driver's license and retain the same until the disposition of the prosecution for the offence or until a court or a judge otherwise orders. R.S., c. 293, s. 81.

Permitting operation of vehicle

82 Subject to Sections 65 and 70, a person shall not allow or permit a motor vehicle owned by him or under his control or in his charge to be operated upon a highway by a person who does not hold a valid driver's license authorizing him to operate such motor vehicle. R.S., c. 293, s. 82.

PART V

TRAFFIC ON THE HIGHWAY

Direction of peace officer or traffic sign or signal

83 (1) It shall be an offence for any person to refuse or fail to comply with any order, signal or direction of any peace officer.

(2) It shall be an offence for the driver of any vehicle or for the motorman of any street car to disobey the instructions of any official traffic sign or signal placed in accordance with this Act, unless otherwise directed by a peace officer. R.S., c. 293, s. 83.

Working on highway

84 Sections 138, 143 and 156 shall not apply to persons, teams, motor vehicles and other equipment while actually engaged in work upon the surface of a highway but shall apply to such persons and vehicles when travelling to or from such work. R.S., c. 293, s. 84.

Bicycle, animal, push-cart or wheelbarrow

85 (1) Every cyclist, every operator of an electric kick-scooter and every person riding an animal upon a highway and every person driving any animal shall be subject to the provisions of this Act applicable to a driver of a vehicle, except those provisions which by their very nature can have no application.

(2) Every person propelling any push-cart or wheelbarrow upon a highway shall be subject to the provisions of this Act applicable to the driver of a vehicle except those provisions with reference to the equipment of vehicles, and except those provisions which by their vary nature can have no application. R.S., c. 293, s. 85; 2010, c. 59, s. 2; 2022, c. 21, s. 4.

Operation of personal transporter

85A (1) For the purpose of this Act, where a personal transporter is operated on a roadway, the operator of the personal transporter is deemed to be a cyclist and, where a personal transporter is operated on a sidewalk, the operator is deemed to be a pedestrian.

(2) Every person shall at all times when operating a personal transporter exercise care and caution.

(3) Every person shall have identification in the person's possession at all times when operating a personal transporter on a highway and shall

(a) display the same; and

(b) provide the person's address and date of birth,

at all reasonable times on the demand of a peace officer.

(4) Sections 97 and 98, except the requirement to exhibit a driver's license, apply to the operator of a personal transporter whether the personal transporter is being operated on a roadway or on a sidewalk.

(5) Sections 119 and 122 and subsection 171(4) do not apply to the operator of a personal transporter on a highway. 2015, c. 46, s. 4.

Operation of electric kick-scooter

85B (1) Subject to this Section, for the purpose of this Act, where an electric kick-scooter is operated on a roadway, the operator of the electric kick-scooter is deemed to be a cyclist.

(2) Every person shall at all times when operating an electric kick-scooter exercise care and caution.

(3) Every person must have identification in the person's possession at all times when operating an electric kick-scooter and shall

(a) display the same; and

(b) provide the person's address and date of birth,

at all reasonable times on the demand of a peace officer.

(4) Sections 97 and 98, except the requirement to exhibit a driver's license, apply to the operator of an electric kick-scooter.

(5) The operator of an electric kick-scooter shall

(a) where the electric kick-scooter is not equipped with turn signal lights, signify

(i) a left turn by extending the person's left hand and arm horizontally from the electric kick-scooter, and

(ii) a right turn by either

(A) extending the person's left hand and arm out and upward from the electric kick-scooter so that the upper and lower parts of the arm are at right angles, or

(B) extending the person's right hand and arm out horizontally from the electric kick-scooter;

(b) where the electric kick-scooter is equipped with red, white, yellow or amber turn signal lights that are visible from behind and in front of the electric kick-scooter, signify a right or left turn by either

(i) activating the appropriate turn signal light, or

(ii) extending the person's hand and arm as described in clause (a); and

(c) signify a stop or decrease in speed by extending the person's left hand and arm out and downward from the electric kick-scooter so that the upper and lower parts of the arm are at right angles, unless the electric kick-scooter is equipped with a visible red light at the rear that is activated when the person operating the electric kick-scooter applies the brakes. 2022, c. 21, s. 5.

TRAFFIC AUTHORITY AND SIGNS AND SIGNALS

Traffic authorities

86 (1) The Registrar or a person appointed by the Minister shall be the Provincial Traffic Authority.

(2) The Minister may appoint a person in the public service to be Deputy Provincial Traffic Authority who shall perform such functions and duties as are prescribed by the Minister.

(2A) The Minister may appoint district traffic authorities who shall perform such functions and duties and have such powers and authorities as are prescribed by the Minister.

(3) In the absence or incapacity of the Provincial Traffic Authority, or when the office of Provincial Traffic Authority is vacant, the Deputy Provincial Traffic Authority shall perform the functions and duties and shall have the powers and authorities of the Provincial Traffic Authority.

(4) The Deputy Provincial Traffic Authority may, upon the direction of the Minister or the Provincial Traffic Authority, perform the functions or duties or exercise the powers and authorities of the Provincial Traffic Authority.

(5) A document which purports to be signed by the Deputy Provincial Traffic Authority shall be received in evidence without proof of the signature or the official character of the person appearing to have signed the document.

(6) The council of a city or town may, from time to time, appoint the city or town manager, the chief of police, or some other official of the city or town, to be the traffic authority for the city or town.

(7) The council of a city or town may, from time to time, appoint a member of the police force, or some other official of the city or town to be deputy traffic authority who, in the absence or incapacity of the traffic authority or in the event of his death or ceasing to hold the office, shall perform the duties and have all the authority of the traffic authority of the city or town.

(8) The clerk of a city or town shall forthwith send to the Provincial Traffic Authority any resolution of the council passed under subsection (6) or (7).

(9) When there is no traffic authority and no deputy traffic authority for a city or town the Minister may appoint a traffic authority to hold office until the council has appointed a traffic authority.

(10) If it is made to appear to the Minister that the traffic authority of a city or town is not carrying out his duties or performing his functions under this Act, the Minister, by letter to the mayor or clerk of the city or town, may cancel the appointment of the traffic authority.

(11) The Provincial Traffic Authority shall have, with respect to all provincial highways and highways within a city or town for which there is no traffic authority and no deputy traffic authority, all the powers conferred upon a traffic authority by or under this Act.

(12) Subject to subsection (13), the traffic authority for a city or town shall have, with respect to all highways within the city or town, all the powers conferred upon a traffic authority by or under this Act.

(13) When the Minister has determined that a highway or part of a highway within a city or town is a main travelled or through highway, the traffic authority for the city or town shall not exercise any powers as a traffic authority with respect to that highway or part without the approval of the Provincial Traffic Authority. R.S., c. 293, s. 86; 1995-96, c. 23, s. 2.

Classification and signing of highway and signals

87 (1) The Department is hereby authorized to classify, designate and mark all highways lying within the boundaries of the Province and to provide a uniform system of marking and signing the highways under the jurisdiction of the Province.

(2) The Department may determine the character or type of and place or erect upon provincial highways traffic control signals at places where the Department deems necessary for the safe and expeditious control of traffic and, so far as practicable, all such traffic control signals shall be uniform as to type and location.

(3) No traffic control signals shall be erected or maintained upon any provincial highway by any authority other than the Department. R.S., c. 293, s. 87.

Signs and signals

88 (1) Signs and signals erected and maintained under this Act shall state or represent thereon such matters as the Minister shall determine.

(2) The fact that the sign or signal has been erected and maintained shall be *prima facie* evidence that the sign or signal is erected in compliance with this Act and that the matter stated or represented on the sign complies with that determined by the Minister.

(3) The Minister shall from time to time publish in one or more issues of the Royal Gazette a description or specification of the signs that may be erected by the Department or a traffic authority under this Act for the purpose of regulating or controlling traffic, and the production of a copy of the Royal Gazette containing such description or specification shall be *prima facie* evidence of the matters stated or represented in the description or specification.

(4) The Minister may order the removal of any sign, marking or traffic control signal that has not been erected, located or placed in accordance with this Act or the regulations or which does not comply with the specifications or with any order made by the Minister, and the Minister may authorize any official of the Department or a peace officer to remove any such sign, marking or traffic control signal.

(5) No provisions of this Act for which signs are authorized or required shall be enforced against an alleged violator if, at the time and place of the alleged violation, the sign therein authorized or required is not in proper position or not discernible by an ordinarily observant person, and whenever a particular Section

does not state that signs are authorized or required, the Section shall be effective without signs being erected. R.S., c. 293, s. 88.

Erection of signs and signals by traffic authority

89 (1) Subject to such authority as may be vested in the Minister, the Registrar or the Department, traffic authorities in regard to highways under their respective authority may cause appropriate signs to be erected and maintained designating business and residence districts and railway grade crossings and such other signs, markings and traffic control signals as may be deemed necessary to direct and regulate traffic and to carry out the provisions of this Act.

(2) The Department shall have general supervision with respect to the erection by traffic authorities of official traffic signs and signals, for the purpose of obtaining, so far as practicable, uniformity as to type and location of official traffic signs and signals throughout the Province, and no traffic authority shall place or erect any traffic signs, signals or markings unless of a type or conforming to specifications approved by the Department.

(3) The Department may prescribe conditions under which a traffic control signal shall be used and when conditions have been so prescribed, it shall be an offence for the traffic authority to fail to comply with them. R.S., c. 293, s. 89.

Crosswalks, prohibited turns, etc. and parades

90 (1) The traffic authority may establish and designate and may maintain, or cause to be maintained, by appropriate devices, marks or lines upon the surface of the highways, crosswalks at intersections where, in his opinion, there is particular danger to pedestrians crossing the highway, and at such other places as he may deem necessary.

(2) The traffic authority may set apart an area on a highway as a safety zone and cause signs to be erected and maintained designating such area when so set apart, and may display pavement markings showing the limits of the safety zone.

(3) The traffic authority may also mark lanes for traffic on street pavements at such places as he may deem advisable, consistent with this Act and may erect traffic signals consistent with this Act to control the use of lanes for traffic.

(4) The traffic authority may erect and maintain signs prohibiting altogether or between specified hours, either left turns or right turns or both at any intersection or prohibiting turning around in any block or specified area of the highway.

(5) The traffic authority may

(a) erect and maintain signs exempting public transit vehicles from compliance with signs erected and maintained pursuant to subsection (4);

(b) mark lanes on street pavement for exclusive traffic by public transit vehicles;

(c) exclude from traffic on specified streets or specified portions of streets vehicles other than public transit vehicles or vehicles specified by the traffic authority.

(6) The traffic authority may establish and designate one-way streets where vehicular traffic shall move only in one direction, and the traffic authority shall erect and maintain signs at every intersection where movement of such traffic is so restricted.

(7) No parade, procession or walkathon shall march, occupy or proceed along any highway within the boundaries of a city or town unless a permit has been granted by the traffic authority of the city or town prescribing the route to be followed and the time when the parade, procession or walkathon may take place.

(8) No parade, procession or walkathon shall march, occupy or proceed along any highway not included within the boundaries of a city or town unless a permit has been granted by the Provincial Traffic Authority prescribing the route to be followed and the time when the parade, procession or walkathon may take place.

(9) No person shall participate in a parade, procession or walkathon upon any highway except on a route and at a time prescribed in a permit issued under subsection (7) or subsection (8).

(10) Subsections (7), (8) and (9) do not apply to funeral processions. R.S., c. 293, s. 90; 2004, c. 42, s. 6.

Danger zone

91 The Department may set apart an area on a highway as a danger zone and may cause signs to be erected and maintained designating such area when so set apart. R.S., c. 293, s. 91.

Tow-away zone

92 The traffic authority may set apart an area of a highway as a tow-away zone and may cause signs to be erected and maintained designating such area when so set apart. R.S., c. 293, s. 92.

Traffic signals

93 (1) When traffic at an intersection or on a highway is controlled by traffic signals that are illuminated devices, the traffic signals shall be one or a combination of the following:

(a) green light or flashing green light;

(b) green arrow light;

(c) yellow or amber light;

(d) yellow or amber arrow light;

(e) red light;

(f) flashing red light;

(g) flashing yellow or amber light;

(h) "walk" light;

(i) "don't walk" light;

(j) transit priority signal with a vertical white bar;

(k) green bicycle signal;

(l) yellow or amber bicycle signal;

(m) red bicycle signal.

(2) The drivers of vehicles, pedestrians, and all other traffic approaching or at an intersection or on a part of the highway controlled by any of the traffic signals mentioned in subsection (1) shall act in obedience to the traffic signals in accordance with the following instructions:

(a) *green light or flashing green light* - all vehicular traffic facing this signal may proceed unless otherwise directed by a traffic sign or a peace officer but shall yield the right of way to pedestrians lawfully in the crosswalk and other vehicles lawfully in an intersection and, unless otherwise directed by a traffic sign or signal, pedestrians may proceed on a green light only in a crosswalk towards the sign or signal and shall not proceed on a flashing green light;

(b) *green arrow light* - all vehicular traffic facing this signal may proceed but only in a direction indicated by an arrow unless otherwise directed by a peace officer but shall yield the right of way to pedestrians lawfully in a crosswalk and other vehicles lawfully in an intersection, and pedestrians may proceed only in a crosswalk towards the signal unless otherwise directed by a traffic sign or signal;

(c) *yellow or amber light* - all traffic facing this signal shall stop before entering an intersection at the place marked or the nearest side of the crosswalk but not past the signal unless the stop cannot be made in safety;

(d) *yellow or amber arrow light* - all traffic facing this signal shall stop before entering an intersection at the place marked or the nearest side of the crosswalk, but not past the signal, unless the stop cannot be made in safety and then proceed, but only in the direction indicated by the arrow, unless otherwise directed by a peace officer;

(e) *red light* - all traffic facing this signal shall stop at the place marked or the nearest side of the crosswalk but not past the sig-

nal and shall remain stopped while facing this signal, provided that vehicular traffic may

(i) if a green arrow light is also exhibited, proceed in the direction indicated by an arrow,

(ii) if a stop is first made and the movement can be made in safety and is not prohibited by sign, proceed to make a right turn,

(iii) if a stop is first made and the movement can be made in safety and is not prohibited by sign, proceed to make a left turn from a one-way highway into a one-way highway,

(iv) if a transit priority signal is also exhibited and if the vehicle is a transit bus, the vehicle is permitted to proceed and make turns through the intersection, or

(v) if a green bicycle signal is also exhibited, a cyclist facing the signal is permitted to proceed and make turns through the intersection,

but, in each case, vehicular traffic shall yield the right of way to pedestrians lawfully in a crosswalk and all other traffic lawfully proceeding through an intersection or on a highway;

(f) *flashing red light* - all traffic facing this signal shall stop before entering the intersection at the place marked or the nearest side of the crosswalk but not past the signal and shall yield the right of way to pedestrians lawfully in a crosswalk and to other vehicles within an intersection or approaching so closely on an intersecting highway as to constitute an immediate hazard, and having so yielded may proceed;

(g) *flashing yellow or amber light* - all traffic facing this signal shall proceed with caution and shall yield the right of way to all other traffic within an intersection or approaching so closely on an intersecting highway as to constitute an immediate hazard;

(h) *"walk" light* - pedestrian traffic facing this signal may proceed but only in a crosswalk and all other traffic shall yield the right of way to such pedestrian traffic;

(i) *"don't walk" light* - pedestrian traffic facing this signal, either flashing or solid, shall not start to cross the roadway in the direction of the signal;

(ia) *green bicycle signal* – all bicycle traffic facing this signal may proceed unless otherwise directed by a traffic sign or a peace officer but shall yield the right of way to pedestrians lawfully in the crosswalk and other vehicles lawfully in an intersection;

(ib) *yellow or amber bicycle signal* – all bicycle traffic facing this signal shall stop before entering an intersection at the place

marked or the nearest side of the crosswalk but not past the signal unless the stop cannot be made in safety;

(ic) *red bicycle signal* – all bicycle traffic facing this signal shall stop at the place marked or the nearest side of the crosswalk but not past the signal and shall remain stopped while facing this signal, provided that a cyclist may, if a stop is first made and the movement can be made in safety and is not prohibited by sign, proceed to make a right turn, but shall yield the right of way to pedestrians lawfully in a crosswalk and all other traffic lawfully proceeding through an intersection or on a highway;

(j) in the event of signal failure where no traffic signal indication is given, the intersection shall be treated as a multi-way stop, all vehicles shall stop and the driver of a vehicle shall yield the right of way to a vehicle that has entered the intersection and, when two vehicles enter an intersection at approximately the same time, the driver of the vehicle on the left shall yield to the driver on the right.

(3) Whenever a street or highway is divided into clearly marked lanes for traffic and the use of the lanes by traffic is controlled by traffic signals that are illuminated devices, the traffic signals shall be one or a combination of the following:

(a) green arrow light;

(b) red X light.

(4) The drivers of vehicles and all other traffic on a highway controlled by the traffic signals mentioned in subsection (1) shall act in obedience to the traffic signals in accordance with the following instructions:

(a) *green arrow light* - subject to Section 111, drivers of vehicles facing this signal may proceed in the lane to which the signal relates unless otherwise directed by a traffic sign or another traffic signal;

(b) *red X light* - drivers of vehicles facing this signal shall not drive in the lane to which the signal relates.

(5) For the purpose of Section 83 and Section 126, the traffic signals mentioned in subsection (1) or (3) are official traffic signals and the instructions contained in subsection (2) or (4) are the instructions of the signals.

(6) This Section shall not apply in the case of police and fire department vehicles and ambulances when the same are operating in emergencies and the drivers sound audible signal by bell, siren, compression or exhaust whistle, but this proviso shall not operate to relieve the driver of a police or fire department vehicle or ambulance from the duty to drive with due regard for the safety of all persons using the highway. R.S., c. 293, s. 93; 2001, c. 44, s. 2; 2004, c. 41, s. 1; 2004, c. 42, s. 7; 2005, c. 54, s. 2; 2007, c. 45, s. 6; 2021, c. 32, s. 1.

Offences respecting sign or signal

94 **(1)** It shall be an offence for any person to place or maintain or to display upon or in view of any highway any unofficial sign, signal or device which purports to be or is an imitation of or resembles an official traffic sign or signal or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic sign or signal, and no person shall erect or maintain upon any highway any traffic or highway signal or sign bearing thereon any commercial advertising.

(2) Every prohibited sign, signal or device is hereby declared to be a public nuisance, and the authority having jurisdiction over the highways is hereby empowered to remove the same, or cause it to be removed without notice. R.S., c. 293, s. 94.

Glaring light

95 **(1)** No person shall place or maintain any artificial light of any kind so as to project a glaring or dazzling light to drivers of motor vehicles on a highway.

(2) Any person who violates this Section shall be liable to a penalty. R.S., c. 293.s. 95.

Defacing, knocking down or removing sign or signal

96 Any person who defaces, injures, knocks down or removes any official traffic sign or signal placed or erected as provided in this Act shall be guilty of an offence. R.S., c. 293, s. 96.

ACCIDENTS

Duty to stop at accident and to report

97 **(1)** The driver of a vehicle directly or indirectly involved in an accident shall immediately stop the vehicle at the scene of the accident.

(2) Where a person violates subsection (1) and there is injury or death or damage to property resulting from the accident, the person violating subsection (1) shall upon conviction be punished as provided in Section 298.

(3) The driver of a vehicle involved in an accident resulting in injury or death to any person or damage to property shall also give his name, address and the registration number of his vehicle and exhibit his driver's license to the person struck or to the driver or occupants of any vehicle collided with or to a witness and shall render to any person injured in the accident reasonable assistance, including the carrying of such person to a physician or surgeon for medical or surgical treatment if it is apparent that such treatment is necessary or is requested by the injured person.

(4) When an accident results in damage to an unattended vehicle or to property upon or adjacent to a highway, the driver of every vehicle involved in the accident shall take reasonable steps to locate and notify the owner of, or a person who has control over, the unattended vehicle, or the property, of the circumstances of the accident, and give to him the name and address of the driver, the registration number of the vehicle and the number of the driver's license.

(5) If the driver of the vehicle involved in an accident is unable to locate and notify the owner or person who has control over the unattended vehicle or the property, he shall within twenty-four hours after the accident give to the chief of police or any regular member of the police force, in the case of an accident occurring in a city or town, or the nearest detachment of the Royal Canadian Mounted Police, in the case of an accident occurring elsewhere, the information required by subsection (4) together with a description of the unattended vehicle or the property. R.S., c. 293, s. 97; 2002, c. 10, s. 11.

Accident report

98 (1) The driver of a vehicle involved in an accident resulting in injury or death to any person, or property damage to an apparent extent of two thousand dollars or more, shall, within twenty-four hours,

(a) if the accident takes place within a city or incorporated town, forward a written report of the accident, or report the accident in person to the Registrar, or to the nearest detachment of the Royal Canadian Mounted Police, or to the chief of police or any regular member of the police force of the city or incorporated town;

(b) if the accident takes place other than within a city or incorporated town, forward a written report of the accident or report the accident in person to the Registrar or to the nearest detachment of the Royal Canadian Mounted Police.

(2) Where such person is physically incapable of making a report, and there is another occupant of the vehicle, such occupant shall make the report.

(3) Copies of any such report made to the Royal Canadian Mounted Police, or to a chief of police, or to a regular member of the police force of any city or incorporated town, shall be transmitted to the Registrar and to the Provincial Traffic Authority by such Royal Canadian Mounted Police or chief of police or regular member of the police force of any city or incorporated town, as the case may be, within twenty-four hours of receiving the report.

(4) Any peace officer who is a witness to or who investigates any accident in which a vehicle upon a highway is involved, whether or not required to be reported under this Section, shall forward to the Registrar, in addition to any other report that may be required under this Section, a report setting forth full particulars of the accident, the names and addresses of the persons involved, the extent of the personal injuries or property damage, if any, and such other information as may enable the Registrar to determine whether any driver involved in or contribut-

ing to the accident should be prosecuted, and where the peace officer or any other person has laid an information against a driver of a vehicle in connection with such accident, such fact shall be stated in the report.

(5) The Registrar may require any person involved in an accident, or having knowledge of an accident, or the parties thereto, or of any personal injuries or property damage resulting therefrom, to furnish, and any peace officer to secure, such additional information and make such supplementary reports of the accident as he may deem necessary to complete his records, and to establish, as far as possible, the cause of the accident, the persons responsible, and the extent of the personal injuries and property damage, if any, resulting therefrom.

(6) Except as provided in subsections (7) and (7B), all reports made pursuant to the provisions of this Section shall be for the information only of

(a) the Registrar;

(b) the Department;

(c) where there is no vehicle safety division of the Department, the vehicle safety division of any department of the Government;

(d) the police force to which the reports are made; or

(e) the vehicle safety division of the municipality to which the reports are made,

and no such report or any part thereof or any statement contained therein shall be open to public inspection or admissible in evidence in any trial, civil or criminal, arising out of such accident except as evidence that such a report has been made or in connection with a prosecution for making a false statement therein in violation of subsection (11).

(7) Where a person, an insurance company or His Majesty in right of the Province has paid or may be liable to pay for damages resulting from an accident in which a motor vehicle is involved, the person, the insurance company or a public officer responsible for risk management for the Government of the Province, as the case may be, and any solicitor, agent or other representative of the person, company or public officer authorized by the person, company or public officer in writing, may obtain from the Registrar a copy of any report made pursuant to this Section and, in furnishing a copy of any such report, the Registrar is authorized, subject to subsection (7A), to disclose any personal information contained in the report.

(7A) Before furnishing a copy of a report pursuant to subsection (7), the Registrar shall remove from the report any personal information that the Register considers to be appropriate to remove.

(7B) The Registrar may provide data derived from reports made pursuant to this Section to any person conducting research respecting traffic safety or motor vehicle safety.

(8) A medical examiner or other official performing like functions shall make a report to the Registrar with respect to any death found to have been the result of a motor vehicle accident.

(9) The Registrar may require an insurer or other person who pays damages for injury to person or property caused by a motor vehicle to report the same to the Department within seven days after the date of such payment and to furnish proof thereof if required by the Department.

(10) Any person who fails to report or furnish any information or written statement required by this Section shall be guilty of an offence.

(11) Every person who knowingly makes any false statement in any report made pursuant to this Section shall be liable to a penalty. R.S., c. 293, s. 98; 1994-95, c. 12, s. 6; 2013, c. 10, s. 12; 2015, c. 45, s. 8.

Duty of garage to report damaged vehicle

99 (1) The person in charge of any garage or repair shop to which is brought a motor vehicle which shows evidence of having been involved in a serious accident or struck by any bullet shall report to the nearest police station or peace officer within twenty-four hours after such motor vehicle is received, giving the make, serial number, registration number and the name and address of the owner or operator of the vehicle and of the person who brought it to or left it in the garage or repair shop.

(2) An additional report need not be made under this Section when the owner of the vehicle is also the owner of the garage or repair shop and such owner has made a report under Section 98 which includes the information required by this Section. R.S., c. 293, s. 99.

Salvage or non-repairable vehicle

99A (1) In this Section,

(a) "non-repairable vehicle" means a vehicle that is incapable of operation or use on the highway and that has no resale value except as a source of parts or scrap;

(b) "rebuilt vehicle" means any salvage vehicle that has been rebuilt and that has been inspected for the purpose of registration;

(c) "salvage vehicle" means any vehicle that is damaged by collision, fire, flood, accident, trespass or other occurrence to the extent that the cost of repairing the vehicle for legal operation on the highway exceeds its fair market value immediately before the damage.

(2) Where

(a) an insurer has paid a claim in respect of damage to a vehicle; and

(b) the insurance adjuster who examined the vehicle has certified that it is a salvage vehicle or a non-repairable vehicle,

the insurer shall, within five days of the date of payment of the claim, report the particulars thereof to the Registrar in such form and manner as the Registrar may determine.

(3) Where an insurer takes physical possession of a vehicle for the purpose of disposal, the insurer shall enter on the certificate of registration for the vehicle the designation "salvage" or "non-repairable", as the case may be.

(4) Where the owner of a self-insured fleet of vehicles declares a vehicle to be a salvage vehicle or a non-repairable vehicle, the owner shall report the particulars thereof to the Registrar within five days in such form as the Registrar may determine.

(5) Where a vehicle suffers such serious damage as to render the vehicle a salvage vehicle or a non-repairable vehicle, the owner shall report the particulars thereof to the Registrar within five days of the damage being suffered.

(6) Where a salvage vehicle has been rebuilt and has passed the inspection required by this Act for registration as a rebuilt vehicle, the Registrar shall, on payment of the prescribed fee, enter the designation "rebuilt" on the certificate of registration for that vehicle.

(7) A person who fails to report or furnish any information required by this Section is guilty of an offence. 1999, c. 11, s. 4.

PRUDENT DRIVING AND SPEED RESTRICTIONS

Duty to drive carefully

100 (1) Every person driving or operating a motor vehicle on a highway or any place ordinarily accessible to the public shall drive or operate the same in a careful and prudent manner having regard to all the circumstances.

(2) Any person who fails to comply with this Section shall be guilty of an offence.

(3) The court or judge by whom a person is convicted of a violation of this Section may, in addition to any other penalty that may be imposed, make an order suspending the driver's license or the privilege of having a driver's license of the person convicted for such period, not exceeding one year, as the court or judge thinks proper.

(4) When a court or judge has made an order under subsection (3) the person whose license is suspended by the order shall forthwith deliver the license to the court or judge.

(5) When an order has been made under subsection (3) the clerk of the court or the judge shall forthwith transmit to the Registrar a true copy of the order and any license that has been delivered to the court or judge pursuant to subsection (4).

(6) Where an order is made under subsection (3), the order shall be stayed pending the determination of any appeal as provided in Section 285. R.S., c. 293, s. 100.

Consumption of alcohol by novice drivers

100A (1) Where a peace officer believes on reasonable and probable grounds that any person who is a novice driver

(a) is operating or having care and control of a motor vehicle, whether it is in motion or not; or

(b) at any time within the preceding two hours, has operated or had care and control of a motor vehicle, whether it was in motion or not,

having consumed alcohol in such a quantity that the concentration in the person's blood exceeds zero milligrams of alcohol in one hundred millilitres of blood, the peace officer may make a demand pursuant to subsection (2).

(2) Where a peace officer believes that subsection (1) applies with respect to a person, the peace officer may, by demand made to that person forthwith or as soon as practicable, require that person to provide then or as soon thereafter as is practicable

(a) such samples of the person's breath as in the opinion of a qualified technician; or

(b) where the peace officer has reasonable and probable grounds to believe that, by reason of any physical condition of the person,

(i) the person may be incapable of providing a sample of his breath, or

(ii) it would be impracticable to obtain a sample of the person's breath,

such samples of the person's blood, under the conditions referred to in subsection (3), as in the opinion of the qualified medical practitioner or qualified technician taking the samples,

are necessary to enable proper analysis to be made in order to determine the concentration, if any, of alcohol in the person's blood, and to accompany the peace officer for the purpose of enabling such samples to be taken.

(3) Samples of blood may only be taken from a person pursuant to a demand made by a peace officer pursuant to subsection (2) if the samples are taken by or under the direction of a qualified medical practitioner and the qualified medical practitioner is satisfied that the taking of those samples would not endanger the life or health of the person.

(4) *repealed 2014, c. 53, s. 8*.

(5) Where, upon demand by a peace officer made pursuant to section 320.27 of the *Criminal Code* (Canada), a driver who is a novice driver provides a sample of the person's breath that, on an analysis by an approved screening device, registers "Pass" but the peace officer reasonably suspects that the driver has alcohol in his or her body, the peace officer may, for the purpose of subsection (2), demand that the driver provide, within a reasonable time, such further sample of breath as, in the opinion of the peace officer or qualified technician, is necessary to enable the proper analysis of the breath to be made by means of an approved instrument and, if necessary, to accompany the peace officer for the purpose of enabling such a sample of breath to be taken. 1994, c. 24, s. 5; 1999, c. 11, s. 5; 2014, c. 53, s. 8; 2018, c. 3, s. 52.

Twenty-four hour revocation and suspension of license

100B (1) In this Section,

(a) "provincially approved screening device" means a device prescribed by regulation;

(b) "qualified technician" means a qualified technician as defined in section 320.11 of the *Criminal Code* (Canada).

(2) Subsection (3) applies and subsection (4) does not apply if a peace officer making a demand of a novice driver uses one screening device for the purpose of Section 279C and another screening device for the purpose of this Section, and subsection (4) applies and subsection (3) does not apply if the peace officer uses one screening device for the purpose of both Section 279C and this Section.

(3) A peace officer may request a novice driver to surrender the person's license if, upon demand of the officer made pursuant to Section 100A, the novice driver fails or refuses to provide a sample of breath or provides a sample of breath that, on analysis by a provincially approved screening device, produces a result indicating, in the manner prescribed by regulation, the presence of alcohol.

(4) A peace officer may request a novice driver to surrender the person's license if, upon demand made by the peace officer under section 320.27 of the *Criminal Code* (Canada), the driver

(a) fails or refuses to provide a sample of breath; or

(b) provides a sample of breath that, on analysis, produces a result indicating, in the manner prescribed by regulation, the presence of alcohol.

(5) A novice driver whose license has been requested pursuant to subsection (3) or (4) shall surrender the license to the peace officer requesting it forthwith and, whether or not the novice driver is unable or fails to surrender the license to the peace officer, the license is suspended and the novice driver's driving privilege is suspended for a period of twenty-four hours from the time the request is made.

(5A) Notwithstanding subsection (3), (4) or (5), where a license is suspended under this Section for a period of twenty-four hours,

(a) a peace officer may not request the license be surrendered;

(b) a novice driver whose license is suspended is not required to surrender the license; and

(c) for greater certainty, notwithstanding the license not being surrendered, the license is suspended and the novice driver's driving privilege is suspended for a period of twenty-four hours.

(6) Where an analysis of the breath of a novice driver is made under Section 100A or subsection (4) and produces a result indicating, in the manner prescribed by regulation, the presence of alcohol, the novice driver may require a further analysis to be made by means of a provincially approved screening device, in which case the result obtained on the second analysis governs and any revocation and suspension resulting from an analysis under Section 100A or subsection (4) continues or terminates accordingly.

(7) Where an analysis of the breath of a novice driver is made pursuant to Section 100A or subsection (4) and produces a test result indicating, in the manner prescribed by regulation, the presence of alcohol, the peace officer who made the demand for the sample of breath shall advise the novice driver of the right under subsection (6) to a further analysis.

(8) The revocation of a license and the suspension of a driving privilege pursuant to this Section are in addition to and not in substitution for any other proceeding or penalty arising from the same circumstances.

(9) Every peace officer who requests the surrender of a license from a novice driver pursuant to Section 279C or this Section shall

(a) keep a written record of the suspension with the name, address and license number of the novice driver and the date and time of the suspension;

(b) provide the novice driver with a written statement setting out the time at which the suspension takes effect, the length of the period during which the license is suspended and the place where the license may be recovered upon the termination of the suspension and acknowledging receipt of the license that is surrendered; and

(c) forward to the Registrar forthwith a written report setting out the name, address and license number of the novice driver and such particulars respecting the taking of the sample of breath and the conduct and results of the analysis as the Registrar may require in relation to the matter.

(10) Where the motor vehicle driven by a novice driver whose license is suspended and whose driving privilege is suspended pursuant to this Section is in a location from which, in the opinion of a peace officer, it should be removed and there is no person easily available who may lawfully remove the vehicle with the consent of the novice driver, the peace officer may remove and store the vehicle or cause it to be removed and stored and shall notify the novice driver of its location.

(11) The costs and charges incurred in moving and storing a vehicle pursuant to subsection (10) shall be paid, before the vehicle is released, by the person to whom the vehicle is released.

(12) *repealed 2014, c. 53, s. 9*.

(13) Where an analysis of the sample of breath of a novice driver has been made for the purpose of Section 279C or this Section by means of any device prescribed by regulation for the purpose of this subsection and has produced a result indicating, in the manner prescribed by regulation, the presence of alcohol, that result shall be, in the absence of evidence to the contrary, proof that the novice driver has breached a condition of a license referred to in Section 70A.

(14) Subsection (13) shall not be construed by any person, court, tribunal or other body to limit the generality of the nature of proof that a novice driver has breached a condition of a license referred to in Section 70 or 70A, as the case may be.

(15) The Governor in Council may make regulations

(a) prescribing devices for the purpose of the definition "provincially approved screening device" in subsection (1);

(b) prescribing the manner in which the analysis results produced by provincially approved screening devices or other screening devices may indicate the presence of alcohol in samples of breath;

(c) prescribing devices for the purpose of subsection (13).

1998, c. 32, s. 2; 1999, c. 11, s. 6; 2004, c. 42, s. 8; 2014, c. 53, s. 9; 2018, c. 3, s. 53.

Intention of suspension

100C The suspension of a license or the suspension of a driving privilege resulting from a conviction of a breach of a condition of a license referred to in Section 70 or 70A or by reason of the operation of Section 100B is intended

(a) to ensure that the novice driver acquire experience and develop or improve safe driving skills in controlled conditions; and

(b) to safeguard the holder of the license and the public. 1998, c. 32, s. 2; 2004, c. 42, s. 9; 2014, c. 53, s. 10.

Cellular telephones

100D (1) It is an offence for a person to use a hand-held cellular telephone or engage in text messaging on any communications device while operating a vehicle or an electric kick-scooter on a highway or operating a personal transporter on a roadway or a sidewalk.

(2) This Section does not apply to a person who uses a hand-held cellular telephone or other communications device to report an immediate emergency situation. 2007, c. 45, s. 7; 2015, c. 46, s. 5; 2022, c. 21, s. 6.

Careful and prudent speed

101 A person operating or driving a vehicle on a highway shall operate or drive the same at a careful and prudent rate of speed not greater than is reasonable and proper, having due regard to the traffic, surface and width of the highway and of all other conditions at the time existing, and a person shall not operate or drive a vehicle upon a highway at such a speed or in such a manner as to endanger the life, limb or property of any person. R.S., c. 293, s. 101.

Prima facie speed limit

102 (1) Subject to Sections 101 and 104 and except where a lower rate of speed is specified in this Act or the regulations made thereunder it shall be *prima facie* lawful for the driver of a vehicle to drive the same at a rate of speed not exceeding the rate in subsection (2), and it shall be *prima facie* unlawful to exceed such rate of speed.

(2) The rate of speed referred to in subsection (1) is fifty kilometres per hour

(a) *repealed 2011, c. 46, s. 2*.

(b) when passing a church or the grounds thereof while the congregation is going to or leaving the church;

(c) when approaching and within 30 metres of a grade crossing of a steam, electric or street railway;

(d) in a danger zone as defined herein;

(e) in a business district as defined herein;

(f) upon approaching within 15 metres in traversing an intersection or highways where the driver's view in either direction along any intersecting highway within a distance of 60 metres is obstructed, except when travelling upon a through street or highway or at traffic controlled intersections;

(g) in a residence district as defined herein; or

(h) in public parks within cities or towns unless a different rate of speed is indicated by local authorities or traffic authorities and duly posted. R.S., c. 293, s. 102; 1994-95, c. 12, s. 7; 2011, c. 46, s. 2.

School area and school bus

103 (1) Subject to the regulations, a traffic authority may designate a school area on a portion of a highway by placing traffic signs to indicate the beginning and end of the school area.

(2) Where a traffic authority designates a school area, the traffic authority shall

(a) reduce the speed limit in the school area to

(i) thirty kilometres per hour, if the speed limit in effect immediately before the start of the school area is fifty kilometres per hour, or

(ii) fifty kilometres per hour, if the speed limit in effect immediately before the start of school area is greater than fifty kilometres per hour;

(b) place a traffic sign at the beginning of the school area to notify drivers of the reduced speed limit in the school area; and

(c) place a traffic sign at the end of the school area to notify drivers of the speed limit in effect immediately after the school area ends.

(2A) A driver shall not exceed the speed limit in a school area by

(a) between one and fifteen kilometres per hour, inclusive;

(b) between sixteen and thirty kilometres per hour, inclusive; or

(c) thirty-one kilometres per hour or more.

(2B) The speed limits fixed pursuant to this Section are subject to any regulations limiting the application of school area speed limits by times, dates or other conditions.

(2C) The Minister may make regulations

(a) setting conditions that must exist before a traffic authority may designate a portion of a highway as a school area;

(b) requiring a traffic authority to designate a school area on a portion of a highway that is specifically identified in the regulations or that meets the specifications for a mandatory school area set out in the regulations;

(c) limiting the application of the school area speed limits in this Section by times, dates or other conditions;

(d) defining any word or expression used in this Section and not defined in this Act;

(e) respecting any matter or thing the Minister considers necessary or advisable to effectively carry out the intent and purpose of this Section.

(2D) The exercise by the Minister of the authority contained in subsection (2C) is regulations within the meaning of the *Regulations Act*.

(3) Notwithstanding any other provision of this Act, the driver of a vehicle shall stop the vehicle before passing a school bus that is exhibiting flashing red lights and is stopped on or near a highway and shall remain stopped until the school bus proceeds.

(4) When a school bus is equipped with and exhibits flashing amber lights, the driver of a motor vehicle intending to pass the school bus shall proceed with caution.

(5) For the purpose of subsections (3) and (4), "exhibiting flashing red lights" and "exhibits flashing amber lights" have the meaning determined by the Governor in Council by regulation.

(6) *repealed 1995-96, c. 23, s. 3*.

R.S., c. 293, s. 103; 1995-96, c. 23, s. 3; 2011, c. 46, s. 3.

Fixing maximum speed rate

104 (1) Notwithstanding Sections 101 and 102, but subject to Section 103, the Minister or a traffic authority with the approval of the Provincial Traffic Authority may fix such maximum rates of speed as he may see fit to approve for motor vehicles traversing any part or portion of a highway and may erect and maintain signs containing notification of such rate of speed so fixed and approved by him, and thereafter while such signs remain so erected and displayed the operator or driver of any vehicle exceeding the rate of speed so fixed and approved shall be guilty of an offence.

(2) *repealed 1994-95, c. 12, s. 8*.

R.S., c. 293, s. 104; 1994-95, c. 12, s. 8; 2011, c. 46, s. 4.

Posted higher rate of speed

105 (1) The speed limitations provided in subsection (2) of Section 102 shall not apply where the traffic authority has indicated a higher rate of speed by erecting and maintaining appropriate signs giving notice of such increased rate of speed.

(2) The traffic authority is hereby authorized to erect and maintain such signs upon through highways or upon highways or portions thereof where there are no intersections or between widely spaced intersections. R.S., c. 293, s. 105.

Maximum speed limit

106 (1) Notwithstanding any other provision of this Act, but subject to subsection (2) and Section 109, no person shall drive a motor vehicle at a speed in excess of eighty kilometres per hour on any highway at any time.

(2) The Minister or the Provincial Traffic Authority may fix rates of speed in excess of eighty kilometres per hour, but not in excess of one hundred and ten kilometres per hour, for certain highways and may erect and maintain signs containing notification of such rate of speed, and the driver of a motor vehicle who exceeds the rate of speed so fixed shall be guilty of an offence.

(3) No person shall at any time operate a personal transporter at a speed in excess of

(a) twenty kilometres per hour on a roadway; or

(b) seven kilometres per hour on a sidewalk.

(4) No person shall at any time operate an electric kick-scooter on a municipal highway at a speed in excess of the lower of

(a) thirty-two kilometres per hour; and

(b) the maximum speed prescribed by municipal by-law. R.S., c. 293, s. 106; 1996, c. 34, s. 3; 2015, c. 46, s. 6; 2022, c. 21, s. 7.

Exceeding speed limit

106A A person commits an offence who contrary to ~~Sections~~ [Section] 104 or 106 exceeds the speed limit by

(a) between one and fifteen kilometres per hour, inclusive;

(b) between sixteen and thirty kilometres per hour, inclusive; or

(c) by thirty-one kilometres per hour or more. 2001, c. 12, s. 3.

Temporary work area

106B (1) A person commits an offence who exceeds the speed limit in a temporary work area by

(a) between one and fifteen kilometres per hour, inclusive;

(b) between sixteen and thirty kilometres per hour, inclusive; or

(c) thirty-one kilometres per hour or more.

(2) The Governor in Council may make regulations defining a temporary work area and its limits or the manner in which a temporary work area is to be designated for the purpose of this Section. 2007, c. 45, s. 8; 2009, c. 20, s. 1.

Sign for temporary work area

106C The Minister or the traffic authority shall erect a sign in or approaching a temporary work area advising drivers that the fines under this Act for speeding in a temporary work area are double. 2008, c. 22, s. 1.

Interpretation of Sections 106E and 106F

106D (1) In Sections106E and 106F, "emergency vehicle" means

(a) an ambulance;

(b) a police vehicle;

(ba) a public-safety vehicle;

(bb) a tow truck at the scene of a fire or an accident or while assisting a vehicle;

(c) a fire department vehicle or fire patrol vehicle, including a fire suppression vehicle or fire vehicle operated by the Department of Natural Resources and Renewables;

(d) a vehicle being used by the chief or deputy chief of a volunteer fire department when acting in an emergency arising from a fire or an accident;

(e) a vehicle being used by a conservation officer appointed under an enactment when the conservation officer is performing the officer's duties as a conservation officer;

(f) a vehicle being used by a motor vehicle inspector or a motor carrier inspector when the inspector is performing the inspector's duties as an inspector;

(g) any other vehicle designated by the regulations made pursuant to this Section.

(2) The Minister may make regulations

(a) designating a vehicle as an emergency vehicle;

(b) defining any word or expression used but not defined in subsection (1).

(3) The exercise by the Minister of the authority contained in subsection (2) is regulations within the meaning of the *Regulations Act*. 2009, c. 20, s. 2; 2014, c. 20, s. 2; 2018, c. 15, s. 1; O.I.C. 2018-188; O.I.C. 2021-2010.

Regulations

106DA (1) The Minister may make regulations prescribing a class of persons who are public-safety officers.

(2) The exercise by the Minister of the authority contained in subsection ~~(2)~~ [(1)] is regulations within the meaning of the *Regulations Act*. 2014, c. 20, s. 3.

Speed limit when passing emergency vehicle

106E (1) No person shall drive a vehicle on a highway past an emergency vehicle, that is stopped on the roadway or a shoulder adjacent to it and exhibiting a flashing light, at a speed in excess of

(a) the speed limit but for this Section; or

(b) sixty kilometres per hour,

whichever is less.

(2) A person commits an offence who contrary to subsection (1) exceeds the speed limit referred to in clause (1)(a) or (b) by

(a) between one and fifteen kilometres per hour, inclusive;

(b) between sixteen and thirty kilometres per hour, inclusive; or

(c) thirty-one kilometres per hour or more.

(3) Where a highway is divided into separate roadways by a median, this Section only applies to a vehicle being driven on the same roadway as the emergency vehicle is stopped on or beside. 2009, c. 20, s. 2.

Lane use when passing emergency vehicle

106F (1) The driver of a vehicle that is approaching an emergency vehicle, that is stopped and exhibiting a flashing light, shall not

(a) drive in a traffic lane occupied, or partly occupied, by the emergency vehicle; or

(b) drive in the traffic lane closest to the emergency vehicle and not occupied, or partly occupied, by the emergency vehicle,

if there is another traffic lane, for traffic moving in the same direction as the vehicle and further from the emergency vehicle, into which the vehicle can move safely.

(2) Where the traffic on a highway is divided into separate roadways by a median, this Section only applies to a vehicle being driven on the same roadway as the emergency vehicle is stopped on or beside. 2009, c. 20, s. 2.

Exemption of public safety vehicle

106G (1) Where the driver of a public-safety vehicle is displaying the vehicle's flashing lights and operating the vehicle's siren, the driver of the public-safety vehicle is not required to obey Section 93 with respect to traffic signals, Section 133 with respect to stop signs or any of the speed limitations in this Act if it is reasonable and safe in the circumstances not to do so.

(2) Notwithstanding any other provision of this Act, the driver of a public-safety vehicle shall

(a) drive with due regard for the safety of all persons using the highway; and

(b) obey the directions of a peace officer on a highway. 2014, c. 20, s. 4.

Slow driving

107 (1) Except when necessary for safe operation or to comply with this Act, no person shall drive a motor vehicle at such a slow speed as to impede or block the normal and reasonable flow of traffic.

(2) Where a person is driving a motor vehicle at such a slow speed as to impede or block the normal and reasonable flow of traffic, he shall stop where it is reasonably safe to do so and permit traffic so impeded or blocked to pass his motor vehicle.

(3) The Minister may fix minimum rates of speed for motor vehicles traversing any part or portion of a highway and may erect and maintain signs containing notification of such rate of speed so fixed, and thereafter while such signs remain so erected and displayed, the driver of any vehicle who wilfully drives at a rate of speed less than such minimum rate of speed shall be guilty of an offence. R.S., c. 293, s. 107.

Signage for temporary work area and Department vehicle

107A Notwithstanding anything contained in this Act,

(a) where a portion of a highway is designated as a temporary work area by the erection of signs, regulatory signs may be placed on temporary sign supports adjacent to the travelled portion of the highway; and

(b) the driver of a vehicle shall stop the vehicle and remain stopped when approaching a Department vehicle exhibiting flashing red lights and an illuminated "STOP DO NOT PASS" sign. 2001, c. 44, s. 3.

Traffic control person

107B (1) In this Section, "traffic control person" means a person qualified and accredited by the Provincial Traffic Authority to direct the movement of traffic along or across a highway within an area designated as a temporary work area for the purpose of construction, maintenance or utility operation.

(2) A traffic control person may direct traffic only at a temporary work area in a manner consistent with standards contained in the latest edition of the Nova Scotia Temporary Workplace Traffic Control Manual.

(3) It is an offence for the driver of a vehicle to fail to obey a traffic control person directing traffic within a temporary work area. 2001, c. 44, s. 3.

Restrictions on bridge

108 (1) No person shall drive a vehicle whose combined weight and load exceed 11,000 kilograms upon any bridge while a commercial motor vehicle or other heavy laden vehicle is already upon the bridge.

(2) The Department may erect and maintain signs upon any bridge, causeway or viaduct or on the approaches thereto, requiring the drivers of vehicles or any class or classes of vehicles to stop before entering such bridge, causeway or viaduct or setting forth the maximum speed at which drivers of vehicles or any class or classes of vehicles may drive over such bridge, causeway or viaduct.

(3) It shall be an offence for the driver of a vehicle to fail to comply with a direction set forth on a sign erected and maintained pursuant to subsection (2). R.S., c. 293, s. 108.

Exemption of police or emergency vehicle

109 (1) The speed limitations as set forth in this Act shall not apply to vehicles when operated with due regard to safety under the direction of the police in the chase or apprehension of violators of the law or of persons charged with or suspected of any such violation, nor to fire departments or fire patrol vehicles when travelling in response to a fire alarm, nor to public or private ambulances when travelling in emergencies and the drivers thereof sound audible signal by bell, siren or exhaust whistle.

(2) This Section shall not relieve the driver of any such vehicle from the duty to drive with due regard for the safety of all persons using the highway, nor shall it protect the driver of any such vehicle from the consequences of a reckless disregard of the safety of others. R.S., c. 293, s. 109; revision corrected.

RULES OF THE ROAD

Duty to drive on right

110 (1) Upon all highways of sufficient width, except upon one-way streets, the operator or driver of a vehicle shall operate or drive the same upon the right half of the highway and, subject to Section 131A, shall drive a slow-moving vehicle as closely as possible to the right-hand edge or curb of such highway, unless it is impracticable to travel on such side of the highway except when overtaking and passing another vehicle subject to the rules applicable in overtaking and passing set forth in Section 115.

(2) In approaching any bridge, viaduct or tunnel, if the bridge, viaduct or tunnel is less than 6 metres in width or approaching or crossing a railroad right of way or an intersection of highways, the driver of a vehicle shall at all times cause the vehicle to travel on the right half of the highway unless the right half is out of repair and for such reason impassable.

(3) Subsection (2) shall not apply upon a one-way street.

(4) In driving upon a one-way street the driver shall drive as closely as practicable to the right-hand edge or curb of the highway except when overtaking or passing or travelling parallel with another vehicle or when placing a vehicle in position to make a left turn. R.S., c. 293, s. 110; 2010, c. 59, s. 3.

Rules for laned traffic

111 Whenever a street or highway has been divided into clearly marked lanes for traffic, drivers of vehicles shall obey the following regulations:

(a) a vehicle shall normally be driven in the lane nearest the right-hand edge or curb of the highway when such lane is available for travel except when overtaking another vehicle or in preparation for a left turn or as permitted in clause (d);

(b) a vehicle shall be driven as nearly as is practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that the movement can be made with safety;

(c) upon a highway which is divided into three lanes a vehicle shall not be driven in the centre lane except when overtaking and passing another vehicle or in preparation for a left turn or unless the centre lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is sign-posted to give notice of such allocation;

(d) the traffic authority may designate right-hand lanes for slow-moving traffic and inside lanes for traffic moving at the speed indicated for the district under this Act, and when such lanes are sign-posted or marked to give notice of such designation a vehicle may be driven in any lane allocated to traffic moving in the direction the vehicle is proceeding, but when travelling within the inside lanes vehicles shall be driven at approximately the speed authorized in such lanes, and speed shall not unnecessarily be decreased so as to block, hinder or retard traffic. R.S., c. 293, s. 111.

Rule for lane merge

111A (1) Where two lanes of a street or highway merge into one lane, the driver of a vehicle in the left lane shall yield the right of way to a vehicle in the right lane unless the driver of the vehicle in the right lane is directed by a sign to yield to the vehicle in the left lane.

(2) For greater certainty, nothing in subsection (1) applies to vehicles in merging from an entrance ramp. 2008, c. 23, s. 1.

Highway divided into two separate roadways

112 (1) Where a highway is divided into two separate roadways, no person shall

(a) drive or park a vehicle upon the left-hand roadway, having regard to the direction in which the vehicle is being driven;

(b) drive a vehicle from one roadway to the other roadway except at an intersection.

(2) Clause (b) of subsection (1) does not apply to police, fire or emergency vehicles, public safety vehicles or vehicles operated by employees of the Department while acting in the course of their employment or to vehicles designated by regulation.

(2A) The Minister may make regulations designating classes of vehicles to which clause (b) of subsection (1) does not apply.

(2B) The exercise by the Minister of the authority contained in subsection (2A) is regulations within the meaning of the *Regulations Act.*

(3) Where a highway is divided in the manner described in subsection (1), the Registrar may erect appropriate signs in the highway or require the traffic authority of the city or town in which the highway lies to erect appropriate signs at the entrances to the highway that is so divided. R.S., c. 293, s. 112; 2008, c. 62, s. 1; 2014, c. 20, s. 5.

Passing in opposite directions

113 Subject to clause (b) of subsection (1) of Section 118, drivers of vehicles proceeding in opposite directions shall pass each other to the right, each giving to the other at least one half of the main travelled portion of the roadway as nearly as possible. R.S., c. 293, s. 113.

Overtaking and passing

114 (1) Except as otherwise provided in Section 115, the following rules shall govern the overtaking and passing of vehicles:

(a) the driver of a vehicle overtaking another vehicle proceeding in the same direction shall not pass until after he has given a suitable and audible signal, and shall pass to the left of the overtaken vehicle at a safe distance and shall not again drive to the right side of the highway until safely clear of the overtaken vehicle;

(b) the driver of an overtaken vehicle shall give way to the right in favour of the overtaking vehicle on suitable and audible signal and shall not increase the speed of his vehicle, until completely passed by the overtaking vehicle;

(c) in the event vehicles on a street or highway are moving in two or more substantially continuous lines, clauses (a) and (b) shall

not be considered as prohibiting the vehicles in one such line overtaking or passing the vehicles in another such line either upon the right or the left, nor shall clauses (a) and (b) be construed to prohibit a driver overtaking and passing upon the right another vehicle which is making or about to make a left turn.

(2) Notwithstanding Section 85 and clause (1)(a), a cyclist operating on the far right side or the right-hand shoulder of the roadway may pass to the right of the overtaken vehicle if it is safe to do so. R.S., c. 293, s. 114; 2010, c. 59, s. 4.

Driving on left of centre line

115 (1) The driver of a vehicle shall not drive to the left side of the centre line of a highway

(a) when overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit the overtaking and passing to be completely made without impeding the safe operation of any vehicle approaching from the opposite direction or of any overtaken vehicle;

(b) when upon a grade in the highway or approaching the crest of a grade in the highway where in either case the driver's view along the highway is obstructed within a distance of 150 metres; or

(c) when approaching or upon a curve in the highway where in either case the driver's view along the highway is obstructed within a distance of 150 metres.

(2) Notwithstanding subsection (1) and subject to subsection (3), where a highway is divided into lanes for the movement of vehicles in the opposite direction by lines upon the highway, and

(a) where the highway is marked with a solid double line, the driver of a vehicle shall drive the vehicle to the right of the line only;

(b) where the highway is marked with a double line consisting of a broken line and a solid line,

(i) the driver of a vehicle proceeding along the highway on the side of the broken line shall drive the vehicle to the right of the double line, except when passing a vehicle proceeding in the same direction, and

(ii) the driver of the vehicle proceeding along the highway on the side of the solid line shall drive the vehicle to the right of the double line; and

(c) where the highway is marked with one single line, broken or solid, the driver of a vehicle shall drive the vehicle to the right

of the line, except only when passing a vehicle proceeding in the same direction.

(3) Subsection (2) shall not apply

(a) where a vehicle is entering or leaving the highway at a place other than an intersection;

(b) where a vehicle is completing a passing manoeuvre begun in accordance with subsection (2); or

(c) where the lines are not clearly visible or where it is reasonable and prudent to drive to the left of the lines due to weather or other conditions. R.S., c. 293, s. 115.

Sign or mark prohibiting passing

116 Notwithstanding Section 114 or 115, a vehicle on a highway is prohibited from overtaking or passing another vehicle headed in the same direction, either on the left or right, where a sign is posted or the pavement is marked in a manner approved by the Minister to indicate that passing is prohibited. R.S., c. 293, s. 116.

Minimum following distance and slow-moving vehicle

117 (1) The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard to the speed of such vehicles and the traffic upon and condition of the highway.

(2) The driver of a commercial motor vehicle other than a police patrol or the driver of a vehicle towing a trailer or a mobile home when travelling upon a highway outside of a business or residence district shall not follow another vehicle within 60 metres except for the purpose of overtaking and passing the other vehicle.

(3) No person shall drive upon a highway a farm tractor unless the farm tractor has exhibited in the rear of the tractor or a vehicle drawn by the tractor a sign, emblem or device prescribed by the Minister warning motorists of the slow movement of the vehicle.

(4) No person shall drive upon a highway a motor vehicle that is not capable of maintaining a rate of speed in excess of forty kilometres per hour under normal conditions unless the motor vehicle has exhibited in the rear of the motor vehicle or a vehicle drawn by the motor vehicle a sign, emblem or device prescribed by the Minister warning motorists of the slow movement of the vehicle.

(5) No person shall drive upon a highway at a rate of speed in excess of forty kilometres per hour a farm tractor or other motor vehicle exhibiting at the rear of the farm tractor or motor vehicle or of a vehicle drawn by the farm tractor or motor vehicle a sign, emblem or device prescribed by the Minister warning motorists of the slow movement of a vehicle. R.S., c. 293, s. 117; 2006, c. 35, s. 2.

Rules respecting intersection

118 (1) Wherever practicable the driver of a vehicle intending to turn at an intersection shall do so as follows:

(a) approach for a right turn shall be made in the lane for traffic nearest to the right-hand side of the highway and the right turn shall be made as closely as practicable to the right-hand curb or edge of the highway;

(b) approach for a left turn shall be made in the lane for traffic to the right of and nearest to the centre line of the highway and the left turn shall be made by passing to the right of the centre line where it enters the intersection, and upon leaving the intersection by passing to the right of the centre line of the highway then entered and when practicable by making the left turn in the portion of the intersection to the left of the centre of the intersection;

(c) where one or more of the highways is a one-way street, approach for a left turn in the extreme left lane or part of the highway lawfully available to traffic moving in the same direction and, after entering the intersection, turn left into the extreme left lane or part of the highway lawfully available to traffic moving in the same direction on the highway being entered.

(2) Traffic authorities may, by placing markers, buttons or signs within intersections, require and direct that a course be travelled by vehicles turning left different from that specified in clause (b) of subsection (1), and it shall be an offence for the driver of a vehicle to make a left turn otherwise than so directed and required by such markers, buttons or signs. R.S., c. 293, s. 118.

Signal required

119 (1) The driver of any vehicle upon a highway before starting, stopping or turning from a direct line shall first see that such movement can be made in safety and if any pedestrian may be affected by such movement shall give a clearly audible signal by sounding the horn if the vehicle is required to be equipped with a horn under this Act, and, whenever the operation of any other vehicle may be affected by such movement, shall give a signal as required in this Section plainly visible to the driver of such other vehicle of the intention to make such movement.

(2) The signal required by this Section shall be given either by means of the hand and arm in the manner specified in subsection (3) or by a mechanical or electrical signalling device, but when a vehicle is so constructed or loaded

(a) as to prevent the hand and arm signal from being visible both to the front and rear of the vehicle; or

(b) that any portion of the body or load of the vehicle extends more than 600 millimetres to the left of the centre of the steering wheel of the vehicle,

the signal shall be given by a mechanical or electrical signalling device.

(3) When a driver of a vehicle gives a signal by the hand and arm he shall do so from the left side of the vehicle and shall signify his intention

(a) to turn left, by extending his hand and arm horizontally from the vehicle;

(b) to turn right, by extending his hand and arm out and upward from the vehicle;

(c) to stop or decrease speed, by extending his hand and arm out and downward from the vehicle. R.S., c. 293, s. 119.

Backing and turning around

120 (1) The driver of a vehicle shall not back the vehicle unless such movement can be made in safety.

(2) The driver of a vehicle shall not turn the vehicle around so as to proceed in the opposite direction upon a curve or upon the approach to or near the crest of a grade or at any place upon a highway where the view of the vehicle is obstructed within a distance of 150 metres along the highway in either direction.

(3) It shall be an offence for the driver of a vehicle within a business or residence district to turn the vehicle so as to proceed in the opposite direction unless such movement can be made in safety and without backing or otherwise interfering with other traffic.

(4) It shall be an offence for the driver of any vehicle to fail to comply with the directions displayed on signs prohibiting right or left turns at intersections or prohibiting turning around in any block or specified area of the highway. R.S., c. 293, s. 120.

Prohibited use of exit ramp

121 No person shall turn a vehicle across a roadway at an interchange for the purpose of using an exit ramp intended solely for the use of vehicles proceeding in the opposite direction to the turning vehicle. R.S., c. 293, s. 121.

Right of way or left turn at intersection

122 (1) The driver of a vehicle approaching an intersection shall yield the right of way to a vehicle which has entered the intersection, and when two vehicles enter an intersection at approximately the same time, the driver of the vehicle on the left shall yield to the driver on the right.

(2) The driver of a vehicle who has stopped as required by law at the entrance to a through highway shall yield to other vehicles within the intersection or approaching so closely on the through highway as to constitute an immediate hazard, but said driver having so yielded may proceed, and other vehicles approaching the intersection on the through highway shall yield to the vehicle so proceeding into or across the through highway.

(3) The driver of a vehicle within an intersection intending to turn to the left shall yield to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard, but said driver having so yielded and having given a signal when and as required by law may make the left turn, and other vehicles approaching the intersection from the opposite direction shall yield to the driver making the left turn.

(4) The driver of a vehicle on a highway intending to turn to the left, other than within an intersection, shall yield to any vehicle approaching from the opposite direction which is so close to his vehicle as to constitute an immediate hazard, but, said driver having so yielded and having given a signal when and as required by law may make the left turn, and the drivers of other vehicles approaching the turning vehicle from the opposite direction shall yield to the driver making the left turn.

(5) Subject to subsection (3), no driver shall enter an intersection or a marked crosswalk except to make a left or a right turn unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic-control signal indication to proceed. R.S., c. 293, s. 122.

Entering a highway and emergency vehicles

123 (1) The driver of a vehicle entering a highway shall yield the right of way to all vehicles approaching on the highway.

(2) The driver of a vehicle upon a highway shall yield the right of way to a police or fire department vehicle, public-safety vehicle or ambulance if the driver of any such vehicle is displaying the vehicle's flashing lights and operating the vehicle's bell, siren or exhaust whistle.

(3) Subsection (2) shall not operate to relieve the driver of a police or fire department vehicle, public-safety vehicle or ambulance from the duty to drive with due regard for the safety of all persons using the highway, nor shall it protect the driver of any such vehicle from the consequence of an arbitrary exercise of such right of way. R.S., c. 293, s. 123; 2014, c. 20, s. 6.

Duty on approach of emergency vehicle

124 (1) Upon the approach of a police or fire department vehicle or ambulance giving audible signal by bell, siren or exhaust whistle, the driver of every other vehicle shall immediately drive the same to a position as near as possible and parallel to the right-hand edge or curb of the highway, clear of any intersection of highways, and shall stop and remain in that position unless otherwise directed by a peace officer until the police or fire department vehicle or ambulance has passed, and the motorman of every street car shall immediately stop such car clear of any intersection and keep it in that position until the police or fire department vehicle or vehicles or ambulance has passed unless otherwise directed by a peace officer.

(2) Upon the approach of a public-safety vehicle that has the vehicle's flashing lights displayed and siren operating, the driver of every other vehicle shall immediately drive the same to a position as near as possible and parallel to the right-hand edge or curb of the highway, clear of any intersection of highways, and shall stop and remain in that position unless otherwise directed by a peace officer until the public-safety vehicle has passed. R.S., c. 293, s. 124; 2014, c. 20, s. 7.

Duty respecting transit bus

124A (1) In this Section, "transit bus" means a transit bus of a class prescribed by the regulations.

(2) The driver of a vehicle on a highway with a speed limit of sixty kilometres per hour or less shall yield the right of way to allow a transit bus that is stopped, standing or parked at or immediately adjacent to the edge of the roadway to enter the closest lane of traffic flow adjacent to the right-hand edge of the roadway if

(a) the driver of the transit bus has signalled an intention to enter the lane of traffic;

(b) the transit bus is displaying the signage prescribed by the regulations; and

(c) yielding to the transit bus does not constitute an immediate hazard.

(3) Subsection (2) does not apply to the driver of an emergency vehicle, as defined in Section 106D, when the emergency vehicle is exhibiting a flashing light.

(4) Nothing in this Section relieves a driver of a transit bus from the duty to drive with due regard for the safety of all persons using the highway.

(5) The Minister may make regulations

(a) prescribing classes of transit buses for the purpose of this Section;

(b) prescribing standards, specifications and locations of signs or signals for the purpose of this Section;

(c) respecting any matter or thing the Minister considers necessary or advisable to carry out effectively the intent and purpose of this Section.

(6) The exercise of the Minister of the authority contained in subsection (5) is regulations within the meaning of the *Regulations Act*. 2010, c. 63, s. 1.

PEDESTRIANS

Pedestrian and vehicle rights of way

125 (1) Where pedestrian movements are not controlled by traffic signals,

(a) the driver of a vehicle shall yield the right of way to a pedestrian lawfully within a crosswalk or stopped facing a crosswalk; or

(b) where the traffic on a highway is divided into separate roadways by a median, the driver of a vehicle shall yield the right of way to a pedestrian lawfully within a crosswalk or stopped facing the crosswalk on the roadway on which the vehicle is travelling.

(2) Where a vehicle has stopped at a crosswalk to yield to a pedestrian pursuant to subsection (1), it is an offence for the driver of any other vehicle approaching from the rear to overtake and pass the stopped vehicle.

(3) A pedestrian shall not leave a curb or other place of safety and walk or run into the path of a vehicle that is so closely approaching that it is impractical for the driver of the vehicle to stop.

(4) Where a pedestrian is crossing a roadway at a crosswalk that has a pedestrian-activated beacon, the pedestrian shall not leave a curb or other place of safety unless the pedestrian-activated beacon has been activated.

(5) A pedestrian crossing a roadway at any point other than within a crosswalk shall yield the right of way to vehicles upon the roadway.

(6) This Section does not relieve a pedestrian or a driver of a vehicle from the duty to exercise due care. 2007, c. 45, s. 9.

Crossing guard

125A (1) A crossing guard may direct children across a roadway only at a marked crosswalk and as part of the crossing guard's employment.

(2) Before directing children across a roadway, a crossing guard shall

(a) display an approved stop sign in an upright position so that it is visible to all approaching vehicular traffic;

(b) enter into the middle of the intersection while continuing to display the stop sign; and

(c) ensure that all approaching vehicles have stopped.

(3) When a stop sign is displayed as required by subsection (2), the driver of any vehicle approaching the crosswalk shall stop no closer than five metres from the crosswalk.

(4) It is an offence for a driver of a vehicle to fail to obey a crossing guard who is directing children in a crosswalk. 2001, c. 12, s. 5.

Surrender and revocation of licence

125B (1) Where a peace officer is satisfied that a motor vehicle is being or has been operated in the course of committing an offence contrary to subsection (1) or (2) of Section 125 or subsection (3) or (4) of Section 125A, the peace officer shall request that the person surrender the person's driver's license.

(2) Upon a request being made under subsection (1), the person to whom the request was made shall forthwith surrender the person's driver's license to the peace officer and, whether or not the person is unable or fails to surrender the person's driver's license to the peace officer, the person's driver's license is revoked and the person's driving privilege is suspended for a period of seven days from the time the request is made.

(3) The suspension of a driver's license or the suspension of a driving privilege pursuant to this Section is in addition to and not in substitution for any proceeding or penalty arising from the same circumstances.

(4) Where a driver's license is suspended or a driving privilege is suspended pursuant to this Section, the peace officer who requested the surrender of the driver's license shall

(a) keep a written record of the suspension with the name and address of the person and the date and time of the suspension; and

(b) provide the person with a written statement of the time at which the suspension takes effect, the length of the period during which the person's driver's license or driving privilege is suspended, the place where the driver's license may be recovered upon the termination of the suspension and acknowledging receipt of the driver's license that is surrendered. 2007, c. 45, s. 10.

Offence to disobey traffic signal

126 At an intersection where traffic is controlled by traffic signals, it shall be an offence for a pedestrian to disobey the instruction of any traffic signal placed in accordance with this Act unless otherwise directed by a peace officer. R.S., c. 293, s. 126.

Movement of pedestrians

127 (1) Pedestrians shall move whenever practicable upon the right half of crosswalks.

(2) Where sidewalks are provided it shall be unlawful for any pedestrian to walk along and upon an adjacent highway.

(3) Where sidewalks are not provided, any pedestrian walking along and upon a highway shall, when practicable, walk only on the left side of the roadway or its shoulder facing traffic which may approach from the opposite direction. R.S., c. 293, s. 127.

Standing in roadway to hitch-hike or board streetcar

128 (1) It shall be an offence for a person to stand in a roadway for the purpose of soliciting a ride from the driver of a private vehicle.

(2) It shall be an offence for a person about to board a street car to stand upon the roadway either within or without a crosswalk except when a safety zone has been established, until the street car which he is about to board has been brought to a standstill. R.S., c. 293, s. 128.

STREET CARS AND VEHICLES

Boarding, alighting from or riding in vehicle

129 (1) It shall be an offence for the driver of a vehicle to stop the vehicle on the street or highway for the purpose of letting off or taking on any person or persons, other than at the curb or side of the road or highway, or knowingly to permit any person or persons to alight from or to enter upon the vehicle while the same is in motion.

(2) No person shall board or alight from a vehicle while the vehicle is in motion.

(3) It shall be an offence for a person to ride or for the driver to permit a person to ride on a vehicle upon any portion thereof not designed or intended for the use of passengers when the vehicle is in motion.

(4) Subsection (3) shall not apply

(a) to an employee engaged in the necessary discharge of a duty; or

(b) in the case of persons being transported in trucks in space intended for merchandise if the trucks have secure seating accommodation and all such persons are seated while being so transported.

(5) It shall be an offence for a person to ride or for the driver of the towing vehicle to permit a person to ride in a travel trailer or mobile home while the travel trailer or mobile home is being towed on the highway.

(6) It shall be an offence for a person to ride or for the driver to permit a person to ride in a truck camper while the truck camper is being operated on the highway except in a regular passenger seat or in a seat permanently mounted on the lower part of the body of the truck camper.

(7) No person shall drive a motor vehicle on a highway if

(a) the control of the driver over the driving mechanism of the vehicle; or

(b) the view of the driver to the front or sides of the vehicle,

is obstructed or interfered with by reason of the load or the number of persons in the front seat.

(8) It shall be an offence for a passenger in a vehicle to ride in such position as to interfere with the driver's or operator's view ahead or to the sides, or to interfere with the driver's or operator's control over the driving mechanism of the vehicle. R.S., c. 293, s. 129.

No driving bus with open door

130 The driver of a bus or a trolley coach shall not knowingly operate the bus or trolley coach while a door of the bus or trolley coach is open. R.S., c. 293, s. 130.

SAFETY ZONES AND COMPULSORY STOPS

Safety zone

131 The driver of a vehicle shall not at any time drive through or over a safety zone as defined in Section 2. R.S., c. 293, s. 131.

Bicycle lanes

131A The driver of a vehicle shall not operate the vehicle in a bicycle lane unless

(a) it is necessary to do so to go around a vehicle or a bicycle immediately in front of the driver's vehicle that has signalled its intention to turn left;

(b) it is necessary to do so to complete a lawful manoeuvre; or

(c) the driver has encountered a condition on the roadway, including a fixed or moving object, parked or moving vehicle, pedestrian, animal or surface hazard that makes it impracticable not to do so,

but in that event shall yield the right of way to any cyclist lawfully in the bicycle lane. 2010, c. 59, s. 5.

Railway crossing

132 (1) Whenever a person driving a vehicle approaches a highway and railway grade crossing and a clearly visible or positive signal gives warning of the immediate approach of a railway engine, train or car, it shall be an offence for the driver of the vehicle to fail to stop the vehicle before traversing such grade crossing.

(2) No driver shall enter a highway and railway grade crossing unless there is sufficient space on the other side to accommodate the vehicle he is operating without obstructing the passage of railroad trains. R.S., c. 293, s. 132.

Stop sign

133 (1) Subject to Section 86, the traffic authority may designate main travelled or through highways by erecting at the entrances thereto from intersecting highways signs notifying drivers of vehicles to stop before entering or crossing such designated highways, or may designate particular intersections and erect stop signs at one or more entrances thereto, and whenever any such signs have been so erected it shall be an offence for the driver of a vehicle or the motorman of a street car to fail to stop in obedience thereto, except where directed to proceed by a peace officer or traffic control signal.

(2) Such signs shall be placed as nearly as practicable to, and the stop shall be made at, the place where the cross street meets the prolongation of the nearest property line of the through highway.

(3) Every such sign shall bear the word "stop" in letters of a size to be clearly legible from a distance of at least 30 metres and shall be illuminated at night or so placed as to be illuminated by the headlights of an approaching vehicle or by street lights.

(4) This Section shall not apply in the case of police and fire department vehicles and ambulances when the same are operating in emergencies and the drivers sound an audible signal by bell, siren, compression or exhaust whistle, but this proviso shall not operate to relieve the driver of a police or fire department vehicle or ambulance from the duty to drive with due regard for the safety of all persons using the highway. R.S., c. 293, s. 133; 2014, c. 20, s. 8.

Yield sign

134 (1) Subject to Section 86, a traffic authority may erect at any intersection a yield sign or signs.

(2) A yield sign shall be of such design and specification as may be determined by the Minister pursuant to Section 88 and shall be of a size to be clearly discernible from a distance of 30 metres and shall be illuminated at night or so placed as to be illuminated by the headlights of an approaching vehicle or by street lights.

(3) The driver of a vehicle approaching an intersection at which there is a yield sign and facing the sign shall enter the intersection with caution and shall yield the right of way to all other traffic within the intersection or approaching so closely on the intersecting highway as to constitute an immediate hazard. R.S., c. 293, s. 134.

Rotary or roundabout

135 (1) The driver of a vehicle entering a roadway in or around a rotary or roundabout shall yield the right of way to traffic already on the roadway in the circle and approaching so closely to the entering highway as to constitute an immediate hazard.

(2) The driver of a vehicle passing around a rotary or roundabout shall drive the vehicle in a counter-clockwise direction around the island or the centre of the circle. 2004, c. 42, s. 10.

Driveway

136 (1) The driver of a vehicle within a business or residence district emerging from an alley, driveway or building shall stop the vehicle immediately prior to driving on a sidewalk or on the sidewalk area extending across an alley way.

(2) The driver of a vehicle entering an alley, driveway or building or driving across a sidewalk shall yield the right of way to a pedestrian who is crossing the entrance to the alley, driveway or building or who is on the sidewalk at the point where the vehicle is crossing. R.S., c. 293, s. 136.

Application of Sections 131 to 136

137 (1) In Section 131 and Sections 132 to 136, "vehicle" includes a bicycle, a personal transporter and an electric kick-scooter and "driver" includes a cyclist, the operator of a personal transporter and the operator of an electric kick-scooter.

(2) For greater certainty, Section 131A does not apply to bicycles, personal transporters, electric kick-scooters or their operators. 2022, c. 21, s. 8.

PARKING

Parking on highway

138 (1) No person shall park or leave standing a vehicle, whether attended or unattended, upon the paved or improved or main travelled portion of any highway, outside of a business or residence district, when it is practicable to park or leave the vehicle standing off the paved or improved or main travelled portion of the highway, provided, in no event shall any person park or leave standing a vehicle, whether attended or unattended, upon any highway unless a clear and unobstructed width of not less than 4.5 metres upon the main travelled portion of the highway opposite the standing vehicle shall be left for free passage of other vehicles thereon, nor unless a clear view of the vehicle may be obtained from a distance of 60 metres in each direction upon the highway.

(2) Whenever a peace officer finds a vehicle standing upon a highway in violation of this Section, he may move the vehicle or require the driver or person in charge of the vehicle to move the vehicle to a position permitted under this Section.

(3) This Section shall not apply to the driver of a vehicle which is disabled while on the paved or improved or main travelled portion of a highway in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving the vehicle in such position. R.S., c. 293, s. 138.

Winter parking

139 (1) Notwithstanding Section 138, no person wilfully shall park or leave standing a vehicle whether attended or unattended, upon a highway or any part thereof in such manner that it might interfere with or obstruct snow removal or winter maintenance operations on the highway.

(2) Where a vehicle is parked or left standing on a highway in such manner that it interferes with or obstructs snow removal or winter maintenance operations, the Department or a peace officer may cause the vehicle to be moved or towed to some other place.

(3) Any cost incurred by the Department or a peace officer in moving or towing a vehicle under subsection (2) may be recovered from the owner of the vehicle and such debt shall constitute a lien against the vehicle. R.S., c. 293, s. 139.

Warning flare or reflector

140 (1) Notwithstanding any of the provisions of this Act, where a commercial motor vehicle that has a registered weight of 3,500 kilograms or more or a travel trailer or a motorized home is so disabled on a highway outside a city or incorporated town at any time during the period from one half hour after sunset to one half hour before sunrise that it cannot be removed from the highway, the driver of the vehicle shall, while the vehicle is so disabled on the highway during the said period place and maintain a flare, of the "pot flame" type, so called, at the front of the vehicle and a similar flare at the rear of the vehicle.

(2) The driver of every commercial vehicle that has a registered weight of 3,500 kilograms or more or a travel trailer or a motorized home shall have in the vehicle at all times when it is operated on the highway no less than two flares of the "pot flame" type, so called, both of which are charged with fuel and in good working order.

(3) Where a commercial vehicle of the class described in subsection (1) or (2) is equipped and is being used for the transportation of gasoline, fuel oil or other similar volatile inflammable substance the driver may have and if occasion requires may use portable red reflectors that are visible for a distance of 150 metres under normal atmospheric conditions, electric lamps or lights that are operated from a battery or batteries other than a battery of the vehicle in place of the flares described in those subsections. R.S., c. 293, s. 140.

Service truck

141 (1) Where a motor vehicle service, repair or towing truck, on which a crane is permanently mounted, is stopped on a highway outside a city or incorporated town at any time during the period from one half hour after sunset to one half hour before sunrise for the purpose of rendering service to a disabled motor vehicle or of taking a motor vehicle in tow from a position on or near the highway, the driver of the truck shall, while the truck is so stopped, place and maintain at least four retro-reflective pylons meeting specifications prescribed by the Minister at a sufficient distance to the front and the rear of the truck to give warning to approaching vehicles in time to enable them to stop before reaching the place where the truck is and the pylon farthest from the truck shall be not less than 150 metres from the truck.

(2) The Minister shall from time to time publish in one or more issues of the Royal Gazette the specifications of pylons that may be used as required by this Section, and the production of a copy of the Royal Gazette shall be *prima facie* evidence of the matters stated or represented in the specifications. R.S., c. 293, s. 141.

Alternative to pot flame flare

142 Where by virtue of Section 140 or 141 a flare of the "pot flame" type is required to be used, a person may in lieu thereof use a red emergency reflector, lighted fuse or electrically operated red lantern. R.S., c. 293, s. 142.

No stopping, standing or parking

143 (1) It shall be an offence for the driver of a vehicle to stop, stand or park the vehicle, whether attended or unattended, except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or traffic control signal or sign, in any of the following places:

(a) within an intersection;

(b) on or within 5 metres of a crosswalk;

(c) between a safety zone and the adjacent curb or within 10 metres of points on the curb immediately opposite the ends of a safety zone, unless local or traffic authorities shall indicate a different length by signs or markings;

(d) within 7.5 metres from the intersection of curb lines, or, if none, then within 5 metres of the intersection of property lines at an intersection within a business or residence district, except at alleys;

(e) within 10 metres upon the approach to any official flashing beacon, stop sign, yield sign, or traffic control signal located at the side of the roadway;

(f) within 5 metres of the driveway entrance to any fire station;

(g) within 5 metres of a fire hydrant;

(h) in front of a private driveway;

(i) on a sidewalk;

(j) alongside or opposite any street or highway excavation or obstruction when the stopping, standing or parking would obstruct traffic;

(k) on the roadway side of any vehicle stopped or parked at the edge or curb of a highway;

(l) at any place where official traffic signs have been erected prohibiting standing and parking;

(m) within 15 metres of the nearest rail of a railway crossing;

(n) on the crest of a grade where the view of an approaching driver is obstructed.

(2) It shall be an offence for the driver of a vehicle to park the vehicle, whether attended or unattended, in a bicycle lane, except in compliance with the directions of a peace officer. R.S., c. 293, s. 143; 2010, c. 59, s. 7.

Passenger or loading zone

144 **(1)** The traffic authority may determine

(a) the location of passenger zones;

(b) the location of loading zones;

(c) the days and hours when the passenger zones and loading zones shall be in effect,

and may erect and maintain or cause to be erected and maintained appropriate signs indicating these zones and their effective times.

(2) Unless the sign erected and maintained by the traffic authority indicates otherwise, a passenger zone or a loading zone shall be in effect from six o'clock in the morning to six o'clock in the afternoon on Monday through Friday except holidays.

(3) It shall be an offence for the driver of a vehicle to stop, stand or park the vehicle in a place marked as a passenger zone for a period longer than is necessary for the expeditious loading or unloading of passengers.

(4) It shall be an offence for the driver of a vehicle to stop, stand or park the vehicle in a place marked as a loading zone for a period of time longer than is necessary for the expeditious loading or unloading of passengers or materials and in no case shall the stop for loading or unloading of passengers or materials exceed thirty minutes.

(5) It shall be an offence for the driver of a vehicle to stop, stand or park the vehicle in a passenger zone or loading zone if passengers or materials are not being loaded or unloaded. R.S., c. 293, s. 144.

Parking by mobility disabled

145 (1) The Governor in Council may make regulations

(a) defining "mobility-disabled person";

(b) respecting issuance of an identification permit to a mobility-disabled person;

(ba) recognizing an identification permit or number plate bearing the international symbol of access issued by a province, state or country;

(c) respecting the manner in which an identification permit shall be displayed on a vehicle;

(d) respecting cancellation of an identification permit;

(e) respecting signs to be used for the designation of accessible-parking zones.

(2) The traffic authority may establish accessible-parking zones and every accessible-parking zone shall be designated by an approved sign.

(3) A person who stops, leaves standing or parks a vehicle in an accessible-parking zone is guilty of an offence unless there is displayed on the vehicle an identification permit or number plate issued or recognized pursuant to the regulations.

(4) Where a parking place on private property is marked for use by a mobility-disabled person, by an approved sign, a person who stops, leaves standing or parks a vehicle in the parking place is guilty of an offence unless there is displayed on the vehicle an identification permit or number plate issued pursuant to the regulations.

(5) For the purpose of this Section, an identification permit or plate issued by a province or state which has a reciprocal agreement with the Province respecting accessible parking is deemed to be an identification permit or number plate issued pursuant to the regulations.

(6) Regulations made pursuant to subsection (1) shall be regulations within the meaning of the *Regulations Act*. R.S., c. 293, s. 145; 1990, c. 36, s. 2; 1994-95, c. 12, s. 10.

Bus stop or taxi stand

146 (1) The traffic authority is hereby authorized to establish bus stops, taxicab stands and hack stands on such highways in such places and in such number as he shall determine to be of the greatest benefit and convenience to the

public, and every such bus stop, taxicab stand or hack stand shall be designated by appropriate signs.

(2) It shall be an offence for the driver of any vehicle other than a bus to stand or park in any officially designated bus stop, or for any vehicle other than a taxicab to stand or park in an officially designated taxicab stand, or for any vehicle other than a hack to stand or park in an officially designated hack stand, except that the driver of any passenger vehicle may temporarily stop in any such stop or stand for the purpose of and while actually engaged in the loading or unloading of passengers.

(3) Whenever the traffic authority has established bus stops, taxicab stands or hack stands as provided in this Section, it shall be an offence for the driver of any bus, taxicab or hack to stand or park upon any street in any business district at any place other than at a bus stop, taxicab stand or hack stand respectively, except that this provision shall not prevent the driver of any such vehicle from temporarily stopping in accordance with other stopping or parking regulations at any place for the purpose of and while actually engaged in loading or unloading passengers. R.S., c. 293, s. 146.

Trolley coach stop

147 (1) The traffic authority shall establish such trolley coach stops on such highways, in such places and in such number as the Board of Commissioners of Public Utilities shall direct and every trolley coach stop shall be designated by appropriate signs.

(2) It shall be an offence for the driver of any vehicle other than a trolley coach to stand or stop in any officially designated trolley coach stop, provided, notwithstanding the prohibition in this subsection contained, the traffic authority may permit commercial vehicles to stop within the limits of any such trolley coach stop for the purpose of loading and unloading goods, wares, and merchandise from and to business premises abutting on any such trolley coach stop, on such terms and conditions as the traffic authority may determine.

(3) For the purpose of this Section, "trolley coach" includes a bus operated in connection with a transit system that uses trolley coaches. R.S., c. 293, s. 147.

Business or residence district or alley

148 (1) It shall be an offence for any driver to stop, stand or park a vehicle upon a highway, other than an alley, within a business or residence district, in such a manner or under such conditions as to leave available less than 3 metres of the width of the roadway for free movement of vehicular traffic, except that a driver may stop temporarily during the actual loading or unloading of passengers or when necessary in obedience to traffic regulations or traffic signs or signals of a peace officer.

(2) It shall be an offence for any driver to park a vehicle within an alley in such a manner or under such conditions as to leave available less than 3 metres of the width of the roadway for the free movement of vehicular traffic. R.S., c. 293, s. 148.

Private property

149 (1) No person shall leave a vehicle standing on property of which he is not the owner or tenant without the consent of the owner or tenant of the property.

(2) When a peace officer is satisfied that a vehicle has been left standing on property for one hour or longer in violation of subsection (1), he may, on the request of the owner or tenant of the property, remove the vehicle and detain it until the expense of removal and detention are paid to him. R.S., c. 293, s. 149.

Fire lane

150 (1) The traffic authority, with the permission of the owner of private property, may set apart an area of the private property as a fire lane and may cause signs to be erected and maintained designating the fire lane.

(2) Where an area of private property is marked as a fire lane by an approved sign, a person who stops, leaves standing or parks a vehicle in the fire lane is guilty of an offence. R.S., c. 293, s. 150.

Signs

151 The traffic authority is hereby authorized to erect and maintain signs prohibiting or restricting the parking or leaving standing of vehicles upon sections of the highway, and it shall be an offence for the driver of a vehicle to fail to comply with the directions set forth on those signs. R.S., c. 293, s. 151.

Parking and parking meter regulations for city or town

152 (1) The traffic authority may make regulations prohibiting or restricting the parking or leaving standing of vehicles upon any highway or part thereof within the limits of the city or incorporated town for which the traffic authority is appointed.

(2) Such regulations may provide a system whereby a person who is alleged to have violated the regulations is given notice of the alleged violation and may pay a penalty of a fixed sum in lieu of prosecution but such payment shall be a full satisfaction, release and discharge of all penalties and imprisonments incurred by the person for the violation.

(3) Such regulations may prohibit or restrict the parking or leaving standing of vehicles except in accordance with a sign or device on a parking meter.

(4) The Governor in Council may exempt from the provisions of such regulations the stopping, parking or leaving standing of vehicles in respect of which identification permits have been issued pursuant to Section 145.

(5) Such regulations shall come into force upon and not before the approval thereof by the Minister and the publication thereof within one month of the Minister's approval thereof, once in the Royal Gazette, and twice in a newspaper circulating in such city or incorporated town, and the publication in the Royal Gazette shall be proof of approval by the Minister.

(6) Such regulations shall remain in force only until the expiry date if any be mentioned therein or the date of repeal thereof by the traffic authority or the date of revocation thereof by the Minister, whichever of the three said dates shall occur first.

(7) Notice of any such repeal shall be published forthwith in a newspaper circulating in such city or incorporated town and such repeal may be proved by production of a copy of any such newspaper containing such notice.

(8) Notice of any such revocation shall be published forthwith in the Royal Gazette and such revocation may be proved by production of a copy of the Royal Gazette containing such notice.

(9) Any person who violates any such regulation shall be liable for a first offence to a penalty of not more than five dollars and in default of payment to imprisonment for a term of not more than two days, and for a subsequent offence to a penalty of not more than ten dollars and in default of payment to imprisonment for a term of not more than four days. R.S., c. 293, s. 152.

Municipal parking meter by-law

153 (1) Notwithstanding Section 152, the council of a city, town or municipality may by by-law prohibit or restrict the parking or leaving standing of vehicles except in accordance with a sign or device on a parking meter.

(2) Where the council of a city, town or municipality makes a by-law pursuant to subsection (1),

(a) the traffic authority of the city or town shall not make parking meter regulations pursuant to Section 152;

(b) the by-law may repeal or amend parking meter regulations theretofore made by the traffic authority;

(c) the by-law may provide that a person commits a separate offence for each additional period of one hour that an offence continues;

(ca) the by-law may provide that the owner of a motor vehicle shall incur the fine provided for a violation of the by-law unless at the time of such violation the motor vehicle was in the possession of

some person other than the owner without the owner's consent, either expressed or implied, and may provide that the driver of a motor vehicle not being the owner shall also incur the fine provided for a violation of the by-law;

(d) the by-law may provide the penalty for each offence;

(e) the by-law may provide a system whereby a person who is alleged to have violated the by-law is given a notice of the alleged violation and may pay a penalty of a fixed sum in lieu of prosecution;

(f) subsection (4) of Section 152 applies *mutatis mutandis* to the by-law. R.S., c. 293, s. 153; 1994-95, c. 12, s. 11; 1995-96, c. 22, s. 3.

Exemption from parking restrictions

154 A council of a city, town or municipality may make a by-law exempting persons or vehicles from parking restrictions within the city, town or municipality and providing for permits to be issued to those who are exempted. R.S., c. 293, s. 154; 1995-96, c. 22, s. 4.

Vehicle parking time limit

155 (1) It shall be an offence for the driver of a vehicle to park or leave standing the vehicle on any highway for a period of time longer than twenty-four hours.

(2) It shall be an offence for any driver of a commercial motor vehicle having a registered weight in excess of 3,000 kilograms, to park or leave standing the vehicle on a highway within the limits of any city or incorporated town for a period of time longer than two consecutive hours in any one day. R.S., c. 293, s. 155.

Allowable manner of stopping, standing or parking

156 (1) Except when necessary in obedience to traffic regulations or traffic signs or signals, the driver of a vehicle shall not stop, stand or park the vehicle in a roadway other than parallel with the edge of the roadway, headed in the direction of traffic, and with the curb-side wheels of the vehicle within 150 millimetres of the edge of the roadway, except as provided in the following clauses:

(a) upon those highways which have been marked or signed for angle parking, vehicles shall be parked at the angle to the curb indicated by such marks or signs;

(b) in places where, and at hours when, stopping for the loading or unloading of merchandise or materials is permitted, vehicles used for the transportation of merchandise or materials may back into the curb to take on or discharge loads, when the owner of such vehicle holds a permit granting him such special privilege, and provided further that such permit shall be either in the possession of the driver or on the vehicle at the time such vehicle is backed against the

curb to take on or discharge a load, and it shall be an offence for any owner or driver to violate any of the special terms or conditions of any such special permit.

(2) Nothing in this Section shall prevent the driver of a vehicle from backing his vehicle into the curb for purposes of loading or unloading provided that the vehicle remains in such position for a period of time not greater than fifteen minutes and provided that there is a clear and unobstructed width of not less than 4.5 metres upon the main travelled portion of the said highway between the vehicle and the opposite curb or edge of the roadway for the free passage of other vehicles thereon.

(3) The traffic authority shall determine upon what highways angle parking shall be permitted and shall mark or sign such highways or cause the same to be marked or signed.

(4) The traffic authority is hereby authorized to issue to any owner of a vehicle used to transport merchandise or materials, a special permit, renewable annually, and to state therein the terms and conditions thereof, allowing the driver of such vehicle the privilege of loading and unloading while the vehicle is backed against the curb, if in the opinion of the traffic authority such privilege is reasonably necessary in the conduct of the owner's business and will not seriously interfere with traffic. R.S., c. 293, s. 156.

Exemption for emergency vehicle

157 The provisions of this Act respecting the parking and standing of vehicles do not apply to a police or fire department vehicle or an ambulance when the vehicle or ambulance is being used in an emergency. R.S., c. 293, s. 157.

Abandonment of vehicle

158 (1) Any person who wilfully abandons a motor vehicle or parts of a motor vehicle within the limits of a highway or upon property other than his own without the consent of the owner thereof for a period longer than twenty-four hours shall be guilty of an offence.

(2) Any official of the Department or any peace officer upon discovery of a motor vehicle apparently abandoned, whether situated within or without a highway of this Province, or of a motor vehicle without proper registration or of a motor vehicle that apparently has been involved in an accident and that is a menace to traffic, shall take the motor vehicle into his custody and may cause the same to be taken to and stored in a suitable place.

(3) There shall be no liability attached to such official or peace officer for any damages to such motor vehicle while in his custody. R.S., c. 293, s. 158.

Parking of vehicle displayed for sale

159 (1) It shall be an offence for a person to park upon a highway a vehicle displayed for sale.

(2) It shall be an offence for a person to park on a highway a vehicle for the primary purpose of displaying advertising. R.S., c. 293, s. 159.

Unattended vehicle

160 (1) No person having control or charge of a motor vehicle shall allow the vehicle to stand on any highway unattended without first effectively setting the brakes thereon and stopping the motor of the vehicle, and when standing upon any perceptible grade without turning the front wheels of the vehicle to the nearest curb or side of the highway.

(2) It shall not be a violation of this Section for a person having control or charge of a motor vehicle to allow it to stand unattended without first stopping the motor if the motor vehicle has tanks mounted upon it and the use of its motor is required for pumping liquids from those tanks for delivery and if the person having control or charge of it places adequate chocks against the rear wheels of the vehicle in addition to taking the precautions prescribed by this Section other than that of stopping the motor. R.S., c. 293, s. 160.

MISCELLANEOUS TRAFFIC PROVISIONS

Fire apparatus

161 (1) It shall be an offence for the driver of a vehicle other than one on official business to follow any fire apparatus travelling in response to a fire alarm closer than 150 metres or to drive into or park the vehicle within 150 metres of the place where fire apparatus has stopped in answer to a fire alarm.

(2) No street car or vehicle shall be driven over any unprotected hose of a fire department when laid down on any street, private driveway or streetcar track, to be used at any fire or alarm of fire, without the consent of the fire marshal or fire department official in command. R.S., c. 293, s. 161.

Coasting in neutral

162 The driver of a motor vehicle when travelling upon a down grade upon any highway shall not coast with the gears of the vehicle in neutral. R.S., c. 293, s. 162.

Racing, parade or sporting event

163 (1) Any person who operates a motor vehicle on a highway in a race, in a contest, while performing a stunt or on a bet or wager shall be guilty of an offence.

(2) Notwithstanding subsection (1), the Minister or a person designated by the Minister may close a highway for the purpose of the conduct of a parade or sporting event upon the highway.

(3) Notwithstanding any other provision of this Act or the regulations, the Minister or a person designated by the Minister may authorize a bicycle race upon a highway that has not been closed for that purpose, and the Minister or a person designated by the Minister may prescribe terms and conditions with which the participants in the bicycle race and the organizers must comply. R.S., c. 293, s. 163; 1999, c. 4, s. 26; 2007, c. 45, s. 11.

Detention of vehicle and surrender and revocation of licence

163A (1) Where a peace officer is satisfied that a motor vehicle is being operated in the course of committing an offence contrary to Section 163, the peace officer shall

(a) detain the motor vehicle until it is impounded under Section 273A; and

(b) request that the person surrender the person's driver's license.

(2) Upon a request being made under clause (1)(b), the person to whom the request was made shall forthwith surrender the person's license to the peace officer and, whether or not the person is unable or fails to surrender the person's driver's license to the peace officer, the person's driver's license is revoked and the person's driving privilege is suspended for a period of seven days from the time the request is made.

(3) The suspension of a driver's license or the suspension of a driving privilege pursuant to this Section is in addition to and not in substitution for any proceeding or penalty arising from the same circumstances.

(4) Where a driver's license is suspended or a driving privilege is suspended pursuant to this Section, the peace officer who requested the surrender of the driver's license shall

(a) keep a written record of the suspension with the name and address of the person and the date and time of the suspension; and

(b) provide the person with a written statement of the time at which the suspension takes effect, the length of the period during which the person's driver's license or driving privilege is suspended, the place where the driver's license may be recovered upon the termination of the suspension and acknowledging receipt of the driver's license that is surrendered. 2007, c. 45, s. 12.

Regulations

163B (1) The Governor in Council may make regulations

(a) defining "race", "contest" and "stunt" for the purpose of Section 163;

(b) exempting any class of persons or vehicles from Section 163;

(c) respecting any records or reports required by Section 163A.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act*. 2007, c. 45, s. 12.

Driving on sidewalk

164 (1) Subject to subsections (2) and (3), the driver of a vehicle shall not drive within any sidewalk area except at a permanent or temporary driveway.

(2) Snow clearance equipment may be driven within any sidewalk area for the purpose of clearing snow or ice.

(3) When operating a personal transporter on a sidewalk, the operator shall yield to all pedestrians not riding on a personal transporter. R.S., c. 293, s. 164; 2015, c. 46, s. 8.

Driving into procession

165 (1) No person shall drive a vehicle or street car through or into a funeral procession or other lawful procession.

(2) This Section shall not apply where traffic is controlled by traffic control lights or peace officers. R.S., c. 293, s. 165.

Vehicle in public park

166 The traffic authority may erect and maintain signs in public parks or the entrances thereto, prohibiting any vehicle or class of vehicles from entering the public park, or regulating the speed of vehicles or their operation or parking, and it shall be an offence for any person to fail to comply with the directions displayed upon any such sign. R.S., c. 293, s. 166.

Horse on highway or sidewalks

167 (1) No horse shall be left unattended in any highway unless securely fastened or unless the wheels of the vehicle to which he is harnessed are securely tied, fastened or chained, and the vehicle is of sufficient weight to prevent it being dragged at a dangerous speed with the wheels so secured.

(2) No horse shall be unbitted in any highway unless secured by a halter.

(3) No person shall remove a wheel, pole, shaft, whiffletree, swinglebar, or any part of a vehicle or any part of a harness likely to cause an accident if the horse starts, without first unhitching the horse or horses attached to the vehicle.

(4) No person shall at any time fasten any horse or horses in such a manner that the tie rope, reins or lines shall be an obstruction to the free use of any sidewalk or crosswalk.

(5) No horse shall be hitched or fastened to any shade tree or its protecting box or casing, nor to any water hydrant in any highway.

(6) No person shall run or race a horse on a highway, whether the running, racing or trotting be for trial of speed or for the purpose of passing another horse or vehicle.

(7) No person shall ride or lead a horse on any sidewalk except for the purpose of crossing the sidewalk. R.S., c. 293, s. 167.

Unattended animal on highway

168 (1) The owner of a domestic animal, other than a cat or a dog, shall not permit the animal to be unattended on a highway.

(2) In any prosecution under this Section, evidence that an animal is unattended on a highway is *prima facie* proof that its owner permitted it to be unattended on the highway. R.S., c. 293, s. 168.

Riding on frame or clinging to moving vehicle

169 (1) It shall be an offence for a cyclist or the operator of a motorcycle, when upon the street to carry any other person upon the handlebar, frame or tank of any such vehicle or side-saddle on any such vehicle, or for any person to so ride upon any such vehicle.

(2) It shall be an offence for any person travelling upon a bicycle, motorcycle, coaster, sled, roller skates, skis, or any toy vehicle to cling to or attach himself or his vehicle to any other moving vehicle or street car upon a highway or for the driver of any such moving vehicle or street car to allow or permit any such person to cling to or attach himself or his vehicle to said moving vehicle or street car. R.S., c. 293, s. 169; 2010, c. 59, s. 8; revision corrected.

Headgear when riding motorcycle or motor scooter

170 (1) No person shall operate or ride as a passenger on a motorcycle or motor scooter on a highway unless he is wearing adequate protective headgear of a kind prescribed by regulation of the Governor in Council.

(2) Regulations made under subsection (1) may adopt by reference or otherwise standards or specifications established or approved by the Canadian

Standards Association or other testing organization with or without modifications or variations or may require that any headgear conform to the standards or specifications established or approved by the Canadian Standards Association or other testing organization or bear the approval of the Canadian Standards Association or other testing organization. R.S., c. 293, s. 170.

Helmet for bicycle, electric kick-scooter and personal transporter

170A (1) In this Section, "bicycle" includes any device designated to transport passengers and to be drawn by a bicycle and includes a personal transporter and an electric kick-scooter.

(2) No person shall ride on or operate a bicycle unless the person is wearing a bicycle helmet that complies with the regulations and the chin strap of the helmet is securely fastened under the chin.

(3) No parent or guardian of a person under sixteen years of age shall authorize or knowingly permit that person to ride on or operate a bicycle unless the person is wearing a bicycle helmet as required by subsection (2).

(4) Every person who is sixteen years of age or older who violates a provision of this Section is guilty of an offence.

(5) A peace officer may seize and detain, for a period not to exceed thirty days, a bicycle that is being ridden on or operated by a person not wearing a helmet as required by subsection (2).

(6) The Governor in Council may make regulations

(a) prescribing standards and specifications for helmets;

(b) providing for and requiring the identification and marking of helmets;

(c) exempting any person or class of persons from the requirements of this Section and prescribing conditions for exemptions.

(7) The exercise by the Governor in Council of the authority contained in subsection (6) is regulations within the meaning of the *Regulations Act*. 1996, c. 35, s. 1; 2002, c. 10, s. 12; 2006, c. 37, s. 1; 2015, c. 46, s. 9; 2022, c. 21, s. 9.

Helmet for scooter, skate board, in-line skates, roller skates, etc.

170B (1) No person shall ride on or operate a scooter, skate board, in-line skates, roller skates or other device prescribed by the regulations unless the person is wearing a helmet that complies with the regulations and the chin strap of the helmet is securely fastened under the chin.

(2) No parent or guardian of a person under sixteen years of age shall authorize or knowingly permit that person to ride on or operate a scooter, a

skate board, in-line skates, roller skates or other device prescribed by the regulations unless the person is wearing a helmet as required by subsection (1).

(3) For greater certainty, nothing in this Section authorizes any person to ride on or operate a scooter, a skate board, in-line skates, roller skates or other device prescribed by the regulations if otherwise prohibited by this Act or another enactment.

(4) Every person who is sixteen years of age or older who violates a provision of this Section is guilty of an offence and liable on summary conviction to a fine of not less than twenty-five dollars.

(5) A peace officer may seize and detain, for a period not to exceed thirty days, a scooter, a skate board, in-line skates, roller skates or other device prescribed by the regulations that is being ridden on or operated by a person not wearing a helmet as required by subsection (1).

(6) The Governor in Council may make regulations

(a) prescribing standards and specifications for helmets;

(b) providing for and requiring the identification and marking of helmets;

(c) prescribing devices for the purpose of this Section;

(d) exempting any person or class of persons from the requirements of this Section and prescribing conditions for exemptions.

(7) The exercise by the Governor in Council of the authority contained in subsection (6) is regulations within the meaning of the *Regulations Act*.
2002, c. 20, s. 3; 2006, c. 37, s. 2.

Prohibited conduct on or place to ride bicycle

171 (1) A cyclist shall not allow the same to proceed in a highway by inertia momentum, with his feet removed from the pedals, nor shall a cyclist remove both hands from the handlebars while riding the bicycle nor practise any trick or fancy riding on a highway.

(2) No person shall ride a bicycle, tricycle, or similar machine on a sidewalk, provided, nothing in this Section shall be deemed or construed to prevent the use of velocipedes or similar machines by children on a sidewalk in a public square, park, city or town.

(3) Where a roadway has a bicycle lane for bicycles travelling in the same direction that a cyclist is travelling, the cyclist shall ride in the bicycle lane unless it is impracticable to do so.

(4) A cyclist who is not riding in a bicycle lane shall ride as far to the right side of the roadway as practicable or on the right-hand shoulder of the roadway unless the cyclist is

(a) in the process of making a left turn in the same manner as a driver of a motor vehicle;[;]

(b) travelling in a rotary or roundabout;[;]

(c) passing a vehicle on the vehicle's left;[;] or

(d) encountering a condition on the roadway, including a fixed or moving object, parked or moving vehicle, pedestrian, animal or surface hazard that prevents the person from safely riding to the right side of the roadway;[.]

(5) A cyclist on a highway shall ride in the same direction as the flow of traffic.

(6) Except when passing another cyclist, cyclists on a highway shall ride in single file. R.S., c. 293, s. 171; 2010, c. 59, s. 9; revision corrected.

Designation of sidewalk as trail

171A Notwithstanding Section 171, a traffic authority appointed pursuant to Section 86 may

(a) designate a sidewalk or any portion thereof as a trail; and

(b) authorize and regulate the use of bicycles on such trails,

and, for greater certainty, a sidewalk so designated is subject to all other provisions of this Act. 1997, c. 5, s. 1.

Motor vehicle passing bicycle

171B (1) A driver of a vehicle shall not pass a bicycle travelling in the same direction as the vehicle that is being ridden to the far right of the driver of the vehicle on the roadway, on the shoulder or in an adjacent bicycle lane unless

(a) there is sufficient space to do so safely; and

(b) the driver leaves at least one metre open space between the vehicle and the cyclist.

(2) Notwithstanding subsection 115(2), a driver of a motor vehicle may cross a line to pass a bicycle in accordance with subsection (1) if the driver can do so safely as required by Section 100. 2010, c. 59, s. 10.

Roller skates or skate board

172 (1) Subject to subsection (2), it shall be an offence for a person upon roller skates or a skate board to go on a roadway except while crossing on a crosswalk or unless on a roadway authorized by the Minister.

(2) The council of a city or an incorporated town may exempt from subsection (1) any roadway within that city or town that is not a highway to which the *Public Highways Act* applies. R.S., c. 293, s. 172.

Operation of personal transporter

172A (1) Only one person at a time may be on a personal transporter while it is being operated.

(2) A person operating a personal transporter shall stand when the personal transporter is in motion.

(3) A personal transporter shall not tow another person or vehicle or any device. 2015, c. 46, s. 10.

Restriction on operation

172B (1) A personal transporter shall not be operated on

(a) a roadway with a posted speed limit greater than sixty kilometres per hour;

(b) a controlled-access highway;

(c) a highway on which bicycles or on which personal transporters are prohibited by this Act or the regulations;

(d) on a specified sidewalk or roadway within a municipality if not part of a highway to which the *Public Highways Act* applies and prohibited by a municipal by-law; or

(e) private property if it is prohibited.

(2) Where a sidewalk or roadway within a municipality is not part of a highway to which the *Public Highways Act* applies, the municipality may make a by-law prohibiting the operation of a personal transporter on that sidewalk or roadway.

(3) A personal transporter shall be operated

(a) where a highway includes a sidewalk, on the sidewalk unless it is impracticable to do so;

(b) where the highway does not include a sidewalk or where it is impracticable to operate the personal transporter on the sidewalk, on the roadway in a bicycle lane travelling in the same direction that the operator of the personal transporter is travelling; or

(c) where the highway does not include a sidewalk or there is no bicycle lane for travelling in the same direction that the operator of the personal transporter is travelling or where it is impracticable to operate the personal transporter on the sidewalk or in the bicycle lane, on the far right side of the roadway.

(4) Subsections (2) and (3) of Section 127 and subsection (1) of Section 164 do not apply to personal transporters.

(5) Except when passing a cyclist, an operator of another personal transporter or an operator of an electric kick-scooter, the operator of a personal transporter on a highway shall operate the personal transporter in a single file with bicycles, electric kick-scooters and other personal transporters.

(6) The operator of a personal transporter shall not make a left turn on a roadway except by crossing the roadway in a crosswalk and, for greater certainty, Section 125 applies to the operator as a pedestrian. 2015, c. 46, s. 10; 2022, c. 21, s. 10.

Operation of electric kick-scooter

172C (1) An operator of an electric kick-scooter shall not remove both hands from the handlebars while riding the electric kick-scooter nor practise any trick or fancy riding on a highway.

(2) Where a roadway has a bicycle lane for bicycles travelling in the same direction that a cyclist is travelling, the operator of an electric kick-scooter shall ride in the bicycle lane unless it is impracticable to do so.

(3) An operator of an electric kick-scooter who is not riding in a bicycle lane shall ride as far to the right side of the roadway as practicable or on the right-hand shoulder of the roadway unless the operator is

(a) in the process of making a left turn in the same manner as a driver of a motor vehicle;

(b) travelling in a rotary or roundabout;

(c) passing a vehicle on the vehicle's left; or

(d) encountering a condition on the roadway, including a fixed or moving object, parked or moving vehicle, pedestrian, animal or surface hazard that prevents the person from safely riding to the right side of the roadway.

(4) An operator of an electric kick-scooter on a highway shall ride in the same direction as the flow of traffic.

(5) Except when passing a cyclist, personal transporter or other electric kick-scooter, an operator of an electric kick-scooter on a highway shall ride in single file with bicycles, personal transporters and other electric kick-scooters. 2022, c. 21, s. 11.

Operation of electric kick-scooter

172D (1) Only one person at a time may be on an electric kick-scooter while it is being operated.

(2) A person operating an electric kick-scooter shall stand when the electric kick-scooter is in motion.

(3) An electric kick-scooter shall not tow another person or vehicle or any device.

(4) An electric kick-scooter being operated must be equipped with

(a) a brake system that acts independently on the steerable wheel and the back wheel using separate hand levers;

(b) an emergency stop switch to cut electrical supply to the motor in case of failure of the scooter's control system;

(c) a battery with terminals that are completely insulated and covered and that is securely fastened to the electric kick-scooter to prevent movement while in motion; and

(d) a headlamp and a rear light or reflector that meet the requirements set out in subsection 174(6). 2022, c. 21, s. 11.

Restriction on operation

172E No person shall operate an electric kick-scooter

(a) on a provincial highway;

(b) on a highway on which bicycles, electric kick-scooters or personal transporters are prohibited by this Act or the regulations;

(c) on a highway if electric kick-scooters are not permitted by municipal by-law;

(d) if prohibited by an official traffic sign; or

(e) on private property if prohibited. 2022, c. 21, s. 11.

Throwing object at vehicle or on highway

173 (1) No person shall throw any object at a motor vehicle or at a person in a motor vehicle or on a highway which may cause injury to such vehicle or to any person therein.

(2) No person shall throw, deposit, or knowingly leave on a highway any glass, nails, tacks, scraps of metal, or other materials that are liable to injure tires of motor vehicles.

(3) Subsection (2) does not apply to a police officer when using hollow spike belts to stop a motor vehicle where other reasonable methods of pursuit and apprehension have failed.

(4) No person shall throw or otherwise deposit from any vehicle on the highway any litter, refuse, garbage, rubbish or other matter.

(5) *repealed 2002, c. 10, s. 13*.

(6) In addition to any other penalty imposed by this Act, a person who violates any of the provisions of subsection (1), (2) or (4) is liable for the expense of removing the litter, refuse, garbage or other objects or material. R.S., c. 293, s. 173; 2002, c. 10, s. 13; revision corrected.

Selling or soliciting on a roadway

173A (1) No person, while on a roadway, shall stop, attempt to stop or approach a motor vehicle for the purpose of offering, selling or providing any commodity or service to or soliciting the driver or any other person in the motor vehicle.

(2) Subsection (1) does not apply to the offer, sale or provision of towing or repair services or any other commodity or service in an emergency.

(3) Subsection (1) does not apply to fund-raising activities that are

(a) permitted by a by-law of the municipality in which the activities are conducted; and

(b) approved by the traffic authority responsible for the roadway on which the activities are conducted. 2007, c. 45, s. 13.

EQUIPMENT

Lights or reflector

174 (1) Except as provided in this Section, every vehicle upon a highway within this Province during the period from a half hour after sunset to a half hour before sunrise and at any other time when visibility is so limited by fog, rain, snow or other atmospheric condition or by insufficiency of light as to render not clearly discernible any person on the highway at a distance of 300 metres ahead shall be equipped with lighted head lamps and lighted rear lamps as in this Section respectively required for different classes of vehicle and subject to exemption with reference to lights on parked vehicles as declared in subsection (10).

(2) Every motor vehicle other than a motorcycle, road-roller, road machinery, or farm tractor shall be equipped with not fewer than two head lamps, at the front of and on opposite sides of the motor vehicle which head lamps shall comply with the requirements and limitations set forth in Section 178 or any regulations that may be made under Section 200.

(3) Every motorcycle shall be equipped with at least one and not more than two head lamps which shall comply with the requirements and limitations set forth in Section 178 or any regulations that may be made under Section 200.

(4) Every motor vehicle and every trailer or semi-trailer that is being drawn at the end of a train of vehicles shall be equipped at the rear with

(a) a lamp that exhibits a red light plainly visible under normal atmospheric conditions from a distance of 150 metres to the rear of the vehicle, and that is so constructed and placed that the number plate carried on the rear of the vehicle is, under the same conditions, so illuminated by a white light that it can be read from a distance of 15 metres to the rear of the vehicle; or

(b) a lamp that exhibits a red light plainly visible under normal atmospheric conditions from a distance of 150 metres to the rear of the vehicle and a lamp that so illuminates with a white light the number plate carried on the rear of the vehicle that under the same conditions the number plate can be read from a distance of 15 metres to the rear of the vehicle.

(5) Every vehicle, other than a standard passenger motor vehicle, road-roller, road machinery or farm tractor, having a width at any part in excess of 2 metres shall carry two clearance lamps on the left side of the vehicle, one located at the front and displaying a white or yellow light visible under normal atmospheric conditions, from a distance of 150 metres to the front of the vehicle, and the other located at the rear of the vehicle and displaying a red light visible under like conditions from a distance of 150 metres to the rear of the vehicle, a vehicle requiring clearance lamps hereunder may in lieu of such clearance lights be equipped with adequate reflectors conforming as to colour and marginal location to the requirements for clearance lights, and of a type which has been approved by the Department, and no such reflector shall be deemed adequate unless it is so designed, located as to height and maintained as to be visible for at least 150 metres when opposed by a motor vehicle displaying lawful undimmed headlights at night on an unlighted highway.

(6) Every bicycle, electric kick-scooter and personal transporter shall be equipped with a lighted lamp on the front thereof visible under normal atmospheric conditions from a distance of at least 100 metres in front of the bicycle or personal transporter and shall also be equipped with a reflex mirror or lamp on the rear exhibiting a red light visible under like conditions from a distance of at least 60 metres to the rear of such bicycle or personal transporter.

(7) All vehicles not heretofore in this Section required to be equipped with specified lighted lamps shall carry one or more lighted lamps or lanterns displaying a white light visible under normal atmospheric conditions from a distance of not less than 150 metres to the front and rear of the vehicle or displaying white lights to the front and a red light to the rear, each visible under like conditions from a distance of not less than 150 metres from the vehicle.

(8) The Department may by regulation permit a reflector of a type approved by the Minister to be substituted for the lighted lamps required by subsection (7).

(9) The Department may by regulations permit a reflector of a type approved by the Minister to be substituted for the lighted lamps required by

this Section on any vehicle engaged in transporting inflammable or explosive loads provided that the driver of the vehicle shall at all times mentioned in subsection (1) carry a special permit issued by the Registrar, setting forth the conditions under which the vehicle may be operated with reflectors in place of lights.

(10) Whenever a vehicle is parked or stopped upon a highway whether attended or unattended during the times mentioned in subsection (1), there shall be displayed upon the vehicle one or more lamps one of which shall be on the roadway side and project a white, amber or yellow light visible under normal atmospheric conditions from a distance of 150 metres to the front of the vehicle and one of which lamps shall project a red light visible under like conditions from a distance of 150 metres to the rear, except that no lights need be displayed upon a vehicle when parked upon a highway where there is sufficient light to reveal any person within a distance of 60 metres upon the highway.

(11) A vehicle exceeding 7.5 metres in length shall display a white marker light of not to exceed 4 candela, or a white reflector, meeting the requirements as to visibility of subsection (4), on both the right and left sides, and any combinations of vehicles exceeding 6 metres in length shall display on both the right and left sides such marker lights or reflectors at intervals of not to exceed 6 metres, and other vehicles may but are not required to display such marker lights or reflectors. R.S., c. 293, s. 174; 2015, c. 46, s. 11; 2022, c. 21, s. 12.

Lighted headlamps or daytime running lights

174A (1) Notwithstanding Section 174, every motor vehicle equipped with one or more headlamps must be equipped with lighted daytime running lights or lighted headlamps at all times while being operated upon a highway within the Province.

(2) Subsection (1) does not apply to a motor vehicle registered as an antique vehicle. 2008, c. 62, s. 2.

Seat belts

175 (1) In this Section,

(a) "child restraint system" means a child's car seat of a type prescribed for a child of a prescribed age, height or weight;

(b) "prescribed" means prescribed by the regulations;

(c) "seat belt" means the complete seat belt assembly or other restraint system for a seating position specified for the vehicle by the *Motor Vehicle Safety Act* (Canada) at the time the vehicle was manufactured, assembled or imported.

(2) While a motor vehicle is being operated on a highway other than in reverse, the driver of the motor vehicle shall wear a seat belt if a seat belt is available to the driver.

(3) No person shall operate a motor vehicle on a highway unless every passenger in the motor vehicle who is under sixteen years of age is secured

(a) in the prescribed manner in a child restraint system, where the passenger is of an age, height or weight for which such a system is prescribed; or

(b) where the passenger is not of an age, height or weight for which a child restraint system is prescribed, in a seat belt if a seating position with a seat belt is available to that passenger.

(4) While a motor vehicle is being operated on a highway, every passenger in the motor vehicle who is sixteen years of age or older shall wear a seat belt if a seating position with a seat belt is available to that passenger.

(5) Every registered owner of a motor vehicle shall maintain all seat belts for the vehicle in good condition.

(6) No person shall modify a seat belt in any way which reduces its effectiveness or remove a seat belt except for maintenance or if the seating position has been removed.

(7) This Section does not apply to

(a) a person who is unable to wear a seat belt or child restraint system because of the person's size, build or other physical characteristic, in respect of the use of a seat belt by that person;

(b) a person who in the opinion of a legally qualified medical practitioner is unable to wear a seat belt or child restraint system for medical reasons, in respect of the use of a seat belt by that person;

(c) a peace officer engaged in the lawful performance of his duty;

(d) a fireman while in or on a vehicle of a fire fighting organization;

(e) a driver operating a taxicab for hire, in respect of the use of a seat belt by the driver or a passenger;

(f) a driver operating a public transit bus of a bus line service operated or subsidized by a municipality or a regional transit authority;

(g) a medical attendant in an ambulance transporting a patient;

(h) a person while engaged in work which requires the person to leave and enter his seating position in the vehicle at frequent intervals.

(8) The Governor in Council may make regulations

(a) approving a child's car seat and prescribing the manner in which a child is to be secured in it;

(b) governing the type of child's car seat for children based on age, height or weight, or any combination of them;

(c) adopting by reference, in whole or in part, any code, standard or specification respecting child restraint systems;

(d) exempting from any of the provisions of this Section or the regulations made pursuant to this Section

(i) any class of motor vehicle,

(ii) any class of driver or passenger, or

(iii) drivers carrying any prescribed class of passenger,

and prescribing conditions for any such exemption.

(9) Every person who contravenes a provision of this Section is guilty of an offence. R.S., c. 293, s. 175; 2002, c. 10, s. 14.

Regulations respecting lighting equipment

176 The Governor in Council may make regulations prescribing or regulating the number, colour, type, strength, location, direction, focus, use and all other matters with reference to clearance lamps, reflectors, side-marker lamps and other lighting equipment to be fitted, carried or displayed by all or any class or classes of motor vehicle. R.S., c. 293, s. 176.

Spot, fog, signal or brake lights

177 (1) Any motor vehicle may be equipped with not more than two spot lamps, except that a motorcycle shall not be equipped with more than one spot lamp, and every lighted spot lamp shall be so aimed and used upon approaching another vehicle that no part of the beam will be directed to the left of the centre of the highway nor more than 30 metres ahead of the vehicle.

(2) Any motor vehicle may be equipped with not more than two auxiliary driving lamps or fog lamps mounted on the front at a height not less than 300 millimetres above the level surface on which the vehicle stands, and every such lamp or lamps shall meet the requirements and limitations set forth in subsection (3) of Section 178.

(3) All motor vehicles required to be registered under this Act except farm tractors shall be equipped with electric turn signals which shall indicate an intention to turn by flashing lights showing to the front and rear of a vehicle, or on a combination of vehicles, on the side of the vehicle or combination toward which the turn is to be made.

(4) The lamps showing to the front shall be mounted on the same level and as widely spaced laterally as practicable and, when signalling, shall emit white or amber light, or any shade of light between white and amber.

(5) The lamps showing to the rear shall be mounted on the same level and as widely spaced laterally as practicable, and, when signalling, shall emit a red or amber light, or any shade of colour between red and amber.

(6) Turn signal lamps on vehicles 2.05 metres or more in over-all width shall be visible from a distance of not less than 150 metres to the front and rear in normal sunlight.

(7) Turn signal lamps on vehicles less than 2.05 metres wide shall be visible a distance of not less than 100 metres to the front and rear in normal sunlight.

(8) Turn signal lamps may, but need not be incorporated in other lamps on the vehicle.

(9) All motor vehicles required to be registered under this Act shall be equipped with a stop lamp or lamps on the rear of the vehicle which shall display a red light visible from a distance of not less than 100 metres to the rear in normal sunlight, and which shall be actuated upon application of one braking system, and which may be incorporated with one or more other rear lamps.

(10) Any device, other than head lamps, spot lamps or auxiliary lamps, which projects a beam of light of an intensity greater than 25 candela, shall be so directed that no part of the beam will strike the level of the surface on which the vehicle stands at a distance of more than 15 metres from the vehicle. R.S., c. 293, s. 177; revision corrected.

Type of light

178 (1) The head lamps of motor vehicles shall be so constructed, arranged, and adjusted that, except as provided in subsection (3) they will at all times mentioned in Section 174 and under normal atmospheric conditions and on a level road produce a driving light that is colourless and sufficient to render clearly discernible a person 60 metres ahead, but shall not project a glaring or dazzling light to persons in front of the head lamp.

(2) Head lamps shall be deemed to comply with the foregoing provisions prohibiting glaring and dazzling lights if none of the main bright portion of the head lamp beams rises above a horizontal plane passing through the lamp centres parallel to the level road upon which the loaded vehicle stands, and in no case higher than 1 metre 20 metres ahead of the vehicle.

(3) Whenever a motor vehicle is being operated upon a highway, or a portion thereof, which is sufficiently lighted to reveal a person on the highway at a distance of 60 metres ahead of the vehicle it shall be permissible to dim the head

lamps or to tilt the beams downward or to substitute therefor the light from an auxiliary driving lamp or pair of such lamps, subject to the requirement that the tilted head lamp or auxiliary lamp or lamps shall give sufficient illumination under normal atmospheric conditions and on a level road to render clearly discernible a person 25 metres ahead, but shall not project a glaring or dazzling light to persons in front of the vehicle, provided that at all times required in Section 174 at least two lights shall be displayed on the front of and on opposite sides of every motor vehicle other than a motorcycle, road-roller, road machinery or farm tractor.

(4) On approaching another vehicle proceeding in an opposite direction on any highway the driver of a motor vehicle shall, when within not less than 150 metres of the other vehicle, dim or depress the beam from the headlights of his motor vehicle so that the main bright portion of the beam is not projected into the eyes of the driver of the other vehicle.

(5) On approaching another vehicle proceeding in the same direction on any highway the driver of a motor vehicle shall, while following within 60 metres of the other vehicle, dim or depress the beam from the headlights of his motor vehicle so that the main bright portion of the beam is not projected on the other vehicle. R.S., c. 293, s. 178.

Red, blue or flashing lights

179 **(1)** No person shall drive or move on a highway a vehicle with a red light visible from directly in front of the vehicle unless the vehicle is

(a) an ambulance or school bus;

(b) a police, fire department or fire patrol vehicle;

(ba) a public-safety vehicle;

(c) a vehicle being used by the chief or deputy chief of a volunteer fire department when acting in an emergency arising from a fire or an accident; or

(d) a vehicle being used by a conservation officer appointed pursuant to an enactment when the conservation officer is performing duties as a conservation officer.

(1A) In this Section, "fire patrol vehicle" includes a fire suppression or fire vehicle operated by the Department of Natural Resources and Renewables.

(2) In this Section, "red light" includes a red reflector or other device that gives or is capable of giving the effect of a red light.

(3) No person shall drive or move on a highway a vehicle with a blue light visible in any direction unless the vehicle is a police vehicle, a public-safety vehicle used by a Bridges patrol officer or a sheriff or a vehicle being used by a conservation officer appointed pursuant to an enactment when the conservation officer is performing duties as a conservation officer.

(4) In this Section, "blue light" includes a blue reflector or other device that gives or is capable of giving the effect of a blue light.

(5) Subject to subsections (1) and (3), the display of flashing or revolving lights shall be permitted on vehicles driven upon a highway where the vehicle is

(a) an ambulance;

(b) a school bus;

(c) a police vehicle;

(d) a fire department or fire patrol vehicle;

(da) a public-safety vehicle;

(e) a vehicle being used by the chief or deputy chief of a volunteer fire department when acting in an emergency arising from a fire or an accident;

(ea) a vehicle being used by a conservation officer appointed pursuant to an enactment when the conservation officer is performing duties as a conservation officer;

(f) a motor vehicle service, repair or towing truck, which is equipped for lifting and towing vehicles, when being engaged on the highway for the purpose of rendering service to a disabled motor vehicle or when towing a motor vehicle away from an accident or place at which it became disabled;

(g) a vehicle of the Department, a city or town that is being used in connection with the maintenance or repair of a highway or the removal of snow therefrom;

(h) a vehicle transporting explosives;

(i) a motor vehicle towing a wide trailer; or

(j) a vehicle engaged in the construction, maintenance or repair of communication or power systems.

(6) The flashing or revolving lights permitted under subsection (5) shall be designed to show only one color of light in all directions.

(7) Flashing or revolving lights on vehicles operated upon a highway are prohibited except as authorized or required by this Act or regulations made pursuant to this Act. R.S., c. 293, s. 179; 1993, c. 31, s. 1; 1994, c. 25, s. 1; 2014, c. 20, s. 9; O.I.C. 2018-188; O.I.C. 2021-210.

Regulations respecting lighting equipment

180 The Governor in Council may prescribe rules and regulations regarding lighting equipment and the use of lights, supplementing or curtailing the preceding Sections regarding lighting equipment. R.S., c. 293, s. 180.

Regulations respecting exterior vehicle equipment

180A (1) The Governor in Council may

(a) prescribe rules and regulations respecting the use, possession, sale and design of exterior vehicle equipment; and

(b) define any word or expression used in clause (a).

(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*.
2021, c. 8, s. 23.

Brakes

181 (1) Every motor vehicle other than a motorcycle, when operated upon a highway shall be equipped with brakes adequate to control the movement of and to stop and to hold the vehicle, having two separate means of application, each of which means shall be effective to apply brakes to at least two wheels, and so constructed that no part which is liable to failure shall be common to the two.

(2) Every motorcycle shall be equipped with at least one brake.

(3) Every motorcycle shall be equipped with a braking system capable of being operated on not fewer than two wheels where the motorcycle was originally equipped with such a braking system or where the motorcycle was sold new after the first day of June, 1972.

(4) All such brakes shall be maintained in good working order and shall conform to regulations which may from time to time be made by the Department, and any peace officer, or any officer appointed to carry out this Act may at any time inspect, or cause to be inspected the brakes of any motor vehicle on the highway, and may, if the brakes do not conform to the regulations of the Department, require the driver of the motor vehicle to proceed forthwith to make or to have brakes made to comply with those regulations.

(5) Any combination of motor vehicle, trailer, semi-trailer or other vehicle shall be equipped with brakes upon one or more of the vehicles adequate to stop the combination of vehicles within the distance specified for motor vehicles under regulations that may be made by the Department, and the Department may, by regulations, require any type, class or weight of trailer or semi-trailer to be equipped with brakes to be approved by the Department.

(5A) Subsection (5) does not apply to an implement of husbandry without motive power if the implement of husbandry exhibits a slow moving sign as required by Section 117 or the regulations.

(5B) Notwithstanding anything contained in this Section, no person shall, upon a highway, propel or move at a speed greater than twenty kilometres per hour an implement of husbandry, unless the implement of husbandry can be stopped within ten metres when travelling at a speed of twenty kilometres per hour.

(6) The Minister, with the approval of the Governor in Council, may make regulations respecting the standards for hydraulic brake fluid and making it an offence to sell, offer for sale, or possess hydraulic brake fluid that does not conform to the standards. R.S., c. 293, s. 181, 2006, c. 35, s. 3.

Diesel engine enhanced braking system

181A (1) No person shall use a diesel engine enhanced braking system while operating a vehicle on a highway for which the speed limit is fifty kilometres per hour or less unless the use of the braking system is required by an emergency.

(2) Subsection (1) does not apply to fire department or other emergency vehicles. 2000, c. 14, s. 1; 2001, c. 44, s. 4.

Speedometer and odometer

182 Every motor vehicle originally equipped with a speedometer and an odometer shall be equipped with a speedometer and an odometer which work properly. R.S., c. 293, s. 182.

Radar-warning device

182A (1) In this Section, "radar-warning device" means any device or equipment designed or intended for use in a motor vehicle to warn the driver of the presence of radar speed-measuring equipment in the vicinity and includes any device or equipment designed or intended for use in a motor vehicle to interfere with the effective operation of radar speed-measuring equipment.

(2) No person shall drive on a highway a motor vehicle that is equipped with or that carries or contains a radar-warning device.

(3) A police officer may at any time, without a warrant, stop, enter and search a motor vehicle that the police officer has reasonable grounds to believe is equipped with or carries or contains a radar-warning device contrary to subsection (2) and may seize and take away any radar-warning device found in or upon the motor vehicle.

(4) Where a person is convicted of an offence pursuant to this Section, any device seized pursuant to subsection (3) by means of which the offence was committed is forfeited to His Majesty in right of the Province.

(5) Subsection (2) does not apply to a person who is transporting radar-warning devices in sealed packages in a motor vehicle from a manufacturer to a consignee.

(6) *repealed 2002, c. 10, s. 15.*

1994-95, c. 12, s. 12; 2002, c. 10, s. 15.

Horn, siren or bell

183 **(1)** Every motor vehicle when operated upon a highway shall be equipped with a horn in good working order, capable of emitting sound audible under normal conditions from a distance of not less than 60 metres, and such horns shall be sounded whenever it shall be reasonably necessary.

(2) Every police department and fire department vehicle and every ambulance used for emergency calls shall be equipped with a bell, siren or exhaust whistle.

(3) A vehicle used by the chief or deputy chief of a volunteer fire department, when acting in an emergency arising from a fire or an accident, may be equipped with a bell, siren or exhaust whistle.

(3A) A vehicle being used by a conservation officer appointed pursuant to an enactment, when the conservation officer is performing duties as a conservation officer, may be equipped with a bell, siren or exhaust whistle.

(3B) A fire suppression or fire vehicle operated by the Department of Natural Resources and Renewables, used in an emergency arising from a fire or accident, may be equipped with a bell, siren or exhaust whistle.

(3C) A public-safety vehicle may be equipped with a siren.

(3D) The driver of a vehicle authorized to be equipped with a bell, siren or exhaust whistle pursuant to this Section, other than a police vehicle, is only authorized to use the bell, siren or exhaust whistle in an emergency situation or as directed by a peace officer.

(4) It shall be an offence, except as otherwise provided in this Section, for any vehicle to be equipped with, or for any person to use upon a vehicle, any bell, siren, compression or exhaust whistle, or for any person, at any time, to use a horn otherwise than as a reasonable warning or to make any unnecessary or unreasonable loud or harsh sound by means of a horn or other warning device.

(5) Every bicycle shall be equipped with a bell or horn in good working order, and it shall be an offence for any person to install or use upon a bicycle any siren or whistle.

(5A) Every personal transporter shall be equipped with a bell or horn in good working order and the operator of a personal transporter shall use it to give notice of its approach, including overtaking, on a roadway or a sidewalk.

(5B) Every electric kick-scooter shall be equipped with a bell or horn in good working order and the operator of an electric kick-scooter shall use it to give notice of its approach, including overtaking on a roadway or a sidewalk, if permitted.

(6) Every vehicle on runners drawn by a horse or other animal on a highway, shall carry at least two bells attached to the harness or to the vehicle in such a manner as to give ample warning sound and capable of being heard under normal conditions from a distance of not less than 60 metres. R.S., c. 293, s. 183; 1993, c. 31, s. 2; 1994, c. 25, s. 2; 2014, c. 20, s. 10; 2015, c. 46, s. 12; O.I.C. 2018-188; O.I.C. 2021-210; 2022, c. 21, s. 13.

Mirror, windshield or television

184 (1) Every motor vehicle shall be equipped with a mirror securely attached to the vehicle and so located as to reflect to the driver a view of the highway from a distance of at least 60 metres to the rear of the vehicle.

(2) Where the view afforded by the mirror required under subsection (1) is obstructed or interfered with by a trailer attached to the motor vehicle, the construction or the loading of the motor vehicle, an outside rear-vision mirror shall be attached to each side of the motor vehicle and placed in such a position as to afford the driver a clear view to the rear of at least 60 metres on each side of the vehicle, but no vehicle shall continue to be so equipped with such mirror where the view ceases to be obstructed or interfered with by a towed vehicle or load.

(3) Every motor vehicle operated on a highway, except a motorcycle, construction equipment or farm equipment, shall be equipped with a windshield.

(4) No person shall on any highway drive a motor vehicle when there is in or upon the windshield, sidewings, side or rear windows, or the openings for the same or any of them, any sign, poster or other nontransparent material other than a certificate, sticker or other device required by or pursuant to this Act to be displayed thereon or a sticker approved by the Minister that is positioned as directed by the Minister.

(5) No person shall drive on a highway a motor vehicle having attached therein or thereon any ornament, decoration, novelty or other thing that is so located that it obstructs or is likely to obstruct the vision or distract the attention of the driver of the vehicle.

(6) Every windshield on a motor vehicle being driven on a highway shall be equipped with a device for clearing rain, snow, or other moisture therefrom, which device shall be so constructed as to be controlled or operated by the driver of the vehicle and shall be kept in operation whenever necessary.

(7) No person shall drive on a highway a motor vehicle equipped with a television viewer, screen or other means of visually receiving a television broadcast that is located in the vehicle at a point forward of the back of the driver's seat or that is visible to the driver while he is operating the vehicle. R.S., c. 293, s. 184.

Flag or light at end of load

185 Whenever the load of a vehicle extends more than 1 metre beyond the rear of the bed or body thereof, there shall be displayed at the end of the load in such position as to be clearly visible at all times from the rear of the load a red flag not less than 300 millimetres both in length and width, except that between one half hour after sunset and one half hour before sunrise there shall be displayed at the end of any such load a yellow or red light plainly visible under normal atmospheric conditions at least 60 metres from the rear of the vehicle or a reflector as provided in Section 174. R.S., c. 293, s. 185.

Truck with open tail gate

186 No person shall drive on a highway a commercial motor vehicle with the tail-board of the vehicle open or in a horizontal position unless the tail-board is then required for the support of all or part of the load that is being carried in the vehicle. R.S., c. 293, s. 186.

Muffler or fumes

187 (1) Every motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise, and no person shall use a muffler cut-out, by-pass or similar device upon a vehicle on a highway.

(2) The engine and power mechanism of every motor vehicle shall be so equipped and adjusted as to prevent the escape of excessive fumes or smoke. R.S., c. 293, s. 187.

Excessive noise

188 No person shall start, drive, turn or stop any motor vehicle, or accelerate the vehicle engine while the vehicle is stationary, in a manner which causes any loud and unnecessary noise in or from the engine, exhaust system, braking system or from the contact of the tires with the roadway. R.S., c. 293, s. 188.

Personal transporter damaged or modified

189 No person shall operate a personal transporter that

(a) is not in good working order;

(b) is missing a component, equipment or other feature that was part of the personal transporter when it was manufactured or that is required by this Act or has such feature rendered wholly or partly inoperable; or

(c) has been modified after it is manufactured except to attach a basket, bag or similar accessory or to add equipment required by this Act. 2015, c. 46, s. 13.

Electric kick-scooter damaged or modified

189A No person shall operate an electric kick-scooter that

(a) is not in good working order;

(b) is missing a component, equipment or other feature that was part of the electric kick-scooter when it was manufactured or that is required by this Act or has such feature rendered wholly or partly inoperable;

(c) has been modified after it is manufactured except to attach a basket, bag or similar accessory or to add equipment required by this Act;

(d) has pedals attached to it;

(e) has a seat or structure that could be used as a seat; or

(f) has any structure to enclose the electric kick-scooter. 2022, c. 21, s. 14.

More than one trailer or towing

190 (1) A motor vehicle shall not be operated upon any highway drawing or having attached thereto more than one other vehicle, without written permission from the Registrar.

(2) The draw bar or other connection between any two vehicles, one of which is towing or drawing the other on a highway, shall not exceed 5 metres in length from one vehicle to the other, except that the connection between any two vehicles transporting poles may exceed 5 metres but shall not exceed 8 metres, and whenever such connection consists of a chain, rope or cable there shall be displayed upon the connection a red flag or other signal or cloth not less than 300 millimetres both in width and length. R.S., c. 293, s. 190.

Weights and loads

191 (1) Subject to the approval of the Governor in Council, the Minister may make regulations

(a) governing the weight of any vehicle or class of vehicle which may be operated on a highway, the weight of the load which may be carried by such vehicle and the combined weight of any such vehicle, and the load carried by it, and the ascertaining of the weight of such load and the vehicle;

(aa) prescribing the maximum length, width and height of vehicles or a combination of vehicles;

(ab) respecting equipment attached to a vehicle and loads on a vehicle;

(ac) respecting the internal dimensions of vehicles and combinations of vehicles;

(ad) respecting special permits for the operation of a vehicle that does not conform with the regulations;

(ae) incorporating by reference standards relating to vehicle weights and dimensions;

(b) prescribing special conditions subject to which any such vehicle or class of vehicle may be operated on a highway;

(c) requiring that any such vehicle or class of vehicle shall be furnished with and display a special weight plate or plates in addition to any other plates in this Act required to be furnished to and displayed by any such vehicle or class of vehicle;

(d) prescribing the size and design of any such special weight plate or plates and the words, letters and figures to be shown thereon, the manner in which such weight plate or plates are to be fastened to any such vehicle or class of vehicle and any other conditions with respect to the furnishing, use and display of such special weight plate or plates;

(e) respecting the use of any vehicle or class of vehicle on a highway or any part thereof during the whole or any portion or portions of a year;

(f) prescribing special conditions applicable to the transportation of dangerous goods in motor vehicles upon the highway, which may incorporate in whole or in part regulations made pursuant to an Act of the Parliament of Canada;

(g) prescribing penalties for the violation of such regulations;

(h) prescribing the classes of highways to which such regulations or any of them apply.

(1A) The Minister may make regulations prescribing highways or portions of highways that are included in any of the classes of highways that are prescribed in regulations made pursuant to subsection (1).

(2) A person, who violates any regulation made under subsection (1) limiting the weights or axle weights of vehicles, shall pay, in addition to any other penalty prescribed by this Act or the regulations, a further penalty of

(a) one dollar and twenty-five cents for each 50 kilograms by which the weight or the overweight of the vehicle exceeds the weight limit fixed by the regulation by not more than 2,500 kilograms or ten dollars, whichever amount is greater;

(b) two dollars and fifty cents for each 50 kilograms by which the weight or the axle weight of the vehicle exceeds the said weight limit by more than 2,500 kilograms but by not more than 5,000 kilograms;

(c) three dollars and seventy-five cents for each 50 kilograms by which the weight or the axle weight of the vehicle exceeds the said weight limit by more than 5,000 kilograms but by not more than 7,500 kilograms; and

(d) ten dollars for each 50 kilograms by which the weight or the axle weight of the vehicle exceeds the said weight limit by more than 7,500 kilograms,

and, in default of payment of the said penalty, to imprisonment for not more than six months.

(3) For the purposes of calculating a penalty under subsection (2), a fraction of 50 kilograms that is greater than one half shall be counted as 50 kilograms.

(4) The exercise by the Minister of the authority contained in subsections (1) and (1A) is regulations within the meaning of the *Regulations Act*. R.S., c. 293, s. 191; 1990, c. 36, s. 4; 1994-95, c. 12, s. 14; 2001, c. 12, s. 6; 2010, c. 21, s. 1.

Requirement for vehicle to be weighed

192 (1) Any peace officer having reason to believe that the weight of a vehicle and load is in excess of the maximum permitted by any regulations made under this Act, the *Public Highways Act* or any Act or regulation is authorized to weigh the vehicle either by means of portable or stationary scales, and may require that the vehicle be driven to the nearest scales, in the event such scales are within a distance of 8 kilometres.

(2) The officer may then require the driver to unload immediately such portion of the load as may be necessary to decrease the gross or axle weight of the vehicle to the maximum therefor specified in the regulations.

(3) In lieu of proceeding to such scales, the weight of the load may be determined by a portable weighing device provided by the peace officer and it shall be the duty of the driver of the vehicle to facilitate the weighing of the vehicle and load by any such device.

(4) Any driver who, when so required to proceed to such scales or to assist in the weighing of a vehicle in his charge, refuses or fails to do so shall be guilty of an offence. R.S., c. 293, s. 192.

Proof of scale reading as prima facie evidence

193 In a prosecution proof of the reading of any scale or weighing device is *prima facie* evidence of the accuracy of the scale or weighing device and of the reading. R.S., c. 293, s. 193.

Temporary weight restriction or truck route

194 (1) Local authorities may by resolution prohibit the operation of vehicles upon any highway or impose restrictions as to the weight of vehicles, for a total period of not more than ninety days in any one calendar year, when operated upon any highway under the jurisdiction of and for the maintenance of which such local authorities are responsible, whenever any said highway by reason of deterioration, rain, snow or other climatic conditions will be seriously damaged or destroyed

unless the use of vehicles thereon is prohibited or the permissible weights thereof reduced.

(2) When local authorities have made any such resolution the traffic authority may erect or cause to be erected and maintained signs designating the provisions of the resolution at each end of that portion of any highway affected thereby, and the resolution shall not be effective until or unless such signs are erected and maintained.

(3) Local authorities may also, by resolution, prohibit or regulate the operation of trucks or other commercial vehicles at all times or between specified hours, or impose limitations as to the weight thereof on designated highways, which prohibitions and limitations shall be designated by appropriate signs placed on such highways.

(4) Local authorities may by by-law limit the operation of trucks or other commercial vehicles, by class, weight or otherwise, to certain designated highways at all times or between specified hours and may prohibit or regulate the operation of these trucks or other commercial vehicles upon any highway and at any time not so designated except for purposes specified in the by-law.

(5) Where a local authority has designated highways pursuant to subsection (4), it shall cause appropriate signs to be placed on the designated highways.

(6) This Section shall not apply to any main travelled or through highway passing through a city or town unless permission has first been obtained from the Minister.

(7) The Minister may determine what constitutes a main travelled or through highway and may designate any highway as a main travelled highway or a through highway. R.S., c. 293, s. 194.

Regulation of trucks by Provincial Traffic Authority

195 The Provincial Traffic Authority, with the approval of the Minister, may make regulations relating to the operation of trucks and other commercial vehicles upon highways within its jurisdiction to the same extent as a local authority may regulate such vehicles under Section 194. R.S., c. 293, s. 195.

Application of Sections 194 and 195 to trucks

196 The provisions of Sections 194 and 195 do not apply to trucks having a registered weight of three thousand kilograms or less. R.S., c. 293, s. 196.

Powers of peace officer

196A (1) A peace officer may stop and detain a commercial motor vehicle for the purpose of determining whether a by-law made pursuant to Section 194 or a regulation made pursuant to Section 195 has been contravened and, for that

purpose, may require the operator of the vehicle to produce a bill of lading or other document.

(2) A peace officer may examine and make copies and extracts of any document referred to in subsection (1). 1996, c. 34, s. 4.

Transportation of dangerous goods

197 (1) In this Section, "dangerous goods" means dangerous goods as defined in the *Dangerous Goods Transportation Act*.

(2) Subject to any regulations under subsection (1) of Section 191, a local authority may by resolution with respect to any highway under the jurisdiction of and for the maintenance of which such local authority is responsible

(a) designate the route and time of travel of vehicles transporting dangerous goods; and

(b) prohibit the carriage of dangerous goods on any highway specified in the resolution.

(3) Subject to any regulations under subsection (1) of Section 191, the Provincial Traffic Authority may make regulations with respect to any highway within its jurisdiction

(a) designating the route and time of travel of vehicles transporting dangerous goods; and

(b) prohibiting the carriage of dangerous goods on any highway specified in the regulations.

(4) A resolution or regulation under subsection (2) or (3) shall not be effective until it is approved by the Minister.

(5) Where a local authority or the Provincial Traffic Authority has made a resolution or regulation under subsection (2) or (3), the local authority or Provincial Traffic Authority respectively may cause appropriate signs to be placed on the route or highway specified in the resolution or regulation. R.S., c. 293, s. 197.

Solid rubber, metal or studded tires

198 (1) Every solid rubber tire on a vehicle moved on any highway shall have rubber on its entire traction surface at least 25 millimetres thick above the edge of the flange of the entire periphery, and no motor vehicle, trailer or semi-trailer having any steel or other metal tire in contact with the roadway shall be operated on any highway.

(2) Unless permitted by regulations, no tire on a vehicle moved on a highway shall have on its periphery any block, stud, flange, cleat or spike or any other protuberances of any material other than rubber which projects beyond the tread of the traction surface of the tire, except that it shall be permissible to use farm machinery with tires having protuberances which will not injure the highway,

and except also that it shall be permissible to use tire chains of reasonable proportions upon any vehicle when required for safety because of snow, ice or other conditions tending to cause a vehicle to slide or skid.

(3) The traffic authority may issue special permits authorizing the operation upon a highway of traction engines or tractors having movable tracks with transverse corrugations upon the periphery of the movable tracks or farm tractors or other farm machinery.

(4) The Governor in Council may make regulations permitting the use on a highway of tires of one or more of the types referred to in subsection (2) that conform to specifications set out in the regulations and prescribing the terms and conditions under which they may be used. R.S., c. 293, s. 198.

Dropping contents of vehicle and mudguards

199 (1) No vehicle shall be driven or moved on any highway unless the vehicle is so constructed or loaded as to prevent its contents from dropping, shifting, leaking or otherwise escaping therefrom.

(2) Every motor vehicle and every trailer shall be equipped with mudguards, fenders or flaps adequate to reduce effectively the wheel spray or splash of water from the roadway to the rear of the vehicle or trailer, unless the spray or splash is effectively reduced by the body of the vehicle or trailer or by a trailer drawn by the vehicle.

(3) The Governor in Council may make regulations

(a) respecting the securing of loads on vehicles;

(b) adopting by reference a document or incorporating by reference, as amended from time to time, any Act of the Parliament of Canada or regulations made pursuant to such an Act or any classification, standard, procedure or other specification. R.S., c. 293, s. 199; 2004, c. 42, s. 11.

Regulations respecting equipment

200 (1) The Governor in Council may make regulations

(a) requiring the use or incorporation of any equipment, material or device, in or on any vehicle, that may affect the safe operation of the vehicle on the highway or that may reduce or prevent injury to persons in a vehicle on a highway or to persons using the highway, and prescribing the specifications thereof;

(b) designating any equipment, material or device and designating an organization to test and mark its approval of any equipment, material or device so designated, and prohibiting the incorporation or use in or on a vehicle of any equipment, material or device so designated that is not marked as approved by the testing organization;

(c) prohibiting the sale or use of any equipment, material or device.

(2) Regulations made under subsection (1) may adopt by reference or otherwise standards or specifications established or approved by the Canadian Standards Association or other testing organization with or without modifications or variations or may require that any equipment conforms to the standards or specifications established or approved by the Canadian Standards Association or other testing organization or bear the approval of the Canadian Standards Association or other testing organization.

(3) Any person who violates a provision of any regulations made under this Section is guilty of an offence. R.S., c. 293, s. 200; 2002, c. 10, s. 16.

Vehicle inspection

201 (1) No person shall conduct, maintain, operate, manage or hold himself or herself out as operating an official testing station unless the person is licensed to do so and the license has not expired or been cancelled or suspended.

(2) A person may apply to the Minister, in the manner prescribed by the regulations, for a license to operate an official testing station.

(2A) Subject to this Act and the regulations, the Minister may issue or renew a license and the license is valid for the person, location and type of vehicle indicated on the license.

(2B) The Minister or a person designated by the Minister may cancel, suspend or refuse to issue or renew a license if the Minister or a person designated by the Minister is satisfied that the licensee or an agent or employee of the licensee has violated this Act or the regulations.

(2C) A license is cancelled when the licensee ceases to operate or own the official testing station for which the license was issued.

(3) The Minister may from time to time order that any vehicle or class or classes of vehicles or all vehicles be tested at official testing stations at such time or times or within such time or times as the Minister prescribes and may give notice of any order by publishing a copy of the order in the Royal Gazette.

(4) Notwithstanding subsection (3), the Minister may from time to time order that any vehicle or class of vehicle be tested by an inspector under the *Motor Carrier Act* at such time or times and within such time or times as the Minister prescribes.

(5) Notice of an order made pursuant to subsection (4) may be given by publishing a copy of the order in the Royal Gazette.

(6) The Registrar, a motor vehicle inspector or a peace officer may order the owner or driver of a vehicle to take the vehicle forthwith to an official testing station and to have the equipment of the vehicle or such part of the equipment as is prescribed by the Registrar, inspector or officer tested at the station and to have repaired any equipment that upon testing is found not to comply with any requirements of this Act or the regulations.

(7) With the approval of the Governor in Council, the Minister may make regulations

(a) prescribing minimum standards of premises and equipment and other requirements to be possessed by official testing stations;

(b) prescribing the qualifications to be possessed by persons employed as testers at official testing stations;

(c) respecting the nature and scope of tests and inspections to be made at official testing stations;

(d) respecting the duties of persons making tests and inspections;

(e) prescribing the records to be kept and the reports and returns to be made by operators of official testing stations;

(f) prescribing the fees to be charged for tests and inspections made at official testing stations;

(g) prescribing the design, form and content of certificates, stickers and other documents to be used or issued by licensees and employees of official testing stations and the fees or charges payable to the Department for supplying forms of certificates, stickers or documents;

(h) requiring the issue of certificates or stickers following the testing or inspection of vehicles;

(i) requiring owners and operators of vehicles to display certificates or stickers issued at official testing stations and prescribing the time or times and manner in which they shall be displayed;

(j) requiring owners and operators of vehicles to have their vehicles repaired or the equipment of their vehicles brought into conformity with the requirements of this Act and the regulations;

(k) prohibiting the operation of vehicles having equipment that has not been certified at an official testing station to be in conformity with any requirement of this Act or the regulations;

(l) prohibiting the operation of vehicles that do not bear evidence of having been tested at an official testing station;

(m) establishing official testing stations and designating a garage as an official testing station;

(n) prescribing the duration of licenses issued pursuant to this Section and requiring the payment of annual or other periodic fees by licensees;

(o) prescribing the manner and fees for applying for a license;

(p) prescribing the term and fees for a tester's license;

(q) respecting the duties of persons who have been issued a license to operate an official testing station;

(r) permitting the recognition of an out-of-Province inspection sticker or certificate based upon a reciprocal agreement;

(s) prescribing the requirements of a person applying for a license;

(t) incorporating by reference any classification, standard, procedure or other specification relating to motor vehicle inspections as it is amended from time to time;

(u) prescribing penalties for a violation of the regulations made pursuant to this Section.

(8) Every person who operates an official testing station without a license is guilty of an offence.

(9) Every person who fails to have the person's vehicle inspected or repaired as required by subsection (6) is guilty of an offence. R.S., c. 293, s. 201; 2001, c. 12, s. 7; 2002, c. 10, s. 17; 2004, c. 42, s. 12.

EMERGENCY REGULATIONS

Emergency or special conditions or flammable cargo

202 (1) The traffic authority is hereby empowered to make and enforce temporary regulations to cover emergencies or special conditions.

(2) Such regulations may prohibit or restrict the parking of vehicles between the fifteenth day of November and the fifteenth day of April.

(3) The traffic authority is hereby empowered to make and enforce regulations not inconsistent with this Act or any Act of the Parliament of Canada respecting the movements, parking, loading and storage of vehicles carrying explosives or other flammable cargo.

(4) A copy of any regulations made under this Section shall be immediately forwarded to the Provincial Traffic Authority and shall be subject to cancellation at any time by the Minister. R.S., c. 293, s. 202.

PART VI

FINANCIAL RESPONSIBILITY OF
OWNERS AND DRIVERS

Preservation of remedies

203 (1) Nothing in Sections 204 to 246 shall prevent the plaintiff in any action from proceeding upon any other remedy or security available at law.

(2) Sections 204 to 246 shall only apply to offences and violations of law committed and to convictions and judgments arising out of motor vehicle accidents occurring, and to motor vehicle liability policies issued or in force, after the first day of September, 1932. R.S., c. 293, s. 203.

Liability insurance card

204 (1) Every insurer that issues an owner's or driver's policy shall, at the time of issue thereof, also issue and deliver to the named insured a card, to be known as "a motor vehicle liability insurance card", and shall on request by the named insured issue and deliver to him an additional card, being a copy of the card delivered to him, for each person who commonly drives the motor vehicle, if any, in respect of which the policy is issued.

(2) The card issued under this Section shall be in a form approved by the Registrar and shall set forth such particulars as he may prescribe.

(3) The cards may be supplied to insurers by the Registrar in such quantity as he considers requisite, and no insurer shall issue a card that is not in a form approved by the Registrar.

(4) The Registrar may supply cards to an insurer that issues owners' policies outside the Province for issue in respect of such policies, but

(a) in the case of an insurer that is licensed to carry on in the Province the business of automobile insurance, every card issued by it shall show that the policy thereon mentioned provides insurance coverage for the purposes and to amounts not less than those mentioned in Section 125 of the *Insurance Act*; and

(b) in the case of an insurer that is not so licensed, before any such cards are issued the insurer shall comply with the provisions of subsection (4) of Section 236.

(5) Before supplying cards to an insurer pursuant to subsection (4), the Registrar shall require the insurer to file with him an undertaking that it will issue cards only to persons who are non-residents of the Province and who are insured under policies that are owners' policies within the meaning of this Act. R.S., c. 293, s. 204.

Suspension of license and permit

205 (1) The Registrar or, in his absence or incapacity, the Director of Highway Safety shall forthwith suspend the driver's license or privilege of obtaining a driver's license and owner's permit or permits of every person who has been convicted of or who has forfeited his bail after arrest on a charge of any of the following offences, namely:

(a) any offence against Sections 101, 102 or 104 if injury to a person or property occurs in connection therewith;

(b) an accident having occurred, failing to remain at, or return to the scene of the accident in violation of Section 97;

(c) an offence against Section 230;

(d) such offence against public safety on highways as may be designated by the Governor in Council.

(2) Upon receipt by the Registrar of official notice that the holder of a driver's license or privilege of obtaining a driver's license or owner's permit under this Act, has been convicted, or forfeited his bail, in any other province or state in respect of an offence, which, if committed in the Province would have been, in substance and effect, an offence under, or a violation of the provisions of law mentioned in subsection (1), the Registrar shall suspend every driver's license or privilege of obtaining a driver's license and owner's permit or permits, of such person issued pursuant to this Act.

(3) Every license or privilege of obtaining a driver's license and every permit suspended pursuant to this Section shall remain so suspended, and shall not thereafter be renewed, nor shall any new license be thereafter issued to, or a permit for the same or any other motor vehicle be thereafter issued to a person so convicted or who has so forfeited his bail until he has satisfied any penalty imposed by the court in respect of such offence, and until two years have elapsed from the date of the suspension or until he has given proof of financial responsibility to the satisfaction of the Registrar or until his conviction has been quashed.

(4) If any person to whom subsection (1) applies is not a resident of the Province, the privilege of operating a motor vehicle within the Province, and the privilege of operation within the Province of a motor vehicle owned by him, is suspended and withdrawn forthwith, by virtue of such conviction or forfeiture of bail, until he has given proof of financial responsibility, provided that the judge of the provincial court or justice of the peace before whom the person was charged may, in his discretion, by a written permit signed by him, authorize the operation of such motor vehicle to the boundaries of the Province by such route and by such person as the permit may describe.

(5) The giving by any person of proof of financial responsibility pursuant to subsection (3) shall not alter or affect in any way any disqualification to hold a license or a suspension or cancellation of a driver's license, or of a registration of a motor vehicle under any other provision of this Act.

(6) Where proof of financial responsibility is required to be given by any person, it shall be given by him to the Registrar except where it is by this Act expressly required to be given to some other person. R.S., c. 293, s. 205.

Financial responsibility card

206 **(1)** Where a person

(a) gives proof of financial responsibility to the amounts and in any of the forms mentioned in Sections 235 and 236; or

(b) being a corporation produces to the Registrar a certificate issued by the Superintendent of Insurance for the Province showing that

(i) the corporation maintains a separate insurance fund for the purpose of satisfying therefrom, *inter alia*, liabilities it may incur resulting from bodily injury to, or the death of, any person or damage to property occasioned by, or arising out of, the ownership, maintenance, operation, or use, of a motor vehicle by the corporation, and

(ii) in the opinion of the Superintendent, the insurance fund is adequate to satisfy all such liabilities that the corporation is likely to incur, subject, for each motor vehicle registered in the name of the corporation, to the limits as to amount stated in Section 207,

the Registrar shall issue and deliver to him a card, to be known as "a financial responsibility card", and shall, on request by him if he is the owner of the motor vehicle, issue and deliver to him an additional card, being a copy of the card delivered to him as aforesaid,

(c) for each person who commonly drives the motor vehicle to which the card refers;

(d) for each motor vehicle in respect of which the proof of financial responsibility is given; or

(e) in the case of a corporation to which the Superintendent of Insurance issues a certificate under clause (b) for each motor vehicle registered in the name of the corporation.

(2) A financial responsibility card shall set forth the following particulars:

(a) the name of the person or corporation giving the proof of financial responsibility;

(b) the particulars of the motor vehicle as set forth in the permit referred to in Section 16; and

(c) *repealed 2015, c. 45, s. 9*.

(d) any other particulars required by the Registrar.

(3) A financial responsibility card shall be in such form as may from time to time be prescribed by the Registrar.

(4) Where a person to whom the Registrar has issued a financial responsibility card ceases to maintain the proof of financial responsibility in respect of which the card was issued, he shall forthwith deliver the card and all copies thereof to the Registrar.

(5) Where a person is insured under a policy of the type commonly known as "a garage and sales agency policy", whereby he is insured against liability for loss or damage to persons or property occasioned by, or arising out of the ownership, maintenance, operation or use, by him, or his employees, of a motor vehicle that is either owned by him or in his charge, if, in the opinion of the Registrar, the amount in which he is insured under the policy is adequate to satisfy all such liabilities that he is likely to incur, subject for each motor vehicle that at any one time may be operated or used by him or his employees to the limits as to amount stated in Section 207, the insurer that issues the policy shall at the time of the issue thereof, also issue and deliver to the named insured a card, to be known as "a financial responsibility card", and shall, on request by the named insured issue and deliver to him an additional card, being a copy of the card delivered to him, for each of his employees who commonly drives the motor vehicle owned by him or in his charge.

(6) A card issued under subsection (5) shall be in a form approved by the Registrar and shall set forth

(a) the name and address of the insurer;

(b) the name of the insured;

(c) the policy number;

(d) the date upon which the insurance expires; and

(e) any other particulars required by the Registrar,

and shall be signed in handwriting and in ink, with his usual signature, by the person for whose use the card or additional card is issued, and shall bear the number of the driver's license held by him as at the date on which the card is issued.

(7) The cards issued under subsection (5) by all insurers shall be uniform in size, colour and form and the date of expiry of the policy of insurance to which the card refers shall be prominently noted thereon, and the card shall be in such form as may from time to time be prescribed by the Registrar.

(8) Cards issued under subsection (5) shall be supplied to each insurer by the Registrar in such quantity as the Registrar deems requisite, and no insurer shall prepare or issue a card under subsection (5) except on a form supplied as in this Section provided. R.S., c. 293, s. 206; 2015, c. 45, s. 9.

Amount of security

207 Where security is required to be given by any person pursuant to clause (a) of subsection (5) of Section 231 or clause (a) of subsection (4) of Section 232, it shall be given by him to the Registrar in the amount required by the Registrar but not in any case exceeding two hundred thousand dollars in respect of any one accident. R.S., c. 293, s. 207.

Form of security

208 (1) Where security is required to be given by any person pursuant to clause (a) of subsection (5) of Section 231 or clause (a) of subsection (4) of Section 232 it shall be given by the certificate of the Minister of Finance and Treasury Board that the person named therein

(a) has deposited with him the sum of money fixed by the Registrar;

(b) has deposited with him securities for money approved by the Minister of Finance and Treasury Board in the amount fixed by the Registrar; or

(c) has deposited with him a bond of a guarantee or surety company in the amount fixed by the Registrar or a bond with personal sureties in the amount fixed by the Registrar approved as adequate security by a judge of the county court of the county in which the sureties reside.

(2) Any bond given pursuant to subsection (1) shall be conditioned upon the satisfaction of any judgment that may thereafter be recovered against the person by whom or on whose behalf it is deposited as a result of the accident giving rise to the suspension of his permit or license and the payment of any sum that may be agreed upon as liquidated damages as a result of that accident. R.S., c. 293, s. 208; O.I.C. 2013-348.

Purpose of security

209 (1) Any money or security deposited with the Minister of Finance and Treasury Board pursuant to Section 208 shall be held by the Minister of Finance and Treasury Board as security for the payment of any sum that may be agreed upon as liquidated damages, or any judgment that may thereafter be recovered against the person making the deposit in an action for damages resulting from bodily injury to or the death of another, or damages of one hundred dollars or more to property caused by an accident

(a) by reason of the occurrence of which the deposit of security is required; and

(b) which was occasioned by, or arose out of the ownership, maintenance, operation or use, of a motor vehicle by the person making the deposit or by another person for whose negligence the person making the deposit is liable.

(2) Money and securities deposited with the Minister of Finance and Treasury Board shall be paid over by him, on the order of the court or of a judge thereof, to satisfy a judgment recovered as set out in subsection (1) or to satisfy any sum that may be agreed upon as liquidated damages occasioned by, or arising out of, the accident.

(3) Where a bond has been deposited with the Minister of Finance and Treasury Board pursuant to Section 208, if a judgment of the sort described in subsection (1) is recovered or if a sum is agreed upon as liquidated damages occasioned by or arising out of the accident and such judgment or sum is not satisfied or paid within fifteen days after it has become final or has been agreed upon, as the case may be, the judgment creditor or the person entitled to such sum agreed upon may, for his own use and benefit bring an action on the bond in the name of the Minister against the persons executing the bond, but the Minister shall not be liable for costs in any such action.

(4) A bond, money or security, deposited with the Registrar or the Minister of Finance and Treasury Board pursuant to Sections 207 and 208 shall not in the hands of the Registrar or the Minister of Finance and Treasury Board respectively, be subject to any other claim or demand.

(5) Where the Minister of Finance and Treasury Board is satisfied that a sum has been agreed upon as liquidated damages occasioned by, or arising out of, the accident, upon request of the person making the deposit he may, from the money or securities so deposited, pay to the person entitled thereto the sum agreed upon, and, if he is satisfied that the sum agreed upon has been paid, he may pay to the person making the deposit the money or securities so deposited with him or the balance thereof remaining in his hands after making payment as aforesaid of the sum agreed upon. R.S., c. 293, s. 209; O.I.C. 2013-348.

Offences respecting card

210 Any person who

(a) produces to the Registrar or to a peace officer

(i) a financial responsibility card or a motor vehicle liability insurance card purporting to show that there is in force a policy of insurance that is, in fact, not in force,

(ii) a financial responsibility card or a motor vehicle liability insurance card purporting to show that he is at the time maintaining in effect proof of financial responsibility as required by this Act when such is not the case, or

(iii) a financial responsibility card or a motor vehicle liability insurance card purporting to show that the person named in the card as the insured is, at the time of an accident in which a motor vehicle is in any manner, directly or indirectly involved, insured in respect of loss resulting from that accident and occasioned by the operation or use of that motor vehicle, when such is not the case;

(b) fails to deliver to the Registrar as required by subsection (4) of Section 206, a financial responsibility card or any additional card issued to him pursuant to that Section; or

(c) gives or loans to a person not entitled to have the same any card issued under subsection (5) of Section 206,

shall be guilty of an offence. R.S., c. 293, s. 210.

Unsatisfied Judgment Fund

211 (1) Subject to the provisions of subsection (2), the Governor in Council may, at any time after the first day of December, 1949, direct that every person who obtains a driver's license under this Act, shall, in addition to any other fee for which provision is made in this Act, annually pay to the Registrar a fee of one dollar and all such fees shall constitute a fund, which shall be known as the "Unsatisfied Judgment Fund" hereinafter in this Part referred to as the "Fund".

(2) If, on the first day of December in any registration year, the amount of the Fund exceeds one hundred and fifty thousand dollars, the Governor in Council may by order in council suspend the requirement for payment of the fee set out in subsection (1), and may, on or after the first day of December in any year, reimpose the provisions of subsection (1) for the next ensuing registration year when the amount of the Fund is less than one hundred thousand dollars, and so from time to time suspend and reimpose the requirements and provisions of subsection (1) according as the amount of the Fund from time to time exceeds one hundred and fifty thousand dollars or is less than one hundred thousand dollars.

(3) The Minister of Finance and Treasury Board shall maintain an account known as the "Unsatisfied Judgment Fund" into which shall be paid or credited all sums from time to time provided for the purpose by the Governor in Council and all sums from time to time paid over by the Registrar pursuant to this Section.

(4) The Governor in Council may from time to time transfer or pay from the Special Reserve Account established pursuant to the *Provincial Finance Act* to the Unsatisfied Judgment Fund such amounts as he may deem necessary.

(5) The Registrar shall pay to the Minister of Finance and Treasury Board any fees collected for the Fund pursuant to subsection (1).

(6) Notwithstanding any other provisions of this Section, no person shall be liable to pay a fee under this Section in respect of the registration year commencing on the first day of January, 1959, or of any subsequent registration year until the Governor in Council so orders. R.S., c. 293, s. 211; O.I.C. 2013-348.

Payment from Fund

212 (1) Where in any court in the Province a judgment is recovered for damages on account of bodily injury to or the death of any person or damage to

property and such injury, death or damage was occasioned by or arose out of the ownership, maintenance, operation or use of a motor vehicle within the Province after the first day of November, 1949, then upon the determination of all proceedings, including appeals, and upon notice to the Minister, the judgment creditor may apply to a judge of the Trial Division of the Supreme Court or a judge of the county court for an order directing payment of the amount of the judgment, or the unsatisfied portion thereof, out of the Fund.

(2) Where any person recovers any such judgment, he shall not make an application for an order directing payment out of the Fund unless he has

(a) joined as a defendant or brought an action against any person, including the Crown, against whom he has a cause of action for damages for the bodily injuries or death or the damage to property and proceeded to judgment in the action; or

(b) made a settlement in respect of his cause of action with every such person whom he has not joined as a defendant or against whom he has not brought an action and proceeded to judgment therein, which settlement, in the opinion of the judge and taking into account the circumstances of the case, is reasonable,

provided that this subsection shall not apply with respect to a person mentioned in clause (a) if the applicant satisfies the court that he has been unable to find that person after making or causing to be made all such inquiries and searches, and taking or causing to be taken all such measures, for the purpose of finding him as the court deems reasonable in the circumstances.

(3) Upon the hearing of the application the applicant shall show

(a) that he has obtained a judgment as set out in subsection (1), stating the amount thereof and the amount owing thereon at the date of the application;

(b) that he has caused to be issued a writ of *fieri facias* or an execution order, and that

(i) the sheriff has made a return showing that no goods of the judgment debtor liable to be seized in satisfaction of the judgment debt could be found, or

(ii) the amount realized on the sale of goods seized, or otherwise realized, under the writ or order was insufficient to satisfy the judgment, stating the amount so realized and the balance remaining due on the judgment after application thereon of the amount realized;

(c) that he has

(i) caused the judgment debtor to be examined pursuant to the law for that purpose provided, touching his estate and effects and his property and means and in particular as to whether the judgment debtor is insured under a policy of

insurance by the terms of which the insurer is liable to pay, in whole or in part, the amount of the judgment, or

(ii) where, because of the death or absence from the Province of the judgment debtor, or for any other reason which the judge on the hearing of the application shall deem sufficient, it is impossible or impractical to cause the judgment debtor to be examined as aforesaid, made exhaustive searches and inquiries touching the estate and effects and the property and means of the judgment debtor, and in particular whether the judgment debtor is insured under a policy of insurance by the terms of which the insurer is liable to pay, in whole or in part, the amount of the judgment;

(d) that he has made exhaustive searches and inquiries to ascertain whether the judgment debtor is possessed of assets, real or personal, liable to be sold or applied in satisfaction of the judgment;

(e) that by such searches, inquiries and examination

(i) he has learned of no assets, real or personal, possessed by the judgment debtor and liable to be sold or applied in satisfaction of the judgment debt, or

(ii) he learned of certain assets, describing them, owned by the judgment debtor and liable to be seized or applied in satisfaction of the judgment, and has taken all necessary actions and proceedings for the realization thereof, and that the amount thereby realized was insufficient to satisfy the judgment, stating the amount so realized and the balance remaining due on the judgment after application of the amount realized;

(f) whether he has either

(i) recovered a judgment in an action against, or

(ii) made a settlement in respect of his cause of action with,

any other person against whom he has a cause of action for damages for the bodily injury or death or the damage to property;

(g) that, where he has recovered judgment against another person as aforesaid, he has taken all measures and proceedings with respect to that other person, or under that judgment, that he is required to take under that judgment, with respect to whom or which application is made under this Section;

(h) that, where he has recovered such a judgment, either

(i) he has received, and is likely to receive, nothing thereunder, or

(ii) he has received, and is likely to receive, thereunder no more than an amount stated in the application;

(i) that, where he has made a settlement as mentioned in clause (f), he is entitled to receive thereunder no more than an amount stated in the application, and that the settlement is one that, in the opinion of the judge and taking into account the circumstances of the case, is reasonable;

(j) that the application is not made by or on behalf of an insurer in respect of any amount paid or payable by the insurer by reason of the existence of a policy of automobile insurance within the meaning of Part VI of the *Insurance Act*;

(k) that no part of the amount sought to be paid out of the Fund is sought in lieu of making a claim or receiving a payment which is payable by reason of the existence of a policy of automobile insurance within the meaning of Part VI of the *Insurance Act*; and

(l) that no part of the amount so sought will be paid to an insurer to reimburse or otherwise indemnify the insurer in respect of any amount paid or payable by the insurer by reason of the existence of a policy of automobile insurance within the meaning of Part VI of the *Insurance Act*.

(4) The Minister may appear and be heard on the application and may show cause why the order should not be made.

(5) If the judge is satisfied

(a) of the truth of the matters shown by the applicant as required by subsection (3);

(b) that the applicant has taken all reasonable steps to learn what means of satisfying the judgment are possessed by the judgment debtor; and

(c) that there is good reason for believing that the judgment debtor

(i) has no assets liable to be sold or applied in satisfaction of the judgment or of the balance owing thereon, and

(ii) is not insured under a policy of insurance by the terms of which the insurer is liable to pay, in whole or in part, the amount of the judgment,

the judge may make an order directed to the Minister of Finance and Treasury Board requiring him, subject to subsections (9), (12) and (13) to pay from the Fund the amount of the judgment or the balance owing thereon, and subject as herein provided the Minister of Finance and Treasury Board shall comply with the order.

(6) In making an order under subsection (5), the judge shall reduce the amount that he would otherwise require to be paid from the Fund by a

sum equal to any amount or amounts that the applicant has received or, in the opinion of the judge, is likely to receive, under or in respect of a judgment that he has recovered against, or a settlement that he has made with, any other person against whom he has or had a cause of action for damages for the bodily injury or death or the damage to property mentioned in subsection (1).

(7) If the judge is of the opinion that, having regard to the amount of the judgment and costs and the means and income of the judgment debtor, the judgment creditor can recover the amount of the judgment and costs from the judgment debtor within a reasonable period by proceeding under the *Collection Act* or any other law relating to the payment of judgments by instalments, the judge may, instead of granting or refusing an order, adjourn the application *sine die* subject to the right of the judgment creditor to renew his application if such recovery cannot be effected, and except as provided in this subsection, the possibility that the judgment creditor may be able to recover all or part of the judgment and costs under the *Collection Act* or any other law relating to the payment of judgments by instalments shall not be a ground for refusing an order under subsection (5).

(8) An order made under subsection (5) shall be subject to appeal by the applicant or by the Minister.

(9) The Minister of Finance and Treasury Board shall not be required to pay from the Fund under an order

(a) more than ten thousand dollars, exclusive of costs, on account of injury to or the death of one person, and subject to such limit for any one person so injured or killed, not more than twenty thousand dollars, exclusive of costs, on account of injury to or the death of two or more persons in any one accident; and

(b) for payment of a judgment for damage to property resulting from any one accident

(i) any amount where the judgment exclusive of costs is two hundred dollars or less, or

(ii) more than the amount by which the judgment exceeds two hundred dollars exclusive of costs and in no event more than the sum of five thousand dollars.

(10) The Minister of Finance and Treasury Board shall, subject to a deductible of two hundred dollars with respect to any claim arising out of damage to property, not be liable to pay from the Fund under an order more than thirty-five thousand dollars, exclusive of interest and costs, for loss or damage resulting from bodily injury to or the death of one or more persons and damage to property, and where in any one accident loss or damage results from bodily injury or death and loss of or damage to property

(a) any claims arising out of bodily injury or death shall have priority over claims arising out of loss of or damage to property to an amount of thirty thousand dollars; and

(b) any claim arising out of loss or damage to property shall have priority over claims arising out of bodily injury or death to an amount of five thousand dollars.

(11) Subject to subsection (21), subsection (9) shall apply where the cause of action arises before the first day of January, 1965, and subsection (10) shall apply where the cause of action arises on or after the first day of January, 1965.

(12) Where any amount is recovered by the judgment creditor from any other source in partial discharge of the judgment debt the maximum amount prescribed in subsection (9) shall be reduced by the amount so recovered and any amount paid out of the Fund in excess of the amount authorized by this Section may be recovered by action brought by the Minister.

(13) The Minister of Finance and Treasury Board shall not be required to pay out of the Fund any amount in respect of a judgment in favour of a person who ordinarily resides outside of the Province unless that person resides in a jurisdiction in which recourse of a substantially similar character to that provided by this Section is afforded to residents of the Province.

(14) The Minister of Finance and Treasury Board shall not be required to pay from the Fund under an order for costs of an action, including costs of the application made under this Section, more than the actual disbursements incurred and the fees payable in respect of the action and application, as taxed on a party and party basis.

(15) This Section shall not apply with respect to a judgment recovered for damages caused to a motor vehicle owned by the judgment creditor while in the possession of the judgment debtor with or without the consent of the judgment creditor.

(16) Notice of an application for an order directing payment of any amount out of the Fund shall be served on the Minister not less than fourteen days before the application.

(17) Where, upon an application for an order directing payment out of the Fund of the amount of a judgment or an unsatisfied portion of it, it is made to appear that the judgment was entered in an action in which

(a) the defendant did not enter an appearance;

(b) the defendant did not file a statement of defence;

(c) the defendant did not appear in person or by counsel at the trial or on the assessment of damages; or

(d) judgment was signed upon the consent or with the agreement of the defendant,

and that the defendant may have had a defence to the action or that the amount of damages awarded may have been excessive, the judge, upon such terms as to costs

or otherwise, including the payment of costs out of the Fund, as the judge thinks fit, may set aside the judgment and grant leave to the Minister to intervene in the action in which the judgment was entered at any stage of the action and to take on behalf of and in the name of the defendant any steps that the defendant himself might have taken in the action.

(18) Where, pursuant to an order made under subsection (17), the Minister intervenes in an action he may, on behalf of and in the name of the defendant, enter an appearance, file a statement of defence, conduct the defence, consent to judgment in such amount as he deems proper, or do any other act that the defendant himself might do and all acts done by the Minister shall be deemed to be the acts of the defendant.

(19) Notwithstanding any other provision of this Act, when pursuant to subsection (17) a judge orders payment of costs out of the Fund, the Minister of Finance and Treasury Board may comply with the order.

(20) Until the Governor in Council otherwise orders, this Section shall not apply to judgments for damages arising out of the ownership, maintenance, operation or use of a motor vehicle on or after the first day of January, 1959.

(21) Notwithstanding Section 19 of Chapter 39 of the Acts of 1961, subsections (1) and (9) of this Section in the form in which those subsections existed immediately prior to the twenty-fourth day of March, 1961, shall apply to every judgment for damages arising out of the ownership, maintenance, operation or use of a motor vehicle before the first day of January, 1959, whether such judgment was recovered before, on or after the thirteenth day of April, 1962. R.S., c. 293, s. 212; O.I.C. 2013-348.

Judgment Recovery (N.S.) Ltd.

213 (1) Where in any court in the Province a judgment is recovered in an action for damages resulting from bodily injury to or the death of any person or for damage to property and such injury, death or damage was occasioned by or arose out of the operation, ownership, maintenance or use of a motor vehicle by the judgment debtor within the Province, the judgment creditor may, subject to the provisions of this Act, make application for payment of such judgment to Judgment Recovery (N.S.) Ltd.

(1A) Notwithstanding subsection (1), no application for payment of a judgment may be made pursuant to that subsection where the judgment is recovered in an action for damages and the damages arose out of the operation, ownership, maintenance or use of a motor vehicle on or after July 1, 1996.

(2) Subject to the other provisions of this Act, Judgment Recovery (N.S.) Ltd. within seven days after an application is made to it under this Section shall pay to the judgment creditor the amount of the judgment or the balance owing thereon, together with one half of the solicitor's costs of the action, as taxed on a party and party basis, and the actual disbursements of the judgment creditor

incurred in making his application to Judgment Recovery (N.S.) Ltd., provided that if Judgment Recovery (N.S.) Ltd. appeals from the original judgment, Judgment Recovery (N.S.) Ltd. shall pay to the judgment creditor the costs of any appeal as taxed on a party and party basis, and the actual disbursements of the judgment creditor in relation to the appeal without regard to the result of the said appeal.

(3) Judgment Recovery (N.S.) Ltd. is not liable for payment of any sum claimed by or on behalf of

(a) an insurer by reason of the existence of a policy of automobile insurance within the meaning of the *Insurance Act*;

(b) His Majesty in right of the Province or of Canada, or any agent of His Majesty, or any Crown corporation; or

(c) any corporation which maintains a separate insurance fund for the purposes set out in clause (b) of subsection (1) of Section 206.

(4) Judgment Recovery (N.S.) Ltd. shall not be liable to pay, in respect of damages

(a) more than ten thousand dollars, exclusive of costs, on account of injury to or the death of one person and, subject to such limit for any one person so injured or killed, not more than twenty thousand dollars, exclusive of costs, on account of injury to or the death of more than one person in one accident; and

(b) on account of damage to property resulting from any one accident

(i) any amount where the judgment exclusive of costs is two hundred dollars or less, or

(ii) more than the amount by which the judgment exceeds two hundred dollars exclusive of costs and in no event more than the sum of five thousand dollars.

(5) Judgment Recovery (N.S.) Ltd. shall, subject to a deductible of two hundred dollars with respect to any claim arising out of loss of or damage to property, not be liable to pay more than thirty-five thousand dollars, exclusive of interest and costs, for loss or damage resulting from bodily injury to or the death of one or more persons and loss of or damage to property, and where in any one accident loss or damage results from bodily injury or death and loss of or damage to property

(a) any claim arising out of bodily injury or death shall have priority over claims arising out of loss of or damage to property to an amount of thirty thousand dollars; and

(b) any claims arising out of loss of or damage to property shall have priority over claims arising out of bodily injury or death to an amount of five thousand dollars.

(6) Judgment Recovery (N.S.) Ltd. shall, subject to a deductible of two hundred dollars with respect to any claim arising out of loss or damage to property, not be liable to pay more than one hundred thousand dollars exclusive of interest and costs, for loss or damage resulting from bodily injury to or the death of one or more persons and loss of or damage to property, and where in any one accident loss or damage results from bodily injury or death and loss of or damage to property

(a) any claim arising out of bodily injury or death shall have priority over claims arising out of loss of or damage to property to an amount of ninety-five thousand dollars; and

(b) any claim arising out of loss of or damage to property shall have priority over claims arising out of bodily injury or death to an amount of five thousand dollars.

(7) Judgment Recovery (N.S.) Ltd. shall, subject to a deductible of two hundred dollars with respect to any claim arising out of loss or damage to property, not be liable to pay more than two hundred thousand dollars inclusive of interest, plus costs, for loss or damage resulting from bodily injury to or the death of one or more persons and loss of or damage to property, and where in any one accident loss or damage results from bodily injury or death and loss of or damage to property

(a) any claim arising out of bodily injury or death shall have priority over claims arising out of loss of or damage to property to an amount of one hundred and ninety thousand dollars; and

(b) any claim arising out of loss of or damage to property shall have priority over claims arising out of bodily injury or death to an amount of ten thousand dollars.

(8) Where the cause of action arises

(a) before the first day of January, 1965, subsection (4) applies;

(b) on or after the first day of January, 1965, and before the first day of December, 1979, subsection (5) applies;

(c) on or after the first day of December, 1979, and before the first day of January, 1985, subsection (6) applies;

(d) on and after the first day of January, 1985, subsection (7) applies.

(9) Judgment Recovery (N.S.) Ltd. shall not be liable to pay any sum to a judgment creditor until the judgment creditor assigns the judgment to Judgment Recovery (N.S.) Ltd., and, such assignment having been made, the Registrar shall be subrogated to all rights of the judgment creditor and of Judgment Recovery (N.S.) Ltd. to the amount of two hundred dollars mentioned in ~~subsection~~ [subsections] (4) and (5).

(10) When a copy of the assignment to Judgment Recovery (N.S.) Ltd., certified by its appointee to be a true copy, is filed with the prothonotary or the county court clerk or the clerk of the municipal court, as the case may be, of the court in which the judgment was obtained, Judgment Recovery (N.S.) Ltd. shall, for all purposes related to recovery of the amount due on the judgment, be deemed to be the judgment creditor.

(11) This Section shall not apply with respect to a judgment recovered for damages caused after the first day of April, 1961, to a motor vehicle owned by the judgment creditor while in the possession of the judgment debtor with or without the consent of the judgment creditor. R.S., c. 293, s. 213; 1995-96, c. 20, s. 4.

Maximum payment

214 (1) The judgment creditor shall accompany his application with an affidavit setting out

(a) that he has received

(i) nothing under the judgment or as the result of the accident giving rise to the judgment, or

(ii) as a result of the accident from or on behalf of the judgment debtor, no more than an amount stated in the affidavit and the source or sources of that amount and the value of real property, goods or services so received as determined under subsection (4);

(b) that no part of the amount sought by him will be paid to an insurer to reimburse or otherwise indemnify the insurer in respect of any amount paid or payable by the insurer by reason of the existence of a policy of automobile insurance within the meaning of Part VI of the *Insurance Act*; and

(c) that no part of the amount sought from Judgment Recovery (N.S.) Ltd. is sought in lieu of making a claim or to the best of his knowledge, information and belief for the purposes of receiving a payment that is or may be payable by reason of the existence of a policy of automobile insurance within the meaning of Part VI of the *Insurance Act*.

(2) A judgment creditor, who fails to state correctly the amount received as required under clause (a) of subsection (1), is liable on summary conviction to a penalty of not more than one thousand dollars and, whether or not the judgment creditor is charged under this subsection, Judgment Recovery (N.S.) Ltd. shall have a right of action for any amount not divulged as required under the said clause.

(3) Judgment Recovery (N.S.) Ltd. shall not be liable to pay the judgment creditor an amount greater than the amounts set out in Section 213 less any amount stated in the affidavit required by this Section.

(4) The judgment creditor shall pay Judgment Recovery (N.S.) Ltd. any amount, or the value in dollars, to be determined by a judge of the Trial Division of the Supreme Court or county court, of real property, goods or services that he recovers subsequent to payment by Judgment Recovery (N.S.) Ltd. from or on behalf of the judgment debtor as a result of such judgment, and Judgment Recovery (N.S.) Ltd. shall have a right of action against the judgment creditor to recover such amounts.

(5) Where Judgment Recovery (N.S.) Ltd. recovers any amount on a judgment that has been assigned to it, such amount shall become and remain its property unless and until the Governor in Council directs that, because of unusual or extreme circumstances, the original judgment creditor is entitled to receive the amount by which that recovered exceeds the amount paid out by Judgment Recovery (N.S.) Ltd. with interest thereon at four per cent per year from the date of such payment and all costs, including solicitor's costs on a solicitor and client basis, incurred by Judgment Recovery (N.S.) Ltd. in making the recovery.

(6) Judgment Recovery (N.S.) Ltd. shall not be required to pay any amount in respect of a judgment in favour of a person who does not ordinarily reside in the Province unless that person resides in a jurisdiction in which recourse of a substantially similar character to that provided by this Act is afforded to residents of the Province. R.S., c. 293, s. 214.

Settlement

215 **(1)** Where, pursuant to this Section, a settlement is made in respect of a claim for damages for bodily injury to or death of any person or damage to property occasioned by or arising out of the operation, ownership, maintenance or use of a motor vehicle within the Province, then for the purposes of Sections 213, 214, 219 and 220 and subject to this Section the settlement shall be deemed to be a judgment, the settlement obligor shall be deemed to be judgment debtor, and the settlement obligee shall be deemed to be a judgment creditor.

(2) For the purposes of this Section any person who has attained the age of sixteen years and who has a claim for bodily injury to or the death of any person or damage to property occasioned by or arising out of the operation, ownership, maintenance or use of a motor vehicle within the Province may, whether or not an originating notice has been issued, negotiate a settlement of the claim with any person or persons against whom the claim exists who has attained the age of sixteen years.

(3) A settlement reached under subsection (2) is effective for the purposes of this Section if Judgment Recovery (N.S.) Ltd. is a party to the negotiations and consents to the settlement and takes effect

(a) where all parties to the settlement are of the full age of nineteen years, on the date when it is approved by a person appointed by the Minister; or

(b) where any party to the settlement has attained the age of sixteen years but has not attained the age of nineteen years, on the date when the settlement is approved by a judge of the Trial Division of the Supreme Court or a judge of a county court.

(4) Approval by a judge of a settlement described in clause (b) of subsection (3) may be granted on an *ex parte* application by Judgment Recovery (N.S.) Ltd., such application to be supported by such affidavit evidence as the judge may require, and if Judgment Recovery (N.S.) Ltd. does not make an application within fourteen days of the date on which the parties agree on the terms of the settlement, the approval may be granted upon the *ex parte* application of any party to the settlement.

(5) For all purposes of this Section, including the giving of a release, a person who has attained the age of sixteen years has the capacity of a person of the full age of nineteen years.

(6) If the consent of Judgment Recovery (N.S.) Ltd. mentioned in subsection (3) is given to at least the limits set out in Section 213 a larger amount may be agreed upon by the parties to the settlement other than Judgment Recovery (N.S.) Ltd., provided that nothing herein contained shall impose an obligation on Judgment Recovery (N.S.) Ltd. to pay any amount in excess of those limits.

(7) No costs shall be awarded or be payable under a settlement made pursuant to this Section but Judgment Recovery (N.S.) Ltd. may in its discretion grant such amount as it deems appropriate in lieu of costs, and the amount so granted shall be specifically stated in the terms of settlement.

(8) Should proceedings under this Section fail to result in a settlement, the person having the cause of action shall, if the time limited for instituting action has expired, have a further period of two weeks in which to issue an originating notice, such period to commence on the date notice of intention to withdraw from such proceedings is given by registered letter to the other parties by any one of the parties or from the date on which the person appointed by the Minister pursuant to clause (a) of subsection (3) refuses his approval, or, where one of the parties to the settlement has not attained the full age of nineteen years, a judge, pursuant to clause (b) of subsection (3), refuses his approval of the settlement.

(9) Statements or admissions made during negotiation of a settlement under this Section shall not be admissible against the parties to the settlement in any proceedings arising out of the same cause of action.

(10) Nothing in this Section precludes the settlement of claims as between persons of the full age of nineteen years in accordance with subsections (2) and (3) but settlements between those persons shall not prejudice the claim of any person under the age of nineteen years who is entitled in any event to receive from Judgment Recovery (N.S.) Ltd. the amount that he would have received if payment of all claims resulting from the accident giving rise to his claim had been held in

abeyance until his claim had been settled in accordance with this Section or determined by judgment.

(11) Where

(a) a claim to which this Section applies is for damage to property only and is for an amount that does not exceed one thousand dollars;

(b) Judgment Recovery (N.S.) Ltd. has sent by registered mail a request in a form approved by the Superintendent of Insurance to the person alleged to be at fault addressed to his address as shown on the records of the Registry of Motor Vehicles or if he has a different address to the knowledge of Judgment Recovery (N.S.) Ltd. then to both such addresses, requesting that he negotiate a settlement of the claim or make a written denial of liability; and

(c) the person to whom the request is sent does not, within thirty days of the mailing of the request, either negotiate a settlement of the claim or deliver a written denial of liability to Judgment Recovery (N.S.) Ltd.,

Judgment Recovery (N.S.) Ltd. may on behalf of and in the name of the person alleged to be at fault take any steps that he might have taken under this Section and enter into negotiations with the claimant and make a settlement under this Section. R.S., c. 293, s. 215.

Hearing to determine obligation of insurer

216 (1) Where

(a) an application is made to Judgment Recovery (N.S.) Ltd. for payment of a claim for loss or damages occasioned by or arising out of the operation, ownership, maintenance or use of a motor vehicle, whether or not an originating notice has been issued or a judgment has been entered;

(b) it appears or is alleged that an insurer may be obligated under a policy of automobile insurance within the meaning of Part VI of the *Insurance Act* to respond to the claim; and

(c) the insurer denies that it is so obligated,

Judgment Recovery (N.S.) Ltd. shall within a reasonable period of time but not to exceed sixty days from the date of such application make an *ex parte* application to a judge of the Trial Division of the Supreme Court or a judge of a county court to set a date for a hearing to determine whether the insurer has such an obligation.

(2) Judgment Recovery (N.S.) Ltd. shall, at least fourteen days before the date set for the hearing, give notice of the hearing by serving a copy of the order in the manner provided in the order on

(a) the insurer appearing or alleged to be obligated to respond to the claim;

(b) the owner and the driver of the motor vehicle referred to in clause (a) of subsection (1); and

(c) the person making the claim.

(3) Not later than seven days before the date of the hearing an insurer that has been served with a copy of an order pursuant to subsection (2) shall deliver to Judgment Recovery (N.S.) Ltd. and file with the prothonotary or clerk of the court a statement of the grounds upon which it bases its denial of an obligation to respond to the claim.

(4) On the date fixed for the hearing the judge shall hear such evidence as may be adduced by Judgment Recovery (N.S.) Ltd., the insurer and the person or persons referred to in subsection (2) and shall determine whether or not the insurer is obligated to respond to the claim referred to in subsection (1), and the judge may adjourn the hearing and require additional evidence to be called or that the notice of the hearing be served on such additional persons as may be necessary to enable the court to determine the question of the insurer's obligation.

(5) Subject to subsection (6), on a hearing under this Section no evidence, argument or finding shall be adduced or made respecting the liability of an owner or driver of a motor vehicle or the amount or extent of that liability or the amount of the liability or obligation of an insurer.

(6) Evidence or arguments purporting to establish any defence referred to in Section 133 of the *Insurance Act* may be adduced or made at a hearing under this Section and if they are adduced or made the judge shall make a finding whether such defences or any of them constitute an effective defence or defences under said Section 133 against the person alleged to be insured but not effective as against a claimant but nothing herein prejudices the right of an insurer subsequently to require a judgment relating to the liability of its insured as a condition precedent to making payment to a claimant.

(7) Where a finding under this Section is that an insurer is not obligated to respond to a claim, Judgment Recovery (N.S.) Ltd. shall respond to the claim in accordance with all statutory provisions relating to Judgment Recovery (N.S.) Ltd.

(8) Judgment Recovery (N.S.) Ltd. and the insurer are not entitled to their costs in connection with a hearing by a judge under this Section but shall bear other costs of the hearing equally unless by reason of special circumstances the judge otherwise orders, and this subsection does not apply to costs of an appeal from a finding or order made under this Section.

(9) Where a hearing is ordered to be held under this Section, further proceedings with respect to the claim that is the subject of the hearing are stayed until the obligation of an insurer or of Judgment Recovery (N.S.) Ltd. to respond to the claim has been finally determined by the judge or on appeal and a further ten days have elapsed.

(10) The Appeal Division of the Supreme Court shall be the final court of appeal from a finding or order made pursuant to this Section. R.S., c. 293, s. 216; revision corrected.

Actions begun before July 1, 1961

217 (1) Where in an action in any court in the Province for damages resulting from bodily injury to or the death of any person or damage to property

(a) the defendant does not file a statement of defence;

(b) the defendant does not appear in person or by counsel at the trial or on the assessment of damages; or

(c) the defendant is prepared to consent or to agree to the entry of judgment against him,

judgment shall not be entered by default or upon consent or agreement and damages shall not be assessed until notice of intention to enter judgment or to assess damages, as the case may be, has been given to Judgment Recovery (N.S.) Ltd. and Judgment Recovery (N.S.) Ltd. has not, within thirty days after giving of that notice, applied to the court for leave to intervene in the action.

(2) When Judgment Recovery (N.S.) Ltd. receives notice under subsection (1), it may, with leave of the court or a judge, intervene in the action and take on behalf of and in the name of the defendant any steps that the defendant himself might have taken in the action.

(3) Where, pursuant to leave granted under subsection (2), Judgment Recovery (N.S.) Ltd. intervenes in an action, it may, on behalf of and in the name of the defendant, file a statement of defence, conduct the defence, consent to judgment in such amount as it considers proper, or do any other act that the defendant himself might have done, and all acts of Judgment Recovery (N.S.) Ltd. shall be deemed to be the acts of the defendant. R.S., c. 293, s. 217.

Actions begun on or after July 1, 1961

218 (1) Where in an action in any court in the Province for damages resulting from bodily injury to or the death of any person or damage to property, the defendant does not file a defence, Judgment Recovery (N.S.) Ltd. shall not be liable to pay any judgment entered by default unless notice of intention to enter judgment has been given to Judgment Recovery (N.S.) Ltd. and thirty days have elapsed after giving that notice.

(2) When Judgment Recovery (N.S.) Ltd. receives notice under subsection (1), it may file a defence on behalf of and in the name of the defendant and may take any steps that the defendant might take in an action.

(3) Where in an action in any court in the Province for damages resulting from bodily injury to or the death of any person or damage to property, the defendant files a defence but

(a) the defendant does not appear in person or by counsel at the trial or on the assessment of damages; or

(b) the defendant is prepared to consent or to agree to the entry of judgment against him,

Judgment Recovery (N.S.) Ltd. shall not be liable to pay any judgment entered by default or upon consent or agreement or damages assessed unless notice of intention to enter judgment or to assess damages, as the case may be, has been given to Judgment Recovery (N.S.) Ltd. and Judgment Recovery (N.S.) Ltd. has not within thirty days after giving of that notice applied to the court for leave to intervene in the action.

(4) When Judgment Recovery (N.S.) Ltd. receives notice under subsection (3) it may, with leave of the court or a judge, intervene in the action and take on behalf of and in the name of the defendant any steps that a defendant might take in an action.

(5) Where Judgment Recovery (N.S.) Ltd. files a defence pursuant to subsection (2) or intervenes in an action pursuant to subsection (4), it may, on behalf of and in the name of the defendant, whether or not the defendant is an infant, conduct the defence, consent to judgment in such amount as it considers proper, or do any other act that a defendant might do and all acts of Judgment Recovery (N.S.) Ltd. shall be deemed to be the acts of the defendant, provided, however, that where the defendant is an infant no judgment by consent shall be entered without the approval of the court or a judge thereof.

(6) This Section shall apply to actions commenced on and after the first day of July, 1961, and Section 217 shall apply to actions commenced prior to the first day of July, 1961. R.S., c. 293, s. 218.

Restoration of license or permit

219 Where the driver's license of any person, or the permit of a motor vehicle registered in his name, has been suspended or cancelled under this Act, and Judgment Recovery (N.S.) Ltd. has paid any amount in or towards satisfaction of a judgment and costs, or either of them, recovered against that person, the cancellation or suspension shall not be removed, nor the license be issued or granted to, or registration be permitted to be made, by that person until he has satisfied all requirements of this Act in respect of giving proof of financial responsibility and

(a) has paid to the Registrar, notwithstanding that the original judgment creditor has assigned the judgment to Judgment Recovery (N.S.) Ltd. the full amount of the deductible of two hundred dollars, if applicable, referred to in subsections (9) and (10) of Section 212 and in subsections (4) and (5) of Section 213;

(b) has repaid in full to Judgment Recovery (N.S.) Ltd. the amount so paid by it, together with interest thereon at a rate to be determined by the Governor in Council from time to time upon the recommendation of the Minister of Finance and Treasury Board from the date of such payment; or

(c) has entered into and is carrying out an arrangement for repayment to Judgment Recovery (N.S.) Ltd. the amount so paid by it in instalments calculated by Judgment Recovery (N.S.) Ltd. in the manner set out in Section 225, or in instalments at such other rate as is satisfactory to it; or

(d) has received from Judgment Recovery (N.S.) Ltd. a satisfaction piece or release of the judgment in respect of which Judgment Recovery (N.S.) Ltd. has made payment. R.S., c. 293, s. 219; O.I.C. 2013-348.

Deductible

220 (1) Judgment Recovery (N.S.) Ltd. shall, with respect to judgments assigned to it, inform the Registrar of the amount of any deductible in a policy of automobile insurance within the meaning of the *Insurance Act* held by the original judgment creditor at the time of the accident out of which the judgment arose which provided coverage against damage to the motor vehicle of the judgment creditor involved in such accident.

(2) The Minister of Finance and Treasury Board shall, if the Registrar has received the two hundred dollars referred to in clause (a) of Section 219, pay to the original judgment creditor the amount of the deductible referred to in subsection (1) up to two hundred dollars. R.S., c. 293, s. 220; O.I.C. 2013-348.

Effective date of Sections 213 to 219

221 Sections 213 to 219 apply to or in respect of judgments or claims for damages arising out of the ownership, maintenance, operation or use of a motor vehicle on or after the first day of January, 1959, and before such later date as the Governor in Council declares to be the date from which these Sections shall no longer apply. R.S., c. 293, s. 221.

Quebec

222 (1) For the purposes of subsection (6) of Section 214, the Province of Quebec is and is deemed to be "a jurisdiction in which recourse of a substantially similar character to that provided by this Act is afforded to residents in the Province".

(2) Notwithstanding the provisions of Sections 213 and 214, the Régie de l'assurance automobile du Québec may, in the exercise of its rights of subrogation under the *Automobile Insurance Act* (Quebec), claim from Judgment Recovery (N.S.) Ltd. any amount which a resident of Quebec would be entitled to receive from Judgment Recovery (N.S.) Ltd. if the Régie had paid nothing to the Quebec resident.

(3) Except as provided by Section 256, for the purpose of asserting its rights under subsection (2) against Judgment Recovery (N.S.) Ltd., the Régie shall commence a proceeding in its own name against the person liable for the damages, and the Régie, the defendant and Judgment Recovery (N.S.) Ltd. shall deal with the claim as provided in Sections 213 to 220 as if the proceeding were commenced by the Quebec resident.

(4) This Section comes into force on and not before the effective date of an agreement between the Régie and the Province entered into pursuant to Section 319 of the *Insurance Act*, and applies to accidents occurring on, from and after that date. R.S., c. 293, s. 222.

Assignment of judgment to Minister of Finance and Treasury Board

223 (1) The Minister of Finance and Treasury Board shall not pay from the Fund any sum in compliance with an order until the judgment creditor assigns the judgment to him.

(2) When a copy of the assignment of judgment to the Minister of Finance and Treasury Board certified by him to be a true copy, is filed with the prothonotary or the county court clerk, as the case may be, of the court in which the judgment was obtained, the Minister of Finance and Treasury Board shall, for all purposes related to recovery of the amount due on the judgment, be deemed to be the judgment creditor.

(3) Where the Minister of Finance and Treasury Board recovers any amount on a judgment that has been assigned to him, he shall pay over to the judgment creditor or his personal representative any amount by which the amount recovered exceeds the amount paid out of the Fund by the Minister of Finance and Treasury Board, together with interest thereon at four per cent per year from the date of such payment and all costs, including solicitor's costs on a solicitor and client basis, incurred by the Minister of Finance and Treasury Board in making the recovery. R.S., c. 293, s. 223; O.I.C. 2013-348.

Restoration of license or permit

224 Where the driver's license of any person, or the permit of a motor vehicle registered in his name, has been suspended or cancelled under this Act, and the Minister of Finance and Treasury Board has paid from the Fund any amount in or towards satisfaction of a judgment and costs, or either of them, recovered against that person, the cancellation or suspension shall not be removed, nor the license, or permit restored, nor shall any new license be issued or granted to, or registration be permitted to be made by, that person until he has

(a) repaid in full to the Minister of Finance and Treasury Board the amount so paid by him, together with interest thereon at a rate to be determined by the Governor in Council from time to time upon the recommendation of the Minister of Finance and Treasury Board from the date of such payment; and

(b) satisfied all requirements of this Act in respect of giving proof of financial responsibility. R.S., c. 293, s. 224; O.I.C. 2013-348.

Repayment to Fund by instalments

225 (1) Where the Minister of Finance and Treasury Board has paid from the Unsatisfied Judgment Fund an amount in or towards satisfaction of a judgment and costs, or either of them, recovered against a person, the Minister of

Finance and Treasury Board may, on the application of that person, make an order permitting him to repay to the Minister of Finance and Treasury Board in instalments the amount so paid out of the Fund and interest on that amount.

(2) Payments shall not be permitted to be made under this Section

(a) in instalments at less frequent intervals than every three months; or

(b) in instalments that in a period of one year equal a smaller percentage of the total amount paid out of the Fund than that shown in the following table:

Amount paid out of Fund			Minimum annual payment per cent of amount paid out of Fund
		up to $500.00	50 %
$ 500.01	-	$100,000.00	33⅓ %
1,000.01	-	3,000.00	25 %
3,000.00	-	5,000.00	20 %
5,000.01	-	10,000.00	10 %
10,000.01	-	20,000.00	7½ %

(3) When the Minister of Finance and Treasury Board has made an order under this Section and the person in whose favour the order has been made is not in default in complying with the terms of the order and has complied with the requirements referred to in clause (b) of Section 224, the Minister may, notwithstanding Section 224, but subject to all other provisions of this Act, restore the driver's license and owner's permits of the person, or issue a license and owner's permits to him.

(4) When a person in whose favour an order has been made under this Section fails to make any payment permitted by the order or within the time prescribed by the order, the Minister shall forthwith suspend the driver's license and the owner's permits of that person and the person shall thereafter be subject in all respects to the provisions of Section 224.

(5) Any judgment debtor may apply on summary application to the judge of the county court for the district in which the applicant resides or to the Judge of The County Court of District Number One within three months of an application filed for a finding as to the ability of the applicant to repay the Minister of Finance and Treasury Board and if it is then made to appear to the Minister of Finance and Treasury Board that such judge has found that the applicant cannot make payment in instalments of the amounts required by clause (b) of subsection (2) without thereby causing a severe hardship to himself or to members of his immediate family, the Minister of Finance and Treasury Board may, notwithstanding such subsection, make an order permitting the applicant to make payments at a lower rate than the rate required by that clause. R.S., c. 293, s. 225; O.I.C. 2013-348.

Regulations respecting Sections 203 to 246

226 Subject to the approval of the Governor in Council, the Minister may make regulations for the more effective carrying out of Sections 203 to 246. R.S., c. 293, s. 226.

Failure to pay judgment

227 (1) Subject to Section 239, the driver's license or privilege of obtaining a driver's license and owner's permit or permits, of every person who fails to satisfy a judgment rendered against him, by any court in the Province, or in any other province of Canada, which has become final by affirmation on appeal, or by expiry without appeal of the time allowed for appeal, for damages of one hundred dollars or more on account of damage to property, or damages on account of bodily injury to, or the death of, any person, occasioned by a motor vehicle, within fifteen days from the date upon which such judgment became final, shall be forthwith suspended by the Registrar, upon receiving a certificate of such final judgment from the court in which the same is rendered, and shall remain so suspended, and shall not at any time thereafter be renewed, nor shall any new driver's license or owner's permit be thereafter issued to such person until such judgment is satisfied or discharged, otherwise than by a discharge in bankruptcy, to the extent of the minimum level of financial responsibility required at the time of the accident which gave rise to the judgment and until such person gives proof of his financial responsibility.

(2) The Governor in Council, upon the report of the Minister that a province or state has enacted legislation similar in effect to subsection (1) and that the legislation extends and applies to judgments rendered and become final against residents of that province or state by any court of competent jurisdiction in the Province, may, by proclamation, declare that subsection (1) shall extend and apply to judgments rendered and become final against residents of the Province by any court of competent jurisdiction in such province or state.

(3) If, after such proof of financial responsibility has been given, any other judgment against such person, for any accident, which occurred before such proof was furnished, and after the first day of September, 1932, is reported to the Registrar, the driver's license and owner's permit or permits of such person shall again be, and remain, suspended until such judgment is satisfied and discharged, otherwise than by a discharge in bankruptcy, to the extent set out in subsection (1).

(4) If any person to whom subsection (1) applies is not a resident in the Province, the privilege of operating any motor vehicle in the Province, and the privilege of operation in the Province of any motor vehicle registered in his name, shall be, and is, suspended and withdrawn forthwith by virtue of such judgment until he has complied with subsection (1).

(5) Subsection (1) in the form in which it appeared prior to the eighteenth day of March, 1964, shall apply to judgments resulting from causes of action arising before the first day of January, 1965.

(6) Subsection (1) as it appears in this Section shall apply to judgments resulting from causes of action arising on or after the first day of January, 1965. R.S., c. 293, s. 227.

Commercial vehicle insurance

228 (1) The Minister may require commercial motor vehicles or certain commercial motor vehicles to be covered with public liability, property damage, cargo or passenger hazard insurance or any or all such insurance, and such insurance shall be a condition precedent to the issuance of any permit or license for such commercial motor vehicles.

(2) Subject to the approval of the Governor in Council, the Minister may make regulations governing

(a) commercial motor vehicles to be so insured;

(b) the form and kind of insurance policy or policies;

(c) the amount of insurance;

(d) any other matter or thing in connection with such insurance;

(e) the imposition of penalties for the violation of such regulations.

(3) Such regulations shall be published in the Royal Gazette and shall thereupon become effective and have the same force as if enacted by this Act. R.S., c. 293, s. 228.

Proof of financial responsibility

229 The Minister may require proof of financial responsibility before issue of an owner's permit or driver's license or the renewal thereof to any person. R.S., c. 293, s. 229; 2003 (2nd Session), c. 1, s. 28.

Liability policy

230 (1) No person shall drive a motor vehicle registered or required to be registered under this Act unless there is in force in respect of the motor vehicle or in respect of the driver of the motor vehicle a motor vehicle liability policy.

(2) In a prosecution for a violation of subsection (1), where the court is satisfied that the defendant failed to produce forthwith upon the request of a peace officer a motor vehicle liability insurance card issued pursuant to Section 204 for a policy as required by subsection (1) that was valid and subsisting at the time of driving, such failure is proof, in the absence of evidence to the contrary, that there was not in force at the time of driving a motor vehicle liability policy as required by subsection (1).

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

(a) proof of financial responsibility in the amounts and to the limits required by Section 235 and in one of the forms permitted by Section 236 has been given; or

(b) a financial responsibility card was issued under Section 206,

in respect of the person or the motor vehicle. R.S., c. 293, s. 230; 1999, c. 11, s. 7.

Liability policy for motor vehicle registered in another jurisdiction

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

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

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

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

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

in respect of the person or the motor vehicle. 2004, c. 6, s. 23.

Suspension of license after accident

231 (1) Subject to subsections (2) and (3), where damage to property in an amount apparently of fifty dollars or more or bodily injury to, or the death of, any person results from an accident in which a motor vehicle is in any manner, directly or indirectly involved, if the motor vehicle is, or is required to be, registered under this Act, the Registrar, on receipt of notice in writing of the accident, shall suspend the license or the privilege of obtaining a license of the driver and the permit of every motor vehicle registered in the name of the owner and of the driver.

(2) Where a person whose permit, license or privilege of obtaining a license is subject to suspension under this Section satisfies the Registrar that

(a) at the time of the accident the motor vehicle was a stolen vehicle; or

(b) the only damage resulting from the accident is to the person or property of the owner and of the driver and of passengers in the vehicle,

if the suspension has not already become effective, the Registrar shall not suspend the permit, license or privilege of obtaining a license, and if it has become effective he shall reinstate the permit, license or privilege of obtaining a license so suspended.

(3) Where a person whose permit, license or privilege of obtaining a license is subject to suspension under this Section produces to the Registrar a financial responsibility card or a motor vehicle liability insurance card in respect of the motor vehicle involved in the accident and in full force at the time of the accident or where the Registrar is satisfied that at the time of the accident a financial responsibility card or a motor vehicle liability insurance card is in full force in respect of such motor vehicle, then if the suspension has not already become effective the Registrar shall not suspend the permit, license, or privilege of obtaining a license, and if it has become effective he shall reinstate the permit, license, or privilege of obtaining a license so suspended.

(4) Where a person whose driver's license or the privilege of obtaining a license is subject to suspension under this Section produces to the Registrar a financial responsibility card or a motor vehicle liability insurance card in respect of a motor vehicle liability policy issued to or for the benefit of that person as a driver that is in full force at the time of the accident or where the Registrar is satisfied that at the time of the accident there was in full force a motor vehicle liability insurance policy in the amount specified in Section 235 issued to or for the benefit of that person as a driver then if the suspension has not already become effective the Registrar shall not suspend the license or the privilege of obtaining a license, or if it has become effective he shall reinstate the license or the privilege of obtaining a license so suspended.

(5) Subject to subsections (2) and (3), every license, privilege of obtaining a license, and every permit suspended pursuant to subsection (1) shall remain so suspended, nor shall any new license be thereafter issued to or permit for the same or any other motor vehicle be permitted to be made by, the person whose license, privilege of obtaining a license, or permit has been so suspended until the person gives proof of financial responsibility to the amounts and in any of the forms mentioned in Sections 235 and 236, and

(a) gives security, sufficient in the opinion of the Registrar, to satisfy any judgment that may thereafter be recovered against such person as a result of the accident, or any sum that may be agreed upon as liquidated damages, but subject to the limits as to amount stated in Section 207; or

(b) produces to the Registrar proof satisfactory to the Registrar that he has satisfied all claims against him for damage to property in an amount of fifty dollars or more and for damages for bodily

injury to, or the death of, any person, resulting from the accident, up to the limits as to amount stated in Section 207.

(6) Where

(a) one year has elapsed since the date of an accident and the owner or driver, respectively, of a motor vehicle in any manner, directly or indirectly, involved therein

(i) has neither paid or agreed to pay any sum as damages in respect of bodily injury to, or the death of, any person, or any sum of fifty dollars or more for damages to property, resulting from the accident,

(ii) has not been named as defendant in an action for damages as a result of the accident, and

(iii) is not required to give proof of financial responsibility under another Section of this Act; or

(b) judgment in an action for damages resulting from the accident brought against such owner or driver has been given in his favour, and he is not required to give proof of financial responsibility under another Section of this Act,

such owner or driver, as the case may be, shall not thereafter be required to maintain proof of financial responsibility, and the Registrar shall return to him any security given by him pursuant to subsection (5).

(7) Where a person whose permit, license, or privilege of obtaining a license is suspended under this Section satisfies the Registrar that he has satisfied all claims against him for damage to property in an amount of fifty dollars or more and for damages for bodily injury to, or the death of, any person, resulting from the accident, and that person is not required to give proof of financial responsibility under another Section of this Act, he shall not, after the expiration of two years from the date of the accident, be required to maintain proof of financial responsibility, and the Registrar shall return to him any security given by him pursuant to subsection (5). R.S., c. 293, s. 231.

Suspension of non-resident

232 (1) Subject to subsections (2) and (3) and Section 233 where a person, who is not a resident of the Province, is the driver or owner of a motor vehicle that is in any manner directly or indirectly involved in an accident causing damage to property in an amount apparently of fifty dollars or more or bodily injury to or the death of, any person, that person's privilege of driving a motor vehicle in the Province and the privilege of using or having in the Province a motor vehicle registered in another province, state or country in the name of that person, other than to remove it from the Province, are forthwith suspended and withdrawn.

(2) Where a person whose privileges are subject to suspension and withdrawal under this Section satisfies the Registrar that

(a) at the time of the accident the motor vehicle was a stolen vehicle; or

(b) the only damage resulting from the accident is to the person or property of the owner and of the driver and of passengers in the vehicle,

the Registrar shall restore the privileges so suspended or withdrawn.

(3) Where a person whose privileges are subject to suspension and withdrawal under this Section

(a) produces to the Registrar a financial responsibility card or a motor vehicle liability insurance card in respect of the motor vehicle involved in the accident and in full force at the time of the accident; or

(b) where the Registrar is satisfied that at the time of the accident there was in force a motor vehicle liability policy issued to that person or for his benefit by an insurer

(i) licensed to do business in the Province, or

(ii) who complies with the conditions set out in subsection (4) of Section 236, or

(iii) authorized to do business in any province or territory of Canada in which there is in force, in the opinion of the Registrar, legislation to the same effect as Section 126 of the *Insurance Act*,

the Registrar shall restore the privileges so suspended or withdrawn.

(4) Subject to subsections (2) and (3) and Section 233, any privilege suspended or withdrawn under subsection (1) shall remain suspended and withdrawn until the person gives proof of financial responsibility to the amounts and in any of the forms mentioned in Sections 235 and 236, and

(a) gives security, sufficient in the opinion of the Registrar, to satisfy any judgment that may thereafter be recovered against such person as a result of the accident, or any sum that may be agreed upon as liquidated damages, but subject to the limits as to amount stated in Section 207; or

(b) produces to the Registrar proof satisfactory to the Registrar that he has satisfied all claims against him for damage to property in an amount of fifty dollars or more and bodily injury to, or the death of, any person, resulting from the accident up to the limits as to amount stated in Section 207. R.S., c. 293, s. 232.

Voluntary filing of proof of financial responsibility

233 (1) An owner's permit and driver's license, or, in the case of a person not resident in the Province, the privilege of operating any motor vehicle in

the Province, and the privilege of operation within the Province of any motor vehicle owned by such non-resident, shall not be suspended or withdrawn under Sections 203 to 246 if such owner, driver or non-resident has voluntarily filed or deposited with the Registrar, prior to the offence or accident, out of which any conviction, judgment or order arises, proof of financial responsibility, which, at the date of such conviction, judgment, or order, is valid and sufficient for the requirements of this Act.

(2) The Registrar shall receive and record proof of financial responsibility voluntarily offered, and if any conviction or judgment against such person is thereafter notified to the Registrar which, in the absence of such proof of financial responsibility would have caused the suspension of the driver's license or owner's permit under this Act, the Registrar shall forthwith notify the insurer or surety of such person of the conviction or judgment so reported. R.S., c. 293, s. 233.

Failure to maintain financial responsibility

234 (1) Where proof of financial responsibility is given by any person required to give proof of financial responsibility pursuant to the provisions of Section 205 or 231 and such proof of financial responsibility is no longer maintained and such person has not been subsequently exempted from maintaining proof of financial responsibility, the Registrar shall suspend every driver's license or privilege of obtaining a driver's license and owner's permit or permits of such person issued pursuant to this Act until such proof of financial responsibility is again maintained.

(2) If any person to whom subsection (1) applies is not a resident of the Province, the privilege of operating a motor vehicle within the Province and the privilege of operation within the Province of a motor vehicle owned by him is suspended and withdrawn forthwith until he again maintains proof of financial responsibility. R.S., c. 293, s. 234.

Amount of financial responsibility

235 Except as otherwise provided, where proof of financial responsibility is required to be given by any person pursuant to Sections 203 to 246, inclusive, it shall be given in the amount of five hundred thousand dollars by a driver and, in the case of an owner, in the amount of five hundred thousand dollars for each motor vehicle registered in the person's name. 2003 (2nd Sess.), c. 1, s. 29; 2015, c. 45, s. 10.

Manner of proof of financial responsibility

236 (1) Subject to subsection (3), proof of financial responsibility may be given in any one of the following forms:

(a) the written certificate or certificates, filed with the Registrar, of any authorized insurer that it has issued, to or for the benefit of the person named therein, a motor vehicle liability policy or policies in form hereinafter prescribed that, at the date of the certificate or certificates, is in full force and effect and that designates therein, by explicit description, or by other adequate reference, all

motor vehicles to which the policy applies, and any such certificate or certificates shall be in the form approved by the Registrar and shall cover all motor vehicles registered in the name of the person furnishing such proof, and the said certificate or certificates, shall certify that the motor vehicle liability policy or policies therein mentioned shall not be cancelled or expire, except upon ten days prior written notice thereof to the Registrar, and until such notice is duly given the said certificate or certificates shall be valid and sufficient to cover the term of any renewal of such motor vehicle liability policy by the insurer, or any renewal or extension of the term of such driver's license or owner's permit by the Minister or the Department;

(b) the bond of an approved guarantee or surety company, or a bond with personal sureties, approved as adequate security hereunder;

(c) the certificate of the Treasurer that the person named therein has deposited with him a sum of money or securities for money approved by him in the amount or value of five hundred thousand dollars for each motor vehicle registered in the name of such person, the Treasurer shall accept any such deposits and issue a certificate therefor, if such deposit is accompanied by evidence that there are no unsatisfied executions against the depositor registered in the office of the sheriff for the county in which the depositor resides;

(d) where the owner of a trolley coach is a corporation, the written certificate of the Superintendent of Insurance for the Province showing that the corporation maintains an accident reserve or separate insurance fund for the purpose of satisfying therefrom *inter alia* liabilities it may incur resulting from the death of or bodily injuries to any person or damage to property occasioned by or arising out of the ownership, maintenance, operation or use of a motor vehicle by the corporation and indicating that, in the opinion of the Superintendent of Insurance, the reserve or fund is adequate to satisfy all such liabilities that the corporation is likely to incur.

(2) The Minister may, in his discretion, at any time, require additional proof of financial responsibility, to that filed or deposited by any driver or owner pursuant to this Act, and the Registrar may suspend the driver's license and owner's permit or permits pending such additional proof.

(3) *repealed 2003 (2nd Session), c. 1, s 31.*

(4) A person who is not a resident of the Province may, for the purposes of this Act, give proof of financial responsibility as provided in subsection (1), or by filing a certificate of insurance in a form approved by the Registrar issued by any insurer authorized to transact insurance in the province or state in which the person resides, provided the insurer has filed with the Registrar, in the form prescribed by him,

(a) a power of attorney authorizing the Registrar to accept service of notice or process for itself and for its insured in any action or proceeding arising out of a motor vehicle accident in the Province;

(b) an undertaking to appear in any such action or proceeding of which it has knowledge; and

(c) an undertaking not to set up as defence to any claim, action or proceeding under a motor vehicle liability policy issued by it, a defence which might not be set up if such policy had been issued in the Province in accordance with the law of the Province relating to motor vehicle liability policies, and to satisfy up to the limits of liability stated in the policy, any judgment rendered and become final against it or its insured by a court in the Province in any such action or proceeding.

(5) If an insurer which has filed the documents described in subsection (4) defaults thereunder, certificates of the insurer shall not thereafter be accepted as proof of financial responsibility under this Act so long as the default continues, and the Registrar shall forthwith notify the registrar of motor vehicles or other officer, if any, in charge of registration of motor vehicles and the licensing of operators in all provinces and states where the certificates of the insurer are accepted as proof of financial responsibility. R.S., c. 293, s. 236; 2003 (2nd Session), c. 1, ss. 30, 31.

Use of security

237 (1) The bond filed with the Registrar and the money or securities deposited with the Minister of Finance and Treasury Board shall be held by him in accordance with this Act, as security for any judgment against the owner or driver filing the bond or making the deposit, in any action arising out of damage caused after such filing or deposit, by the operation of any motor vehicle.

(2) Money and securities so deposited with the Minister of Finance and Treasury Board shall not be subject to any claim or demand, except an execution on a judgment for damages, for personal injuries, or death, or injury to property occurring after such deposit, as a result of the operation of a motor vehicle.

(3) If a judgment to which Sections 203 to 246 apply is rendered against the principal named in the bond filed with the Registrar, and the judgment is not satisfied within fifteen days after it has been rendered, the judgment creditor may, for his own use and benefit, and at his sole expense, bring an action on the bond in the name of the Minister of Finance and Treasury Board, against the persons executing the bond. R.S., c. 293, s. 237; O.I.C. 2013-348.

Chauffeur or family member

238 If the Registrar finds that any driver to whom Sections 203 to 246 apply, was, at the time of the offence for which he was convicted, employed by the owner of the motor vehicle involved therein as chauffeur, or motor vehicle operator, whether or not so designated, or was a member of the family or household of the

owner, and that there is no motor vehicle registered in the Province in the name of such driver as an owner, then, if the owner of such motor vehicle submits to the Registrar, who is hereby authorized to accept it, proof of his financial responsibility, as provided by this Act, such chauffeur, operator or other person, shall be relieved of the requirement of giving proof of financial responsibility on his own behalf. R.S., c. 293, s. 238.

Payment of judgment by instalment

239 (1) A judgment debtor to whom Sections 203 to 246 apply may, on due notice to the judgment creditor, apply to the court in which the trial judgment was obtained for the privilege of paying the judgment in instalments, and the court may, in its discretion, so order, fixing the amounts and times of payment of the instalments.

(2) While the judgment debtor is not in default in payment of such instalments, he shall be deemed not in default for the purposes of this Act in payment of the judgment, and upon proof of financial responsibility for future accidents pursuant to this Act, the Minister may restore the driver's license or privilege of obtaining a driver's license and owner's permits, of the judgment debtor, but such driver's license or privilege of obtaining a driver's license and owner's permits shall again be suspended and remain suspended, as provided in Section 227, if the Registrar is satisfied of default made by the judgment debtor, in compliance with the terms of the court order. R.S., c. 293, s. 239.

Report to Registrar of judgment or conviction

240 (1) It shall be the duty of the clerk or prothonotary of the court, or of the court where there is no clerk or prothonotary, in which any final order, judgment, or conviction to which Sections 203 to 246 apply, is rendered, to keep an adequate record of any such final order, judgment or conviction and to forward by prepaid registered post to the Registrar, immediately after the date upon which the order, judgment, or conviction becomes final by affirmation upon appeal, or by expiry without appeal of the time allowed for appeal a certified copy of the order, judgment, or conviction, or a certificate thereof, in form prescribed by the Registrar.

(2) Any such copy or certificate shall be *prima facie* evidence of the order, judgment, or conviction.

(3) The clerk or other official charged with this duty of reporting to the Registrar, shall be entitled to collect and receive a fee of one dollar for each copy or certificate hereby required, which fee shall be paid as part of the court costs, in case of a conviction, by the person convicted, and, in case of an order or judgment, by the person for whose benefit judgment is issued.

(4) If the defendant is not resident in the Province, it shall be the duty of the Registrar, to transmit to the registrar of motor vehicles or other officer, if any, in charge of the registration of motor vehicles and the licensing of operators in the province or state in which the defendant resides, a certificate of the said order, judgment or conviction. R.S., c. 293, s. 240.

Abstract of record

241 (1) The Registrar shall, upon request, and on payment of the prescribed fee, furnish to any insurer, surety or other person, a certified abstract of the operating record of any person subject to this Act, which abstract shall fully designate the motor vehicles, if any, registered in the name of such person, and the record of any conviction of such person for a violation of any provision of any statute relating to the operation of motor vehicles, any suspension under Section 279C or 279K, or any judgment against such person for any injury or damage caused by such person, according to the records of the Registrar, and if there is no record of any such conviction, suspension or judgment in the office of the Registrar, the Registrar shall so certify.

(2) The Registrar, upon written request, shall furnish any person who may have been injured in person or property by any motor vehicle with all information of record in his office pertaining to the proof of financial responsibility of any owner or driver of any motor vehicle furnished pursuant to this Act. R.S., c. 293, s. 241; 2009, c. 21, s. 1; 2018, c. 3, s. 54.

Return of license and permit and plates

242 (1) Any owner or driver whose permit or license has been suspended, as herein provided, or whose policy of insurance or surety bond, has been cancelled or terminated as herein provided, or who neglects to furnish additional proof of financial responsibility upon the request of the Registrar as herein provided, shall immediately return to the Registrar his driver's license, his motor vehicle permit or permits, and all number plates issued thereunder.

(2) If any such person fails to return his license, permits and plates as provided herein the Registrar may direct any peace officer to secure possession thereof and return the same to the office of the Registrar.

(3) Any person failing to return his license, permits and plates when so required, or refusing to deliver the same when requested to do so by the peace officer, shall be guilty of an offence. R.S., c. 293, s. 242; 2002, c. 10, s. 18.

Transfer of suspended permit or registration

243 If an owner's permit has been suspended under Sections 203 to 246, the permit shall not be transferred nor the motor vehicle in respect of which the permit was issued, registered in any other name until the Registrar is satisfied that the transfer or registration is proposed in good faith and not for the purpose, or with the effect, of defeating the purposes of this Act. R.S., c. 293, s. 243.

Period of maintaining proof

244 Where proof of financial responsibility is required pursuant to Section 227 before the issuance of an owner's permit or driver's license or the renewal thereof, such proof shall be maintained for a period of three years or such longer period as the Minister directs. R.S., c. 293, s. 244.

Cancellation of bond or return of security

245 (1) The Minister may cancel any bond or return any certificate of insurance, or the Minister of Finance and Treasury Board may, at the request of the Minister, return any money or securities deposited pursuant to Sections 203 to 246, as proof of financial responsibility, at any time after three years from the date of the original deposit thereof, provided that the owner or driver on whose behalf such proof was given has not, during the said period, or any three-year period immediately preceding the request, been convicted of any offence mentioned in Section 205 and provided that no action for damages is pending and no judgment is outstanding and unsatisfied in respect of damage to property in an amount of fifty dollars or more or bodily injury to, or the death of any person resulting from the operation of a motor vehicle, and a statutory declaration of the applicant under this Section shall be sufficient evidence of the facts in the absence of evidence to the contrary in the records of the Registrar.

(2) The Minister may direct the return of any bond, money or securities, to the person who furnished the same, upon the acceptance and substitution of other adequate proof of financial responsibility, pursuant to this Act.

(3) The Minister may direct the return of any bond, money or securities deposited under this Act to the person who furnished the same at any time after three years from the date of the expiration or surrender of the last owner's permit or driver's license issued to such person, if no written notice has been received by the Registrar within such period of any action brought against such person in respect of the ownership, maintenance, or operation of a motor vehicle, and upon the filing by such person with the Registrar of a statutory declaration that such person no longer resides in the Province, or that such person had made a *bona fide* sale of any and all motor vehicles owned by him, naming the purchaser thereof, and that he does not intend to own or operate any motor vehicle in the Province within a period of one or more years. R.S., c. 293, s. 245; O.I.C. 2013-348.

Motor vehicle liability policy and certificate

246 (1) A motor vehicle liability policy referred to in this Act shall be in the form prescribed by Part VI of the *Insurance Act* for an owner's policy or a driver's policy, as the case may be, and approved thereunder by the Registrar for the purposes of this Act.

(2) Any insurer which has issued a motor vehicle liability policy shall, as and when the insured may request, deliver to him for filing or file direct with the Registrar, a certificate for the purposes of this Act.

(3) A certificate filed with the Registrar for the purposes of this Act shall be deemed to be a conclusive admission by the insurer that a policy has been issued in the form prescribed by subsection (1) and in accordance with the terms of the certificate.

(4) An insurer shall, at the request of the Registrar, notify the Registrar of the cancellation or expiry of the motor vehicle liability policy to which the request relates and the date on which the policy was cancelled or expired.

(5) Where a person, who is not a resident of the Province, is a party to an action for damages arising out of a motor vehicle accident in the Province for which indemnity is provided by a motor vehicle policy, the insurer named in the policy shall, as soon as it has knowledge of the action from any source, and whether or not liability under such policy is admitted, notify the Registrar in writing, specifying the date and place of the accident and the names and addresses of the parties to the action and of the insurer, which notification shall be open to inspection by parties to the action.

(6) Notwithstanding anything in this Act contained, the Registrar may decline to accept as proof of financial responsibility the certificates of any insurer which fails to comply with subsection (5). R.S., c. 293, s. 246; 2003 (2nd Session), c. 1, s. 32; 2015, c. 45, s. 13.

DEMERIT RATING

Driver record

247 (1) The Minister may require the Registrar to keep records of or classify persons who have been convicted for a violation of any statute relating to the operation of motor vehicles, or who have been responsible for accidents or who have been required to prove their financial responsibility under this Act, or whose operating record has otherwise shown them to be extra hazardous risks for the purpose of motor vehicle liability insurance.

(2) Upon request of the Registrar any authorized insurer shall certify to him the premium rate which has been charged any person for motor vehicle liability insurance and furnish him with a certified copy of any motor vehicle liability insurance policy issued to the person. R.S., c. 293, s. 247.

LIABILITY OF OWNER

248 to **255** *repealed 2011, c. 35, s. 12*.

Hit and run claim

256 (1) Subject to the other provisions of this Section, where the death of or personal injury to any person is occasioned in the Province on or after the first day of January, 1959, by reason of ownership, maintenance, operation or use of a motor vehicle and the person having a cause of action in respect of the death or injury cannot establish

(a) the identity of the motor vehicle and of the driver and owner thereof; or

(b) the identity of the driver, where at the time the death or injury was caused the vehicle was in the possession or charge of a person without the consent of the owner,

the person having the cause of action in respect of the death or injury may bring an action in the Trial Division of the Supreme Court or in a county court against the Registrar in his name of office.

(2) No action shall be brought against the Registrar under this Section unless two months previous notice in writing of intention to bring the action has been given to the Registrar, which notice contains the name and residence of the intended plaintiff and a statement of the cause of action, and is accompanied by an affidavit of the intended plaintiff or some person on his behalf that there exist in the case the circumstances set out in clauses (a) to (d) of subsection (5).

(3) No action shall be brought under this Section after the expiry of one year from the date on which the cause of action arose.

(4) In any action brought under this Section, the Registrar shall, for the purposes of the action, be deemed to be the defendant, but shall not be liable personally or in his official capacity for payment of any judgment rendered in the action.

(5) If, on the trial of an action brought under this Section, the court is satisfied

(a) that the plaintiff would have a cause of action against the owner or driver of the motor vehicle in respect of the death or personal injury occasioned by the motor vehicle;

(b) that all reasonable efforts have been made to ascertain the identity of the motor vehicle and of the owner and driver thereof;

(c) that the identity of the motor vehicle and the owner and driver thereof cannot be established, or where the vehicle was in the possession or charge of a person without the consent of the owner, that the identity of the driver cannot be established; and

(d) that the action is not brought by or on behalf of an insurer in respect of any amount paid or payable by reason of the existence of a policy of automobile insurance within the meaning of Part VI of the *Insurance Act* and that no part of the amount sought to be recovered in the action is sought in lieu of making a claim or receiving a payment which is payable by reason of the existence of a policy of automobile insurance within the meaning of that Act and that no part of the amount so sought will be paid to an insurer to reimburse or otherwise indemnify the insurer in respect of any amount paid or payable by it by reason of the existence of a policy of automobile insurance within the meaning of that Act,

the court may order the entry against the Registrar of any judgment for damages that it might have ordered against the owner or driver of the motor vehicle in an action by the plaintiff.

(6) No costs or disbursements shall be allowed or awarded against the Registrar in an action under this Section.

(7) A judgment against the Registrar shall not include any amount for compensation or indemnity for damages in respect of which the plaintiff has received or is entitled to receive compensation or indemnity from any person other than the driver or owner of the motor vehicle which occasioned the personal injury or death.

(8) For the purpose of exercising its rights of subrogation under the *Automobile Insurance Act* (Quebec), the Régie de l'assurance automobile du Québec may commence a proceeding in its own name against the Registrar and obtain a judgment in respect of any matter concerning which a resident of Quebec is entitled to commence a proceeding and obtain a judgment under this Section.

(9) The Régie, the Registrar and Judgment Recovery (N.S.) Ltd. shall deal with the claim and any judgment under subsection (8), and the Régie may recover against Judgment Recovery (N.S.) Ltd., as if the proceeding were commenced by the Quebec resident in respect of whom the Régie has its rights of subrogation.

(10) Subsections (8) and (9) come into force on and not before the effective date of an agreement between the Régie and the Province entered into pursuant to Section 319 of the *Insurance Act*, and apply to accidents occurring on, from and after that date. R.S., c. 293, s. 256.

257 *repealed 2011, c. 35, s. 12.*

Identifying person in charge of vehicle

258 (1) When a motor vehicle is operated in violation of any of the provisions of this Act or of the regulations made under this Act, the registered owner of the vehicle on the request of the Registrar or of any peace officer shall, within forty-eight hours of the request, supply the Registrar or the peace officer with the name and address of the person in charge of the vehicle at the time of such violation.

(2) A registered owner, who refuses, fails, neglects or is unable to supply the name and address of the person in charge of the vehicle within forty-eight hours after being so requested, shall be liable on summary conviction to the penalty prescribed for the offence of the driver.

(3) Where under this Section the registered owner of a motor vehicle, at the request of the Registrar or a peace officer, supplies the name of a person who had the motor vehicle with the consent of the owner, that person on the

request of the Registrar or of any peace officer shall, within forty-eight hours of the request, supply the Registrar or the peace officer with the name and address of the person in charge of the vehicle at the time of the violation.

(4) A person who is requested pursuant to subsection (3) to supply the name and address of the person in charge of a vehicle and who refuses, fails, neglects or is unable to supply the name and address of the person in charge of the vehicle within forty-eight hours after being so requested is liable on summary conviction to the penalty prescribed for the offence of the driver.

(5) In lieu of imprisonment in default of payment of a fine pursuant to subsections (2) and (4), Sections 272 and 276 apply except that

(a) a reference to "Minister" or "Crown" shall be read and construed to include a reference to a city, town or municipality to which the proceeds of the fine are payable; and

(b) a reference to "Registrar" shall be read and construed to include a reference to the clerk of that city, town or municipality.

(6) In any prosecution under this Section it shall be a defence if the registered owner or the person who had the vehicle with the consent of the registered owner, as the case may be, can prove that the vehicle was being operated at the time of the violation without his knowledge or consent, either expressed or implied.

(7) For the purpose of this Section, "registered owner" includes, in the case of a vehicle registered in another jurisdiction, the person who is the registered owner of that vehicle in that jurisdiction. R.S., c. 293, s. 258; revision corrected.

Liability of owner and driver

259 (1) The owner of a motor vehicle shall incur the fine provided for any violation of this Act or of any rule or regulation made by the Governor in Council, unless at the time of such violation the motor vehicle was in the possession of some person other than the owner without the owner's consent either expressed or implied, and the driver of a motor vehicle not being the owner shall also incur the penalties or other consequences provided for any such violation.

(2) In lieu of imprisonment in default of payment by the owner of a motor vehicle of the fine referred to in subsection (1), Sections 272 and 276 apply except that

(a) a reference to "Minister" or "Crown" shall be read and construed to include a reference to a city, town or municipality to which the proceeds of the fine are payable; and

(b) a reference to "Registrar" shall be read and construed to include a reference to the clerk of that city, town or municipality.

(3) If the owner of a motor vehicle is present therein at the time of the violation of any of the provisions of this Act, by another person operating the

motor vehicle, the owner as well as the other person shall be guilty of the offence. R.S., c. 293, s. 259.

Operation in illegal manner or when illegally equipped

260 (1) It shall be an offence for the owner, lessor or lessee of a motor vehicle, or for any person employing or otherwise directing the driver of a motor vehicle to require the operation of a motor vehicle upon a highway when the vehicle is equipped otherwise than as required or permitted by law, or is in excess of a weight permitted by law, or the operation of any vehicle in any manner contrary to law.

(2) No person shall operate or have in his charge upon a highway a vehicle which is not equipped in the manner required by this Act or the regulations or which is equipped in a manner prohibited by this Act or the regulations. R.S., c. 293, s. 260.

PART VII

PROCEDURE

Arrest without warrant

261 (1) A peace officer may arrest without warrant a person whom he finds committing an offence or has reason to believe has recently committed an offence against this Act.

(2) A peace officer making such arrest without warrant shall with reasonable diligence take the person arrested before a judge of the provincial court or justice of the peace to be dealt with according to law. R.S., c. 293, s. 261.

Regulations respecting voluntary penalty

262 (1) The Minister, with the approval of the Governor in Council, may make regulations providing for the voluntary payment of a penalty not less than the minimum penalty for a violation of this Act and providing for the persons or offices to or at which the voluntary penalty may be paid and providing generally as to the conditions which must exist before a voluntary payment of a penalty may be permitted.

(2) Such payment shall be a full satisfaction, release and discharge of all penalties and imprisonments incurred by the person for the violation.

(3) A payment shall not be accepted pursuant to this Section for a violation of this Act for which points are required to be entered pursuant to Section 282 unless the person signs a statement at the time payment is made in the following form:

> The undersigned who is alleged to be guilty of (*describe offence*) . . . . . acknowledges that by virtue of the payment of $. . . . . made pursuant to Section 262 of the *Motor Vehicle Act*, the points required to be entered on the record of a person convicted of the described offence

will be entered on the record of the undersigned pursuant to Section 282 of the *Motor Vehicle Act.*

R.S., c. 293, s. 262.

Prior conviction

263 (1) A conviction may in any case be made under this Act as for a first offence notwithstanding that there has been a prior conviction for a first or any other offence or that the charge is for a second or third or a subsequent offence.

(2) If it is disclosed during any trial that the accused person has been convicted previously of the same offence, the judge of the provincial court or justice of the peace, if he finds such person guilty, shall impose the penalty prescribed for a second, third or subsequent offence as the case may be whether or not the second, third or subsequent offence is stated in the charge. R.S., c. 293, s. 263; revision corrected.

Evidence

264 (1) In any proceedings in any court it shall not be necessary to produce the original of any book, document, regulation or register kept in the possession of the Department, but a copy or an extract, certified by the Registrar, under the seal of the Department or a certificate signed by the Registrar as to certain facts appearing on the records of the Department, shall be received in evidence as sufficient proof of the contents of the original without proof of such seal or of such signature or of the official character of the person appearing to have signed the same.

(2) A certificate under the signature of the Registrar and the seal of the Department that a certificate, a permit or a license has or has not been issued to a certain person, that a certain person is or is not the owner or the registered owner of a certain motor vehicle or that number plates have been issued to and are owned by an individual shall be sufficient proof of the matters contained therein, and such certificate shall be received in evidence without proof of such seal or of such signature or of the official character of the person appearing to have signed the same.

(3) A certificate purporting to be signed by the Registrar and to bear the seal of the Department that the Registrar has not received a report of an accident shall be received in evidence without proof of the signature or seal or of the official character of the person who appears to have signed the certificate and shall be *prima facie* proof that the driver of the vehicle involved in the accident did not report the accident as required by subsection (1) of Section 98.

(4) An abstract of the driving record of a driver that purports to be signed by the Registrar and bear the seal of the Department shall be received in evidence without proof of the signature, seal or official character of the person who appears to have signed the abstract, and is *prima facie* proof of its contents.

(5) Any document referred to in subsection (1), (2) or (4) certified by, under the signature of or purporting to be signed by an official in another prov-

ince performing duties similar to those of the Registrar and bearing the seal of a department in another province, or a facsimile of the document, shall be received in evidence in the same manner and has the same effect as a document received in evidence pursuant to subsection (1), (2) or (4) and Section 265 applies *mutatis mutandis*. R.S., c. 293, s. 264; 1995-96, c. 23, s. 4; 2002, c. 20, s. 5.

Facsimile signature

265 Where the Minister, the Registrar, Deputy Registrar, Director of Highway Safety or any other officer of the Department is required or authorized to sign a document of any kind or affix his signature, the document shall be deemed to be signed or the signature affixed where the signing is carried out or the signature affixed by means of an engraving, lithograph, stamp or other facsimile. R.S., c. 293, s. 265.

Notice of conviction or appeal to Registrar

266 (1) In this Section, "court" means a judge, justice, prothonotary, clerk of the court, clerk of the Crown or a person acting in any such capacity.

(2) Where a conviction is entered or an appeal is concluded upon a charge under this Act or under any provision of the *Criminal Code* (Canada) having particular relation to a motor vehicle, the court shall certify the same to the Registrar and, where an appeal is commenced in respect of such a charge, the court appealed from shall certify the same to the Registrar immediately upon being notified of the appeal.

(3) For the purpose of subsection (2), the Registrar may furnish a form setting out details of information required and where one is so furnished the court shall make its certificate in that form.

(3A) Notwithstanding subsections (2) and (3) the court, in lieu of certifying a conviction to the Registrar, may cause the details of the conviction to be entered directly into the electronic data processing system of the Registrar.

(4) For the purpose of subsection (2), an appeal is deemed to be concluded when a decision or opinion allowing or dismissing the appeal is handed down, the appeal is abandoned, or the right to proceed with the appeal is extinguished and it shall not depend on whether a final order has been granted.

(5) Where a court being appealed to directs that an order made pursuant to section 320.18 of the *Criminal Code* (Canada) be stayed pending the final disposition of the appeal or until further ordered by that court, the court shall certify the same to the Registrar.

(6) Where a conviction is entered, or where a conviction is confirmed on appeal, for a charge under this Act or any provision of the *Criminal Code* (Canada) having particular relation to a motor vehicle, the judge or justice may recommend to the Registrar that the driver's license or privilege of obtaining a driver's license of the convicted person be suspended for a period of time.

(7) Where a person pleads guilty to or is found guilty of an offence against section 320.14 or 320.15 of the *Criminal Code* (Canada) and an order directing that the accused be discharged is made under section 730 of that Act, this Section applies in the same manner as if the person were convicted of the offence. R.S., c. 293, s. 266; 1990, c. 36, s. 5; 2018, c. 3, s. 55.

Penalties and imprisonment

267 (1) The penalties and imprisonments prescribed for the violation of any of the provisions of this Act shall be recovered or enforced under the *Summary Proceedings Act*, provided, however, that where any pecuniary penalty either with or without imprisonment is prescribed for the violation of any of the provisions of this Act, such pecuniary penalty in lieu of being recovered as aforesaid may be recovered with costs by civil action or proceeding by and in the name of the Minister in any court having jurisdiction in cases of simple contract to the amount of the pecuniary penalty, but the imprisonment prescribed, if any, shall not be imposed or enforceable in such action.

(2) Such action may be brought and prosecuted by the Minister in his name of office and may be continued by his successor in office as if no change had occurred. R.S., c. 293, s. 267.

Collection and disposition of penalty

268 (1) Whenever a judge of the provincial court or justice of the peace has imposed any pecuniary penalty for a violation of any of the provisions of this Act and such pecuniary penalty is required to be paid over to the Registrar under subsection (2), such pecuniary penalty shall be paid into court at the time sentence is imposed or within seven days thereafter and if such pecuniary penalty is not so paid the judge of the provincial court or justice of the peace shall

(a) obtain from the Registrar within seven days of the date of sentence, written authority to extend the time of payment of the said pecuniary penalty to such date as may be satisfactory to the Registrar; or

(b) issue a warrant of commitment for the term of imprisonment imposed in default of payment.

(2) Any pecuniary penalty prescribed for the violation of any of the provisions of this Act shall when recovered be appropriated as follows:

(a) where the prosecutor is a police officer, constable or other officer of a city or town, the penalty shall belong to the city or town;

(b) in all other cases the penalty shall belong to the Province and shall form part of the General Revenue Fund of the Province and shall be paid over to the Registrar within forty-eight hours.

(3) Where

(a) a person is convicted of a violation of subsection (2) of Section 191 or of any regulation made under clause (a) of subsection (1) of Section 191;

(b) the registered weight of the vehicle with which the violation was committed was at the time of the violation less than the maximum weight for which it could be registered under this Act or the regulations;

(c) the person and the owner of the vehicle had not been convicted before of a violation of the sort referred to in clause (a);

(d) the person has paid the pecuniary penalty imposed for the violation; and

(e) the pecuniary penalty has been paid over to the Registrar,

the Registrar, on the written request of the person, may apply the pecuniary penalty so far as it will extend toward payment to the Department on behalf of the person or of the owner of the vehicle of the difference between the registration fees already paid for the registration of the vehicle for the current year and the amount of fees required to permit the registration of the vehicle for the maximum weight permitted for it under this Act and the regulations, and shall thereupon amend the registration of the vehicle for that year to show that its registered weight is the weight for which it would have been registered upon payment of a fee equal to the aggregate of the fee already paid for the registration of the vehicle for the current year and the amount so applied by the Registrar. R.S., c. 293, s. 268; 2010, c. 2, s. 84.

Default of payment of fine or costs

269 (1) Where a person is in default of payment of all or part of a fine and costs imposed upon conviction for

(a) an offence under this Act or the regulations;

(aa) an offence under a municipal by-law involving the unlawful parking, standing or stopping of a motor vehicle;

(b) an offence under another enactment of the Province where the offence involves the operation of a motor vehicle; or

(c) an offence under a Federal enactment where the offence involves the operation of a motor vehicle,

the justice, judge or clerk of the court in which the fine and costs were imposed shall prepare and forward to the Registrar a certificate of the default, in the form and within the time prescribed by the Attorney General.

(2) Where a person is in default of payment pursuant to subsection (1), the Registrar may refuse to renew a driver's license or owner's permit or transfer or register a vehicle of such person or refuse to issue a document to that per-

son or provide any other service until the fine and costs imposed have been paid in full.

(3) Where a person pays the fine and costs imposed pursuant to subsection (1), the justice, judge or clerk of the court in which the fine was imposed shall immediately certify to the Registrar that the fine and costs have been paid in full.

(4) Where a person is in default of payment of all or part of a fine and costs imposed upon conviction for an offence under an enactment of another province of Canada where the offence involves the operation of a motor vehicle and the Registrar has been notified of the default, the Registrar may refuse to renew a driver's license or owner's permit or transfer or register a vehicle of such person or refuse to issue a document to that person or provide any other such service until the fine and costs imposed have been paid in full.

(5) to **(9)** *repealed 1990, c. 36, s. 6*.

R.S., c. 293, s. 269; 1990, c. 36, s. 6; 1994, c. 24, s. 6; 1994-95, c. 18, s. 3.

Misconduct by court official

270 It shall be an offence for any judge of the provincial court, justice of the peace or any clerk or prothonotary of a court to fail, refuse or neglect to comply with Section 240, 266 or 268 and such failure, refusal or neglect shall constitute misconduct in office and shall be ground for removal therefrom. R.S., c. 293, s. 270.

Certificate of reversal upon appeal

271 (1) Whenever any person is convicted of an offence against this Act or against a provision of the *Criminal Code* (Canada) having particular relation to motor vehicles and the person appeals from the decision of the judge of the provincial court or justice of the peace and the decision is reversed on appeal such person may obtain from the court a certificate of such reversal.

(2) Such certificate shall be forwarded to the Department and upon receipt of the certificate the Registrar shall enter the same upon the records of the Department. R.S., c. 293, s. 271.

LIENS, SEIZURES AND SALES

Lien on vehicle for fine and costs

272 (1) The Minister shall have a first and paramount lien upon a vehicle for the amount of any fine and costs imposed upon the owner or driver of the vehicle under this Act.

(2) If such fine and costs are not paid the Registrar may seize, impound and take into custody any such vehicle.

(3) If such fine and costs or any part thereof remains unpaid for a period of ninety days after the date of seizure, impounding and taking into custody, the Minister shall have the right in addition to all other remedies provided by law, to sell such vehicle as provided in Section 276 and the amount of said fine and costs may be deducted from any proceeds of such sale. R.S., c. 293, s. 272.

Seizure of vehicle involved in offence

273 (1) The Registrar, any official of the Department or any peace officer may seize a motor vehicle with which an offence has been committed under this Act or under any section of the *Criminal Code* (Canada) having particular relation to motor vehicles and may detain the same until the final disposition of any prosecution instituted for such offence but such motor vehicle may be released on such security for its production being furnished as the Registrar may require.

(2) Any peace officer may cause a vehicle parked in a tow-away zone or a no stopping zone to be removed and impounded until claimed by the person in charge of the vehicle and Section 275 shall apply to vehicles impounded under this subsection. R.S., c. 293, s. 273.

Seizure of vehicle involved in racing or betting

273A (1) Where a peace officer is satisfied that a motor vehicle is being operated in the course of committing an offence under Section 163, the peace officer shall

(a) notify the Registrar or cause the Registrar to be notified of the fact; and

(b) seize and impound the motor vehicle.

(2) Any personal property present in the motor vehicle that is seized and impounded pursuant to subsection (1), other than personal property attached to or used in connection with the operation of the motor vehicle, shall be released to the owner of the personal property upon request, unless it is required as evidence in a prosecution or in connection with an investigation of an offence under this Act.

(3) Except as otherwise provided by this Section, no person shall remove or release, or permit the removal or release of, a motor vehicle impounded under subsection (1) where

(a) the driver of the motor vehicle is charged with a first offence, for a period of seven days; or

(b) the driver of the motor vehicle is charged with a second or subsequent offence, for, subject to Section 274, a period of thirty days.

(4) Where a motor vehicle is seized and impounded, a peace officer may authorize the removal or release of the motor vehicle if the peace officer is satisfied that

(a) the vehicle is stolen;

(b) at the time the motor vehicle was detained, the driver was in possession of it without the knowledge and consent of the owner; or

(c) the owner could not reasonably have known that the vehicle would be operated in the course of committing an offence under Section 163.

(5) The owner of a motor vehicle impounded under subsection (1) may, where the owner is not charged with the offence in respect of which the vehicle was detained, apply to the Registrar for the release of the vehicle by

(a) making an application in the form and manner required by the Registrar; and

(b) paying the prescribed application fee.

(6) Where the Registrar receives an application and payment of the application fee described in subsection (5) and is satisfied that

(a) at the time the motor vehicle was impounded, the driver was in possession of it without the knowledge and consent of the owner; or

(b) the owner could not reasonably have known that the vehicle was being operated in the course of committing an offence under Section 163,

the Registrar shall authorize the release or removal of the motor vehicle to the owner.

(7) Section 275 applies to motor vehicles seized and impounded under subsection (1) except that no lien attaches to a stolen vehicle.

(8) The Governor in Council may make regulations prescribing fees for the purpose of this Section.

(9) The exercise by the Governor in Council of the authority contained in subsection (8) is regulations within the meaning of the *Regulations Act*.
2005, c. 32, s. 4; 2007, c. 45, s. 17.

Seizure of vehicle upon third offence

274 (1) In the event of a third conviction being entered against a person under this Act, the motor vehicle which was being operated by the person so convicted at the time of the commission of such third offence may be seized, impounded and taken into the possession of any peace officer and held at the discretion of the Minister, for such period as the Minister may deem expedient.

(2) If the person so convicted gives a bond satisfactory to the Minister that such motor vehicle shall not be operated upon any highway during

such period as the Minister may direct, such motor vehicle may be returned to the person convicted or to the owner of such motor vehicle, and if such motor vehicle shall be operated on the highway during the period designated by the Minister as the time during which it is not to be operated, such bond shall be forfeited and such motor vehicle shall be deemed to have been operated without permit. R.S., c. 293, s. 274.

Lien on seized vehicle

275 (1) Whenever any motor vehicle is seized, taken into custody or possession or impounded under this Act by an official of the Department or a peace officer or upon an order of the Minister or the Registrar, all charges necessarily incurred by the official, officer or person acting under that order in the performance of such duty are a lien upon the motor vehicle.

(2) Any person who is designated by an official of the Department, a peace officer or upon an order of the Minister or the Registrar to tow, store or perform other services in connection with the seizure, taking into custody or possession or impoundment of a motor vehicle has a lien on the vehicle for the charges for those services.

(2A) Whenever any motor vehicle is impounded under this Act by an impoundment facility by order of the Minister, the Registrar, an official of the Department or a peace officer, any towing and storage costs incurred by the impoundment facility under this Act, the ~~*Warehouseman's*~~ [*Warehousemen's Lien*] *Act* or the *Liens Act* are a lien upon the motor vehicle.

(3) Where the motor vehicle has been impounded for a period of thirty days, the official of the Department or peace officer who seized or impounded the motor vehicle or the person who ordered the seizure, taking into custody or possession, or impoundment of the motor vehicle may order the sale of the motor vehicle. 2001, c. 12, s. 8; 2015, c. 45, s. 14.

Disclosure of registered owner

275A Where an impoundment facility is authorized under this Act, the ~~*Warehouseman's*~~ [*Warehousemen's Lien*] *Act* or the *Liens Act* to sell an impounded vehicle after providing notice to the registered owner, the Registrar or any peace officer may disclose the name, address and telephone number of the registered owner to the impoundment facility. 2015, c. 45, s. 15.

Sale of vehicle by tender or public auction

276 (1) Whenever a motor vehicle is sold by the Minister, the Registrar, the Department or a person who has a lien on the motor vehicle under this Act, the sale shall be by tender or by public auction and, at least seven days before the sale, notice of the sale shall be published in one or more newspapers published and circulated in the Province and at the same time mailed to the registered owner of the motor vehicle by registered mail addressed to the owner at the owner's name and address as they appear on the records of the Department.

(2) The proceeds of a sale referred to in subsection (1) shall be applied to the payment of any debt, lien or charge incurred in connection with the seizure, towing, taking into custody or possession, storage or impoundment of the motor vehicle and, where the proceeds are insufficient to pay all such debts, liens or charges, the proceeds shall be paid to the persons entitled thereto *pari passu*.

(3) Any proceeds remaining after payment of the debts, liens or charges referred to in subsection (2) shall be held by the Department for one month after the sale, and any claim or claims to the proceeds, or any portion thereof, must be established within the one-month period, and, after the one-month period has elapsed, where no claim to the proceeds has been established, the proceeds so held by the Department escheat to His Majesty in right of the Province and all claims for interest in the motor vehicle or in the proceeds derived from the sale of the motor vehicle are forever barred. 2001, c. 12, s. 8.

CANCELLATION OF REGISTRATION AND REVOCATION OF PERMIT OR LICENSE

Cancellation or revocation by Minister

277 (1) The Minister whenever he deems it expedient may cancel the registration of any vehicle registered under this Act.

(2) The Minister whenever he deems it expedient may revoke any permit or license issued under this Act. R.S., c. 293, s. 277.

Revocation upon conviction

278 (1) Subject to subsections (3) and (4), a person's driver's license or privilege of obtaining a driver's license is revoked upon the person's conviction, in the Province, for any of the following crimes or offences:

(a) manslaughter resulting from the operation of a motor vehicle, in violation of section 236 of the *Criminal Code* (Canada);

(b) an offence against section 220, 221 ~~or~~[,] 320.13, 320.14, 320.15, 320.16, 320.17, 320.18, 333.1 or 335 of the *Criminal Code* (Canada);

(c) theft of a motor vehicle or theft of gasoline or diesel oil as defined in the *Revenue Act* in violation of section 334 of the *Criminal Code* (Canada);

(d) any offence against the *Criminal Code* (Canada) designated by the Governor in Council;

(da) any offence against the *Criminal Code* (Canada) where the person used a motor vehicle in the commission of an offence, other than an offence referred to in this subsection, except where the *Criminal Code* (Canada) provides for the revocation of a driver's license upon conviction;

(e) making a false affidavit, declaration or statement to the Department or the Registrar in violation of this Act; or

(f) a violation of Section 287 of this Act.

(1A) For greater certainty and for the purpose of clause (da) of subsection (1), a person uses a motor vehicle in the commission of an offence when the person uses a motor vehicle to drive to or from the scene of a crime or to commit a crime.

(2) For greater certainty, where a person's driver's license or privilege of obtaining a driver's license is revoked at the time of the person's conviction for a crime or offence to which subsection (1) applies, the revocation pursuant to subsection (1) is a second or subsequent revocation, as the case may be.

(3) Except where an order prohibiting the operation of a motor vehicle pursuant to section 320.24 of the *Criminal Code* (Canada) is in force, when a person appeals against a conviction for an offence mentioned in subsection (1) in the manner prescribed by law, the person shall be deemed not to be convicted for the purpose of subsections (1) and (2) and the provisions of this Act until the appeal is heard, determined and dismissed or is abandoned or the right to proceed with the appeal extinguished and the driver's license or the privilege of obtaining a driver's license shall be thereupon and hereby revoked and shall remain revoked.

(4) Except where an order prohibiting the operation of a motor vehicle pursuant to section 320.24 of the *Criminal Code* (Canada) is in force, a person whose driver's license is revoked under this Section may drive a motor vehicle until noon the third day after the date of his conviction as will permit him to return to his place of residence or to sell or dispose of a motor vehicle registered in his name.

(5) When a court or judge convicts a person of any of the crimes or offences mentioned in subsection (1), the court or judge shall communicate to the person the effect of this Section, but the failure to do so shall not affect in any way the validity of the revocation.

(6) When a court or judge convicts a person of any of the crimes or offences mentioned in subsection (1) the person whose license is revoked shall produce the license forthwith to the court or judge who shall make thereon an endorsement in the following words or words to the like effect:

not valid as of (*state "noon" where applicable*) the . . . . . .
day of . . . . . , 19. . . . .

and he shall sign the endorsement, but the failure to do so shall not affect the validity of the revocation.

(7) When a person appeals against a conviction for an offence mentioned in subsection (1) in the manner prescribed by law, the court or judge

whose conviction is appealed from may endorse the driver's license using the following words or words to like effect:

Revocation stayed pending appeal

and he shall date and sign the endorsement.

(8) Where an appeal is heard, determined and dismissed or is abandoned or the right to proceed with the appeal is extinguished, the court to which the appeal was made or the Registrar may order the person to appear and surrender his driver's license and the order may be enforced by a peace officer.

(9) Where by reason of any amendment to the *Criminal Code* (Canada),

(a) the reference to any offence mentioned in this Section is changed; or

(b) an offence involving directly or indirectly motor vehicles or the operation of motor vehicles is added either as a new offence or in substitution for an offence in this Section,

the Governor in Council may designate an offence against the *Criminal Code* (Canada) to which clause (a) or (b) applies for the purposes of clause (d) of subsection (1) and the Governor in Council may declare the period of time applicable to a designated offence for the purposes of subsection (5) of Section 67.

(10) Where a person pleads guilty to or is found guilty of an offence against section 320.14 or 320.15 of the *Criminal Code* (Canada) and an order directing that the accused be discharged is made under section 730 of that Act, this Section applies in the same manner as if the person were convicted of the offence. R.S., c. 293, s. 278; 2002, c. 20, s. 6; 2005, c. 38, s. 2; 2007, c. 45, s. 18; 2013, c. 10, s. 13; 2018, c. 3, s. 56.

Maintenance enforcement

278A Upon receipt of a request from the Director of Maintenance Enforcement pursuant to subsection 30(1) of the *Maintenance Enforcement Act*,

(a) the Registrar shall suspend or revoke a payor's driver's licence, owner's permit, registration of a vehicle or permit, any other licence issued to the payor, the privilege of obtaining a driver's licence or the right to operate a motor vehicle;

(b) the Registrar shall refuse to issue or renew a payor's licence or owner's permit, to transfer or register a payor's vehicle; and

(c) the Registrar may refuse to issue a document or provide any other service to the payor, pursuant to this Act. 2016, c. 24, s. 27.

16, 17 and 18 year olds

278B The Registrar or the Director of Highway Safety shall revoke the driver's license or the privilege of obtaining a license of a person who is sixteen,

seventeen or eighteen years of age if the person is found guilty of any of the crimes or offences referred to in subsection (1) of Section 278 and that Section applies *mutatis mutandis* to the revocation. 2001, c. 44, s. 6; 2002, c. 20, s. 7.

Immediate suspension by Registrar

278C (1) The Registrar may immediately suspend the driver's license or privilege of obtaining a driver's license of any person, without a hearing, if the Registrar is satisfied that the person is not able to safely operate a motor vehicle on a highway based on

(a) a failed examination of the person's driving ability ordered pursuant to Section 279 or 280; or

(b) a medical opinion or the results of a medical examination.

(2) The Registrar shall rescind an order of suspension made pursuant to clause (a) of subsection (1) if

(a) the Registrar is satisfied, based on the results of a successfully completed examination of the person's driving ability, that the person is able to safely operate a motor vehicle on a highway; and

(b) the person has paid the required fees.

(3) In making an order of suspension pursuant to clause (b) of subsection (1), the Registrar may rely on a letter or an oral or written report from a person who is licensed in the Province or any other province of Canada as

(a) a medical practitioner;

(b) an optometrist;

(c) a psychologist;

(d) a nurse practitioner;

(e) an occupational therapist; or

(f) a member of a healthcare profession that is designated by the regulations.

(4) Before making a decision pursuant to clause (b) of subsection (1), the Registrar may refer information that concerns a person's medical condition or a person's medical report or visual screening report to the Medical Advisory Committee or a member of the Committee for an opinion on the ability of the person to safely operate a motor vehicle.

(5) Where the Registrar suspends a person's driver's license or privilege of obtaining a driver's license pursuant to subsection (1), the Registrar shall give the person written notice of

(a) the order of suspension; and

(b) with respect to a suspension ordered pursuant to clause (b) of subsection (1), the review process pursuant to Section 278D.

(6) The Minister may make regulations designating health care professions for the purpose of clause (f) of subsection (3).

(7) The exercise by the Minister of the authority contained in subsection (6) is regulations within the meaning of the *Regulations Act*. 2011, c. 67, s. 4.

Review of suspension

278D (1) Where a person whose driver's license or privilege of obtaining a driver's license is suspended pursuant to clause (b) of subsection (1) of Section 278C provides to the Registrar medical information that was not available or not provided to the Registrar at the time the suspension was ordered, the person may request that the Registrar review whether the order of suspension should be rescinded.

(2) Where a review is requested pursuant to this Section, the Registrar may refer any information that concerns a person's medical condition or a person's medical report or visual screening report to the Medical Advisory Committee or a member of the Committee for an opinion on the ability of the person to safely operate a motor vehicle.

(3) Upon completing a review pursuant to this Section, the Registrar may

(a) rescind the order of suspension; or

(b) where satisfied that there are grounds to continue the suspension, sustain the order of suspension.

(4) Where the Registrar rescinds an order of suspension pursuant to clause (a) of subsection (3), the Registrar shall

(a) reinstate the driver's license or privilege of obtaining a driver's license that was suspended, with or without conditions; and

(b) where a driver's licence was cancelled or surrendered due to the suspension, reissue or return the driver's licence.

(5) The Registrar may impose such conditions as the Registrar deems proper on a driver's license or privilege of obtaining a driver's license reinstated pursuant to this Section.

(6) Subject to subsection (7), the Registrar's decision pursuant to subsection (3) is final and not subject to any further review or appeal.

(7) Where the Registrar sustains an order of suspension pursuant to subsection (3), the Registrar may permit the person who requested the review to request a further review of whether the order should be rescinded if the Registrar is

satisfied that there has been a change in a medical condition that affects the ability of the driver to safely operate a motor vehicle. 2011, c. 67, s. 4.

Opinion of Medical Advisory Committee or Committee member

278E (1) The Medical Advisory Committee or a member of the Committee may provide an opinion concerning a person's information referred to the Committee or member pursuant to Section 278C or 278D even if the Committee or any member of the Committee has already provided an opinion with respect to the same person.

(2) The Registrar is not bound by any opinion of the Medical Advisory Committee or a member of the Committee in making a decision pursuant to Section 278C or 278D.

(3) For greater certainty, any information or opinion provided to the Registrar by the Medical Advisory Committee or a member of the Committee for the purpose of Section 278C or 278D is for the exclusive use of the Registrar and may not be disclosed to any person that it concerns or, subject to subsection (6) of Section 7B, any other person. 2011, c. 67, s. 4.

Appeal of certain orders made pursuant to Section 279

278F (1) Where, before the coming into force of this Section, the Registrar has, pursuant to subsection (2) of Section 279, suspended or revoked the driver's license or privilege of obtaining a driver's license of a person whose driver's license or privilege of obtaining a driver's license was suspended pursuant to clause (a), (b), (d), (e) or (f) of subsection (1) of Section 279, the person may, within ninety days of the date this Section comes into force, appeal the decision of the Registrar to the Motor Vehicle Appeal Board.

(2) Where, at the time of or after the coming into force of this Section, the Registrar suspends or revokes the driver's license or privilege of obtaining a driver's license of a person pursuant to subsection (2) of Section 279, the person may, within ninety days of the date of the Registrar's decision pursuant to subsection (2) of Section 279, appeal the decision to the Motor Vehicle Appeal Board.

(3) An appeal pursuant to this Section may be made by

(a) filing the appeal in accordance with this Act and the regulations; and

(b) paying the fee prescribed by the regulations.

(4) In an appeal pursuant to this Section, the Motor Vehicle Appeal Board may consider

(a) the written decision of the Registrar, if any;

(b) any information relied upon by the Registrar in making the decision, including the driving record of the appellant;

(c) submissions from the appellant;

(d) submissions from the Registrar; and

(e) such other information that the Board determines is necessary to make a decision.

(5) In deciding an appeal pursuant to this Section, the Motor Vehicle Appeal Board may

(a) confirm the suspension or revocation;

(b) rescind the suspension or revocation;

(c) vary the suspension, revocation or any conditions for reinstatement required by the Registrar; or

(d) require that reinstatement of the appellant's driver's license or privilege of obtaining a driver's license be subject to conditions.

(6) Except where the suspension or revocation of a driver's license or privilege of obtaining a driver's license made pursuant to subsection (2) of Section 279 is rescinded pursuant to this Section, a driver's license or privilege of obtaining a driver's license that was suspended or revoked remains suspended or revoked as decided pursuant to subsection (2) of Section 279 or varied pursuant to this Section, as the case may be, until any conditions for reinstatement required pursuant to this Act have been satisfied. 2011, c. 67, s. 4.

Immediate suspension or revocation by Registrar

279 **(1)** to **(2A)** *repealed 2011, c. 67, s. 5*.

(3) The Registrar may suspend or revoke the driver's license or the privilege of obtaining a driver's license of a person upon receipt of a recommendation to that effect from a court, judge or justice.

(4) The Registrar is hereby authorized to suspend or revoke the right of any non-resident to operate a motor vehicle in this Province for any cause for which the license of a resident driver may be suspended or revoked, and any non-resident who operates a motor vehicle upon a highway when his right to operate has been suspended or revoked by the Registrar shall be guilty of an offence and upon conviction shall be punished as provided in Section 295.

(5) The Registrar is hereby authorized to suspend or revoke the license of any resident of this Province upon receiving notice of the conviction of such person in another province or state of an offence therein which, if committed in this Province, would be grounds for the suspension or revocation of the license of a driver, and the Registrar is further authorized, upon receiving a record of the conviction in this Province of a non-resident driver of a motor vehicle of any offence under the motor vehicle laws of this Province, to forward a certified copy of such record to

the motor vehicle administrator in the province or state wherein the person so convicted is a resident.

(6) When the Registrar has reason to believe that the holder of a driver's license is incompetent to drive a motor vehicle or is afflicted with mental or physical infirmities or disabilities rendering it unsafe for him to drive a motor vehicle upon the highways, the Registrar may, by notice in writing, require that person within ten days after the date of the notice to submit to examination by an examiner and by a qualified medical practitioner or practitioners and to furnish the Registrar with the reports of the examiner and the medical practitioners.

(7) Every qualified medical practitioner, optometrist, nurse practitioner or occupational therapist may report to the Registrar the name and address of any patient attending upon him for medical services who, in the opinion of such qualified medical practitioner, optometrist, nurse practitioner or occupational therapist, is afflicted with mental or physical infirmities or disabilities rendering it unsafe for such patient to drive a motor vehicle upon the highways.

(8) Every registered psychologist may report to the Registrar the name of any person who, in the opinion of the registered psychologist, is afflicted with an emotional or mental disability that may interfere with the safe operation of a motor vehicle by that person.

(9) No action shall be brought against a qualified medical practitioner, an optometrist, a nurse practitioner, an occupational therapist or a registered psychologist for making a report in accordance with subsection (7) or (8).

(9A) *repealed 2015, c. 45, s. 16.*

(10) The Registrar may suspend or revoke the driver's license of a person who fails or refuses to submit to an examination when required so to do under subsection (6). R.S., c. 293, s. 279; 1999, c. 11, s. 8; 2001, c. 12, s. 9; 2011, c. 67, s. 5; 2015, c. 45, s. 16.

Suspension of licence by peace officer

279A (1) Where

(a) a peace officer

(i) by reason of an analysis of the breath or blood of a person, has reason to believe that the person has consumed alcohol in such a quantity that the concentration thereof in the person's blood equals or exceeds 80 milligrams of alcohol in 100 millilitres of blood,

(ii) has reason to believe that a person failed or refused to comply with a demand made on that person under section 320.27 or 320.28 of the *Criminal Code* (Canada),

(iii) has reason to believe a person operated or had the care or control of a motor vehicle while impaired by alcohol, a drug or both alcohol and a drug contrary to paragraph (a) of subsection (1) of section 320.14 of the *Criminal Code* (Canada),

(iv) by reason of an analysis of the blood or other bodily substance of a person, has reason to believe that the person has consumed a drug in such quantity that the concentration thereof in the person's blood exceeds the blood concentration for the drug that is prescribed by the regulations, or

(v) by reason of an analysis of the blood of a person, has reason to believe that the person has consumed alcohol and a drug in such quantity that the concentration thereof in the person's blood exceeds the blood concentration for alcohol and the drug that is prescribed by regulation; and

(b) the occurrence is in relation to the operation of or having care or control of a motor vehicle as defined in the *Criminal Code* (Canada),

the peace officer on behalf of the Registrar shall

(c) where the person holds a valid driver's license issued pursuant to this Act to operate the motor vehicle, suspend the person's driver's license by serving on the person an order of suspension, which is effective immediately;

(d) where the person holds a valid temporary driver's license issued pursuant to subclause (c)(i),

(i) take possession of the person's temporary driver's license, and

(ii) immediately suspend the person's driver's license by serving on the person an order of suspension;

(e) where the person holds a valid driver's license to operate a motor vehicle issued other than pursuant to this Act, suspend the person's right to operate a motor vehicle in the Province and privilege of obtaining a driver's license by serving an order of suspension on the person, which is effective immediately; or

(f) where the person does not hold a valid driver's license to operate a motor vehicle, immediately suspend the person's right to operate a motor vehicle in the Province and privilege of obtaining a driver's license by serving an order of suspension, which is effective immediately, on the person.

(2) A peace officer who serves a notice and order pursuant to subsection (1) shall, without delay, forward to the Registrar

(a) the person's driver's license, if one has been surrendered;

(b) a copy of the temporary driver's license, if one has been issued;

(c) a copy of the completed notice and order;

(d) a report signed by the peace officer; and

(e) a copy of any certificate of an analyst, qualified medical practitioner or qualified technician referred to in subsection (1) of section 320.32 of the *Criminal Code* (Canada) with respect to the person referred to in subsection (1).

(3) The notice of intention and order of suspension, the report of the peace officer referred to in this Section and temporary driver's license shall be in the form, contain the information and be completed in the manner required by the Registrar.

(4) Where a person who holds a valid driver's license does not surrender it, the driver's license is nevertheless suspended.

(5) Unless otherwise ordered in a review pursuant to Section 279B, a driver's license is suspended pursuant to this Section and a person without a driver's license is disqualified pursuant to this Section from applying for or holding a driver's license or operating a motor vehicle for 90 days from the effective date of the suspension.

(6) Unless otherwise ordered in a review pursuant to Section 279B, a person holding a driver's license issued to a person other than pursuant to this Act is disqualified pursuant to this Act from applying for or holding a driver's license or from operating a motor vehicle in the Province for 90 days from the effective date of the suspension.

(7) A person whose driver's license or privilege of obtaining a driver's license has been suspended pursuant to this Section shall, to have the driver's license or privilege of obtaining a driver's license reinstated, apply to the Registrar in the form and manner required by the Registrar.

(8) The Registrar shall not reinstate a driver's license or the privilege of obtaining a driver's license pursuant to subsection (7) until the Registrar is satisfied that all requirements pursuant to this Act have been completed by the applicant.

(9) Where more than one suspension under this Section would arise from the same occurrence, only one suspension has effect.

(10) The Governor in Council may make regulations

(a) prescribing the maximum blood concentration of a drug for the purpose of subclause (iv) of clause (a) of subsection (1);

(b) prescribing the maximum blood concentration of alcohol and a drug for the purpose of subclause (v) of clause (a) of subsection (1).

(11) A regulation made under subsection (10) may apply in respect of individual drugs, classes of drugs or types of drugs.

(12) A ~~regulations~~ [regulation] made under subsection (10) may incorporate by reference regulations made under the *Criminal Code* (Canada), as amended from time to time.

(13) The exercise by the Governor in Council of the authority contained in subsection (10) is regulations within the meaning of the *Regulations Act*. 1994-95, c. 12, s. 15; 1996, c. 34, s. 5; 1999, c. 11, s. 9; 2001, c. 44, s. 7; 2018, c. 3, s. 57; 2021, c. 32, s. 2.

Review of suspension

279B (1) A person may apply for review of an order of suspension pursuant to Section 279A by

(a) filing an application for review with the Registrar;

(b) paying the prescribed fee and, where an oral hearing is requested, the prescribed oral hearing fee;

(c) obtaining a date and time for a hearing; and

(d) surrendering the person's driver's license if it has not previously been surrendered, unless the person certifies to the Registrar that the driver's license has been lost or destroyed.

(2) The application for review shall be in the form, contain the information and be completed in the manner required by the Registrar.

(3) The application for review may be accompanied by sworn statements or other evidence that the person wishes the Registrar to consider.

(4) An application does not stay the suspension.

(5) The Registrar is not required to hold an oral hearing unless the applicant requests an oral hearing at the time of filing the application and pays the prescribed fees.

(6) In a review pursuant to this Section, the Registrar shall consider

(a) any relevant sworn or solemnly affirmed statements and any other relevant information;

(b) the report of the peace officer;

(c) a copy of any certificate of an analyst, qualified medical practitioner or qualified technician referred to in subsection (1) of

section 320.32 of the *Criminal Code* (Canada) without proof of the identity and official character of the person appearing to have signed the certificate or that the copy is a true copy; and

(d) where an oral hearing is held, in addition to the matters referred to in clauses (a), (b) and (c), any relevant evidence and information given or representations made at the hearing.

(7) The sole issue before the Registrar in a review pursuant to this Section is whether it is established to the Registrar's satisfaction that

(a) the person operated or had care or control of a motor vehicle as defined in the *Criminal Code* (Canada) having consumed alcohol in such a quantity that the concentration thereof in the person's blood equalled or exceeded 80 milligrams of alcohol in 100 millilitres of blood;

(b) the person, while having alcohol or a drug in the person's body, failed or refused to comply with a demand made on that person to supply a sample of the person's breath or blood under section 320.27 or 320.28 of the *Criminal Code* (Canada);

(c) the person operated or had the care or control of a motor vehicle as defined in the *Criminal Code* (Canada) while impaired by alcohol, a drug or both alcohol and a drug contrary to paragraph (a) of subsection (1) of section 320.14 of that Act;

(d) the person operated or had the care or control of a motor vehicle as defined in the *Criminal Code* (Canada) having consumed a drug in such quantity that the concentration thereof in the person's blood exceeded the blood concentration for the drug that is prescribed by the regulations; or

(e) the person operated or had the care or control of a motor vehicle as defined in the *Criminal Code* (Canada) having consumed alcohol and a drug in such quantity that the concentration thereof in the person's blood exceeded the blood concentration for alcohol and the drug that is prescribed by the regulations.

(8) The Registrar shall

(a) where no oral hearing is requested, consider the application within ten days of compliance with clauses (1)(a), (b) and (d); and

(b) where an oral hearing is requested, hold the hearing within twenty days of compliance with subsection (1),

but failure of the Registrar to consider the application or hold the hearing within the required times does not affect the jurisdiction of the Registrar to consider or hear the application or to make a decision with respect to it.

(9) Where the evidence before the Registrar supports an affirmative determination on the issue referred to in subsection (7), the Registrar shall sustain the order of suspension.

(10) Where the evidence supports a negative determination on the issue referred to in subsection (7), the Registrar shall

(a) rescind the order of suspension;

(b) return any driver's license surrendered to the Registrar; and

(c) direct that the fees paid for the application for review be refunded.

(11) Where the appellant who requests an oral hearing fails to appear without prior notice to the Registrar, the right to a hearing is deemed to have been waived by the appellant.

(12) The decision of the Registrar shall be in writing and a copy of the decision shall be sent within seven days of the date the application was considered or the hearing was held by the Registrar by registered mail to the person at the person's last known address as shown in the records maintained by the Registrar and to the address shown in the application, if that address is different from the address of record. 1994-95, c. 12, s. 15; 1999, c. 11, s. 10; 2001, c. 44, s. 8; 2018, c. 3, s. 58.

Appeal of decision made pursuant to Section 279B

279BA(1) A person may appeal the decision of the Registrar made pursuant to Section 279B sustaining an order of suspension made pursuant to Section 279A to the Motor Vehicle Appeal Board by

(a) filing an appeal in accordance with this Act and the regulations; and

(b) paying the fee prescribed by the regulations.

(2) The appeal must be filed within thirty days of the date of the Registrar's decision pursuant to Section 279B.

(3) An appeal pursuant to this Section must be conducted by the Motor Vehicle Appeal Board in accordance with this Act and the regulations.

(4) In an appeal pursuant to this Section, the sole issue before the Motor Vehicle Appeal Board is whether it is established to the Board's satisfaction that the person to whom the order of suspension was issued

(a) operated or had care or control of a motor vehicle as defined in the *Criminal Code* (Canada) having consumed alcohol in such a quantity that the concentration thereof in the person's blood equalled or exceeded 80 milligrams of alcohol in 100 millilitres of blood;

(b) failed or refused to comply with a demand made on that person pursuant to section 254 of the *Criminal Code* (Canada) in respect of the operation or having care or control of a motor vehicle as defined in that Act;

~~(b)~~[(c)] the person, while having alcohol or a drug in the person's body, failed or refused to comply with a demand made on that person to supply a sample of the person's breath or blood under section 320.27 or 320.28 of the *Criminal Code* (Canada);

~~(c)~~[(d)] the person operated or had the care or control of a motor vehicle as defined in the *Criminal Code* (Canada) while impaired by alcohol, a drug or both alcohol and a drug contrary to paragraph (a) of subsection (1) of section 320.14 of that Act;

~~(d)~~[(e)] the person operated or had the care or control of a motor vehicle as defined in the *Criminal Code* (Canada) having consumed a drug in such quantity that the concentration thereof in the person's blood exceeded the blood concentration for the drug that is prescribed by the regulations; or

~~(e)~~[(f)] the person operated or had the care or control of a motor vehicle as defined in the *Criminal Code* (Canada) having consumed alcohol and a drug in such quantity that the concentration thereof in the person's blood exceeded the blood concentration for alcohol and the drug that is prescribed by the regulations.

(5) In an appeal pursuant to this Section, the Motor Vehicle Appeal Board shall consider

(a) any relevant sworn or solemnly affirmed statements and any other relevant information;

(b) the report of the peace officer who issued the order of suspension pursuant to Section 279A;

(c) a copy of any certificate of an analyst, qualified medical practitioner or qualified technician referred to in subsection (1) of section 320.32 of the *Criminal Code* (Canada) with respect to the occurrence without proof of the identity and official character of the person appearing to have signed the certificate or that the copy is a true copy; and

(d) where an oral hearing was held under Section 279B or this Section, any relevant evidence and information given or representations made at the oral hearing.

(6) In an appeal pursuant to this Section, the Motor Vehicle Appeal Board may consider the status of any criminal charges laid in relation to the occurrence that resulted in the order of suspension pursuant to Section 279A.

(7) In deciding an appeal pursuant to this Section, the Motor Vehicle Appeal Board has the same authority to make an order or take action that the Registrar has pursuant to Section 279B. 2011, c. 67, s. 6; 2018, c. 3, s. 59.

Surrender and suspension of license

279C (1) Where, upon demand of a peace officer made pursuant to section 320.27 of the *Criminal Code* (Canada), a person provides a sample of the person's breath which, on analysis by an approved screening device, registers "Warn", the peace officer shall request the person to surrender the person's license.

(2) Where, upon demand of a peace officer made under section 320.28 of the *Criminal Code* (Canada),

(a) *repealed 2018, c. 3, s. 60*.

(b) a person provides a sample of the person's breath that, on analysis by an approved instrument or approved screening device, indicates that the concentration of alcohol in the person's blood equals or exceeds fifty milligrams and is less than eighty milligrams of alcohol in one hundred millilitres of blood,

a peace officer shall request the person to surrender the person's license.

(3) *repealed 2009, c. 21, s. 2*.

(4) Upon a request being made pursuant to subsection (1) or (2), the person to whom the request is made shall forthwith surrender the person's license to the peace officer and, whether or not the person is unable or fails to surrender the person's license to the peace officer, the person's license is suspended and the person's driving privilege is suspended for a period of

(a) seven days in the case of a first suspension under this Section or Section 279K within the last ten years;

(b) fifteen days in the case of a second suspension under this Section or Section 279K within the last ten years; or

(c) thirty days in the case of a third or subsequent suspension under this Section or Section 279K within the last ten years,

from the time the request is made.

(5) The suspension of a license or the suspension of a driving privilege pursuant to this Section is in addition to and not in substitution for any proceeding or penalty arising from the same circumstances.

(6) Where an analysis of the breath of a person is made under subsection (1) and registers "Warn", the person may require a further analysis to be performed in the manner provided in subsection (2), in which case the result obtained on the second analysis governs and any suspension resulting from an analysis under subsection (1) continues or terminates accordingly.

(7) Where an analysis of the breath of a person is made under subsection (1) and registers "Warn", the peace officer who made the demand under subsection (1) shall advise the person of the person's right under subsection (6) to a further analysis.

(8) For the purpose of subsection (1), the approved screening device shall not be calibrated to register "Warn" when the concentration of alcohol in the blood of the person whose breath is being analyzed is less than fifty milligrams of alcohol in one hundred millilitres of blood.

(9) It shall be presumed, in the absence of evidence to the contrary, that any approved screening device used for the purpose of subsection (1) has been calibrated as required under subsection (8).

(10) Where a license is suspended or a driving privilege is suspended pursuant to this Section, the peace officer who requested the surrender of the license under subsection (1), (2) or (3), shall

(a) keep a written record of the suspension with the name and address of the person and the date and time of the suspension;

(b) provide the person with an order of suspension which is effective immediately and acknowledging receipt of the person's driver's license that is surrendered and provide the person with such other information as prescribed by the Registrar; and

(c) advise the Registrar of the suspension in the form and manner prescribed by the Registrar.

(10A) The Registrar shall record every suspension under this Section on the operating record of the person whose license is suspended.

(10B) The peace officer who requested the surrender of a license under this Section shall

(a) issue an order of suspension to the driver in accordance with subsection (4); and

(b) seize and dispose of the license as directed by the Registrar.

(10C) At the end of the suspension period, a person may apply in the form and manner prescribed by the Registrar for reinstatement of the person's license upon payment of the reinstatement fee prescribed by the regulations.

(11) Where a license is suspended or a driving privilege is suspended pursuant to this Section, if the motor vehicle is in a location from which, in the opinion of a peace officer, it should be removed, and there is no person with a license easily available to remove the motor vehicle with the consent of the person whose license or privilege is suspended, the peace officer may remove and store the

motor vehicle or cause it to be removed and stored and shall notify the person of its location.

(12) The costs and charges incurred in moving or storing a vehicle pursuant to subsection (11) shall be paid, before the vehicle is released, by the person to whom the vehicle is released. 1998, c. 32, s. 3; 1999, c. 11, s. 11; 2004, c. 42, s. 13; 2009, c. 21, s. 2; 2014, c. 53, s. 11; 2018, c. 3, s. 60.

Report that child present at time of alleged offence

279D (1) In this Section and Sections 279E to 279H, "child" means a person under the age of sixteen years.

(2) Where a peace officer has reason to believe that a person committed an offence under section 320.14 or subsection (1) of section 320.15 of the *Criminal Code* (Canada) in relation to operating or having care and control of a motor vehicle and that a child was present in the motor vehicle at the time of the alleged offence, the peace officer shall prepare and submit to the Registrar a report of the matter.

(3) A report under subsection (2) must include the driver's name and, where available, the child's name and date of birth and must be in such form and include such other matters as may be prescribed by the Registrar. 2011, c. 22, s. 2; 2018, c. 3, s. 61.

Notice of review

279E (1) Where the Registrar receives a report under Section 279D, the Registrar shall provide a copy of the report to the person named in the report together with a written notice advising that

(a) the Registrar will review the matter to determine whether the Registrar is satisfied a child was present in the vehicle at the time of the alleged offence;

(b) the person has a right to participate in the review by providing a written submission within thirty days of receipt of the notice;

(c) where the person fails to provide a written submission within thirty days of the receipt of notice, the Registrar will make a determination based upon the report provided by the peace officer;

(d) the decision made by the Registrar cannot be appealed; and

(e) where the person is convicted, pleads guilty or is found guilty of the alleged offence and Registrar is satisfied that a child was present in a motor vehicle at the time of the offence, the person is subject to an increased period of revocation of the person's driver licence or privilege of obtaining a driver's licence and, where the offence involves alcohol, to mandatory participation in an ignition interlock program established under this Act.

(2) A notice under subsection (1) must be delivered by mail or delivery service to the person's address on file with the Registry of Motor Vehicles and, in the absence of the evidence to the contrary, is deemed to be received by the person five days after the date of mailing or delivery to the delivery service. 2011, c. 22, s. 2; 2018, c. 3, s. 62.

Participation in review

279F (1) Unless otherwise permitted by the Registrar, a review must be done by consideration of written submissions.

(2) A person who is issued a notice under Section 279E may participate in the review by providing a written submission to the Registrar within thirty days of receiving the notice.

(3) The submission of the person must include

(a) any prescribed fee;

(b) a written statement, including sworn or solemnly affirmed statements to be considered during the review;

(c) the person's full name, current mailing address, telephone number and fax number, if any; and

(d) contact information for the person's legal counsel or agent, if any.

(4) Where the submission states that person is represented by legal counsel or an agent, the Registrar shall communicate with the person through the legal counsel or agent, as the case may be.

(5) A submission and any related documents may be delivered to the Registrar's office by hand, mail, courier or facsimile.

(6) A document that is received outside the Registrar's business hours is deemed to be delivered on the next day that the Registrar's office is open for business.

(7) Where the person fails to make a submission within thirty days of delivery of the notice, the participation of that person is deemed to be waived by that person and the Registrar may proceed to make any decision that the Registrar could make following a review. 2011, c. 22, s. 2.

Conduct of review

279G (1) In conducting a review, the Registrar shall consider

(a) the report from the peace officer;

(b) the submission, if any, of the person with respect to whom the review is being made; and

(c) where the review is done in person or by telephone, information delivered verbally.

(2) In conducting a review, the Registrar may do any or all of the following:

(a) request additional information from the person in the form and within the time period determined by the Registrar, including sworn or solemnly affirmed statements;

(b) request or permit a request to receive a submission in person or by telephone or other electronic means if the Registrar determines that it would be more efficient than a review by written submission only or there may be issues of credibility;

(c) allow additional time for information to be submitted;

(d) request additional information from the peace officer that prepared the report or any other person.

(3) In conducting a review, the sole question for determination by the Registrar is whether a child was in the motor vehicle at the time of the alleged offence. 2011, c. 22, s. 2.

Decision

279H (1) On completion of a review, where the Registrar is satisfied a child was present in a vehicle at the time of the alleged offence, the Registrar shall make a note of that finding on the record of the person with respect to whom the review was made.

(2) The Registrar's decision must

(a) be in writing; and

(b) state the reason for the decision.

(3) The Registrar's decision must be delivered by mail or delivery service to

(a) the person's address as indicated in the person's submission;

(b) the person's legal counsel or agent if one is designated; or

(c) where no submission was received, to the last address on file with the Registry of Motor Vehicles.

(4) The Registrar's review decision is final and is not subject to any review or appeal. 2011, c. 22, s. 2.

Twenty-four hour suspension

279I (1) A peace officer may, on behalf of the Registrar, suspend the license of a driver for up to twenty-four hours by serving an order of suspension on the driver if there are reasonable grounds to believe that the driver is unfit to drive for any reason, including a medical reason.

(2) For greater certainty, a suspension under this Section is not a revocation for the purpose of Section 67, subsection (6A) of Section 70 or subsection (4) of Section 70A.

(3) A copy of an order of suspension issued under this Section must be forwarded to the Registrar.

(4) The order of suspension must be in the form, contain the information and be completed in the manner required by the Registrar.

(5) Where a license is suspended under this Section, the license may not be physically seized or destroyed. 2018, c. 3, s. 63.

Demand where suspected drug impairment

279J (1) Where a peace officer reasonably suspects that a person's ability to drive may be affected by the introduction of drugs into the person's body, the peace officer shall demand that the person take a physical coordination test and the person shall comply with that demand.

(2) The purpose of demanding a test or evaluation under subsection (1) is to promote road safety. 2018, c. 3, s. 63; 2018, c. 38, s. 4.

Order of suspension where suspected drug impairment

279K (1) A peace officer shall, on behalf of the Registrar, issue an order of suspension if the peace officer has a reasonable suspicion that a person's ability to drive is adversely affected by the introduction of drugs into the person's body based upon

(a) the person's failure of a physical coordination test; or

(b) the inability of the person to follow instructions of the peace officer intended to determine the sobriety and physical ability of the person.

(2) Upon issuing an order of suspension under subsection (1), the peace officer shall

(a) where the person holds a valid driver's license issued pursuant to this Act to operate the motor vehicle, take possession of the license and suspend the person's driver's license by serving on the person an order of suspension effective immediately;

(b) where the person holds a valid temporary driver's license,

(i) take possession of the person's temporary driver's license, and

(ii) immediately suspend the person's temporary driver's license by serving on the person an order of suspension;

(c) where the person holds a valid driver's license to operate a motor vehicle issued other than pursuant to this Act, suspend the person's right to operate a motor vehicle in the Province and privilege of obtaining a driver's license by serving an order of suspension on the person effective immediately; or

(d) where the person does not hold a valid driver's license to operate a motor vehicle, immediately suspend the person's right to operate a motor vehicle in the Province and privilege of obtaining a driver's license by serving an order of suspension on the person.

(3) An order of suspension issued under subsection (1) applies for

(a) seven days in the case of a first suspension under this Section or Section 279C within the last ten years;

(b) fifteen days in the case of a second suspension under this Section or Section 279C within the last ten years; or

(c) thirty days in the case of a third or subsequent suspension under this Section or Section 279C within the last ten years.

(3A) For greater certainty,

(a) a peace officer issuing an order of suspension under Section 279C or subsection (3) may only issue one suspension under either Section 279C or subsection (3) per occurrence;

(b) a peace officer shall not issue an order of suspension under either Section 279C or subsection (3) if an order of suspension under Section 279A or subsection (3) of Section 279I has been issued for the same occurrence; and

(c) subject to clauses (a) and (b) and subsection (9) of Section 279A, a peace officer may issue an order of suspension under Section 279A or subsection (3) of Section 279I in addition to any other suspension or sanction authorized by this Act or the *Criminal Code* (Canada).

(4) A peace officer who serves an order pursuant to subsection (1) shall, without delay, forward to the Registrar

(a) the person's driver's license, if one has been surrendered;

(b) the temporary driver's license, if one has been issued;

(c) the completed order of suspension;

(d) a report signed by the peace officer;

(e) the results of any physical coordination test with respect to a person referred to in clause (a) of subsection (1);

(f) any certificate of an analyst, qualified medical practitioner or qualified technician referred to in subsection (1) of section 320.32 of the *Criminal Code* (Canada), if applicable; and

(g) any certificate of an analyst, qualified medical practitioner or qualified technician referred to in subsection (1) of section 320.32 of the *Criminal Code* (Canada), if applicable.

(5) The order of suspension, report of the peace officer referred to in this Section and temporary driver's license must be in the form, contain the information and be completed in the manner required by the Registrar.

(6) Where a person who holds a valid driver's license does not surrender it, the driver's license is nevertheless suspended.

(7) The revocation of a license and the suspension of a driving privilege pursuant to this Section are in addition to and not in substitution for any other proceeding or penalty arising from the same circumstances.

(8) Every peace officer who requests the surrender of a license from a person pursuant to this Section shall

(a) keep a written record of the suspension with the name, address and license number of the person and the date and time of the suspension;

(b) provide the person with a written statement setting out the time at which the suspension takes effect, the length of the period during which the license is suspended and acknowledging receipt of the license that is surrendered; and

(c) forward to the Registrar forthwith a written report setting out the name, address and license number of the person and such particulars as the Registrar may require in relation to the matter.

(9) The peace officer who requested the surrender of a license under this Section shall

(a) issue an order of suspension to the driver in accordance with subsection (1); and

(b) seize and dispose of the license as directed by the Registrar.

(10) At the end of the suspension period, a person may apply in the form and manner prescribed by the Registrar for reinstatement of the person's license upon payment of the reinstatement fee prescribed by the regulations.

(11) Where the motor vehicle driven by a person whose license is suspended or whose driving privilege is suspended pursuant to this Section is in a location from which, in the opinion of a peace officer, it should be removed and there is no person easily available who may lawfully remove the vehicle with the consent of the person, the peace officer may remove and store the vehicle or cause it to be removed and stored and shall notify the person of its location.

(12) The costs and charges incurred in moving and storing a vehicle pursuant to subsection (11) must be paid, before the vehicle is released, by the person to whom the vehicle is released. 2018, c. 3, s. 63; 2018, c. 38, s. 5.

Demand of novice driver where suspected drug impairment

279KA(1) Where a peace officer believes on reasonable and probable grounds that any person who is a novice driver

(a) is operating or having care and control of a motor vehicle, whether it is in motion or not; or

(b) at any time within the preceding two hours, has operated or had care and control of a motor vehicle, whether it was in motion or not,

having consumed drugs such that there is the presence of a drug in the person's body, the peace officer may make a demand pursuant to subsection (2).

(2) Where a peace officer believes that subsection (1) applies with respect to a person, the peace officer may, by demand made to that person forthwith or as soon as practicable, require that person to provide then or as soon thereafter as is practicable

(a) such samples of bodily substances as in the opinion of a qualified technician are required for the use of an approved drug screening equipment; or

(b) where the peace officer has reasonable and probable grounds to believe that, by reason of any physical condition of the person,

(i) the person may be incapable of providing a sample, or

(ii) it would be impracticable to obtain a sample from the person, under the conditions referred to in subsection (3),

such other samples of bodily substances as in the opinion of the qualified medical practitioner or qualified technician taking the samples, are necessary to enable proper analysis to be made in order to determine the presence of a drug in the person's body and the concentration of the drug,

and accompany the peace officer for the purpose of enabling such samples to be taken.

(3) Samples of blood may only be taken from a person pursuant to a demand made by a peace officer pursuant to subsection (2) if the samples are taken by or under the direction of a qualified medical practitioner and the qualified medical practitioner is satisfied that the taking of those samples would not endanger the life or health of the person. 2018, c. 38, s. 6.

Twenty-four hour suspension of novice driver

279L (1) Where approved drug screening equipment indicates the presence of a drug in the system of a novice driver, a peace officer may, on behalf of the registrar, suspend the novice driver's license for a period of twenty-four hours.

(2) Subsection (1) does not apply [to] a person who is legally authorized to use a drug for medical purposes and the presence of that drug was indicated.

(3) Every peace office who requests the surrender of a license from a novice driver pursuant to this Section shall

(a) keep a written record of the suspension with the name, address and license number of the novice driver and the date and time of the suspension;

(b) provide the novice driver with a written statement setting out the time at which the suspension takes effect and the length of the period during which the license is suspended; and

(c) forward to the Registrar forthwith a written report setting out the name, address and license number of the novice driver and such particulars respecting the approved drug screening equipment and the conduct and results of the analysis as the Registrar may require in relation to the matter.

(4) Where a license is suspended under this Section, the license may not be physically seized or destroyed.

(5) Where the motor vehicle driven by a person whose license is suspended and whose driving privilege is suspended pursuant to this Section is in a location from which, in the opinion of a peace officer, it should be removed and there is no person easily available who may lawfully remove the vehicle with the consent of the person, the peace officer may remove and store the vehicle or cause it to be removed and stored and shall notify the person of its location.

(6) The costs and charges incurred in moving and storing a vehicle pursuant to subsection (5) must be paid, before the vehicle is released, by the person to whom the vehicle is released. 2018, c. 3, s. 63.

Purpose of suspension

279M The suspension of a license or the suspension of a driving privilege by reason of the operation of Section 279K or 279L or the breach of a condition of a license referred to in Section 70 or 70A is intended

(a) to ensure road safety for the public;

(b) to safeguard the holder of the license and the public; and

(c) in the case of a novice driver, to assist that driver to acquire experience and develop or improve the driver's safe driving skills in controlled conditions. 2018, c. 3, s. 63.

Suspension may not be appealed

279N A suspension under Section 279I, 279K or 279L may not be appealed to the Motor Vehicle Appeal Board. 2018, c. 3, s. 63.

Request for information and re-examination

280 (1) The Registrar by written notice may, from time to time, require the holder of a driver's license to furnish the Registrar, within ten days after the date of the notice, with information respecting the age of the person, his driving experience, his physical condition and such other matters relevant to his driving ability or his fitness to be licensed as the Registrar requires.

(2) The Registrar by written notice may require the holder of a driver's license to submit himself to examination or re-examination by an examiner or such other person designated by the Registrar within ten days after the date of the notice.

(3) No person shall fail or refuse to furnish the Registrar with information or to submit himself to examination or re-examination when required so to do by the Registrar under this Section.

(4) When a person fails or refuses to furnish the Registrar with information required by him under this Section or fails or refuses to submit himself to examination or re-examination when required by the Registrar to do so, the Registrar may suspend the driver's license of the person until he furnishes the required information or submits to examination or re-examination, as the case may be.

(5) The Registrar may require a person to attend and successfully complete a driver improvement program or to attend and successfully complete a course of instruction in driver training specified by the Registrar and may suspend the driver's license of a person who fails to attend or successfully complete the course or program required by the Registrar.

(6) A certificate signed or purporting to be signed by the Registrar and sealed with the seal of the Department that a person has or has not furnished the Registrar with information required by the Registrar under this Section or has or has not submitted himself for examination or re-examination by an examiner, as required by the Registrar under this Section, shall be received in evidence in any prosecution under this Section without proof of the signature or seal on the certificate, and shall be *prima facie* proof of the facts stated therein. R.S., c. 293, s. 280; 1994, c. 24, s. 7; 2011, c. 67, s. 7.

Ignition interlock program

280A (1) The Registrar may by written notice, from time to time, require the holder of a driver's license to participate in an ignition interlock program established pursuant to the regulations and may suspend the driver's license of any person who fails to participate in such program.

(2) The Registrar may require an applicant for a driver's license to participate in an ignition interlock program established pursuant to the regulations as a condition of being granted a license and may suspend the driver's license of any person who fails to participate in such program where required to by such a condition. 2006, c. 36, s. 2; 2010, c. 20, s. 3.

Cancellation of registration or permit by Registrar

281 The Registrar may suspend or cancel the registration of a vehicle and may suspend or revoke any permit

(a) when the Department determines that the vehicle is unsafe or unfit to be operated or is not equipped as required by law;

(b) when the vehicle is used for any unlawful purpose or when the owner permits it to be used by a person not entitled thereto;

(c) when the driver's license of the owner has been suspended or revoked; or

(d) when the Registrar determines that the applicant for the registration or permit provided false information to the Department in the course of obtaining the registration or permit. R.S., c. 293, s. 281; 2015, c. 45, s. 18.

Suspension or revocation where misleading information

281A The Registrar may suspend or revoke the driver's license of any person if the Registrar determines that the person provided misleading information to the Department in the course of obtaining the driver's license. 2015, c. 45, s. 19.

Record of convictions and point system

282 (1) The Registrar shall maintain a written record of the convictions of every person for violations of the provisions of this Act referred to in subsection (2).

(1A) Where a person licensed pursuant to this Act is convicted of an offence in another province of Canada equivalent to an offence set out in the table in subsection (2) and the Registrar has received from that other province a record of the conviction, the Registrar shall maintain a written record of the conviction.

(2) The Registrar shall enter on the record of each person maintained pursuant to subsection (1) or (1A) in respect of each such conviction the number of points specified in the following table:

POINT SYSTEM TABLE

	Conviction	Section(s) Violated	Number of Points
1.	Careless and imprudent driving	100	6
2.	Speeding or dangerous driving	101	6
3.	Failing to stop at an accident or to perform any duty imposed by Section 97	97	6
4.	*repealed 2002, c. 20, s. 8.*		
5.	Racing	163	6
5A.	*repealed 2014, c. 53, s. 12.*		
5B.	*repealed 2014, c. 53, s. 12.*		
6.	Passing school bus or failure to obey crossing guard	103(3), 125A	6
7.	Improper passing	114, 115(1)(a)	4
8.	Speeding in excess of *prima facie* speed limit	102	4
9.	*repealed 2011, c. 46, s. 5.*		
9A.	Speeding in excess of posted limit by 31 kilometres per hour and over	103(2A)(c), 106A(c), 106B(1)(c)	4
9B.	Speeding in excess of posted limit by between 16 and 30 kilometres per hour, inclusive	103(2A)(b), 106A(b), 106B(1)(b)	3
9C.	Speeding in excess of posted limit by between 1 and 15 kilometres per hour, inclusive	103(2A)(a), 106A(a), 106B(1)(a)	2
9D.	Failure to yield to pedestrian	125(1), (2)	4
9E.	Failure to obey a traffic control person	107B	4

10.	Failing to obey traffic signs or signals or yield right of way	83(2),93(2), 122,132,133, 134	2
11.	Driving to left of centre line	110,115(1)(b), 115(1)(c), 115(2)	2
12.	Operating motor vehicle without adequate brakes	181	2
13.	Offences involving the use of a motor vehicle in motion under the following sections	69A, 70,70A,70B, 75(5),107,111, 112,117,118, 119,120,123, 164,165, 169(2), 175(2), 175(3), 175(4), 178,185	2
~~15.~~[14.]	Using hand-held cellular telephone or engaging in text messaging on communication device while operating vehicle on highway	100D	4

(3) *repealed 2010, c. 62, s. 1.*

(4) When six or more, but less than ten, points are entered on the record of a person the Registrar may require him to attend before the Registrar, or an examiner or other person designated by the Registrar, at a place and within a period prescribed by the Registrar for an interview with a view to assisting the person to improve his driving habits.

(5) If a person fails or refuses to attend and to participate in an interview when requested to do so by the Registrar pursuant to subsection (4), the Registrar may suspend his driver's license, or the privilege of obtaining a driver's license until he attends and participates in an interview with the Registrar or an examiner or other person designated.

(6) Subject to subsection (7), when ten or more points are entered on the record of a person in respect of convictions for violations of this Act entered against him within a period of twenty-four months, the Registrar shall suspend the driver's license, or the privilege of obtaining a driver's license, of the person for a period of six months.

(7) A suspension of a driver's license or privilege of obtaining a driver's license pursuant to subsection (6) shall not be made until after thirty days from the date of the conviction that increased the total number of points entered on the record of the driver to ten or more points or until the conviction has been affirmed on appeal, or the appeal is dismissed or discontinued, unless the driver notifies the Registrar that he is not appealing the conviction.

(7A) A person whose driver's license or privilege of obtaining a driver's license has been suspended pursuant to this Section shall, to have the driver's license or privilege of obtaining a driver's license reinstated, apply to the Registrar in the form and manner required by the Registrar.

(7B) The Registrar shall not reinstate a driver's license or the privilege of obtaining a driver's license pursuant to subsection (7A) until the Registrar is satisfied that all requirements pursuant to this Act have been completed by the applicant.

(8) When twenty-four months have elapsed from the date of a conviction for a violation of this Act that led to an entry of points on the record of a person, the Registrar shall deduct from the record the number of points entered on it in respect of that violation.

(9) When the driver's license, or the privilege of obtaining a driver's license, of a person has been suspended under this Section and the period of suspension has expired, the Registrar shall remove from the record of that person all points that were entered on it in respect of the period before the date of the suspension.

(10) Any driver's license or renewal thereof issued to a person after the expiration of a period of suspension imposed pursuant to this Section shall be a probationary license for a period of twelve months from the date that a license was first issued to him after the said suspension period, and if three or more points are entered in the record of that person by reason of a conviction or convictions entered against him within the said period of twelve months the Registrar shall suspend his driver's license or his privilege of obtaining a driver's license for a further period of six months.

(11) For the purpose of this Section, where a person makes a voluntary payment pursuant to Section 262, the person shall be deemed to be convicted of the offence or violation that he was alleged to have committed and for which he made the voluntary payment.

(12) The Registrar may deduct up to four points from the record of a person upon being satisfied that such person has successfully completed a self-improvement defensive driving course within the preceding year.

(13) Subsection (12) applies to points first entered and still existing on the person's driving record at the time when the Registrar acts.

(14) Notwithstanding subsection (12), the Registrar shall not deduct points from the record of a person who holds a class 7 or 8 driver's license as set out in regulations made pursuant to Section 66 or who is a newly licensed driver.
R.S., c. 293, s. 282; 1994, c. 24, s. 8; 2001, c. 12, s. 10; 2001, c. 44, ss. 5, 9; 2002, c. 20, s. 8; 2007, c. 45, s. 19; 2008, c. 21, s. 10; 2010, c. 61, s. 4; 2010, c. 62, s. 1; 2011, c. 46, s. 5; 2014, c. 53, s. 12; revision corrected.

Newly licensed driver

283 **(1)** In this Section,

(a) "newly licensed driver" includes a person who was a newly licensed driver under this Act immediately prior to the coming into force of this Section and such person remains a newly licensed driver for the purpose of this Section until the expiry of the period established on the person's driver record maintained by the Registrar;

(b) "points" means points that are entered and remain on the record of a person pursuant to Section 282.

(1A) A person who has been issued a class 7 or 8 driver's license, as set out in regulations made pursuant to Section 66, immediately prior to the coming into force of this Section is a newly licensed driver for the purpose of this Section for four years commencing with the date the person qualifies for another class of driver's license.

(2) Where two or more points are entered on the record of a holder of a class 7 or 8 driver's license as set out in regulations made pursuant to Section 66 the Registrar may require him to attend before the Registrar or an examiner or other person designated by the Registrar, at a place and within a period prescribed by the Registrar for an interview with a view to assisting the person to improve his driving habits.

(3) Where four or more points are entered on the record of a holder of a class 7 or 8 driver's license as set out in regulations made pursuant to Section 66 the Registrar shall suspend for a period of six months the person's license and his privilege of obtaining a driver's license.

(4) Where three points are entered on the record of a newly licensed driver the Registrar may give him a warning notice.

(5) Where four or five points are entered on the record of a newly licensed driver the Registrar may require him to attend before the Registrar, or an examiner or other person designated by the Registrar, at a place and within a period prescribed by the Registrar for an interview with a view to assisting the person to improve his driving habits.

(6) Where six or more points are entered on the record of a newly licensed driver the Registrar shall suspend for a period of six months the person's driver's license and his privilege of obtaining a driver's license.

(7) Except as provided in this Section, all the provisions of Section 282 apply *mutatis mutandis* to persons and proceedings to which this Section applies.

(8) This Section applies only to persons who become holders of driver's licenses on or after the first day of July, 1966. R.S., c. 293, s. 283; 1994, c. 24, s. 9; revision corrected.

Conditional license

284 (1) Where the Registrar has suspended the driver's license or the privilege of obtaining a driver's license, pursuant to subsection (6) of Section 282 or subsection (6) of Section 283, upon cause being shown to the satisfaction of the Registrar, he may issue a driver's license before the expiration of the period of suspension.

(2) The Registrar may impose such conditions as he deems proper on a driver's license issued under this Section.

(3) Where any points are entered on the record of a person to whom a driver's license has been issued under this Section, the Registrar shall suspend the driver's license and no further license shall be issued until the period of suspension imposed under subsection (6) of Section 282 or subsection (6) of Section 283 has expired.

(4) The Registrar shall not issue a driver's license under this Section unless the suspension pursuant to subsection (6) of Section 282 or subsection (6) of Section 283 is a first suspension.

(5) For the purposes of this Section, a suspension shall be deemed to be a first suspension if a driver's license or the privilege of obtaining a driver's license had not been suspended under either subsection (6) of Section 282 or subsection (6) of Section 283 within five years of the date of the suspension and a suspension shall be deemed to be a subsequent suspension if a driver's license or the privilege of obtaining a driver's license had been suspended under either subsection (6) of Section 282 or subsection (6) of Section 283 within five years of the date of suspension. R.S., c. 293, s. 284.

Suspension of license by court

285 (1) Notwithstanding any other provisions of this Act, when a court or judge convicts a person who holds a driver's license under this Act of a violation of Section 100, 101, 102 or 103, clause (b) or (c) of Section 106A or Section 163 the court or judge, shall by order suspend the driver's license of the person for a period of seven days in the case of a conviction for a first offence, for a period of fifteen days in the case of a conviction for a second offence, and for a period of thirty days in the case of a conviction for a third or subsequent offence.

(2) Subsection (1) does not affect the authority of the court or judge to order the convicted person to pay costs of the proceedings or to impose the pecuniary penalty provided by this Act.

(3) When a court or judge has made an order under subsection (1) the person whose license is suspended by the order shall forthwith produce the license to the court or judge who shall make thereon an endorsement of the fact of the suspension in the following word or words to the like effect:

suspended from noon of the . . . . . day of . . . . . , 19. . . . ., until noon of the . . . . . day of . . . . . , 19 . . . . .

and shall sign the endorsement.

(4) When an order has been made under subsection (1) the clerk of the court or the judge shall forthwith transmit to the Registrar a true copy of the order.

(5) If a person whose license has been suspended under this Section by a judge serves the judge with notice of appeal from the conviction and enters into a recognizance or makes a deposit of money pursuant to the *Summary Proceedings Act* the order suspending the person's license shall be stayed pending the determinations of the appeal.

(6) Where an order suspending a person's license has been stayed by virtue of subsection (5) the order provided for in subsection (1) and the endorsement required by subsection (3) shall be made

(a) if the appeal is abandoned, by the court or judge that convicted the person; or

(b) if the appeal is dismissed, by the court or judge that heard the appeal,

and the court or judge may order the person to appear and present his license for endorsement and the order may be enforced by a peace officer. R.S., c. 293, s. 285; 2001, c. 12, s. 11.

Evidence of cancellation, suspension or revocation

286 A certificate under the signature of the Minister or the Registrar and the seal of the Department that a registration has been suspended or cancelled or that a permit or a license or the privilege of obtaining a license has been suspended or revoked, or a certificate under the signature of a minister or an official in another province performing duties similar to the Registrar and under the seal of a department in another province that a registration has been suspended or cancelled or that a permit or a license or the privilege of obtaining a license has been suspended or revoked in that province, or a facsimile of that document, shall be conclusive evidence that such registration has been duly and lawfully suspended or cancelled or that such permit or license or privilege of obtaining a license has been duly and lawfully suspended or revoked, as the case may be, and such certificate shall be received in evidence without proof of such seal or of such signature or of the official character of the person appearing to have signed the same. R.S., c. 293, s. 286; 2002, c. 20, s. 9.

Operating if cancelled, suspended or revoked

287 (1) If the registration of a vehicle or the permit issued in respect of a vehicle has been cancelled, revoked or suspended in accordance with this Act it shall be an offence against this Act for a person other than the one designated by the Department to operate such motor vehicle on a highway, and if a person other than

the one so designated operates such motor vehicle he shall be guilty of an offence and upon summary conviction shall be punished as provided in Section 295.

(2) A person shall not drive an off-highway vehicle on a road trail or a motor vehicle while the person's license or privilege of obtaining a license is cancelled, revoked or suspended under this Act or the *Road Trails Act*.

(3) *repealed 2002, c. 10, s. 19*.

R.S., c. 293, s. 287; 1994-95, c. 12, s. 16; 1999, c. 11, s. 12; 2002, c. 10, s. 19; 2023, c. 4, s. 38.

288 *repealed 1994-95, c. 12, s. 17*.

Return of plates, etc. upon suspension or revocation

289 (1) When a registration is suspended or cancelled or when a permit is suspended or revoked the number plates shall be returned to the Department upon the order of the Registrar.

(2) When a permit or license is suspended or revoked the permit or license shall forthwith be returned to the Department by the person to whom the same was issued upon the order of the Registrar. R.S., c. 293, s. 289.

Return of plates, etc. upon request

290 (1) Every permit, license, certificate, registration number plate and dealer's number plate shall be and remain the property of the Crown and shall be returned to the Minister whenever required by him and it shall be an offence to fail or refuse to return to the Department such permit, license, certificate, registration number plate or dealer's number plate when required so to do by a letter sent in the manner prescribed by the Registrar.

(2) In any prosecution under this Section it shall be *prima facie* evidence that the defendant has failed or refused to return said permit, license, certificate, registration number plate or dealer's number plate by producing to the court a certificate from the Registrar to the effect that a letter was sent to said defendant to his address appearing on the Department's records ten days previous to the commencement of the prosecution and that such permit, license, certificate, registration number plate or dealer's number plate has not been so returned within the said ten days.

(3) The holder of any permit, license, certificate, registration number plate or dealer's number plate shall surrender the same on demand to any peace officer who exhibits an order signed by the Registrar and under the seal of the Department requiring the said permit, license, certificate, registration number plate or dealer's number plate to be delivered to the bearer of the order and upon failure or refusal so to do shall be guilty of an offence against this Act.

(4) Where a person fails or refuses to return to the Department a permit, license, certificate, registration number plate or dealer's number plate when required to do so by a letter sent from the Registrar, the Registrar or the Director of Highway Safety may revoke the permit or license and cancel the certificate, registration number plate or dealer's number plate. R.S., c. 293, s. 290; 2001, c. 12, s. 12.

Approval of Minister for re-registration or re-issue

291 Notwithstanding the provisions of Section 66 and except as provided in Sections 203 to 246 whenever any registration is cancelled or any permit or license is revoked, unless and until the Minister thinks fit

(a) a vehicle shall not be again registered if the registration respecting the same has been cancelled;

(b) a permit shall not be issued respecting any motor vehicle if a permit respecting the same has been revoked; and

(c) a person shall not be licensed under any provisions of this Act if a license issued under any such provisions has been so revoked. R.S., c. 293, s. 291.

IMPOUNDING OF VEHICLE

Detention by peace officer and impounding by Registrar

291A (1) In this Section, "impound" means remove a vehicle to a secure storage facility or immobilize the vehicle with an approved device.

(2) Where a peace officer is satisfied that a person was driving a motor vehicle on a highway while the person's driver's license or the privilege of obtaining a license is revoked pursuant to this Act for a violation of the *Criminal Code*, including an impairment-related offence as defined in subsection (12) of Section 67, the peace officer shall

(a) notify the Registrar of the fact or cause the Registrar to be notified; and

(b) detain the motor vehicle that was being driven by the person whose driver's license or the privilege of obtaining a license is revoked until the Registrar issues an order pursuant to subsection (3).

(3) Upon notification pursuant to subsection (2), the Registrar may, without a hearing, issue an order to release the motor vehicle or issue an order to impound the motor vehicle that was being driven by the driver whose driver's license or privilege of obtaining a license is revoked, as follows:

(a) for ninety days, if an order to impound under this Section has not previously been made, within a prescribed period, with respect to any motor vehicle then owned by the owner of the vehicle currently being impounded;

(b) for one hundred and eighty days, if an order to impound under this Section has previously been made, within a prescribed period, with respect to any motor vehicle then owned by the owner of the vehicle currently being impounded.

(4) The order to impound issued pursuant to this Section is intended to promote compliance with this Act and to thereby safeguard the public and does not constitute an alternative to any proceeding or penalty arising from the same circumstances or around the same time.

(5) The Registrar shall notify a peace officer of an order made pursuant to subsection (3) and shall send notice of the order to the owner of the motor vehicle at the most recent address for the owner appearing in the records of the Registrar.

(6) Upon notification of the Registrar's order to release the motor vehicle, a peace officer shall forthwith release the motor vehicle to its owner.

(7) Service of the order, or notice of it, on the driver of the motor vehicle is deemed to be service on and sufficient notice to the owner of the vehicle and the operator of the vehicle, if there is an operator.

(8) If the motor vehicle that is the subject of the order to impound contains goods, the peace officer may require the driver and any other person present who is in charge of the motor vehicle to surrender all documents in that person's possession or in the vehicle that relate to the operation of the vehicle or to the carriage of the goods and to furnish all information within that person's knowledge relating to the details of the current trip and the ownership of the goods.

(9) Upon being served, or being deemed to have been served, with the order to impound or notice of it, the operator of the motor vehicle, or if there is no operator, the owner, shall forthwith remove any vehicle drawn by the motor vehicle and any load from the motor vehicle.

(10) If the goods are dangerous goods within the meaning of the *Dangerous Goods Transportation Act*, the operator, or if there is no operator, the owner, shall remove the goods in accordance with that Act.

(11) If, in the opinion of the peace officer, the operator or owner fails to remove a drawn vehicle or load as required by subsection (9) within a reasonable time after being served or being deemed to have been served with the order to impound, the peace officer may cause the drawn vehicle or load to be removed and stored or disposed of at the cost and risk of the operator, or if there is no operator, the owner.

(12) If a peace officer is of the opinion that the operator or owner has not made appropriate arrangements for the removal of a drawn vehicle or load, having regard to the nature of the goods, including the fact that they are or appear to be dangerous goods, within the meaning of the *Dangerous Goods Transportation*

Act, or are perishable, the peace officer may cause the drawn vehicle or load to be removed, stored or otherwise disposed of at the cost and risk of the operator, or if there is no operator, the owner.

(13) Upon service or deemed service of the order to impound or notice of it being effected, or, if the motor vehicle that is subject to the order was drawing a vehicle or had a load, once the drawn vehicle and load have been removed, the motor vehicle shall, at the cost of and risk to the owner, be

(a) removed to an impound facility as directed by the peace officer; and

(b) impounded for the period set out in the order to impound or until ordered to be released by the Motor Vehicle Appeal Board pursuant to Section 291B.

(14) Any personal property that is left in the impounded motor vehicle and that is not attached to or used in connection with its operation shall, upon request and proof of ownership, be made available, at reasonable times, to the owner of the property.

(15) Upon the expiry of the period of impoundment, the Registrar shall order that the motor vehicle be released to its owner from the impound facility.

(16) Notwithstanding being served with an order pursuant to subsection (15) by the owner of the motor vehicle, the person who operates the impound facility is not required to release the motor vehicle to the owner until the owner pays the removal and impound costs related to the Registrar's order to impound.

(17) The costs incurred by the person who operates the impound facility in respect of an order to impound pursuant to this Section constitute a lien on the motor vehicle.

(18) The costs incurred by the Crown in removing, storing or disposing of a drawn vehicle or load from a motor vehicle pursuant to subsection (9) or (12) are a debt due to the Crown and may be recovered by the Crown in any court of competent jurisdiction.

(19) Persons who provide removal services or load removal services or who operate impound facilities, and their subcontractors, are independent contractors and not agents of the Department for the purpose of this Section and such persons shall not charge more for their services in connection with this Section than is permitted by regulation.

(20) The owner of a motor vehicle that is subject to an order to impound pursuant to this Section may bring an action against the driver of the motor vehicle at the time the order was made to recover any costs or other losses incurred by the owner in connection with the order.

(21) No action or other proceeding for damages shall be instituted against the Registrar, any employee of the Department or any peace officer for any act done in good faith in the execution or intended execution of the person's duty under this Section or for any alleged neglect or default in the execution in good faith of that duty.

(22) Subsection (21) does not relieve the Crown of liability in respect of a tort committed by a person mentioned in that subsection to which it would otherwise be subject.

(23) Every person who fails to comply with subsection (9) or with a requirement of a peace officer under subsection (8) is guilty of an offence and is liable to a fine of not less than two hundred dollars and not more than twenty thousand dollars.

(24) Every person who drives or operates or removes a motor vehicle that is subject to an order to impound pursuant to this Section and every person who causes or permits such a motor vehicle to be driven, operated or removed is guilty of an offence and liable to a fine of not less than two hundred and not more than twenty thousand dollars.

(25) Every person who provides removal services or who operates an impound facility and who charges fees for services provided in connection with this Section in excess of those permitted by regulation is guilty of an offence and liable to a fine of not less than one hundred dollars and not more than one thousand dollars.

(26) Every person who obstructs or interferes with a peace officer in the performance of the peace officer's duties under this Section is guilty of an offence and liable to a fine of not less than two hundred and not more than twenty thousand dollars or to imprisonment for a term of not more than six months, or to both.

(26A) The Registrar may prescribe

(a) the manner in which orders may be issued and notifications of orders given pursuant to this Section; and

(b) methods for and rules of service for any notice or orders required to be served pursuant to this Section.

(27) The Governor in Council may make regulations

(a) prescribing the period for the purpose of subsection (3);

(b) prescribing a schedule of fees that may be charged by independent contractors for services in connection with this Section;

(c) and (d) *repealed 1999, c. 11, s. 13*.

(e) classifying persons and motor vehicles and exempting any class of person or any class of motor vehicle from any provision

of this Section or any regulation made pursuant to this Section and prescribing conditions for any such exemptions;

(f) prescribing fees for the administration of this Section;

(g) deemed necessary or advisable to carry out effectively the intent and purpose of this Section. 1998, c. 32, s. 4; 1999, c. 11, s. 13; 2011, c. 67, s. 8; 2018, c. 3, s. 64.

Appeal

291B (1) The owner of a motor vehicle that is subject to an order to impound pursuant to Section 291A may, upon paying the prescribed fee, appeal the order to the Motor Vehicle Appeal Board.

(2) The only grounds on which an owner may appeal pursuant to subsection (1) and the only grounds on which the Motor Vehicle Appeal Board may set aside the order to impound are that

(a) the motor vehicle that is subject to the order was taken without the consent of the owner at the time in respect of which the order was made;

(b) the driver's license of the driver of the motor vehicle at the time in respect of which the order was made was not then under revocation;

(c) the owner of the motor vehicle exercised due diligence in attempting to determine that the driver's license of the driver of the motor vehicle at the time in respect of which the order was made was not then under revocation;

(d) the order will result in exceptional hardship; or

(e) another ground of appeal prescribed in the regulations applies to the owner.

(3) Clause (d) of subsection (2) does not apply if an order to impound under Section 291A was previously made with respect to any motor vehicle then owned by the same owner.

(4) The Motor Vehicle Appeal Board may confirm or set aside an order to impound.

(5) The Motor Vehicle Appeal Board shall give written notice of the Board's decision to the owner.

(6) If the Motor Vehicle Appeal Board sets aside the order, the Board shall issue an order to release the vehicle.

(7) The decision of the Motor Vehicle Appeal Board under this Section is final and binding.

(8) The filing of an appeal pursuant to this Section does not suspend or terminate the order to impound pursuant to Section 291A. 1998, c. 32, s. 4; 1999, c. 11, s. 14; 2011, c. 67, s. 9.

Appeal respecting commercial vehicle or trailer

291C (1) The owner of a commercial motor vehicle or trailer that is subject to an order to impound under Section 291A may, upon paying the prescribed fee, appeal the order to the Motor Vehicle Appeal Board.

(2) The only grounds on which an owner may appeal pursuant to subsection (1) and the only grounds on which the Motor Vehicle Appeal Board may set aside the order to impound are that

(a) the motor vehicle that is subject to the order was taken without the consent of the owner at the time in respect of which the order was made;

(b) the driver's license of the driver of the motor vehicle at the time in respect of which the order was made was not then under revocation;

(c) the owner of the motor vehicle exercised due diligence in attempting to determine that the driver's license of the driver of the motor vehicle at the time in respect of which the order was made was not then under revocation;

(d) the order will result in exceptional hardship; or

(e) another ground of appeal prescribed in the regulations applies to the owner.

(3) Clause (d) of subsection (2) does not apply if an order to impound under Section 291A was previously made with respect to any motor vehicle then owned by the same owner.

(4) The Motor Vehicle Appeal Board may confirm or set aside the order to impound.

(5) The Motor Vehicle Appeal Board shall give written notice of the Board's decision to the owner.

(6) If the Motor Vehicle Appeal Board sets aside the order, the Board shall issue an order to release the vehicle.

(7) The decision of the Motor Vehicle Appeal Board pursuant to this Section is final and binding.

(8) The filing of an appeal pursuant to this Section does not suspend or terminate the order to impound under Section 291A. 1998, c. 32, s. 4; 1999, c. 11, s. 15; 2011, c. 67, s. 10.

Regulations

291D (1) The Governor in Council may make regulations

(a) prescribing fees for the purpose of subsection (1) of Section 291B and subsection (1) of Section 291C;

(aa) prescribing grounds of appeal under clause (e) of subsection (2) of Section 291B and clause (e) of subsection (2) of Section 291C;

(b) respecting devices that may be required to be installed in or attached to vehicles to prevent the operation of the vehicle in certain circumstances.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act*. 1998, c. 32, s. 4; 1999, c. 11, s. 16.

PENALTIES

Category A offences

292 Any person who violates any of the provisions of Section 14, 18, 30, 31, 34, 35 or 58, subsection (4) or (5) of Section 69, subsection (3) of Section 71, subsection (2) of Section 78, subsection (3) of Section 85B, Section 95, subsection (4) of Section 106, Section 127, 128, 143, 144, 146, 148, 149, 151, 155 or 156, subsection (1) of Section 158 or Section 159, 160, 162, 166, 167, 168, 169, 170A, 171, 172, 172C, 172D, 172E, 177, 182, 183, 189 or 189A is guilty of an offence and liable on summary conviction to the penalties provided for a category A offence in the *Summary Proceedings Act*. 2022, c. 21, s. 15.

Category B offences

293 Any person who violates any of the provisions of Section 16, 28, 37, 38, 40, 50 or 62, subsection (1) or (2) of Section 69, subsection (2) of Section 83, subsections (2) and (3) of Section 85A, subsection (5) of Section 85B, Section 90, 93, 113, 118, 119, 120, 122, 123, 124A, 126, 129, 133, 134 or 135, subsection (1) of Section 136, Section 138, 139, 140, 141, 161, 165, 172A or 172B, subsection (1) of Section 173A or Section 174, 174A, 175, 178, 179, 181A, 184, 185, 186, 187, 198, 201, 202 or 246 is guilty of an offence and liable on summary conviction to the penalties provided for a category B offence in the *Summary Proceedings Act*. 2002, c. 10, s. 20; 2005, c. 8, s. 10; 2007, c. 20, s. 9; 2007, c. 45, s. 20; 2008, c. 62, s. 3; 2010, c. 61, s. 6; 2010, c. 63, s. 2; 2015, c. 46, s. 15; 2022, c. 21, s. 16.

Category C offences

294 Any person who violates any of the provisions of Section 20, 23, 24, 26, 27, 29, 65, 69A, 70, 70A or 70B, subsection (1) of Section 83, Section 94 or 96, subsection (1) of Section 100D, clause (a) of Section 106A, Section 106G, 110, 111, 112, 116, 117, 121, 124, 130, 132, 145, 150, 164, 170, 181 or 188, subsection (1) of Section 191, subsection (4) of Section 192, Section 199 or 200, subsection (9) of Section 201 or Section 204, 242, 258, 260, 289 or 290 is guilty of an offence and

liable on summary conviction to the penalties provided for a category C offence in the *Summary Proceedings Act*. 2002, c. 10, s. 20; 2005, c. 8, s. 11; 2010, c. 61, s. 7; 2014, c. 20, s. 11; 2014, c. 53, s. 13.

Category D offences

295 Any person who violates any of the provisions of Section 6, 11, 13, 57, 60, 64, 75, 76 or 82, subsection (10) of Section 98, Section 99, 99A, 102, subsection (4) of Section 103, clause (b) of Section 106A, Section 107, 107A, 114, 115, 171B, 190 or 210, subsection (3) of Section 280 or Section 303 is guilty of an offence and liable on summary conviction to the penalties provided for a category D offence in the *Summary Proceedings Act*. 2002, c. 10, s. 20; 2005, c. 8, s. 12; 2007, c. 45, s. 21; 2010, c. 59, s. 11.

Category E offences

296 Any person who violates any of the provisions of Section 47, 63 or 108 is guilty of an offence and liable on summary conviction to the penalties provided for a category E offence in the *Summary Proceedings Act*. 2002, c. 10, s. 20;

Category F offences

297 Any person who violates any of the provisions of Section 32, 33, 97, 100 or 101, subsection (3) of Section 103, clause (c) of Section 106A, Section 107B, subsections (3) to (5) of Section 125, subsections (1) and (2) of Section 125A or Section 131, subsection (2) of Section 136 or Section 173, 182A, 199 or 303H is guilty of an offence and liable on summary conviction to the penalties provided for a category F offence in the *Summary Proceedings Act*. 2002, c. 10, s. 20; 2004, c. 42, s. 15; 2005, c. 8, s. 13; 2007, c. 45, s. 22; 2014, c. 53, s. 14.

Category G offences

298 Any person who violates any of the provisions of Section 41, 43, 53, 56, 80 or 97, subsection (11) of Section 98, subsections (1) and (2) of Section 125, subsections (3) and (4) of Section 125A, Section 131A, subsection (8) of Section 201, Section 214, subsection (4) of Section 279, subsection (1) of Section 287 or Section 301 is guilty of an offence and liable on summary conviction to the penalties provided for a category G offence in the *Summary Proceedings Act*. 2002, c. 10, s. 20; 2005, c. 8, s. 14; 2007, c. 45, s. 23; 2008, c. 21, s. 8; 2010, c. 59, s. 12.

Category H offences

299 Any person who violates any of the provisions of Section 230 or subsection (2) of Section 287 is guilty of an offence and liable on summary conviction to the penalties provided for a category H offence in the *Summary Proceedings Act*. 2002, c. 10, s. 20; 2008, c. 21, s. 9.

Category I offences

299A Any person who violates any of the provisions of Section 46, 49, 51 or 287 is guilty of an offence and liable on summary conviction to the penalties provided for a category I offence in the *Summary Proceedings Act*. 2002, c. 10, s. 20; 2005, c. 8, s. 15.

Category K offence

299AA Any person who violates any of the provisions of Section 163 is guilty of an offence and liable on summary conviction to the penalties provided for a category K offence in the *Summary Proceedings Act*. 2007, c. 45, s. 24.

Default of payment

299B An individual who is in default of payment of a fine imposed as a penalty pursuant to Sections 292 to 299AA or Section 300A may be imprisoned for

(a) two days if the amount of the fine is less than one hundred dollars; or

(b) two days plus one day for each fifty dollars or part thereof over one hundred dollars if the amount of the fine is more than one hundred dollars, to a maximum of one hundred and eighty days. 2002, c. 10, s. 20; 2011, c. 46, s. 6.

Penalty for failure to produce permit or license

300 Whenever any person is prosecuted for failure to produce a driver's license or a permit other than a dealer's permit on the request of a peace officer and such person produces in court a driver's license or permit, as the case may be, dated prior to the day the offence is alleged to have been committed, the pecuniary penalty provided for failure to produce such permit or license shall be reduced to a penalty of not more than one dollar for the first offence in any calendar year. R.S., c. 293, s. 300.

Double fine in school area or temporary work area

300A (1) Any person who violates any of the provisions of clause (a) of subsection (2A) of Section 103, clause (a) of subsection (1) of Section 106B, clause (a) of subsection (2) of Section 106E or Section 106F is guilty of an offence and liable on summary conviction to double the penalties provided for a category C offence in the *Summary Proceedings Act*.

(2) Any person who violates any of the provisions of clause (b) of subsection (2A) of Section 103, clause (b) of subsection (1) of Section 106B or clause (b) of subsection (2) of Section 106E is guilty of an offence and liable on summary conviction to double the penalties provided for a category D offence in the *Summary Proceedings Act*.

(3) Any person who violates any of the provisions of clause (c) of subsection (2A) of Section 103, clause (c) of subsection (1) of Section 106B or clause (c) of subsection (2) of Section 106E is guilty of an offence and liable on summary conviction to double the penalties provided for a category F offence in the *Summary Proceedings Act*. 2007, c. 45, s. 25; 2008, c. 21, s. 11; 2009, c. 20, s. 3; 2011, c. 46, s. 7.

GENERAL

False statement or information

301 (1) A person who knowingly makes any false statement of fact in an application, declaration, affidavit or paper writing required by this Act, or by the regulations of the Department in order to procure the issuance to him of a license, permit or certificate is guilty of an offence.

(2) A person who wilfully furnishes false information to a peace officer during the course of an investigation under this Act is guilty of an offence. R.S., c. 293, s. 301; 2002, c. 10, s. 21.

Fees

302 (1) There shall be paid to the Department such fees as the Governor in Council may determine for any registration, permit, license, certificate or other document issued under this Act or for any service performed or rendered by the Registrar or the Department and the payment of the fee so determined shall be a condition precedent to the issue of any such permit, license, certificate or other document and to the performing or rendering of any such service.

(2) Except as provided in subsection (4) or as otherwise provided all fees paid under this Act shall form part of the General Revenue Fund of the Province.

(3) If fees for a permit, license, certificate or other document issued by the Department are paid by a cheque which is dishonoured and reimbursement is not made within thirty days after a request has been mailed by certified mail to the person to whom the document is issued, any permit, license, certificate or other document issued to that person may be revoked.

(4) The fees associated with conservation license plates, less the portion of those fees that the Registrar determines relates to administrative costs, shall be paid into a conservation fund administered by the Department of Natural Resources and Renewables and designated by the Governor in Council.

(5) Notwithstanding any enactment, the fees for

(a) the issuance of a certificate of registration in the name of a licensed dealer on or after January 1, 1991, and before the coming into force of this subsection are the same as the fees set out in the *Schedule of Fees for Documents and Services* determined pursuant to subsection (1) for a certificate of registration; and

(b) the transfer of a motor vehicle permit and registration number plates to a licensed dealer on or after January 1, 1991, and before the coming into force of this subsection are the same as the fees set out in the *Schedule of Fees for Documents and Services* determined pursuant to subsection (1) for recording an applicant as the vehicle owner, initially or by way of transfer. R.S., c. 293, s. 302; 2002, c. 20, s. 10; 2009, c. 23; 2010, c. 2, s. 84; O.I.C. 2018-188; O.I.C. 2021-210.

Regulations respecting commercial vehicles

303 (1) Subject to the approval of the Governor in Council, the Minister may make regulations

(a) regulating and licensing all or any class or classes of persons transporting goods for hire upon provincial highways;

(b) regulating and licensing commercial carriers and motor vehicles operated upon provincial highways;

(c) prescribing the terms, conditions and requirements for obtaining any such licenses;

(d) regulating the hours of labour for drivers or operators of commercial motor vehicles operated upon provincial highways;

(e) prescribing the fees for any such licenses;

(ea) incorporating by reference any document as it exists when the regulations are made and incorporating by reference, as amended from time to time, any Act of the Parliament of Canada or regulations made pursuant thereto or any classification, standard, procedure or other specification;

(f) prescribing penalties for the violation of any such regulations.

(2) Such regulations shall not limit the number of persons so licensed nor grant any franchise or exclusive right. R.S., c. 293, s. 303; 2001, c. 12, s. 16; 2001, c. 44, s. 10.

Interpretation of Sections 303B to 303J

303A In Sections 303B to 303J,

(a) "carrier" means a person who owns, leases or is otherwise responsible for the operation of a commercial vehicle;

(b) "commercial vehicle" means a commercial motor vehicle as defined in clause (g) of Section 2 that has a gross weight exceeding four thousand five hundred kilograms and includes a bus with a seating capacity of more than ten passengers;

(c) "reciprocating jurisdiction" means a province of Canada or state of the United States of America or the Republic of Mexico that is declared pursuant to Section 303I to be a reciprocating jurisdiction;

(d) "safety fitness certificate" means a safety fitness certificate issued to a carrier pursuant to the regulations. 1993, c. 30, s. 1; 2001, c. 12, s. 17.

Application of Sections 303C to 303J

303B Sections 303C to 303J apply to

(a) commercial vehicles registered in the Province or a reciprocating jurisdiction;

(b) drivers of commercial vehicles licensed pursuant to this Act; and

(c) carriers that operate commercial vehicles in the Province. 1993, c. 30, s. 1.

Record of commercial drivers and carriers

303C (1) The Registrar shall maintain a record on drivers and carriers for the purpose of monitoring commercial vehicles, drivers of commercial vehicles and carriers.

(2) The records maintained pursuant to subsection (1) may be disclosed by the Registrar to the appropriate authority in a reciprocating jurisdiction or to the carrier or an insurer authorized by the carrier to obtain such records. 1993, c. 30, s. 1; 2001, c. 12, s. 18.

Records to be kept by carrier

303D (1) A carrier shall keep records showing

(a) in respect of each driver employed by the carrier, an annual driver's abstract issued by the Department that includes the name and date of birth, class of license held, warnings, convictions, collisions and suspensions imposed in the Province or a reciprocating jurisdiction;

(b) qualifications and courses undertaken relevant to the driver's work; and

(c) particulars in respect of each commercial vehicle operated by the carrier, including number plates, vehicle identification numbers and trip inspection, safety inspection and maintenance reports.

(2) A carrier shall permit any person authorized by the Registrar to inspect, audit and make copies of the records maintained pursuant to subsection (1).

(3) The Registrar shall issue an identification number in respect of each carrier. 1993, c. 30, s. 1; 2004, c. 42, s. 15.

Duty of driver of commercial vehicle and carrier

303E (1) A driver of a commercial vehicle shall, within ten days thereof, inform the carrier employing the driver of all warnings, convictions and suspensions given or imposed in the Province or a reciprocating province.

(2) A carrier shall report to the Registrar all convictions imposed on a driver employed by the carrier in respect of offences in a reciprocating province. 1993, c. 30, s. 1.

Grounds for suspension or cancellation

303F The Registrar may suspend or cancel or refuse to issue

(a) the vehicle registration and number plate in respect of any commercial vehicle registered in the Province; or

(b) a driver's license or a class of driver's license authorizing a driver to drive a particular class of vehicle,

on the grounds of

(c) misconduct related to the operation or driving of a motor vehicle for which the holder is responsible directly or indirectly;

(d) conviction of the holder for an offence contrary to Section 303D or 303E or the regulations made pursuant to Section 303G; or

(e) any other cause appearing to the Registrar to be sufficient to warrant protection of the public. 1993, c. 30, s. 1; 2001, c. 12, s. 19.

Regulations

303G The Governor in Council may make regulations

(a) respecting records and documents to be maintained by the carrier respecting commercial vehicles and the drivers of commercial vehicles;

(b) prescribing a system of rating the performance of commercial motor vehicle carriers and drivers with respect to warnings, cancellations, suspensions, at-fault collisions, facility audits, safety inspections, trip inspections and contraventions of enactments of the Province, another reciprocating province of Canada, the Parliament of Canada, the United States of America or the Republic of Mexico relating to motor vehicles, and prescribing penalties, including suspension, that may be assessed against those carriers and drivers having an unsatisfactory rating;

(ba) authorizing the issuance of a safety fitness certificate and prescribing a fee for the certificate;

(bb) prescribing an hourly rate for the auditing of a commercial carrier;

(c) requiring the attendance of the carrier before the Registrar to show cause why the carrier's vehicle registration should not be suspended or cancelled;

(d) classifying carriers, drivers and vehicles and exempting any class of carrier, driver or vehicle from any provision contained in Sections 303C to 303J and prescribing conditions for any such exemptions;

(e) providing for the safety and convenience of the public;

(f) providing for trip inspection reports. 1993, c. 30, s. 1; 1995-96, c. 23, s. 7; 2001, c. 12, s. 20; 2002, c. 5, s. 33; 2002, c. 20, s. 11.

Offence and penalty

303H Every carrier or driver of a commercial vehicle who contravenes Section 303D or 303E or the regulations made pursuant to Section 303G is guilty of an offence and liable on summary conviction to a penalty of not more than one thousand dollars or to imprisonment for a term not exceeding thirty days. 1993, c. 30, s. 1.

Power to declare reciprocating jurisdictions

303I The Governor in Council may, where the Governor in Council is satisfied that a province of Canada or state of the United States of America or the Republic of Mexico has laws that are substantially similar to Sections 303A to 303J, declare that province or state to be a reciprocating jurisdiction. 1993, c. 30, s. 1; 2001, c. 12, s. 21.

Preservation of existing law

303J Sections 303A to 303J are in addition to, and not in substitution for, any other provisions of law applicable to carriers, commercial vehicles and the drivers of commercial vehicles. 1993, c. 30, s. 1.

Regulations respecting personal transporters

303K The Governor in Council may make regulations respecting personal transporters and, without limiting the generality of the foregoing, defining "tour" for the purpose of subsection 69(4). 2015, c. 46, s. 16.

Regulations respecting electric kick-scooters

303L The Governor in Council may make regulations respecting electric kick-scooters. 2022, c. 21, s. 17.

General rules and regulations

304 (1) The Governor in Council on the recommendation of the Minister from time to time may make rules and regulations not inconsistent with this Act as he deems necessary or expedient for the purpose of fully carrying out the true intent, purpose and object of this Act.

(2) A violation of any such rules or regulations shall be deemed to be a violation of a provision of this Act. R.S., c. 293, s. 304.

Regulation and licensing by municipal by-law

305 (1) The council of a city, town or municipality may make regulations or by-laws regulating and licensing

(a) bicycles owned by residents of the city, town or municipality;

(b) persons transporting for hire by means of any vehicle, passengers or goods within the boundaries of said city, town or municipality except where such persons are public utilities as defined

in the *Public Utilities Act* or are motor carriers who are required to be licensed under the *Motor Carrier Act*;

(c) the vehicles referred to in clause (b).

(2) Such regulations or by-laws may

(a) prescribe the amount of the fees for such licenses;

(b) provide penalties for any violation of such regulations or by-laws, but such penalties shall not be greater than the penalties mentioned in Section 299;

(c) provide minimum and maximum fares or rates that may be charged by any persons transporting for hire passengers or goods;

(d) determine various classes of vehicles transporting passengers for hire and provide special restrictions on certain classes;

(e) authorize the traffic authority or other official to revoke any license issued under such regulations or by-laws but an appeal from any revocation so authorized may be taken to the council of the city, town or municipality or to the police commission or other committee specified in such regulations or by-laws;

(ea) divide a city, town or municipality into zones for the purpose of regulating persons who or vehicles that transport passengers or goods for hire, or in any way change the boundaries of the zones;

(eb) license persons or vehicles to transport passengers or goods for hire within one or more zones;

(ec) license persons or vehicles to transport passengers or goods for hire between two or more zones and regulate the transportation for hire of passengers or goods between zones;

(f) limit the number of persons or vehicles licensed to transport for hire passengers or goods, or may provide that only one person shall be so licensed to transport passengers or goods with any class of vehicle;

(g) require that a person applying for a license under clause (b) of subsection (1), or holding such a license, place and maintain at all times while he holds such license public liability, property damage, cargo or passenger hazard insurance to such extent and in such amount as the by-law prescribes;

(h) require that a person licensed to transport passengers for hire install and maintain special safety equipment prescribed by the regulations or by-laws in all vehicles;

(i) require the successful completion of a prescribed course of instruction in matters relevant to the taxi industry in the city, town or municipality as a qualification for a taxi-driver license.

(3) Such regulations or by-laws referring to vehicles transporting passengers for hire may delegate to the traffic authority or other official of the city, town or municipality such authority as the council of the city, town or municipality may deem expedient and such regulations may require such vehicles when not actually hired to

(a) drive on certain streets only;

(b) move off or remain off certain streets;

(c) refrain from soliciting or taking passengers on certain streets or under certain conditions;

(d) park at certain taxicab or hack stands and to refrain from parking at any other or certain other places.

(4) Such regulations or by-laws shall not

(a) impose an annual license fee of over fifty dollars per vehicle in the case of cities, and twenty-five dollars per vehicle in the case of towns and municipalities;

(b) except as in this Section otherwise provided, limit the number of persons so licensed;

(c) apply to persons transporting for hire passengers or goods brought into the city, town or municipality from outside the limits of such city, town or municipality or to persons transporting for hire passengers or goods taken on within the limits of such city, town or municipality to be discharged or unloaded outside the limits of such city, town or municipality;

(d) with respect to accessible taxicabs, limit, either directly or indirectly, the number of vehicles or the number of drivers or restrict the types of passengers that may be carried in an accessible taxicab.

(5) A regulation made pursuant to clause (f) of subsection (2) may apply to one or more zones or to all zones established by or pursuant to this Section and there may be different limits for different zones.

(6) Where two or more cities, towns or municipalities have been amalgamated as a regional municipality, until the council of the regional municipality makes a regulation or by-law under the authority of clause (ea) of subsection (2) providing otherwise, each former city, town or municipality is deemed to be one zone for the purpose of this Section and, for greater certainty, in each such zone the regulations or by-laws of the former city, town or municipality, as the case may be, respecting the transport of passengers or goods for hire in effect when the former

city, town or municipality, respectively, was amalgamated continue to apply as if the city, town or municipality, respectively, had not been amalgamated.

(7) A regulation or by-law passed pursuant to this Section does not require the approval of the Minister of Municipal Affairs and Housing. R.S., c. 293, s. 305; 1994-95, c. 12, s. 24; 1995-96, c. 23, s. 8; O.I.C. 2021-209

Vehicle noise by-laws

305A The council of a city, town or municipality may make regulations or by-laws respecting noise produced in connection with a vehicle, including

(a) defining what constitutes an objectionable noise;

(b) establishing a method of determining or measuring noise; and

(c) prohibiting the use or operation of a vehicle if the noise produced in connection with that vehicle is objectionable noise. 2021, c. 32, s. 3.

By-laws respecting electric kick-scooters

305B The council of a municipality may make by-laws

(a) regulating the use of electric kick-scooters on sidewalks, shared-use sidewalks, municipal highways, bicycle lanes, trails or in other public areas in the municipality that are not public highways;

(b) prescribing the maximum allowable speed for the operation of electric kick-scooters, including prescribing different maximum speeds for different areas, roads or paths, or types of road or path;

(c) regulating the use of privately owned and rented electric kick-scooters;

(d) restricting the operation of electric kick-scooters during certain times of the year;

(e) restricting the operation of electric kick-scooters when certain weather conditions are occurring or are expected to occur;

(f) regulating the parking, docking or storage of electric kick-scooters;

(g) creating offences and prescribing penalties for the violation of by-laws made under this Section. 2022, c. 21, s. 18.

Restriction on municipal regulation of vehicles

306 (1) Notwithstanding the provisions of any Act of the Legislature, the council of any city, town or municipality shall not, except as in this Act or the *Road Trails Act* provided, have power to make any by-laws, rules, regulations or ordinances in relation to the regulation, registration, licensing or identification of vehicles or to the use of the highway by such vehicles, or in relation to any matter dealt with in this Act, and all by-laws, rules, regulations and ordinances of any city, town or municipality in relation to any of the said matters, except those mentioned in Section 305 or 305A, are hereby repealed and are declared to be inoperative.

(2) All regulations and by-laws made by the Minister, the council of a city or incorporated town, or by the Governor in Council under Chapter 2 of the Acts of 1928, shall in so far as they are not inconsistent with anything herein contained remain in force until altered or repealed by the Minister or the Governor in Council. R.S., c. 293, s. 306; 2021, c. 32, s. 4; 2023, c. 4, s. 39.

Regulations authorizing projects

307 (1) The Governor in Council may make regulations authorizing, for the period of time during which the regulations are in force, a project for research into or the testing or evaluation of any matter that is governed by this Act and relates to highway use, including regulations

(a) in relation to such a project,

(i) authorizing any person or class of persons to do or use a thing that is prohibited or regulated pursuant to a provision of this Act that also relates to traffic or to not do or use a thing that is required or authorized pursuant to this Act,

(ii) authorizing or requiring the Department, the Minister or any other person authorized or required to do anything pursuant to this Act to do anything that

(A) is not authorized or required to be done pursuant to this Act, or

(B) is authorized or required to be done pursuant to this Act in a way that is different from the way it is authorized or required to be done,

(iii) limiting an authorization or requirement in the regulations to any person, class of persons, class or type of vehicles, equipment, devices or highways, parts of the Province, time of year or day, activities, matters or other things,

(iv) regulating or prohibiting the doing or use of anything, and

(v) requiring any person or class of persons to carry insurance of a kind and in the amount specified;

(b) prescribing penalties for the violation of such regulations;

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

(2) A regulation made pursuant to this Section is repealed five years after the date it comes into force or such earlier date as the regulation may provide.

(3) In the event of a conflict between a regulation made pursuant to this Section and any provision of this Act or the *Road Trails Act*, the regulation prevails.

(4) The exercise by the Governor in Council of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act*. 2013, c. 4, s. 2; 2015, c. 46, s. 17; 2023, c. 4, s. 40.

SCHEDULE

Form

19. . . . . Number . . . . . .

IN THE . . . . . COURT

BETWEEN:

A.B., ...

Plaintiff

and

C.D. or registration number of motor vehicle or description of motor vehicle, as the case may be

Defendant

ELIZABETH II, by the Grace of God, etc.

TO THE SHERIFF OF THE COUNTY OF. . . . . .

GREETING:

WE COMMAND you to attach, seize, take and safely keep motor vehicle (*here insert description of the motor vehicle to enable it to be identified*) to respond to the judgment which may be obtained against (. . . . . ., the Defendant, *or* against the said motor vehicle, *as the case may be*) by . . . . . the Plaintiff in our . . . . . Court at . . . . . .

AND WE DO COMMAND YOU that immediately after the execution hereof you do return the writ or order into our . . . . . Court at . . . . . together with your doings thereon.

Issued this . . . . . day of . . . . . , 19. . . . .

Plaintiff's Solicitor
whose address is
. . . . . .

. . . . . .
Prothonotary or Clerk, as the case may be

R.S., c. 293, Sch.

TAB 5

Children and Family Services Act

CHAPTER 5 OF THE ACTS OF 1990

as amended by

1994-95, c. 7, ss. 11-15, 150; 1996, c. 3, ss. 37, 38;
1996, c. 10; 2001, c. 3, s. 4; 2002, c. 5, ss. 2, 3; 2005, c. 15;
2008, c. 12; 2015, c. 37 (except s. 33(2)); 2015, c. 44, ss. 49-52;
2018, c. 33, s. 17; 2021, c. 1, s. 4

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Halifax

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CHAPTER 5 OF THE ACTS OF 1990
amended 1994-95, c. 7, ss. 11-15, 150; 1996, c. 3, ss. 37, 38;
1996, c. 10; 2001, c. 3, s. 4; 2002, c. 5, ss. 2, 3; 2005, c. 15;
2008, c. 12; 2015, c. 37 (except s. 33(2)); 2015, c. 44, ss. 49-52;
2018, c. 33, s. 17; 2021, c. 1, s. 48

An Act Respecting Services to Children and their Families, the Protection of Children and Adoption

NOTE - *Section 73 is subject to proclamation. See Section 109.*

Table of Contents

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

WHEREAS the family exists as the basic unit of society, and its well-being is inseparable from the common well-being;

AND WHEREAS children are entitled to protection from abuse and neglect;

AND WHEREAS the rights of children are enjoyed either personally or with their family;

AND WHEREAS children have basic rights and fundamental freedoms no less than those of adults and a right to special safeguards and assistance in the preservation of those rights and freedoms;

AND WHEREAS children are entitled, to the extent they are capable of understanding, to be informed of their rights and freedoms, to be heard in the course of and to participate in the processes that lead to decisions that affect them;

AND WHEREAS the basic rights and fundamental freedoms of children and their families include a right to the least invasion of privacy and interference with freedom that is compatible with their own interests and of society's interest in protecting children from abuse and neglect;

AND WHEREAS parents or guardians have responsibility for the care and supervision of their children and children should only be removed from that supervision, either partly or entirely, when all other measures are inappropriate;

AND WHEREAS when it is necessary to remove children from the care and supervision of their parents or guardians, they should be provided for, as nearly as possible, as if they were under the care and protection of wise and conscientious parents;

AND WHEREAS children have a sense of time that is different from that of adults and services provided pursuant to this Act and proceedings taken pursuant to it must respect the child's sense of time;

AND WHEREAS social services are essential to prevent or alleviate the social and related economic problems of individuals and families;

AND WHEREAS the rights of children, families and individuals are guaranteed by the rule of law and intervention into the affairs of individuals and families so as to protect and affirm these rights must be governed by the rule of law;

AND WHEREAS the preservation of a child's cultural, racial and linguistic heritage promotes the healthy development of the child~~.~~[;]

AND WHEREAS the cultural identity of Mi'kmaq and aboriginal children is uniquely important for the exercise of the child's aboriginal and treaty rights~~.~~[:]

preamble amended 2015, c. 37, s. 1.

Short title

1 This Act may be cited as the *Children and Family Services Act*. 1990, c. 5, s. 1.

Purpose and paramount consideration

2 (1) The purpose of this Act is to protect children from harm, promote the integrity of the family and assure the best interests of children.

(2) In all proceedings and matters pursuant to this Act, the paramount consideration is the best interests of the child. 1990, c. 5, s. 2.

Interpretation

3 (1) In this Act,

(a) "aboriginal child" means a child who is registered under the *Indian Act* (Canada) and includes a Mi'kmaq child;

(aa) "agency" means an agency continued by or established and incorporated pursuant to this Act and includes the Minister where the Minister is acting as an agency and Mi'kmaw Family and Children's Services of Nova Scotia;

(b) "band" means a band as defined in the *Indian Act* (Canada) within the Province of Nova Scotia;

(c) "care" means the physical care and control of a child;

(d) "care and custody" means the care and custody of a child pursuant to this Act or an order or agreement made pursuant to this Act;

(e) "child" means a person under nineteen years of age;

(f) "child in care" means, except in Sections 67 to 87, a child who is in the care and custody of an agency

(i) pursuant to an agreement made pursuant to this Act,

(ii) as a result of being taken into care, or

(iii) pursuant to a court order made pursuant to this Act;

(g) "child-care services" means

(i) assessment, counselling and referral services,

(ii) child-protection and child-placing services,

(iii) parenting-skill and support services,

(iv) consulting, research and evaluation services with respect to child-care services,

(v) such other services as the Minister may approve or license as child-care services;

(h) "child-caring facility" means

(i) a foster home,

(ii) and (iii) *repealed 2015, c. 37, s. 2.*

(iv) a secure treatment facility,

(v) a residential child-caring facility,

(vi) a residential treatment centre,

(vii) to (ix) *repealed 2015, c. 37, s. 2.*

(x) a young-offender facility, or

(xi) such other facility as the Minister may approve or license as a child-caring facility;

(i) "common-law relationship" means a relationship between two persons who have cohabitated in a marriage-like relationship for a period of at least two years;

(j) "community", with respect to a child, includes all persons who have a beneficial and meaningful relationship with the child and, where the child is a registered member of a band, includes members of the child's band;

(k) "conference" means a meeting of all or some of

(i) the parties to a proceeding,

(ii) their legal counsel,

(iii) the child who is the subject of the proceeding, if appropriate,

(iv) the guardian *ad litem* of the child who is the subject of the proceeding and the guardian's legal representa-

tive or the legal representative of the child if no guardian *ad litem* is appointed,

(v) any counsellors, therapists or other persons providing services to a party to the proceeding or a child who is the subject of the proceeding, and

(vi) any other person whose attendance would be beneficial to the conferencing process;

(ka) "court" means, unless the context otherwise requires,

(i) in any area of the Province where the Supreme Court of Nova Scotia (Family Division) is entitled to exercise jurisdiction, the Supreme Court (Family Division), and includes a judge of that Court, or

(ii) in any area of the Province where the Supreme Court (Family Division) is not entitled to exercise jurisdiction, the Family Court, and includes a judge of that Court;

(kb) "cultural connection plan" means a written plan that offers information and guidance to preserve a child's cultural identity and, where the child is a Mi'kmaq child, is developed with input from the child's band and fosters the child's connection with the child's First Nation, culture, heritage, spirituality and traditions;

(kc) "customary care" means the care and supervision of a Mi'kmaq child or aboriginal child by a person who is not the child's parent, according to the custom of the child's band or Aboriginal community;

(l) "custody" means lawful custody, whether by operation of law, written agreement or order of a court of competent jurisdiction;

(la) "emotional abuse" means acts that seriously interfere with a child's healthy development, emotional functioning and attachment to others such as

(i) rejection,

(ii) isolation, including depriving the child from normal social interactions,

(iii) deprivation of affection or cognitive stimulation,

(iv) inappropriate criticism, humiliation or expectations of or threats or accusations toward the child, or

(v) any other similar acts;

(lb) "family group conference" means one or more mediated conferences which may include relatives of the child and members of the child's community;

(m) "former Act" means Chapter 68 of the Revised Statutes, 1989, the *Children's Services Act*;

(n) "foster parent" means a foster parent approved by an agency pursuant to this Act;

(na) "kinship placement" means a placement with a foster parent who

(i) is a relative of the child, or

(ii) has an established relationship with the child;

(o) "Minister" means the Minister of Community Services;

(oa) "Mi'kmaq child" means a child of Mi'kmaq ancestry who is

(i) registered as an Indian under the *Indian Act* (Canada), or

(ii) considered Mi'kmaq according to band custom and law;

(p) "neglect" means the chronic and serious failure to provide to the child

(i) adequate food, clothing or shelter,

(ii) adequate supervision,

(iii) affection or cognitive stimulation, or

(iv) any other similar failure to provide;

(q) "order" includes the refusal to make an order;

(r) "parent or guardian" of a child means

(i) the mother of the child, if the mother

(A) has custody of the child under a written agreement or court order, or

(B) resides with and has care of the child,

(ii) the father of the child, if the father

(A) has custody of the child under a written agreement or court order, or

(B) resides with and has care of the child,

(iii) *repealed 2015, c. 37, s. 2.*

(iv) an individual residing with and having the care of the child,

(v) *repealed 2015, c. 37, s. 2.*

(vi) an individual who, under a written agreement or a court order, has custody of the child, is required to provide support for the child or has a right of access to the child,

(vii) a mother or father who

(A) has an application before a court respecting custody or access or against whom there is an application before a court for support for the child at the time proceedings are commenced pursuant to this Act, or

(B) is providing support or exercising access to the child at the time proceedings are commenced pursuant to this Act,

but does not include a foster parent;

(s) "peace officer" means a member of the Royal Canadian Mounted Police, a police officer appointed by a municipality, a sheriff, a deputy sheriff or a member of the military police of the Canadian Armed Forces;

(t) "relative" of a person means a person related by blood, marriage or common-law relationship or, where the person is adopted, by adoption, marriage or common-law relationship;

(u) "representative" means a person appointed as a representative of an agency pursuant to this Act;

(v) "sexual abuse" means

(i) the employment, use, persuasion, inducement, enticement, or coercion of a child to engage in, or assist any other person to engage in, any sexually explicit conduct or simulation of such conduct, or

(ii) the use of a child in, or exposure to, prostitution, pornography or any unlawful sexual practice.

(2) Where a person is directed pursuant to this Act, except in respect of a proposed adoption, to make an order or determination in the best interests of a child, the person shall consider those of the following circumstances that are relevant:

(a) the importance for the child's development of a positive relationship with a parent or guardian and a secure place as a member of a family;

(b) the child's relationships with relatives;

(c) the importance of continuity in the child's care and the possible effect on the child of the disruption of that continuity;

(d) the bonding that exists between the child and the child's parent or guardian;

(e) the child's physical, mental and emotional needs, and the appropriate care or treatment to meet those needs;

(f) the child's physical, mental and emotional level of development;

(g) the child's cultural, racial and linguistic heritage;

(ga) the child's sexual orientation, gender identity and gender expression;

(h) the religious faith, if any, in which the child is being raised;

(i) the merits of a plan for the child's care proposed by an agency, including a proposal that the child be placed for adoption, compared with the merits of the child remaining with or returning to a parent or guardian;

(j) the child's views and wishes, if they can be reasonably ascertained;

(k) the effect on the child of delay in the disposition of the case;

(l) the risk that the child may suffer harm through being removed from, kept away from, returned to or allowed to remain in the care of a parent or guardian;

(m) the degree of risk, if any, that justified the finding that the child is in need of protective services;

(n) any other relevant circumstances.

(3) Where a person is directed pursuant to this Act in respect of a proposed adoption to make an order or determination in the best interests of a child, the person shall take into consideration those of the circumstances enumerated in subsection (2) that are relevant, except clauses (i), (l) and (m) thereof. 1990, c. 5, s. 3; 2015, c. 37, s. 2.

Supervision of Act and right of Minister to appear in court

4 (1) The Minister has the general supervision and management of this Act and the regulations.

(2) The Minister may appear and be heard in any court with respect to any matter arising pursuant to this Act. 1990, c. 5, s. 4.

Delegation of powers, privileges, duties or functions

5 (1) The Minister may designate, in writing, a person to have, perform and exercise any of the powers, privileges, duties and functions of the Minister pursuant to this Act and shall, when so designating, specify the powers, privileges, duties and functions to be had, performed and exercised by the person so designated.

(2) A person designated pursuant to subsection (1) shall, in addition, perform such duties as the Governor in Council or the Minister prescribes. 1990, c. 5, s. 5.

Personnel

6 **(1)** There may be appointed by the Minister, in accordance with the *Civil Service Act*, such persons as the Minister may designate to carry out duties in accordance with this Act and the regulations.

(2) Where an appointment of a person is made pursuant to subsection (1) and the person signs or executes a document in the exercise of a power or function conferred upon the person by this Section, the person shall refer to the name of the person's office together with the words "Authorized pursuant to Section 6 of the *Children and Family Services Act*" and, where a document contains such a reference, the document

(a) shall be received in evidence without further proof of the authority of the person who signed or executed the same; and

(b) may be relied upon by the person to whom the document is directed or given and by all other persons as an effective exercise of the power or function to which the document relates. 1990, c. 5, s. 6.

Payment by Minister of appropriations

7 The Minister may make payments in respect of child-care services and child-caring facilities in such amounts as are appropriated annually for those purposes. 1990, c. 5, s. 7; 2015, c. 37, s. 3.

Agencies

8 **(1)** Every society within the meaning of the former Act is continued as an agency within the meaning of this Act.

(2) On the recommendation of the Minister and the approval of the Governor in Council, an agency may be established and, upon the approval by the Governor in Council of the name, constitution, territorial jurisdiction and by-laws and upon the filing of the constitution and by-laws with the Registrar of Joint Stock Companies, the agency is a body corporate under the name of "The Children's Aid Society of . . ." or "Family and Children's Services of . . ." or such other name as the Governor in Council approves.

(3) The Minister may alter the territorial jurisdiction of an agency.

(4) An agency may

(a) with the approval of the Minister, change its name or amend its constitution and by-laws;

(b) engage such persons as may be necessary for carrying on its affairs;

(c) do such acts and things as may be convenient or necessary for the attainment of its objects, the carrying out of its functions and the exercise of its powers.

(5) The Minister may, in any part of the Province, act as an agency and, whether or not acting as an agency, has throughout the Province all the powers, rights and privileges of an agency. 1990, c. 5, s. 8.

Functions of agency

9 The functions of an agency are to

(a) protect children from harm;

(b) work with other community and social services to prevent, alleviate and remedy the personal, social and economic conditions that might place children and families at risk;

(c) provide guidance, counselling and other services to families for the prevention of circumstances that might require intervention by an agency;

(d) investigate allegations or evidence that children may be in need of protective services;

(e) develop and provide services to families to promote the integrity of families, before and after intervention pursuant to this Act;

(f) supervise children assigned to its supervision pursuant to this Act;

(g) provide care for children in its care or care and custody pursuant to this Act;

(h) provide adoption services and place children for adoption pursuant to this Act;

(i) provide services that respect and preserve the cultural, racial and linguistic heritage of children and their families;

(j) take reasonable measures to make known in the community the services the agency provides; and

(k) perform any other duties given to the agency by this Act or the regulations. 1990, c. 5, s. 9.

Inspection of agency

10 The Minister or a person authorized by the Minister may enter, inspect and evaluate an agency and examine the records, books and accounts of the agency. 1990, c. 5, s. 10.

Suspension of agency board

11 (1) On the recommendation of the Minister, the Governor in Council may, by order, declare that on or after a day specified in the order the pow-

ers of the agency's board of directors are revoked or suspended, for the reasons specified in the order.

(2) Where an order has been made pursuant to subsection (1), the functions of the agency may be assumed by the Minister from the date specified in the order and the Minister may provide for the operation and management of the agency and has all the powers of the agency's board of directors. 1990, c. 5, s. 11.

Representatives

12 The Minister or an agency with the approval of the Minister may appoint representatives in accordance with the regulations to exercise the powers, duties and functions of representatives pursuant to this Act and may prescribe the territorial jurisdiction of the representatives to be the whole of the Province or a part thereof. 1990, c. 5, s. 12; 2015, c. 37, s. 74.

Social worker's investigation powers

12A (1) When conducting an investigation in respect of a child, a social worker employed by an agency may

(a) attend at the residence of the child and any other place frequented by the child;

(b) interview and examine the child;

(c) interview any parent or guardian of the child;

(d) interview any person who cares for or has an opportunity to observe the child;

(e) interview any person who provides health, social, educational or other services to the child or to any parent or guardian of the child;

(f) interview other persons about past parenting; and

(g) interview other persons and gather any evidence that the social worker considers necessary or advisable to complete the investigation.

(2) A social worker employed by an agency may exercise any of the powers enumerated in subsection (1) regardless of whether the social worker has the consent of a parent or guardian of the child. 2015, c. 37, s. 4.

Services to promote integrity of family

13 (1) Where it appears to the Minister or an agency that services are necessary to promote the principle of using the least intrusive means of intervention and, in particular, to enable a child to remain with the child's parent or guardian or be returned to or placed in the care of a parent or guardian of the child, the Minister and the agency shall take reasonable measures to provide services to families and children that promote the integrity of the family.

(2) Services to promote the integrity of the family include, but are not limited to, services provided by the agency or provided by others with the assistance of the agency for the following purposes:

(a) improving the family's financial situation;

(b) improving the family's housing situation;

(c) improving parenting skills;

(d) improving child-care and child-rearing capabilities;

(e) improving homemaking skills;

(f) counselling and assessment;

(g) drug or alcohol treatment and rehabilitation;

(h) child care;

(i) mediation of disputes;

(j) self-help and empowerment of parents whose children have been, are or may be in need of protective services;

(k) such matters prescribed by the regulations. 1990, c. 5, s. 13; 2015, c. 37, s. 5.

Duty to provide services to child

14 (1) The Minister shall provide to a child under sixteen years of age appropriate child-care services or placement in a child-caring facility if it appears to the Minister that

(a) there is no parent or guardian willing to assume responsibility for the child; or

(b) the child is a child in care who requires child-care services or placement in a child-caring facility.

(2) The Minister shall, where the conditions in subsections (1) and (2) of Section 19A are met, provide to a child sixteen years of age or more but under nineteen years of age appropriate child-care services or placement in a child-caring facility if it appears to the Minister that

(a) there is no parent or guardian willing to assume responsibility for the child; or

(b) the child is a child in care who requires child-care services or placement in a child-caring facility. 2015, c. 37, s. 6.

Approval of facilities and services

15 (1) The Minister may approve or license child-caring facilities and child-care services for the purpose of this Act, and a foster home approved by an agency is deemed to have been approved by the Minister.

(2) No person shall conduct, maintain, operate or manage a child-caring facility or a child-care service that is not approved or licensed by the Minister.

(3) An approval or licence given or issued pursuant to this Act to any person or agency to conduct, maintain, operate or manage a child-caring facility or a child-care service may be suspended or cancelled by the Minister.

(3A) Where the Minister determines that it would otherwise be necessary to suspend or cancel an approval or licence given or issued pursuant to this Act to a person or agency to conduct, maintain, operate or manage a child-caring facility, the Minister may, with the consent of the person or agency, appoint an interim manager to conduct, maintain, operate and manage the child-caring facility until such time as the Minister determines that the circumstance that would otherwise have necessitated the suspension or cancellation have been ameliorated.

(4) A child-caring facility or child-care service is subject to the supervision of the Minister and the Minister or a person authorized by the Minister may enter, inspect and evaluate a child-caring facility or child-care service and examine the records, books and accounts thereof.

(5) A person who contravenes subsection (2) and a director, officer or employee of a corporation who authorizes, permits or concurs in such contravention by the corporation is guilty of an offence and upon summary conviction is liable to a fine of not more than five thousand dollars or to imprisonment for one year or to both. 1990, c. 5, s. 15; 2015, c. 37, s. 7.

Ministerial operation of facilities

16 **(1)** The Minister may maintain and conduct

(a) residential child-caring facilities;

(b) to (d) *repealed 2015, c. 37, s. 8.*

(e) residential treatment centres;

(f) secure treatment facilities;

(g) such child-caring facilities and child-care services as the Minister approves for the purpose of this Act.

(2) The Governor in Council may appoint an advisory board for a facility, centre or service referred to in subsection (1), to assist and advise in the administration and operation of the facility, centre or service and to perform such functions and exercise such powers as are prescribed by the regulations.

(3) The Governor in Council may designate a member of a board to chair the meetings of the board and may prescribe the terms of office of the members of the board.

(4) The members of a board shall be reimbursed for necessary and reasonable expenses incurred by them in carrying out their duties and may be paid such allowances as the Governor in Council prescribes. 1990, c. 5, s. 16; 2015, c. 37, s. 8.

Temporary-care agreement

17 (1) A parent or guardian who is temporarily unable to care adequately for a child in that person's custody and an agency may enter into a written agreement for the agency's temporary care and custody of the child.

(2) An agency shall not enter into a temporary-care agreement unless the agency

(a) has determined that an appropriate placement that is likely to benefit the child is available; and

(b) is satisfied that no less restrictive course of action, such as care in the child's own home, is appropriate for the child in the circumstances.

(3) No temporary-care agreement shall be made for a period exceeding six months, but the parties to a temporary-care agreement may extend it for further periods if the total term of the temporary-care agreement, including its extensions, does not exceed an aggregate of twelve months.

(4) A temporary-care agreement may empower the agency to consent to medical treatment for the child where a parent's consent would otherwise be necessary.

(5) A temporary-care agreement shall be in the form prescribed by the regulations. 1990, c. 5, s. 17.

Special-needs agreement

18 (1) A parent or guardian who is unable to provide the services required by a child in the parent or guardian's custody because the child has special needs, as prescribed by the regulations, may enter into a written agreement with an agency or the Minister for the care and custody of the child or provision of services to meet the child's special needs.

(2) A special-needs agreement made pursuant to this Section shall be made for a period not exceeding one year, but may be extended for further periods each not exceeding one year, with the approval of the Minister.

(3) A special-needs agreement made pursuant to this Section may empower the agency or the Minister to consent to medical treatment for the child where a parent or guardian's consent would otherwise be required.

(4) A special-needs agreement made pursuant to this Section shall be in the form prescribed by the regulations. 1990, c. 5, s. 18.

Services agreement with child 16 to 18

19 (1) A child who is sixteen years of age or more but under nineteen years of age and in need of protective services may enter into a written agreement with an agency or the Minister for the provision of services if the services are likely to ameliorate the circumstances of the child such that the child is no longer in need of protective services.

(2) A services agreement made pursuant to this Section shall be made for a period not exceeding one year, but may be extended for further periods each not exceeding one year, with the approval of the Minister.

(3) A services agreement made pursuant to this Section shall be in the form prescribed by the regulations. 1990, c. 5, s. 19; 2015, c. 37, s. 9.

Placement agreement

19A (1) A child who is sixteen years of age or more but under nineteen years of age and in need of protective services may enter into a written agreement with an agency or the Minister for a placement or assistance in obtaining a placement if the child

(a) does not reside with a parent or guardian; or

(b) is or may be in need of protective services in respect of a parent or guardian with whom the child resides.

(2) An agency may not enter into a placement agreement pursuant to this Section unless the agency determines that

(a) an appropriate placement that is likely to benefit the child is available; and

(b) a placement is not otherwise available to the child from any source.

(3) A placement agreement made pursuant to this Section shall be made for a period not exceeding one year, but may be extended for further periods each not exceeding one year, with the approval of the Minister.

(4) A placement agreement made pursuant to this Section shall be in the form prescribed by the regulations. 2015, c. 37, s. 10.

Placement considerations

20 Where the Minister or an agency enters into an agreement pursuant to Section 17, 18 or 19, the Minister or the agency shall, where practicable, in order to ensure the child's best interests are served, take into account

(a) the maintenance of regular contact between the child and the parent or guardian;

(b) the desirability of keeping brothers and sisters in the same family unit;

(c) the child's need to maintain contact with the child's relatives and friends;

(d) the preservation of the child's cultural, racial and linguistic heritage; and

(e) the continuity of the child's education and religion. 1990, c. 5, s. 20.

Mediator

21 (1) An agency and a parent or guardian of a child may, at any time, agree to the appointment of a mediator to attempt to resolve matters relating to the child who is or may become a child in need of protective services.

(2) Where a mediator is appointed pursuant to subsection (1) after proceedings to determine whether the child is in need of protective services have been commenced, the court, on the application of the parties, may grant an order for mediation for a period not exceeding three months.

(3) Where an order for mediation is granted pursuant to subsection (2), the court may extend any time limit applicable under subsection (1) of Section 41 or subsection (1) or (2) of Section 45 by a period equal to the period of the mediation.

(4) The court may grant an order for mediation only once in respect of any proceeding. 1990, c. 5, s. 21; 2015, c. 37, s. 11.

Child is in need of protective services

22 (1) In this Section**,** "substantial risk" means a real chance of danger that is apparent on the evidence.

(2) A child is in need of protective services where

(a) the child has suffered physical harm, inflicted by a parent or guardian of the child or caused by the failure of a parent or guardian to supervise and protect the child adequately;

(b) there is a substantial risk that the child will suffer physical harm inflicted or caused as described in clause (a);

(c) the child has been sexually abused by a parent or guardian of the child, or by another person where a parent or guardian of the child knows or should know of the possibility of sexual abuse and fails to protect the child;

(d) there is a substantial risk that the child will be sexually abused as described in clause (c);

(e) a child requires medical treatment to cure, prevent or alleviate physical harm or suffering, and the child's parent or guard-

ian does not provide, refuses or is unavailable or is unable to consent to, the treatment;

(f) the child has suffered emotional abuse, inflicted by a parent or guardian of the child or caused by the failure of a parent or guardian to supervise and protect the child adequately;

(g) there is substantial risk that the child will suffer emotional abuse and the parent or guardian does not provide, refuses or is unavailable or unable to consent to, or fails to co-operate with the provision of, services or treatment to remedy or alleviate the abuse;

(h) the child suffers from a mental, emotional or developmental condition that, if not remedied, could seriously impair the child's development and the child's parent or guardian does not provide, refuses or is unavailable or unable to consent to, or fails to co-operate with the provision of, services or treatment to remedy or alleviate the condition;

(i) the child has been exposed to, or has been made aware of, violence by or towards

(i) a parent or guardian, or

(ii) another person residing with the child,

and the parent or guardian fails or refuses to obtain services or treatment, or to take other measures, to remedy or alleviate the violence;

(j) the child is experiencing neglect by a parent or guardian of the child;

(k) there is a substantial risk that the child will experience neglect by a parent or guardian of the child, and the parent or guardian does not provide, refuses or is unavailable or unable to consent to, or fails to co-operate with the provision of, services or treatment to remedy or alleviate the harm;

(ka) the child's only parent or guardian has died or is unavailable to exercise custodial rights over the child and has not made adequate provision for the child's care and custody;

(kb) the child is in the care of an agency or another person and the parent or guardian of the child refuses or is unable or unwilling to resume the child's care and custody;

(l) the child is under twelve years of age and has killed or seriously injured another person or caused serious damage to another person's property, and services or treatment are necessary to prevent a recurrence and a parent or guardian of the child does not provide, refuses or is unavailable or unable to consent to, or fails to co-operate with the provision of, the necessary services or treatment;

(m) the child is under twelve years of age and has on more than one occasion injured another person or caused loss or damage to

another person's property, with the encouragement of a parent or guardian of the child or because of the parent or guardian's failure or inability to supervise the child adequately. 1990, c. 5, s. 22; 1996, c. 10, s. 1; 2015, c. 37, s. 12.

Duty to report

23 (1) Every person who has information, whether or not it is confidential or privileged, indicating that a child is in need of protective services shall forthwith report that information to an agency.

(2) No action lies against a person by reason of that person reporting information pursuant to subsection (1), unless the reporting of that information is done falsely and maliciously.

(3) Every person who contravenes subsection (1) is guilty of an offence and upon summary conviction is liable to a fine of not more than two thousand dollars or to imprisonment for a period not exceeding six months or to both.

(4) No proceedings shall be instituted pursuant to subsection (3) more than two years after the contravention occurred.

(5) Every person who falsely and maliciously reports information to an agency indicating that a child is in need of protective services is guilty of an offence and upon summary conviction is liable to a fine of not more than two thousand dollars or to imprisonment for a period not exceeding six months or to both. 1990, c. 5, s. 23; 1996, c. 10, s. 2.

Duty of professionals and officials to report

24 (1) In this Section, "suffer abuse", when used in reference to a child, means be in need of protective services within the meaning of clause (a), (c), (e), (f), (h), (i) or (j) of subsection (2) of Section 22.

(2) Notwithstanding any other Act, every person who performs professional or official duties with respect to a child, including

(a) a health care professional, including a physician, nurse, dentist, pharmacist or psychologist;

(b) a teacher, school principal, social worker, family counsellor, member of the clergy, operator or employee of a child-care facility;

(c) a peace officer or a medical examiner;

(d) an operator or employee of a child-caring facility or child-care service;

(e) a youth or recreation worker,

who, in the course of that person's professional or official duties, has reasonable grounds to suspect that a child

(f) has or may have suffered abuse;

(g) is or may be suffering abuse; or

(h) is or may be about to suffer abuse in the imminent future,

shall forthwith report the suspicion and the information upon which it is based to an agency.

(3) This Section applies whether or not the information reported is confidential or privileged.

(4) Nothing in this Section affects the obligation of a person referred to in subsection (2) to report information pursuant to Section 23.

(5) No action lies against a person by reason of that person reporting information pursuant to subsection (2), unless the reporting is done falsely and maliciously.

(6) Every person who contravenes subsection (2) is guilty of an offence and upon summary conviction is liable to a fine of not more than five thousand dollars or to imprisonment for a period not exceeding one year or to both.

(7) No proceedings shall be instituted pursuant to subsection (6) more than two years after the contravention occurred.

(8) Every person who falsely and maliciously reports information to an agency indicating that a child is or may be suffering or may have suffered abuse is guilty of an offence and upon summary conviction is liable to a fine of not more than two thousand dollars or to imprisonment for a period not exceeding six months or to both. 1990, c. 5, s. 24; 1996, c. 10, s. 3; 2015, c. 37, s. 13; 2018, c. 33, s. 17.

Duty to report location of child

24A (1) Every person who receives notice from an agency that there are reasonable and probable grounds to believe that a child is in need of protective services shall, upon obtaining information that would allow the child to be located, forthwith report the information to the agency.

(2) This Section applies whether or not the information obtained is confidential or privileged.

(3) No action lies against a person by reason of that person reporting information pursuant to subsection (1), unless the reporting of that information is done falsely and maliciously.

(4) Every person who contravenes subsection (1) is guilty of an offence and upon summary conviction is liable to a fine of not more than two thousand dollars or to imprisonment for a period not exceeding six months or to both.

(5) No proceedings may be instituted pursuant to subsection (4) more than two years after the contravention occurred.

(6) Every person who falsely and maliciously reports information to an agency pursuant to subsection (1) is guilty of an offence and upon summary conviction is liable to a fine of not more than two thousand dollars or to imprisonment for a period not exceeding six months or to both. 2015, c. 37, s. 14.

Duty to report third-party abuse

25 (1) In this Section, a child is abused by a person other than a parent or guardian if the child

(a) suffers physical harm, inflicted by a person other than a parent or guardian of the child or caused by the failure of a person other than a parent or guardian of the child to supervise and protect the child adequately;

(b) is sexually abused by a person other than a parent or guardian of the child or by another individual where the person, not being a parent or guardian of the child, with the care of the child knows or should know of the possibility of sexual abuse and fails to protect the child; or

(c) suffers emotional abuse, caused by the intentional conduct of a person other than a parent or guardian of the child.

(2) Every person who has information, whether or not it is confidential or privileged, indicating that a child under the age of sixteen

(a) has or may have suffered abuse;

(b) is or may be suffering abuse; or

(c) is or may be about to suffer abuse in the imminent future,

by a person other than a parent or guardian shall forthwith report the information to an agency.

(3) Every person who contravenes subsection (2) is guilty of an offence and upon summary conviction is liable to a fine of not more than two thousand dollars or to imprisonment for a period not exceeding six months or to both.

(4) No proceedings shall be instituted pursuant to subsection (3) more than two years after the contravention occurred.

(5) No action lies against a person by reason of that person reporting information pursuant to subsection (2) unless the reporting of that information is done falsely and maliciously.

(6) Every person who falsely and maliciously reports information to an agency indicating that a child is or may be suffering or may have suffered

abuse by a person other than a parent or guardian is guilty of an offence and upon summary conviction is liable to a fine or not more than two thousand dollars or to imprisonment for a period not exceeding six months or to both. 1990, c. 5, s. 25; 1996, c. 10, s. 4; 2015, c. 37, s. 15.

Confidential information

25A The duty to report pursuant to Sections 23 to 25 applies even if the information on which the person's belief is based is confidential and its disclosure is restricted by legislation or otherwise, but it does not apply to information that is privileged because of a solicitor-client relationship. 2015, c. 37, s. 16.

Order to produce documents for inspection or for access or entry

26 (1) Upon the *ex parte* application of an agency, where the court is satisfied that

(a) there are reasonable and probable grounds to believe that a person or organization has possession, custody or control of records or documents containing information necessary for the agency to determine whether a child is in need of protective services; and

(b) that person or organization has refused or is unwilling to permit the production and inspection of those records or documents,

the court may grant an order directing that person or organization to produce the records or documents for inspection by a representative.

(2) Where a representative has been refused access to a child or entry to premises where a child resides or is located, the agency may apply *ex parte* to the court and, where the court is satisfied that there are reasonable and probable grounds to believe that the child may be in need of protective services and that it is necessary to

(a) enter specified premises;

(b) conduct a physical examination of the child;

(c) interview the child;

(d) search specified premises and take possession of anything that there are reasonable and probable grounds to believe will afford evidence that a child is in need of protective services;

(e) remove the child and attend with the child for a medical examination of, or interview, the child on such reasonable terms and conditions as the court may order, including the presence of a parent or guardian or, in their absence, some other suitable adult person,

to determine whether the child is in need of protective services, the court may grant an order authorizing a representative named therein to do anything referred to in clauses (a) to (e) as the court considers necessary to so determine.

(3) ~~An agent~~ [A representative] acting pursuant to subsection (2) may enlist the assistance of a peace officer.

(4) A hearing in respect of an application made pursuant to this Section shall be held *in camera* except that the court may permit any person to be present if the court considers it appropriate. 1990, c. 5, s. 26; 2015, c. 37, s. 74.

Detention of child by peace officer

27 (1) Where a peace officer has reasonable and probable grounds to believe that a child who is under the age of sixteen years or who is a child in care is in need of protective services, the peace officer may detain the child and shall forthwith take such reasonable steps as are necessary to

(a) notify an agency and the child's parent or guardian of the detention; and

(b) at the direction of the representative,

(i) deliver the child to the representative,

(ii) return the child to the child's parent or guardian, or

(iii) deliver the child to the child's placement.

(2) Where a peace officer has reasonable and probable grounds to believe that a child has committed an offence for which the child cannot be convicted because the child was under twelve years of age, the peace officer may detain the child and shall forthwith take such reasonable steps as are necessary to

(a) notify an agency and the child's parent or guardian of the detention; and

(b) at the direction of the representative,

(i) deliver the child to the representative,

(ii) return the child to the child's parent or guardian, or

(iii) deliver the child to the child's placement.

(3) Where a child is delivered to a representative pursuant to subsection (1) or (2), the representative shall immediately return the child to the child's parent or guardian or, as permitted by and in accordance with Section 33, take the child into care. 1990, c. 5, s. 27; 2015, c. 37, ss. 17, 74.

Abandoned child

28 (1) Subject to subsection (1A), where it appears to a representative that a child has been abandoned, a child's only parent or guardian has died, or no parent or guardian of the child is available to exercise custodial rights over the child or has made adequate provision for the child's care, the agency may assume

the temporary care and custody of the child, for a period not to exceed seventy-two hours, during which time the agency shall make all reasonable efforts to locate or contact a parent or guardian or, in the absence of a parent or guardian, a relative of the child who is willing and able to provide for the child's care.

(1A) Where the agency is unable to locate or contact a parent or guardian, the agency may place the child with

(a) a relative of the child; or

(b) a person who has an established relationship with the child,

who is willing and able to provide for the child's care.

(2) Where a parent or guardian is located or contacted, the agency shall immediately

(a) return the child to the parent or guardian;

(b) at the request of the parent or guardian, place the child with another person with the consent of that other person; or

(c) take the child into care as permitted by and in accordance with Section 33.

(2A) The agency shall commence an application in accordance with Section 32 if

(a) the child has been placed with a relative of the child or a person who has an established relationship with the child pursuant to subsection (1A); and

(b) within thirty days of placing the child,

(i) the agency is unable to locate or contact a parent or guardian of the child, and

(ii) the relative of the child or the person who has an established relationship with the child does not commence an application for care and custody of the child.

(3) Where the agency is unable within seventy-two hours to locate or contact a parent or guardian or, in the absence of a parent or guardian, a relative of the child who is willing and able to provide for the child's care, the representative shall take the child into care as permitted by and in accordance with Section 33. 1990, c. 5, s. 28; 2015, c. 37, ss. 18, 74.

Run-away child

29 (1) Upon the *ex parte* application of a parent or guardian, or an agency having the care and custody of a child, where the court is satisfied that

(a) the child has withdrawn from the care and control of the parent or guardian or the agency, as the case may be, without the consent of the parent or guardian or the agency, respectively; and

(b) the parent or guardian or the agency, as the case may be, has reasonable and probable grounds to believe that the child's health or safety may be at risk,

the court may issue an order authorizing a peace officer to locate and detain the child and, upon detaining the child, the peace officer shall, as soon as is practicable,

(c) return the child to the parent or guardian or the agency named in the order;

(d) deliver the child to a representative; or

(e) deliver the child to a child-caring facility as directed by a representative.

(2) Where a child is delivered to a representative pursuant to subsection (1), the representative shall immediately either return the child to the child's parent or guardian or, as permitted by and in accordance with Section 33, take the child into care.

(3) A hearing in respect of an application made pursuant to this Section shall be held *in camera* except that the court may permit any person to be present if the court considers it appropriate.

(4) This Section does not apply to a child sixteen years of age or more unless the child is a child in care. 1990, c. 5, s. 29; 2015, c. 37, ss. 19, 74.

Protective-intervention order

30 (1) Upon the application of an agency, a judge of the Supreme Court may make a protective-intervention order pursuant to this Section directed to any person where the judge is satisfied that the person's contact with a child is causing, or is likely to cause, the child to be a child in need of protective services.

(2) The judge may make a protective-intervention order in the child's best interests, ordering that the person named in the order

(a) cease to reside with the child;

(b) not contact the child or associate in any way with the child,

and imposing such terms and conditions as the judge considers appropriate for implementing the order and protecting the child.

(3) A protective-intervention order made pursuant to this Section is in force for such period, not exceeding six months, as the order specifies.

(4) Upon the application of the agency or the person named in the protective-intervention order, a judge of the Supreme Court may from time to time vary or terminate the order or extend the order for a further period, each not exceeding six months.

(5) Where an order is made pursuant to this Section, the agency may enlist the assistance of a peace officer to enforce the order.

(6) Any person who contravenes a protective-intervention order is guilty of an offence and upon summary conviction is liable to a fine of not more than five thousand dollars or to imprisonment for a period not exceeding one year or to both.

(7) Section 94 applies *mutatis mutandis* to a hearing pursuant to this Section. 1990, c. 5, s. 30; 2015, c. 37, s. 20.

Interpretation

31 In Sections 32 to 49,

(a) "proceeding" means a proceeding pursuant to those Sections;

(b) "third party" means a person added to a proceeding pursuant to clause (f) of subsection (1) of Section 36. 2015, c. 37, s. 21.

Court application by agency

32 An agency may make application to the court to determine whether a child under sixteen years of age is in need of protective services or, where a representative has taken a child into care pursuant to Section 33 without an application having been made pursuant to this Section, the agency shall make such application. 1990, c. 5, s. 32; 2015, c. 37, ss. 22, 74.

Taking into care

33 **(1)** ~~An agent~~ [A representative] may,

(a) at any time before or after an application to determine whether a child is in need of protective services has been commenced, if the child is under sixteen years of age; or

(b) at any time after an application to determine whether a child is in need of protective services has been commenced, if the child is sixteen years of age or more but under nineteen years of age,

without warrant or court order take a child into care where the representative has reasonable and probable grounds to believe that the child is in need of protective services and the child's health or safety cannot be protected adequately otherwise than by taking the child into care.

(2) On taking a child into care, a representative shall forthwith serve a notice of taking a child into care upon the parent or guardian if known and available to be served.

(3) ~~An agent~~ [A representative] taking a child into care may enlist the assistance of a peace officer.

(4) Where a child has been taken into care pursuant to this Section, an agency has the temporary care and custody of the child until a court orders otherwise or the child is returned to the parent or guardian. 1990, c. 5, s. 33; 2015, c. 37, ss. 23, 74.

Entry and search

34 (1) Where a parent or guardian or other person has refused to give up the child or to permit entry to premises where the child may be located and the court is satisfied on the basis of ~~an agent's~~ [a representative's] sworn information that there are reasonable and probable grounds to believe that

(a) the child is in need of protective services; and

(b) the child's health or safety cannot be protected adequately otherwise than by taking the child into care,

the court may issue an order *ex parte* authorizing a representative named therein to enter, by force if necessary, any premises specified in the order and to search for the child for the purpose of taking the child into care as permitted by and in accordance with Section 33.

(2) Where it is not practicable, an order made pursuant to subsection (1) need not describe the child by name or specify any particular premises.

(3) Where a representative has reasonable and probable grounds to believe a child is in need of protective services and the health or safety of a child is in immediate jeopardy, the representative may, without warrant or court order, enter, by force if necessary, any premises and search for the child for the purpose of taking the child into care as permitted by and in accordance with Section 33.

(4) ~~An agent~~ [A representative] acting pursuant to this Section may enlist the assistance of a peace officer.

(5) A hearing pursuant to this Section shall be held *in camera* except that the court may permit any person to be present if the court considers it appropriate. 1990, c. 5, s. 34; 2015, c. 37, ss. 24, 74.

Return of child

35 ~~An agent~~ [A representative] may, at any time prior to the first hearing of an application to determine whether a child is a child in need of protective services, return the child taken into care to the parent or guardian, where such return would be consistent with the purpose of this Act and not contrary to any outstanding court order or written agreement, and, where the child is returned, the agency may withdraw its application. 1990, c. 5, s. 35; 2015, c. 37, s. 25.

Parties to proceeding

36 **(1)** The parties to a proceeding pursuant to Sections 32 to 49 are

(a) the agency;

(b) the child's parent or guardian;

(c) the child, where the child is sixteen years of age or more, unless the court otherwise orders pursuant to subsection (1) of Section 37;

(d) the child, where the child is twelve years of age or more, if so ordered by the court pursuant to subsection (2) of Section 37;

(e) the child, if so ordered by the court pursuant to subsection (3) of Section 37; and

(f) a third party added as a party at any stage in the proceeding pursuant to the *Civil Procedure Rules* or *Family Court Rules*, as the case may be.

(2) At any stage of a proceeding, where an agency other than the Minister is a party, the court shall add the Minister as a party upon application by the Minister.

(3) Where the child who is the subject of a proceeding is or is entitled to be a Mi'kmaq child, the Mi'kmaw Family and Children's Services of Nova Scotia shall receive notice in the same manner as a party to the proceedings and may, with its consent, be substituted for the agency that commenced the proceeding.

(4) On a hearing to review a disposition order pursuant to Section 46 or on an application to terminate, or vary access under, an order for permanent care and custody pursuant to Section 48, a foster parent of the child

(a) is entitled to the same notice of the proceeding as a party;

(b) may be present at the hearing;

(c) may be represented by counsel; and

(d) may make submissions to the court,

but shall take no further part in the hearing without leave of the court.

(4A) Where the child who is the subject of a proceeding is or is entitled to be a Mi'kmaq child,

(a) at an interim hearing;

(b) at a disposition hearing;

(c) on a hearing to review a disposition order pursuant to Section 46; or

(d) on an application to terminate, or vary access under, an order for permanent care and custody pursuant to Section 48,

the child's band, if known,

(e) is entitled to the same notice of the proceeding as a party, which notice may be served upon any member of the band council;

(f) may have a designate present at the hearing;

(g) may be represented by counsel; and

(h) may make submissions to the court,

but shall take no further part in the hearing without leave of the court. 1990, c. 5, s. 36; 1996, c. 10, s. 5; 2015, c. 37, s. 25.

Parties requiring notice of proceeding

36A (1) Where the child who is the subject of the proceeding is under one year of age when the proceeding is commenced, and the mother or father of the child is not the child's parent or guardian, notice of the proceeding shall be served upon the mother or father, as the case may be, not later than forty-five days after the proceeding is commenced.

(2) Where the identity or whereabouts of the mother or father is unknown to the agency, the court shall inquire of each party to the proceeding to attempt to ascertain the identity or whereabouts of the mother or father, as the case may be.

(3) Where more than one person is identified as a possible father, each such person shall be served with notice pursuant to subsection (1). 2015, c. 37, s. 26.

Child as party and appointment of guardian

37 (1) A child who is sixteen years of age or more is a party to a proceeding unless the court otherwise orders and, if a party, is, upon the request of the child, entitled to counsel for the purposes of a proceeding.

(2) A child who is twelve years of age or more shall receive notice of a proceeding and, upon request by the child at any stage of the proceeding, the court may order that the child be made a party to the proceeding, where the court determines that such status is desirable to protect the child's interests.

(2A) Where the court orders that a child under sixteen years of age be made a party to a proceeding, the court shall appoint a guardian *ad litem* for the child.

(3) Upon the application of a party or on its own motion, the court may, at any stage of a proceeding, order that a guardian *ad litem* be appointed for a child who is the subject of the proceeding and, where the child is not a party to the

proceeding, that the child be made a party to the proceeding, if the court determines that such a guardian is desirable to protect the child's interests and, where the child is sixteen years of age or more, that the child is not capable of instructing counsel.

(4) Where a child is represented by counsel or a guardian *ad litem* pursuant to this Section, the Minister shall in accordance with the regulations, pay the reasonable fees and disbursements of the counsel or guardian as the case may be, including the reasonable fees and disbursements of counsel for the guardian. 1990, c. 5, s. 37; 2015, c. 37, s. 27.

Disclosure or discovery

38 (1) Subject to any claims of privilege, an agency shall make full, adequate and timely disclosure, to a parent or guardian and to any other party, of the allegations, intended evidence and orders sought in a proceeding.

(2) Upon the application by a party, the court may order disclosure or discovery by any other party in accordance with the *Family Court Rules* and the *Civil Procedure Rules*. 1990, c. 5, s. 38.

Interim hearing

39 (1) As soon as practicable, but in any event no later than five working days after an application is made to determine whether a child is in need of protective services or a child has been taken into care, whichever is earlier, the agency shall bring the matter before the court for an interim hearing, on two days' notice to the parties, but the notice may be waived by the parties or by the court.

(2) Where at an interim hearing pursuant to subsection (1) the court finds that there are no reasonable and probable grounds to believe that the child is in need of protective services, the court shall dismiss the application and the child, if in the care and custody of the agency, shall be returned forthwith to the parent or guardian.

(3) Where the parties cannot agree upon, or the court is unable to complete an interim hearing respecting, interim orders pursuant to subsection (4), the court may adjourn the interim hearing and make such interim orders pursuant to subsection (4) as may be necessary pending completion of the hearing and subsection (7) does not apply to the making of an interim order pursuant to this subsection, but the court shall not adjourn the matter until it has determined whether there are reasonable and probable grounds to believe that the child is in need of protective services.

(4) Within thirty days after the child has been taken into care or an application is made, whichever is earlier, the court shall complete the interim hearing and make one or more of the following interim orders:

(a) *repealed 2015, c. 37, s. 28.*

(b) the child shall remain in, be returned to or be placed in the care and custody of a parent or guardian or third party, subject to

the supervision of the agency and on such reasonable terms and conditions as the court considers appropriate, including the future taking into care of the child by the agency in the event of non-compliance by the parent or guardian with any specific terms or conditions;

(c) a parent or guardian or other person shall not reside with or contact or associate in any way with the child;

(d) the child shall be placed in the care and custody of a person other than a parent or guardian or third party, with the consent of that other person, subject to the supervision of the agency and on such reasonable terms and conditions as the court considers appropriate;

(da) where the child is or is entitled to be an aboriginal child, the child shall be placed in the customary care and custody of a person, with the consent of that person, subject to the supervision of the agency and on such reasonable terms and conditions as the court considers appropriate;

(e) the child shall remain or be placed in the care and custody of the agency;

(f) a parent or guardian or third party shall have access to the child on such reasonable terms and conditions as the court considers appropriate and, where an order is made pursuant to clause (d) or (e), access shall be granted to a parent or guardian unless the court is satisfied that continued contact with the parent or guardian would not be in the child's best interests;

(g) referral of the child or a parent or guardian or third party for assessment, treatment or services;

(h) referral of the child or a parent or guardian or third party for a family group conference.

(4A) Where the court makes an order pursuant to clause (b) or (d) of subsection (4), any representative of the supervising agency has the right to enter the residence of the child to provide guidance and assistance and to ascertain whether the child is being properly cared for.

(5) Where, subsequent to an interim order being made pursuant to subsection (4), the agency takes a child into care pursuant to Section 33 or clause (b) of subsection (4), the agency shall, as soon as practicable but in any event within five working days after the child is taken into care, bring the matter before the court and the court may pursuant to subsection (9) vary the interim order.

(6) In subsection (7), "substantial risk" means a real chance of danger that is apparent on the evidence.

(7) The court shall not make an order pursuant to clause (d) or (e) of subsection (4) unless the court is satisfied that there are reasonable and probable

grounds to believe that there is a substantial risk to the child's health or safety and that the child cannot be protected adequately by an order pursuant to clause (a), (b) or (c).

(8) Where the agency places a child who is the subject of an order pursuant to clause (e) of subsection (4), the agency shall, where practicable, in order to ensure the best interests of the child are served, take into account

(a) the desirability of keeping brothers and sisters in the same family unit;

(b) the need to maintain contact with the child's relatives and friends;

(c) the preservation of the child's cultural, racial and linguistic heritage; and

(d) the continuity of the child's education and religion.

(9) The court may, at any time prior to the making of a disposition order pursuant to Section 42, vary or terminate an order made pursuant to subsection (4).

(10) Sections 32 to 49 apply notwithstanding that the child becomes sixteen years of age after the child is taken into care or after the making of the application to determine whether the child is in need of protective services.

(11) For the purpose of this Section, the court may admit and act on evidence that the court considers credible and trustworthy in the circumstances. 1990, c. 5, s. 39; 2015, c. 37, s. 28.

Protection hearing

40 (1) Where an application is made to the court to determine whether a child is in need of protective services, the court shall, not later than ninety days after the date of the application

(a) hold a protection hearing and determine whether the child is in need of protective services; or

(b) refer the parties to conferencing, which may proceed as a family group conference, if

(i) the child is the subject of a supervision order pursuant to clause (b) of subsection (4) of Section 39, and

(ii) the court determines it to be in the child's best interests.

(2) In a hearing pursuant to this Section, the court shall not admit evidence relating only to the making of a disposition order pursuant to Section 42 unless all parties consent to the admission of such evidence or consent to the consolidation of the protection and disposition hearings.

(3) A parent or guardian or third party may admit that the child is in need of protective services as alleged by the agency.

~~**3A**~~ **[(3A)]** Where every party present at the protection hearing admits that the child is in need of protective services as alleged by the agency, the court may determine that the child is in need of protective services on the basis of those admissions.

(4) The court shall determine whether the child is in need of protective services as of the date of the protection hearing and shall, at the conclusion of the protection hearing, state, either in writing or orally on the record, the court's findings of fact and the evidence upon which those findings are based.

(5) Where the court finds that the child is not in need of protective services, the court shall dismiss the application. 1990, c. 5, s. 40; 2015, c. 37, s. 29.

Purpose of conferencing

40A The purpose of conferencing is to facilitate the timely resolution of the issues that resulted in the proceeding being commenced in a manner that is consensual and that serves the child's best interests. 2015, c. 37, s. 30.

Initial conference

40B (1) Where the court refers the parties to conferencing, the initial conference must be held within thirty days of the referral.

(2) At the initial conference,

(a) the agency shall provide to the other parties a proposal for a service plan; and

(b) the parties shall attempt to negotiate a service plan for implementation. 2015, c. 37, s. 30.

Subsequent conferences

40C (1) After the initial conference is held, each subsequent conference must be held within sixty days of the preceding conference.

(2) The service plan must be reviewed and, where necessary, revised at each conference after the initial conference. 2015, c. 37, s. 30.

Disclosure, discovery procedures

40D For greater certainty, during conferencing, a party may apply for, and the court may order, disclosure or discovery in accordance with the *Civil Procedure Rules* or the *Family Court Rules*, as the case may be. 2015, c. 37, s. 30.

Application to terminate conferencing

40E (1) Where a conference is not held

(a) within sixty days of the preceding conference; or

(b) within thirty days of the court ordering that the parties resume conferencing pursuant to clause (a) of subsection (2),

the agency shall apply within five working days to have the court consider whether to terminate conferencing.

(2) Where an application is made pursuant to subsection (1), the court may

(a) order that the parties resume conferencing if the court determines it to be in the child's best interests; or

(b) terminate conferencing. 2015, c. 37, s. 30.

Termination of conferencing

40F (1) A party may at any time terminate conferencing by filing a notice of termination of conferencing with the court and providing written notice thereof to the other parties.

(2) Where conferencing is terminated pursuant to clause (b) of subsection (2) of Section 40E or subsection (1), the court shall

(a) within five working days, schedule a pre-hearing conference; and

(b) within sixty days,

(i) where the parties are referred to conferencing pursuant to clause (b) of subsection (1) of Section 40, hold a protection hearing and determine whether the child is in need of protective services pursuant to Section 40, or

(ii) where the parties are referred to conferencing pursuant to clause (b) of subsection (1) of Section 41, hold a disposition hearing and make a disposition order pursuant to Section 42. 2015, c. 37, s. 30.

Conclusion of conferencing and discontinuance of proceeding

40G (1) The agency may apply to conclude conferencing and discontinue the proceeding if all the parties consent to doing so.

(2) When making an application pursuant to subsection (1), the agency shall file with the court an agreed statement of facts.

(3) Where the court determines it to be in the child's best interests to do so, the court may order that conferencing be concluded and the proceeding be discontinued.

(4) The court may not make an order for costs when an order is made pursuant to subsection (3). 2015, c. 37, s. 30.

Twelve-month deadline

40H Within twelve months of the parties being referred to conferencing under clause (b) of subsection (1) of Section 40, the agency shall terminate conferencing under subsection (1) of Section 40F or apply to conclude conferencing and discontinue the proceeding under subsection (1) of Section 40G if conferencing has not otherwise been terminated. 2015, c. 37, s. 30.

Disposition hearing

41 (1) Where the court finds the child is in need of protective services, the court shall, not later than ninety days after so finding,

(a) hold a disposition hearing and make a disposition order pursuant to Section 42; or

(b) refer the parties to conferencing, which may proceed as a family group conference, if

(i) the child is the subject of an order pursuant to clause (b) of subsection (4) of Section 39, and

(ii) the court determines it to be in the child's best interests.

(2) The evidence taken on the protection hearing shall be considered by the court in making a disposition order.

(3) The court shall, before making a disposition order, obtain and consider a plan for the child's care, prepared in writing by the agency and including

(a) a description of the services to be provided to remedy the condition or situation on the basis of which the child was found in need of protective services;

(b) a statement of the criteria by which the agency will determine when its care and custody or supervision is no longer required;

(c) *repealed 2015, c. 37, s. 31.*

(d) where the agency proposes to remove the child from the care of a parent or guardian,

(i) an explanation of why the child cannot be adequately protected while in the care of the parent or guardian, and a description of any past efforts to do so, and

(ii) a statement of what efforts, if any, are planned to maintain the child's contact with the parent or guardian; and

(e) where the agency proposes to remove the child permanently from the care or custody of the parent or guardian, a description of the arrangements made or being made for the child's long-term stable placement.

(4) Where a parent or guardian consents to a disposition order being made pursuant to Section 42 that would remove the child from the parent or guardian's care and custody, the court shall

(a) ask whether the agency has offered the parent or guardian services that would enable the child to remain with the parent or guardian;

(b) ask whether the parent or guardian has consulted independent legal counsel in connection with the consent;

(c) satisfy itself that the parent or guardian understands and, where the child is twelve years of age or older, that the child understands the nature and consequences of the consent and consents to the order being sought and every consent is voluntary; and

(d) satisfy itself that, where the child is twelve years of age or more and less than sixteen years of age and has not been added as a party to the proceeding, the child has not expressed a desire to be a party to the proceeding.

(5) Where the court makes a disposition order, the court shall give

(a) a statement of the plan for the child's care that the court is applying in its decision; and

(b) the reasons for its decision, including

(i) a statement of the evidence on which the court bases its decision, and

(ii) where the disposition order has the effect of removing or keeping the child from the care or custody of the parent or guardian, a statement of the reasons why the child cannot be adequately protected while in the care or custody of the parent or guardian. 1990, c. 5, s. 41; 2015, c. 37, s. 31.

Disposition order

42 (1) At the conclusion of the disposition hearing, the court shall make one of the following orders, in the child's best interests:

(a) dismiss the matter;

(b) the child shall remain in, be returned to or be placed in the care and custody of a parent or guardian or third party, subject to the supervision of the agency, for a specified period, in accordance with Section 43;

(c) the child shall remain in or be placed in the care and custody of a person other than a parent or guardian or third party, with the consent of that other person, subject to the supervision of the agency, for a specified period, in accordance with Section 43;

(ca) where the child is or is entitled to be an aboriginal child, the child shall remain in or be placed in the customary care and custody of a person, with the consent of that person, subject to the supervision of the agency, for a specified period, in accordance with Section 43;

(d) the child shall be placed in the temporary care and custody of the agency for a specified period, in accordance with Sections 44 and 45;

(e) the child shall be placed in the temporary care and custody of the agency pursuant to clause (d) for a specified period and then be returned to a parent or guardian or other person pursuant to clauses (b) or (c) for a specified period, in accordance with Sections 43 to 45;

(f) the child shall be placed in the permanent care and custody of the agency, in accordance with Section 47.

(2) The court shall not make an order removing the child from the care of a parent or guardian unless the court is satisfied that less intrusive alternatives, including services to promote the integrity of the family pursuant to Section 13,

(a) have been attempted and have failed;

(b) have been refused by the parent or guardian; or

(c) would be inadequate to protect the child.

(3) Where the court determines that it is necessary to remove the child from the care of a parent or guardian, the court shall, before making an order for temporary or permanent care and custody pursuant to clause (d), (e) or (f) of subsection (1), consider whether

(a) it is possible to place the child with a relative, neighbour or other member of the child's community or extended family with whom the child at the time of being taken into care had a meaningful relationship pursuant to clause (c) of subsection (1), with the consent of the relative or other person; and

(b) where the child is or is entitled to be an aboriginal child, it is possible to place the child within the child's community.

(4) The court shall not make an order for permanent care and custody pursuant to clause (f) of subsection (1), unless the court is satisfied that the circumstances justifying the order are unlikely to change within a reasonably foreseeable time not exceeding the maximum time limits, based upon the age of the child, set out in subsection (1) of Section 45, so that the child can be returned to the parent or guardian. 1990, c. 5, s. 42; 2015, c. 37, s. 32.

Supervision order

43 (1) Where the court makes a supervision order pursuant to clause (b), (c) or (e) of subsection (1) of Section 42, the court may impose reasonable terms and conditions relating to the child's care and supervision, including

(a) a requirement that the agency supervise the child within the residence of the child;

(b) the place of residence of the child and the person with whom the child must, with the consent of that person, reside;

(c) the frequency of visits at the residence of the child by the agency;

(d) that a parent or guardian or other person shall not reside with or contact or associate in any way with the child;

(e) access by the child to a parent or guardian or third party;

(f) the assessment, treatment or services, including family group conferencing, to be obtained for the child by a parent or guardian or other person having the care and custody of the child;

(g) the assessment, treatment or services, including family group conferencing, to be obtained by a parent or guardian or third party or other person who is residing with the child; and

(h) any other terms the court considers necessary.

(2) Where the court makes a supervision order, any representative of the supervising agency has the right to enter the residence of the child to provide guidance and assistance and to ascertain that the child is being properly cared for.

(3) As a term of the supervision order, the court may provide that non-compliance with any specific term or condition of the order may entitle the agency to take the child into care and, where the agency takes the child into care pursuant to this subsection or Section 33, as soon as is practicable, but in any event within five working days after the child is taken into care, the agency shall bring the matter before the court and the court may review and vary the order pursuant to Section 46.

(4) A supervision order made pursuant to clause (b), (c) or (e) of subsection (1) of Section 42 may be for a period less than twelve months, but in no case shall a supervision order or orders extend beyond twelve consecutive months of supervision from the date of the initial supervision order pursuant to Section 42, subject to the maximum time limits set out in subsection (1) of Section 45 where an order is made pursuant to clause (e) of subsection (1) of Section 42. 1990, c. 5, s. 43; 2015, c. 37, s. 33.

Temporary care and custody order

44 **(1)** Where the court makes an order for temporary care and custody pursuant to clauses (d) or (e) of subsection (1) of Section 42, the court may impose reasonable terms and conditions, including

(a) access by a child to a parent or guardian or third party, unless the court is satisfied that continued contact with the parent or guardian or third party would not be in the best interests of the child;

(b) *repealed 2015, c. 37, s. 34*;

(c) the assessment, treatment or services, including family group conferencing, to be obtained for the child by a parent or guardian or other person seeking the care and custody of the child;

(d) the assessment, treatment or services, including family group conferencing, to be obtained by a parent or guardian or third party;

(e) where an order is being made pursuant to clause (e) of subsection (1) of Section 42, the circumstances or time when the child may be returned to the parent or guardian or other person under a supervision order; and

(f) any terms the court considers necessary.

(2) Where an order for temporary care and custody is made, the court may impose as a term or condition of the order that the parent or guardian shall retain any right that the parent or guardian may have to give or refuse consent to medical treatment for the child.

(3) Where the agency places a child who is the subject of an order for temporary care and custody, the agency shall, where practicable, in order to ensure the best interests of the child are served, take into account

(a) the desirability of keeping brothers and sisters in the same family unit;

(b) the need to maintain contact with the child's relatives and friends;

(c) the preservation of the child's cultural, racial and linguistic heritage;

(d) the continuity of the child's education and religion; and

(e) where the child is or is entitled to be an aboriginal child, the desirability of placing the child

(i) in a kinship placement with a relative,

(ii) if unable to place the child in a kinship placement with a relative, in a kinship placement,

(iii) if unable to place the child in a kinship placement, with a member of the child's community who is approved as a foster parent, or

(iv) if unable to place the child in a kinship placement or with a member of the child's community who is approved as a foster parent, with an aboriginal foster parent. 1990, c. 5, s. 44; 2015, c. 37, s. 34.

Duration of orders

45 (1) The duration of a disposition order made pursuant to Section 42 must not exceed three months.

(2) Where the court has made an order for temporary care and custody, the total period of disposition orders, including any supervision orders, shall not exceed

(a) where the child was under fourteen years of age at the time of the application commencing the proceedings, twelve months; or

(b) where the child was fourteen years or more at the time of the application commencing the proceedings, eighteen months.

(3) Where the parties are referred to conferencing during a proceeding, the maximum cumulative duration of all disposition orders made pursuant to Section 42, as determined pursuant to subsection (2), must be reduced by the amount of time equal to that spent by the parties in conferencing. 2015, c. 37, s. 35.

Multiple proceedings

45A Where

(a) a child has been the subject of more than one proceeding;

(b) the proceeding closest in time to the current proceeding ended no less than five years prior to the commencement of the current proceeding; and

(c) the cumulative duration of all disposition orders made pursuant to clause (d) of subsection (1) of Section 42 with respect to all proceedings exceeds thirty-six months,

the court shall, in the child's best interests,

(d) dismiss the proceeding; or

(e) order that the child be placed in the permanent care and custody of the agency, in accordance with Section 47. 2015, c. 37, s. 35.

Review of order

46 (1) A party may at any time apply for review of a supervision order or an order for temporary care and custody, but in any event the agency shall

apply to the court for review prior to the expiry of the order or where the child is taken into care while under a supervision order.

(2) Where all parties consent, the supervision by an agency of a child under a supervision order or the care and custody of a child under an order for temporary care and custody may be transferred to another agency, with the other agency's consent, and, where all parties, including the other agency, do not so consent, the court may, upon application, order the transfer of an agency's supervision or care and custody to another agency, in the child's best interests.

(3) Where an application is made pursuant to this Section, the child shall, prior to the hearing, remain in the care and custody of the person or agency having care and custody of the child, unless the court is satisfied, upon application, that the child's best interests require a change in the child's care and custody.

(4) Before making an order pursuant to subsection (5), the court shall consider

(a) whether the circumstances have changed since the previous disposition order was made;

(b) whether the plan for the child's care that the court applied in its decision is being carried out;

(c) what is the least intrusive alternative that is in the child's best interests; and

(d) whether the requirements of subsection (6) have been met.

(5) On the hearing of an application for review, the court may, in the child's best interests,

(a) vary or terminate the disposition order made pursuant to subsection (1) of Section 42, including any term or condition that is part of that order;

(b) order that the disposition order terminate on a specified future date; or

(c) make a further or another order pursuant to subsection (1) of Section 42, subject to the time limits specified in Section 45.

(6) Where the court reviews an order for temporary care and custody, the court may make a further order for temporary care and custody unless the court is satisfied that the circumstances justifying the earlier order for temporary care and custody are unlikely to change within a reasonably foreseeable time not exceeding the remainder of the applicable maximum time period pursuant to subsection (1) of Section 45, so that the child can be returned to the parent or guardian. 1990, c. 5, s. 46; 2015, c. 37, s. 36.

Permanent care and custody order

47 **(1)** Where the court makes an order for permanent care and custody pursuant to clause (f) of subsection (1) of Section 42, the agency is the legal guardian of the child and as such has all the rights, powers and responsibilities of a parent or guardian for the child's care and custody.

(2) Where the court makes an order for permanent care and custody, the court shall not make any order for access by a parent, guardian or other person.

(3) Where a child is the subject of an order for permanent care and custody and the agency considers it to be in the child's best interests, the agency shall, where possible, facilitate communication or contact between the child and

(a) a relative of the child; or

(b) a person who has an established relationship with the child.

(3A) and **(4)** *repealed 2015, c. 37, s. 37.*

(5) Where practicable, a child, who is the subject of an order for permanent care and custody, shall be placed with a family of the child's own culture, race, religion or language but, if such placement is not available within a reasonable time, the child may be placed in the most suitable home available with the approval of the Minister.

(6) An agency may, with the approval of the Minister, transfer the permanent care and custody of a child to another agency.

(7) Where the permanent care and custody of a child is transferred from one agency to another agency, the agency to which the permanent care and custody is transferred is the legal guardian of the child and as such has all the rights, powers and responsibilities of a parent, and the agency making the transfer ceases to have those rights, powers and responsibilities in relation to the child.

(8) At least thirty days prior to consenting to an order for adoption, the Minister shall inform any person who has been granted an order for access under subsection (2) of the Minister's intention to consent to the adoption. 1990, c. 5, s. 47; 1996, c. 10, s. 6; 2005, c. 15, s. 1; 2015, c. 37, s. 37.

Cultural connection plan

47A The agency shall develop, in a timely manner, a cultural connection plan for a child who is in the permanent care and custody of the agency or is the subject of an adoption agreement pursuant to Section 68. 2015, c. 37, s. 38.

Termination of permanent care and custody order

48 **(1)** An order for permanent care and custody terminates when

(a) the child reaches nineteen years of age, unless, because the child is under a disability, the court orders that the agency's permanent care and custody be extended until the child reaches twenty-one years of age;

(b) the child is adopted;

(c) the child marries; or

(d) the court terminates the order for permanent care and custody pursuant to this Section.

(2) In subsection (1), "twenty-one years of age" means twenty-one years of age notwithstanding the *Age of Majority Act*.

(3) A party to a proceeding may apply to terminate an order for permanent care and custody, in accordance with this Section, including the child where the child is sixteen years of age or more at the time of application for termination.

(4) Where the child has been placed and is residing in the home of a person who has given notice of proposed adoption by filing the notice with the Minister, no application to terminate an order for permanent care and custody may be made during the continuance of the adoption placement until

(a) the application for adoption is made and the application is dismissed, discontinued or unduly delayed; or

(b) there is an undue delay in the making of an application for adoption.

(5) Notwithstanding subsection (4), the agency may apply at any time to terminate an order for permanent care and custody or to vary or terminate access under such an order.

(6) Notwithstanding subsection (3), a party, other than the agency, may not apply to terminate an order for permanent care and custody

(a) within forty-five days after ~~of~~ the making of the order for permanent care and custody;

(b) while the order for permanent care and custody is being appealed pursuant to Section 49;

(ba) within five months after the expiry of the time referred to in clause (a);

(c) except with leave of the court, after

(i) five months from the expiry of the time referred to in clause (a),

(ii) six months from the date of the dismissal or discontinuance of a previous application by a party, other than

the agency, to terminate an order for permanent care and custody, or

(iii) six months from the date of the final disposition or discontinuance of an appeal of an order for permanent care and custody or of a dismissal of an application to terminate an order for permanent care and custody pursuant to subsection (8),

whichever is the later; or

(d) except with leave of the court, after two years from

(i) the expiry of the time referred to in clause (a), or

(ii) the date of the final disposition or discontinuance of an appeal of an order for permanent care and custody pursuant to Section 49,

whichever is the later.

(6A) A party may apply to terminate an order for permanent care and custody after eleven months but before two years from

(a) the expiry of the time referred to in clause (a) of subsection (6) of Section 48; or

(b) the date of the final disposition or discontinuance of an appeal of an order for permanent care and custody pursuant to Section 49,

whichever is later.

(7) On the hearing of an application by the agency to vary access under an order for permanent care and custody, the court may, in the child's best interests, confirm, vary or terminate the access.

(7A) The court shall hear an application

(a) for leave to apply to terminate an order for permanent care and custody no later than thirty days after the application is made; and

(b) to terminate an order for permanent care and custody no later ~~that~~ [than] ninety days after the application is made.

(8) On the hearing of an application to terminate an order for permanent care and custody, the court may

(a) dismiss the application;

(b) adjourn the hearing of the application for a period not to exceed ninety days and refer the child, parent or guardian or other

person seeking care and custody of the child for psychiatric, medical or other examination or assessment;

(c) adjourn the hearing of the application for a period not to exceed six months and place the child in the care and custody of a parent or guardian or third party, subject to the supervision of the agency;

(d) adjourn the hearing of the application for a period not to exceed six months and place the child in the care and custody of a person other than a parent or guardian or third party, with the consent of that other person, subject to the supervision of the agency; or

(e) terminate the order for permanent care and custody and order the return of the child to the care and custody of a parent or guardian or other person.

(9) Where the court makes a supervision order pursuant to clause (c) or (d) of subsection (8), subsections (1), (2) and (3) of Section 43 and subsection (1) of Section 46 apply.

(10) Before making an order pursuant to subsection (8), the court shall consider

(a) whether the circumstances have changed since the making of the order for permanent care and custody; and

(b) the child's best interests.

(11) Where

(a) a child is and has been throughout the immediately preceding year in the permanent care and custody of an agency;

(b) no application to terminate has been heard during that time; and

(c) subsection (4) does not apply,

the agency shall at least once during each calendar year thereafter submit a written report to the Minister concerning the circumstances of the child and the agency's plan for the child's care and placement and the Minister shall review the report and make such further inquiries as are considered necessary. 1990, c. 5, s. 48; 1996, c. 10, s. 7; 2005, c. 15, s. 2; 2015, c. 37, s. 39.

Appeal and stay

49 (1) An order of the court pursuant to any of Sections 32 to 48 may be appealed by a party to the Nova Scotia Court of Appeal by filing a notice of appeal with the Registrar of the Court within twenty-five days of the order.

(2) A party may apply to the court at the time of the order for an order staying the execution of the order, or any part of the order, for a period not to exceed ten days.

(3) Where a notice of appeal is filed pursuant to this Section, a party may apply to the Court of Appeal for an order staying the execution of the order, or any part of the order, appealed.

(4) Where a notice of appeal is filed pursuant to this Section, the Minister is responsible for the timely preparation of the transcript and the appeal shall be heard by the Court of Appeal within ninety days of the filing of the notice of appeal or such longer period of time, not to exceed sixty days, as the Court deems appropriate.

(5) On an appeal pursuant to this Section, the Court of Appeal may in its discretion receive further evidence relating to events after the appealed order.

(6) The Court of Appeal shall

(a) confirm the order appealed;

(b) rescind or vary the order; or

(c) make any order the court could have made. 1990, c. 5, s. 49; R.S., c. 240, s. 9; 1992, c. 16, s. 38; 1996, c. 10, s. 8; 2015, c. 37, s. 40.

Determination of religion and maintenance

50 (1) Where an application is made to determine whether a child is in need of protective services, the court shall, after the court has determined whether the child is in need of protective services and made a disposition order pursuant to Section 42, determine the child's religion, if any, and maintenance issues.

(2) For the purposes of the determination pursuant to subsection (1), a child has the religious faith agreed upon by the child's parents or guardians, subject to the child's views and wishes if they can be reasonably ascertained, but where there is no agreement or the court cannot readily determine what the religious faith agreed upon is or whether any religious faith is agreed upon, the court may determine what the child's religious faith is, if any. 1990, c. 5, s. 50; 1994-95, c. 7, s. 11.

51 *repealed 1994-95, c. 7, s. 12.*

Maintenance order for support of child

52 (1) Upon the application of the agency or the Minister, the court shall inquire into the ability to support a child of a parent or guardian or other person liable under the law for the maintenance of the child.

(2) Where the court is satisfied that the parent or guardian or other person has sufficient means to enable the parent or guardian or other person to contribute towards the maintenance of the child, the court may order the parent or guardian or other person to pay to

(a) the Minister; or

(b) the court for payment to the agency,

a sum not exceeding the maintenance amount, as prescribed by the regulations, payable for maintaining a child in care until the child reaches nineteen years of age, is adopted, marries or the court terminates the order for permanent care and custody.

(3) Upon the application of the agency, the Minister or the person against whom an order is made, the court shall review the ability to pay of the person against whom the order is made, and upon such a review the court may vary the order as the court deems proper. 1990, c. 5, s. 52; 1994-95, c. 7, s. 13; 2015, c. 37, s. 41.

Effect of maintenance order

53 Where a maintenance order is made, pursuant to Section 52, the order may be appealed or enforced as an order made pursuant to the *Parenting and Support Act*. 1990, c. 5, s. 53; 2015, c. 37, s. 42; 2015, c. 44, s. 49.

Information relating to birth family

53A (1) A person over nineteen years of age who was the subject of an order for permanent care and custody pursuant to clause (f) of subsection (1) of Section 42 and who was not adopted may apply to the Minister for the disclosure of

(a) information relating to the person or the person's birth family; and

(b) the reasons why the person was removed from the person's birth family.

(2) The Minister shall disclose all information, including personal information, requested under subsection (1) in the Minister's possession, except information that, in the opinion of the Minister, poses a risk to the health, safety or well-being of any person to whom the information relates. 2015, c. 37, s. 43.

Interpretation of Sections 55 to 60

54 In Sections 55 to 60,

(a) "legal-aid office" means an office providing legal aid pursuant to the *Legal Aid Act*;

(b) "secure treatment facility" means a facility or part of a facility approved or licensed by the Minister as a secure treatment facility. 1990, c. 5, s. 54.

Secure-treatment certificate

55 (1) Upon the request of an agency, the Minister may issue a secure-treatment certificate for a period of not more than five days in respect of a child in care, if the Minister has reasonable and probable grounds to believe that

(a) the child is suffering from an emotional or behavioural disorder; and

(b) it is necessary to confine the child in order to remedy or alleviate the disorder.

(c) *repealed 2015, c. 37, s. 44.*

(2) A secure-treatment certificate shall be in the form prescribed by the regulations and shall include

(a) the reason for the confinement;

(b) the duration of the certificate;

(c) the date, place and time of the hearing pursuant to subsection (4); and

(d) a statement that the child may be represented by counsel at any hearing, including the address and telephone number of the nearest legal-aid office.

(3) A secure-treatment certificate shall be served upon the child who is the subject of the certificate and upon the nearest legal-aid office not more than one day after it is issued.

(4) Where a secure-treatment certificate has been issued pursuant to this Section, the Minister or the agency shall appear before the court before the certificate expires, to satisfy the court that this Section has been complied with and, if an application is made pursuant to Section 56, for the application to be heard pursuant to that Section. 1990, c. 5, s. 55; 2015, c. 37, s. 44.

Secure-treatment order

56 **(1)** The Minister or an agency with the consent of the Minister may make an application to the court for a secure-treatment order in respect of a child in care.

(2) The Minister shall serve the application upon the child and upon the nearest legal-aid office.

(2A) Where the child who is the subject of an application is not a child in permanent care and custody, the Minister shall notify the child's parent or guardian of the proceeding.

(2B) Where the child who is the subject of an application is not a child in permanent care and custody, the court may, upon application by the parent or guardian of the child, add the parent or guardian as a party to the proceeding.

(3) After a hearing, the court may make a secure-treatment order in respect of the child for a period of not more than forty-five days if the court is satisfied that

(a) the child is suffering from an emotional or behavioural disorder; and

(b) it is necessary to confine the child in order to remedy or alleviate the disorder.

(c) *repealed 2015, c. 37, s. 45.*

(4) Upon the application of the Minister or the agency and after a hearing before the expiry of a secure-treatment order, a secure-treatment order may be renewed in respect of the child, for a period of not more than ninety days in the case of a first or subsequent renewal, if the court is satisfied that

(a) the child is suffering from an emotional or behavioural disorder;

(b) it is necessary to confine the child in order to remedy or alleviate the disorder; and

(c) *repealed 2015, c. 37, s. 45.*

(d) there is an appropriate plan of treatment for the child. 1990, c. 5, s. 56; 2015, c. 37, s. 45.

Review of secure-treatment order

57 (1) An application for review of a secure-treatment order may be made by the Minister, the agency, the child who is the subject of the order or a parent or guardian of a child, if the parent or guardian was a party to the application for the order.

(1A) Every party to an application for a secure-treatment order is a party to an application for review.

(1B) Where the child who is the subject of an application for review is not a child in permanent care and custody, the applicant shall notify the child's parent or guardian of the proceeding if the parent or guardian is not already a party to the application for review.

(1C) Where the child who is the subject of an application for review is not a child in permanent care and custody, the court may, upon application by a parent or guardian of the child, add the parent or guardian as a party to the proceeding.

(2) An application for review may be made at any time by the Minister or the agency but, except with leave of the court, an application for review may otherwise be made only once during the period of any secure-treatment order or during the period of any renewal of a secure-treatment order.

(2A) An application for review must be filed and served no fewer than four working days before the hearing.

(3) After hearing an application for review and after considering clauses (a) to (d) of subsection (4) of Section 56, the court may make an order con-

firming, varying or terminating the secure-treatment order, but in no case shall the period of the secure-treatment order be extended. 1990, c. 5, s. 57; 2015, c. 37, s. 46.

Duty of court and appeal

58 (1) Upon making, renewing or reviewing a secure-treatment order, the court shall give reasons for its decision and shall inform the child and the parent or guardian, if the parent or guardian was a party to the application respecting the order, of the review, renewal and appeal provisions pursuant to Section[s] 56 and 57 and subsection (2).

(2) An order pursuant to Section 56 or 57 may be appealed in accordance with Section 49 by the Minister, the agency, the child or the parent or guardian, if the parent or guardian was a party to the application for the order. 1990, c. 5, s. 58; 2015, c. 37, s. 47.

Effect of secure-treatment certificate or order

59 (1) A secure-treatment certificate or order is sufficient authority for a peace officer or ~~agent~~ [representative] to apprehend and convey the child named in the certificate or order to a secure treatment facility and to detain the child while being conveyed to a secure treatment facility.

(2) Upon a secure-treatment certificate or order being issued, the person in charge of a secure treatment facility shall admit the child to the facility, if the child is not already resident in the facility, and shall be responsible for ensuring that the child is provided with the diagnostic and treatment services in accordance with the terms of the certificate or order and the needs of the child.

(3) Where the child who is the subject of a secure-treatment certificate or order leaves a secure treatment facility when a leave of absence has not been granted or fails to return to a facility in accordance with the terms of a leave of absence, a peace officer, representative or person designated by the Minister in accordance with the regulations may apprehend the child and return the child to the secure treatment facility. 1990, c. 5, s. 59; 2015, c. 37, s. 48.

Leave of absence or transfer from secure-treatment facility

60 (1) During the period of a secure-treatment certificate or order, the person in charge of the secure treatment facility may grant the child a leave of absence from the facility to attend legal proceedings or for medical, humanitarian or rehabilitative reasons on any terms or conditions that the person in charge considers necessary.

(2) Where the child named in the secure-treatment certificate or order is in a secure treatment facility, the child may, with the approval of the Minister, be transferred to another secure treatment facility and subsection (1) of Section 59 applies while the child is being transferred. 1990, c. 5, s. 60; 2015, c. 37, s. 49.

Authority of secure-treatment certificate or order

60A (1) Where a child named in a secure-treatment certificate or order is required to appear at a court in the Province, the secure-treatment certificate or order is sufficient authority for a peace officer, upon the request of the Minister or a representative, to convey the child to and from the court and to detain the child while conveying the child.

(2) Where a leave of absence is granted to a child named in a secure-treatment certificate or order and the leave of absence includes a condition that the child remain under the custody and control of a peace officer for the duration of the leave of absence, the secure-treatment certificate or order is sufficient authority for a peace officer, upon the request of the Minister or a representative, to convey the child to and from any place in the Province and to detain the child while conveying the child. 2008, c. 12, s. 1; 2015, c. 37, s. 74.

Refusal to consent to medical treatment

61 (1) Where a child is in the care or custody of a parent or guardian who refuses to consent to the provision of proper medical or other recognized remedial care or treatment that is considered essential by two duly qualified medical practitioners for the preservation of life, limb or vital organs of a child and the Minister is notified thereof, the Minister shall apply to the court forthwith for a hearing.

(2) Where an application is made pursuant to subsection (1), the court shall hear the matter as soon as possible upon such notice to the parent or guardian as is practical.

(3) The parties to the proceeding are the Minister, the parent or guardian and such other persons as the court may order.

(4) Upon hearing the matter, the court may make an order

(a) dismissing the matter;

(b) authorizing the provision of proper medical or other recognized remedial care or treatment that is considered essential by a duly qualified medical practitioner for the preservation of life, limb or vital organs or the prevention of unnecessary suffering of the child;

(c) prohibiting the parent or guardian or any other person from obstructing the provision of the care or treatment ordered pursuant to clause (b);

(d) requiring the parent or guardian to deliver the child to the place where the care or treatment will be provided;

(e) including any other terms, including the duration of the order, that the court considers necessary.

(5) The court may confirm, vary, rescind or terminate an order made pursuant to subsection (4) upon the application of a party. 1990, c. 5, s. 61.

"abuse" defined

62 In Sections 63 to 66, "abuse" of a child by the person means that the child

(a) has suffered physical harm, inflicted by the person or caused by the person's failure to supervise and protect the child adequately;

(b) has been sexually abused by the person or by another person where the person, having the care of the child, knows or should know of the possibility of sexual abuse and fails to protect the child; or

(c) has suffered serious emotional harm caused by the intentional conduct of the person. 1990, c. 5, s. 62; 2015, c. 37, s. 50.

Child Abuse Register

63 (1) The Minister shall establish and maintain a Child Abuse Register.

(2) The Minister shall enter the name of a person and such information as is prescribed by the regulations in the Child Abuse Register where

(a) the court finds that a child is in need of protective services in respect of the person within the meaning of clause (a) or (c) of subsection (2) of Section 22;

(b) the person is convicted of an offence against or involving a child pursuant to the *Criminal Code* (Canada) as prescribed in the regulations; or

(c) the court makes a finding pursuant to subsection (3).

(3) The Minister or an agency may apply to the court, upon notice to the person whose name is intended to be entered in the Child Abuse Register, for a finding that, on the balance of probabilities, the person has abused a child.

(4) A hearing pursuant to subsection (3) shall be held *in camer*a except the court may permit any person to be present if the court considers it appropriate. 1990, c. 5, s. 63; 2015, c. 37, s. 51.

Notice of entry in and application to remove name from Child Abuse Register

64 (1) A person whose name is entered in the Child Abuse Register shall be given written notice of registration in the form prescribed by the regulations.

(2) A person whose name is entered on the Child Abuse Register may, upon providing written notice to the Minister, apply to the court at any time to have the person's name removed from the Register and, if the court is satisfied by the person that the person does not pose a risk to children, the court shall order that the person's name be removed from the Register. 1990, c. 5, s. 64; 2015, c. 37, s. 52.

Appeal respecting Child Abuse Register

65 A decision of the court pursuant to subsection (3) of Section 63 or subsection (2) of Section 64 may, within thirty days of the decision, be appealed to the Appeal Division of the Supreme Court and subsection (4) of Section 63 applies *mutatis mutandis* to the hearing of an appeal. 1990, c. 5, s. 65.

Confidentiality of information in Child Abuse Register

66 (1) The information in the Child Abuse Register is confidential and shall be available only as provided in this Section.

(2) A person whose name is entered in the Child Abuse Register is entitled to inspect the information relating to that person entered in the Register.

(3) With the approval of the Minister, the information in the Child Abuse Register may be

(a) disclosed to an agency, including any corporation, society, federal, provincial, municipal or foreign state, government department, board or agency authorized or mandated to investigate whether or not a child is in need of protective services;

(aa) disclosed to the police by an agency where the police and the agency are conducting a joint child abuse investigation;

(b) used for the purposes of research as prescribed by the regulations.

(4) Upon receiving a request in writing from a person, the Minister may disclose to the person

(a) whether the person's name is entered in the Child Abuse Register; and

(b) where the person's name is entered in the Child Abuse Register, any information respecting the person entered in the Child Abuse Registry pursuant to subsection (2) of Section 63.

(5) *repealed 2015, c. 37, s. 53*.

1990, c. 5, s. 66; 1996, c. 10, s. 9; 2015, c. 37, s. 53.

Interpretation of Sections 67 to 87

67 (1) In this Section and Sections 68 to 87,

(a) "adopting parent" means a person who has filed a notice of proposed adoption or has commenced an application for adoption;

(b) "adoptive parent" means a person who has acquired the legal status of parent of a child by virtue of an order for adoption;

(c) "child in care" means a child in respect of whom there exists an order for permanent care and custody or a child in respect of whom there exists an adoption agreement;

(ca) "court" means the Supreme Court of Nova Scotia;

(d) "father" of a child means the biological father of the child except where the child is adopted and in such case means, subject to subsection (4) of Section 72, the father by adoption;

(e) "mother" means the biological mother of the child except where the child is adopted and in such case means, subject to subsection (4) of Section 72, the mother by adoption;

(f) "parent" of a child means

(i) the mother of the child,

(ii) the father of the child where the father was, at the time of the child's birth, married to or in a common-law relationship with the mother of the child,

(iii) an individual having custody of the child,

(iv) an individual who, during the twelve months before proceedings for adoption are commenced, has stood *in loco parentis* to the child[,]

(v) an individual who, under a written agreement or a court order, is required to provide support for the child or has a right of access to the child and has, at any time during the two years before proceedings for adoption are commenced, provided support for the child or exercised a right of access,

(vi) an individual who has acknowledged parentage of the child and who

(A) has an application before a court respecting custody, support or access for the child at the time proceedings for adoption are commenced, or

(B) has provided support for or has exercised access to the child at any time during the two years before proceedings for adoption are commenced,

but does not include a foster parent.

(2) Proceedings for adoption are commenced within the meaning of this Section on the day when

(a) a notice of proposed adoption is filed with the Minister pursuant to this Act; or

(b) in the case of a child sixteen years of age or more for whom no notice of proposed adoption has been given, an application for adoption is commenced. 1990, c. 5, s. 67; 2015, c. 37, s. 54.

Adoption agreement

68 (1) A parent of a child may enter into an adoption agreement with an agency whereby the child is voluntarily given up to the agency for the purpose of adoption.

(2) The term of an adoption agreement shall be for a period not to exceed one year and, in the case of a newborn child, shall not be effective until fifteen days after the birth of the child.

(3) A child shall not be placed in a home for the purpose of adoption pursuant to an adoption agreement unless and until every parent of the child has entered into such an agreement.

(4) Subject to subsection (5), where the child has not been placed in a home for the purpose of adoption, a parent who entered into the adoption agreement may, in writing, at any time during the term of the agreement, notify the agency that the parent wishes to terminate the agreement and have the child returned to the parent.

(5) Where a child has been placed in a home for the purpose of adoption as a result of an adoption agreement, and the persons with whom the child is placed have filed a notice of proposed adoption with the Minister prior to the expiration of the term of the agreement, then, notwithstanding subsection (2), the adoption agreement continues in force and may not be terminated by the parent who entered into the agreement, unless and until the application for adoption is dismissed, discontinued or unduly delayed.

(6) On receipt of a notice pursuant to subsection (4) from, or the expiry of the adoption agreement with, the parent from whom the child was received, the agency shall return the child to that parent unless the child is taken into care as permitted by and in accordance with Section 33.

(7) On receipt of a notice pursuant to subsection (4) from, or the expiry of the adoption agreement with, a parent who is not the parent from whom the child was received, the agency shall

(a) declare in writing that all adoption agreements respecting the child are terminated, notifying where possible the other parties to such adoption agreements, and return the child to the parent from whom the child was received; or

(b) take appropriate steps to have the child taken into care as permitted by and in accordance with Section 33, in which case all adoption agreements are terminated as and when the child is taken into care.

(8) Where a parent has entered into an adoption agreement, the agency shall, where the parent's whereabouts are known to the agency, advise the parent when the child has been placed in a home for the purpose of adoption or provide such information upon request by a parent.

(9) An adoption agreement shall be in the form prescribed by the regulations.

(10) Where a parent has entered into an agreement pursuant to subsection (1), the agency has all the rights, powers and responsibilities of that parent so long as the adoption agreement continues in force.

(11) Where an agency other than the Mi'kmaw Family and Children's Services of Nova Scotia has reason to believe that a child who is to be the subject of an adoption agreement is or is entitled to be a Mi'kmaq child, the agency shall not enter into an adoption agreement respecting the child until fifteen days after the agency has notified the Mi'kmaw Family and Children's Services of Nova Scotia.

(12) Where, subsequent to the execution of an adoption agreement and prior to the placement for adoption of the child who is the subject of the adoption agreement, the agency determines that the child is or is entitled to be a Mi'kmaq child, the agency shall, as soon as possible, notify the Mi'kmaw Family and Children's Services of Nova Scotia and shall not place the child for adoption until fifteen days have elapsed from the date of such notification. 1990, c. 5, s. 68; 1996, c. 10, s. 10; 2015, c. 37, s. 55.

Placement with specified person

68A (1) Where every parent of a child has entered into an adoption agreement pursuant to Section 68 and all such parents have also requested, in writing, that the child be placed with a specified person, the agency may place the child for the purpose of adoption with the specified person if

(a) the specified person has been approved by the agency as an approved adoption home;

(b) *repealed 2015, c. 37, s. 56.*

and

(c) the agency is satisfied that adoption of the child by the specified person is in the best interests of the child.

(2) An adoption agreement entered into for the purpose of permitting a child to be placed with a specified person in accordance with subsection (1) is subject to Section 68.

(3) Where a child is in the care of an agency pending placement with a specified person and the agency determines that placement of the child with the specified person cannot occur for any of the following reasons:

(a) the specified person cannot be approved as an approved adoption home by ~~a~~ [an] agency;

(b) the specified person cannot meet the requirements necessary for approval by ~~a~~ [an] agency within a period of time that serves the best interest of the child respecting the child's need to be placed for adoption in a timely manner;

(c) *repealed 2015, c. 37, s. 56.*

the agency shall advise the parents that placement of the child with the specified person cannot be effected.

(4) Upon being advised pursuant to subsection (3) that placement with a specified person cannot occur, a parent may

(a) direct the agency, in writing, to place the child with a suitable adopting family approved by the agency; or

(b) terminate the parent's adoption agreement in accordance with subsection (4) of Section 68.

(5) Where an agency has determined that placement of the child with the specified person cannot occur and the agency is unable, within three weeks, to contact a parent to advise the parent pursuant to subsection (3) that placement of the child with a specified person cannot be effected, the agency shall consider the child to be abandoned within the meaning of Section 28 and accordingly advise a representative.

(6) A parent, who enters into an adoption agreement and requests, in writing pursuant to subsection (1), that the child be placed with a specified person, may also request that, in the event that the agency determines that placement of the child with a specified person cannot occur, the agency may place the child for adoption with any other person or persons approved by the agency. 1996, c. 10, s. 11; 2015, c. 37, ss. 56, 74.

Notice to Minister of placement for adoption

69 (1) Every person who receives a child from another person for the purpose of adoption shall within ten days of such reception inform the Minister.

(2) Subsection (1) does not apply where the person who receives the child is the father or mother of the child.

(3) Any person who gives or receives, or agrees to give or to receive, any payment or reward, directly or indirectly,

(a) in consideration of the placement for adoption of a child; or

(b) to procure a child for the purpose of adoption,

is guilty of an offence and upon summary conviction is liable to a fine of not more than ten thousand dollars or to imprisonment for a term of not more than two years or to both. 1990, c. 5, s. 69.

Restriction on placement

70 (1) A child shall not be placed or received for the purpose of adoption except where

(a) the child is a child in the care of an agency;

(b) the child is placed by the father or mother with a relative of the father or mother;

(c) one of the applicants for adoption is the father or mother of the child; or

(d) the child is placed in accordance with the laws of another jurisdiction.

(2) A person who places or receives a child for the purpose of adoption where subsection (1) has not been complied with is guilty of an offence and upon summary conviction is liable to a fine of not more than ten thousand dollars or to imprisonment for a term of not more than two years or to both.

(3) *repealed 2005, c. 15, s. 3.*

(4) Where a child has been placed for the purpose of adoption contrary to subsection (1), adoption proceedings may not be commenced within the meaning of clause (a) of subsection (2) of Section 67 until the conditions referred to in Section 70A exist, notwithstanding that any action has been taken to prosecute a violation of subsection (2). 1990, c. 5, s. 70; 1996, c. 10, s. 12; 2005, c. 15, s. 3; 2015, c. 37, s. 57.

Right to commence adoption proceedings

70A (1) A person who has had the physical care and control of a child for more than twenty-four consecutive months may, during the further continuance of that period of physical care and control, commence proceedings for adoption within the meaning of clause (a) of subsection (2) of Section 67 if, and only if,

(a) all necessary consents for adoption have been obtained or have been ordered dispensed with pursuant to Section 75;

(b) a parent whose consent to the adoption has been obtained has, before giving the consent, received professional counselling by a person or a member of a class of persons approved for that purpose by the Minister;

(c) a social and medical history respecting the biological father and the biological mother has been prepared, if the biological father and the biological mother, or either of them, are known and available to a person or a member of a class of persons approved for that purpose by the Minister; and

(d) the person has been approved by an agency for the adoption of the child.

(1A) A person who has care and custody of a child pursuant to an order made under the *Maintenance and Custody Act* or an enactment of another jurisdiction respecting the custody of children may, while the order is in effect, commence proceedings for adoption within the meaning of clause (a) of subsection (2) of Section 67 if, and only if,

(a) all necessary consents for adoption have been obtained or have been ordered dispensed with pursuant to Section 75;

(b) a parent whose consent to the adoption has been obtained has, before giving the consent, received professional counselling by a person or a member of a class of persons approved for that purpose by the Minister;

(c) a social and medical history respecting the biological father and the biological mother has been prepared, if the biological father and the biological mother, or either of them, are known and available to a person or a member of a class of persons approved for that purpose by the Minister; and

(d) the person has been approved by an agency for the adoption of the child.

(2) Subsection (1) does not apply where

(a) the child is a child in the care of an agency;

(b) the child is placed by the father or mother with a relative of the father or mother; or

(c) one of the applicants for adoption is the father or mother of the child. 1996, c. 10, s. 13; 2015, c. 37, s. 58.

Certificate to take child outside Province

71 **(1)** No person shall take or attempt to take any child under twelve years of age, who is a resident of or was born in the Province, out of the Province for the purpose of being adopted or brought up outside of the Province unless the person is in possession of a certificate issued by the Minister pursuant to this Section except where a child is being taken by

(a) the father or mother of the child; or

(b) a relative of the father or mother of the child to be adopted by or to reside with that relative.

(2) There is an appeal to the court from the refusal of the Minister to grant a certificate pursuant to subsection (1).

(3) Notice of the appeal shall be given to the Minister within thirty days of the refusal or within such further period as the court may allow.

(4) Upon such notice the Minister shall forward to the court the Minister's complete record of the case and either party to the appeal may give evidence and call witnesses.

(5) The court shall conduct a hearing into the matter and cause to be made such further inquiries as it deems necessary, and may confirm the refusal of the Minister or direct the Minister to issue a certificate.

(6) Every one who violates subsection (1) is guilty of an offence and upon summary conviction is liable to a fine of not more than ten thousand dollars or to imprisonment for a period not exceeding two years or to both. 1990, c. 5, s. 71.

Right to adopt

72 (1) A person of the age of majority may, in the manner herein provided, adopt as that person's child another person younger than that person where

(a) the applicant resides or is domiciled in the Province; or

(b) the person proposed to be adopted was born, resides or is domiciled in the Province or is a child in care.

(2) Subject to this Section, if the applicant has a husband or wife, by marriage or common-law relationship, who is over the age of majority and is of sound mind, the husband or wife, by marriage or common-law relationship shall join in the application.

(3) If the husband or wife, by marriage or common-law relationship, of the applicant is the father or mother of the person proposed to be adopted, although not over the age of majority, he or she may join in the application.

(4) The husband or wife, by marriage or common-law relationship, of the applicant if he or she is also the father or mother of the person proposed to be adopted, need not join in the application, and in that case the relationship of such husband or wife or of his or her kindred with the person proposed to be adopted continues and is in no way altered by any order for adoption made in favour of the applicant, who becomes the other parent of the person proposed to be adopted by such an order.

(5) Where one of the applicants for an adoption dies after notice of the proposed adoption has been given to the Minister, the surviving applicant may proceed with the application and an order for adoption by the surviving applicant alone may be made.

(6) A person whose consent to an adoption is required by this Act is not prohibited from becoming a father or mother by adoption of the person in respect of whom the person has given consent to adopt. 1990, c. 5, s. 72; 2015, c. 37, s. 59.

Application for adoption

73 An application for adoption shall be made to the court. 1990, c. 5, ss. 73, 109.

Consent to adopt

74 **(1)** Where the person proposed to be adopted is twelve years of age or more and of sound mind, no order for the person's adoption shall be made without the person's written consent.

(2) Where the person proposed to be adopted is married, no order for the person's adoption shall be made without the written consent of the person's spouse.

(3) Where the person proposed to be adopted is under the age of majority and is not a child in care, no order for the child's adoption shall be made, except as herein provided, without the written consent to adoption of the child's parents which consent may not be revoked unless the court is satisfied that the revocation is in the best interests of the child.

(4) A written consent to adoption referred to in subsection (3) has no force and effect unless it is given not less than fifteen clear days after the birth of the child.

(5) Subsection (4) does not apply

(a) where the child is placed for the purpose of adoption by an agency;

(b) where the child is placed for the purpose of adoption by a father or mother of the child with a relative of the father or mother;

(c) where one of the applicants for adoption is the father or mother of the child; or

(d) to an adoption agreement made pursuant to Section 68.

(6) No action may be taken and no damages may be awarded against a person who does not give a consent for adoption, notwithstanding any representation by the person that the consent would be given.

(7) No order for the adoption of a child in care of the Minister shall be made without the written consent of the Minister and no order for the adoption of a child in care of an agency shall be made without the written consent of the agency or the Minister.

(8) Subject to subsection (1) and pursuant to subsection (7), where a child proposed to be adopted is a child in care, the written consent of the agency or the Minister is the only consent required.

(9) *repealed 2015, c. 37, s. 60.*

(10) Where the person proposed to be adopted is under the age of majority and either does not reside in the Province or was brought to the Province for the purpose of adoption, the written consent referred to in subsection (3) may be given by the officer or person who under the law of the province, state or country in which the child resides or from which the child was brought may consent to the child's adoption.

(11) Where the parent of a child is under the age of majority, the parent may, notwithstanding the parent's age,

(a) consent to the adoption of the child; or

(b) enter into an agreement pursuant to Section 68.

(12) Notwithstanding Sections 49 and 50 of the *Parenting and Support Act*, the marriage of the biological father to the mother of a person subsequent to the granting of an adoption order respecting that person does not invalidate or affect the adoption. 1990, c. 5, s. 74; 2015, c. 37, s. 60; 2015, c. 44, s. 50.

Dispensing with consent to adoption

75 (1) Where the applicant seeks to dispense with the consent of any living person, the applicant shall give that person notice of the time and place of the adoption hearing together with a copy of the application and all material proposed to be used in support of it not later than one month before the hearing of the application.

(2) Notice shall be given by personal service or, if the person cannot be so served, by substituted service as directed by the court.

(3) Any person served pursuant to subsections (1) and (2) who does not appear at the hearing of the application and object to the adoption is deemed to have consented to the adoption.

(4) Where the court is satisfied that a person, whose consent is required pursuant to subsection (2) or (3) of Section 74,

(a) is dead;

(b) is unable to consent by reason of disability;

(c) is missing or cannot be found;

(d) has had no contact with the child for the two years immediately preceding the adoption placement;

(e) has failed, where able, to provide financial support for the child for the two years immediately preceding the adoption placement; or

(f) is a person whose consent in all the circumstances of the case ought to be dispensed with,

the court may order that the person's consent be dispensed with if it is in the best interests of the person to be adopted to do so. 1990, c. 5, s. 75.

Prerequisites to adoption

76 (1) Except as herein provided, where the person sought to be adopted is under sixteen years of age, the court shall not make an order for the child's adoption unless

(a) notice of the proposed adoption has been given to the Minister not later than six months before the application to the court for an order for adoption, or where one of the applicants for adoption is a parent or relative of the child, notice of the proposed adoption has been given to the Minister not later than one month before the application to the court for an order for adoption;

(b) notice of the hearing of the application and a copy of the application and all material to be used in support of it with respect to a child in permanent care and custody or a child that is the subject of an adoption agreement have been filed with the Minister not later than one month before the date of the application;

(c) the child sought to be adopted has for a period of not less than six months immediately prior to the application, lived with the applicant under conditions that, in the opinion of the court, justify the making of the order; and

(d) where the child is~~,~~ or is entitled to be a Mi'kmaq child, a cultural connection plan has been developed.

(2) The Minister may, by certificate in writing, shorten the length of any notice or the period of residence required by subsection (1) or dispense with any notice or period of residence.

(3) In the case of a child who is a child in permanent care and custody, the notice of the proposed adoption shall not be given until any appeal from an order for permanent care and custody of the child or from a decision granting or refusing an application to terminate an order for permanent care and custody is heard and finally determined or until the time for taking an appeal has expired. 1990, c. 5, s. 76; 1996, c. 10, s. 14; 2005, c. 15, s. 4; 2015, c. 37, s. 61.

Adoption hearing

77 (1) Every hearing of an application for adoption pursuant to this Act shall be held *in camera* except that the court may permit any person to be present if the court considers it appropriate.

(2) Where the application is for the adoption of a child in permanent care and custody or a child that is the subject of an adoption agreement, the Minister may submit a written recommendation to the court respecting the adoption.

(3) The Minister may appear at the hearing and may assist the applicant or a party with respect to the application.

(4) The applicant shall, if possible, identify the person to be adopted by the birth registration number assigned by the proper authority of the person's place of birth and not by the person's name, in the title of the application and in the adoption order, and, in any such case, the applicant shall provide the court with a certificate of registration of the birth containing the fullest particulars of the birth available. 1990, c. 5, s. 77; 2005, c. 15, s. 4.

Adoption order

78 **(1)** Where the court is satisfied

(a) as to the ages and identities of the parties;

(b) that every person whose consent is necessary and has not been dispensed with has given consent freely, understanding its nature and effect and, in the case of a parent, understanding that its effect is to deprive the parent permanently of all parental rights; and

(c) that the adoption is proper and in the best interests of the person to be adopted,

the court shall make an order granting the application to adopt.

(2) The court, by an order for adoption, may order such change of name of the person adopted as the applicant requests, or may order that the name of the person adopted shall not be changed by the adoption.

(3) Unless the court otherwise orders, the surname of an adopted person shall be the surname of the person who adopts that person.

(4) Where an adoption order is granted in respect to a child who is or may be an Indian child, the Minister shall be so advised by the court and the Minister shall forward notification of the adoption of the Indian child in such form as may be prescribed, to the federal Department of Indian and Northern Affairs and, where the child is or is entitled to be a Mi'kmaq child, to the Mi'kmaw Family and Children's Services of Nova Scotia.

(5) Subject to subsection (6), where an order for adoption is made in respect of a child, any order for access to the child ceases to exist.

(6) Where an order for adoption is made in respect of a child, the court may, where it is in the best interests of the child, continue or vary an order for access or an access provision of an agreement that is registered as an order under the

Parenting and Support Act in respect of that child. 1990, c. 5, s. 78; 2005, c. 15, s. 6; 2015, c. 37, s. 62; 2015, c. 44, s. 51.

Customary adoption

78A (1) Upon application, the court may recognize that an adoption of a person in accordance with the custom of a band or an aboriginal community has the effect of an adoption under this Act.

(2) Subsections (2) to (6) of Section 78 apply *mutatis mutandis* to an adoption recognized by the court pursuant to subsection (1). 2015, c. 37, s. 63.

Openness agreement

78B (1) For the purpose of this Section, "openness agreement" means an agreement for the purpose of facilitating communication with or maintaining a relationship with a child between an adopting parent or an adoptive parent and

(a) a relative of the child;

(b) an adopting parent or adoptive parent of a sibling of the child; or

(c) a person who has established a relationship with the child.

(2) An openness agreement may

(a) only be made if consent to the adoption is given by

(i) the parent, or

(ii) the guardian who placed the child for adoption; and

(b) include a process to resolve disputes arising under the agreement.

(3) Where a child that is the subject of an openness agreement is

(a) twelve years of age or older, the child's views must be taken into account before an agreement is made; and

(b) less than twelve years of age, the child's views must, where it is appropriate, be taken into account before an agreement is made.

(4) An openness agreement does not affect the legal status of an order for adoption. 2005, c. 15, s. 7; 2015, c. 37, s. 63.

Joint custody order in lieu of adoption

79 (1) Where a step-parent and the father or mother with custody of the child make application for the adoption of a child, the court may in lieu thereof,

in the best interests of the child, grant an order for joint custody by the step-parent and the father or mother rather than an order for adoption.

(2) A step-parent and the father or mother with custody of a child may make application to the court for an order granting them joint custody of the child.

(3) Where the court makes an order pursuant to subsection (1) or (2), other than where subsection (4) applies, the order may be enforced, varied or rescinded in accordance with the *Parenting and Support Act*.

(4) Where the father or mother pursuant to subsection (1) or (2) has custody of the child pursuant to the *Divorce Act* (Canada), an application shall be made and the matter determined in accordance with the provisions of that Act and the *Civil Procedure Rules*. 1990, c. 5, s. 79; 2015, c. 37, s. 64; 2015, c. 44, s. 52.

Effect of adoption order

80 **(1)** For all purposes, upon the adoption order being made,

(a) the adopted person becomes the child of the adopting parents and the adopting parents become the parents of the adopted person as if the adopted person had been born to the adopting parents; and

(b) except as provided in subsection (4) of Section 72, the adopted person ceases to be the child of the persons who were the adopted person's father and mother before the adoption order was made and those persons cease to be the parents of the adopted person, and any care and custody or right of custody of the adopted person ceases.

(2) The relationship of all persons to the adopted person must be determined in accordance with subsection (1).

(3) Subsections (1) and (2) do not apply for the purpose of the laws relating to incest and prohibited degrees of kindred for marriage to remove any person from a relationship in consanguinity that, but for this Section, would have existed.

(3A) An adoption order does not affect any right the adopted person may have to exercise the existing aboriginal and treaty rights of the aboriginal peoples of Canada that are recognized and affirmed in section 35 of the *Constitution Act*, 1982.

(4) In any enactment, conveyance, trust, settlement, devise, bequest or other instrument, "child" or "issue" or the equivalent of either includes an adopted child unless the contrary plainly appears by the terms of the enactment or instrument. 1990, c. 5, s. 80; 2015, c. 37, s. 65.

Effect of subsequent adoptions

81 Subject to subsection (4) of Section 72, all the legal consequences of the previous adoption order terminate upon a subsequent adoption, except so far as any interest in any property that has vested. 1990, c. 5, s. 81.

Application of Sections 80 and 81

82 Sections 80 and 81 apply to all orders for adoption made in the Province, whether before, on or after the first day of August, 1967, but not so as to divest any interest in property that has vested on or before the first day of August, 1967. 1990, c. 5, s. 82.

Appeal from or application to set aside adoption order

83 (1) A person aggrieved by an order for adoption made by the court may appeal therefrom to the Nova Scotia Court of Appeal within thirty days of the order.

(2) A person aggrieved by an order for adoption made without notice to the person hereunder may within one year after the date of the order apply to the court to set aside the order and, if, upon such application, the court is satisfied that

(a) the written consent of such person for the adoption was obtained by fraud, duress or oppressive or unfair means of any kind;

(b) the person is a person whose written consent was required pursuant to subsection (3) of Section 74 and was not obtained, dispensed with or deemed to have been given pursuant to subsection (3) of Section 75; or

(c) the person is a parent who was entitled to enter into an adoption agreement pursuant to Section 68 and who did not enter into such an agreement,

and the court considers it appropriate to set aside its order, the order may be set aside and, where the order is set aside, the court may make an order for custody or access in the best interests of the child.

(3) A person under the age of majority whose adoption is sought may appeal by the person's guardian *ad litem* but no bond shall be required or costs awarded against a person who acts as a guardian *ad litem*. R.S., c. 240, s. 9; 1990, c. 5, s. 83; 1992, c. 16, s. 38.

Limitation period

84 Where one year has elapsed from the date of an order for adoption, the order shall not thereafter, in any direct or collateral proceeding, be subject to attack or to be set aside. 1990, c. 5, s. 84.

Copies of documents, sealed packet and certificate of adoption

85 (1) The court shall, within ten days after an order for an adoption is made by the court, forward a copy of such order, certified to be a true copy, to the Registrar General and to the Minister and, where the original name of the person to be adopted does not appear in the adoption order, a copy of the birth registration certificate shall be attached to each copy so forwarded.

(2) The order for adoption, the application, the material filed and the record of the proceedings, and any other written information in the possession of the court, shall be kept in a sealed packet and shall not be open to inspection except upon leave of the court or in accordance with subsection (4).

(3) Upon the expiry of the appeal period, or at such time as an appeal is concluded, the sealed packet containing all written documentation pursuant to an adoption shall be forwarded by the court to the Minister by, subject to the regulations, appropriate means having regard to the confidential nature of the material.

(4) The Minister may open the sealed packet kept by the Minister for the purpose of obtaining any information as may be disclosed pursuant to the *Adoption Records Act*, and regulations made under that Act.

(5) The Minister shall reseal the packet after information has been obtained from the sealed packet under subsection (4).

(6) Any agency or employee thereof or servant of Her Majesty in right of the Province who discloses any information, except pursuant to subsection (4) or upon a court order, is guilty of an offence and is liable upon summary conviction to a fine not exceeding five thousand dollars or, in default thereof, to a term of imprisonment not exceeding six months. 1990, c. 5, s. 85; 1996, c. 3, s. 37; 2021, c. 1, s. 48.

Effect of out-of-province adoption

86 Where a person has been adopted in another province, state or country according to the law of that place while domiciled or resident there or having been born there, or while the person's adoptive parent was domiciled or resident there, the person and the person's adoptive parent have for all purposes in the Province the same status, rights and duties as if the adoption had been done pursuant to this Act. 1990, c. 5, s. 86.

Adoption subsidy

87 The Minister may grant a subsidy to a person who has filed a notice of proposed adoption pursuant to this Act or who has adopted a child pursuant to this Act, where

(a) the child is residing with the person or the adoptive parent;

(b) the child is under the age of nineteen years or, where the child is pursuing an education program, the child is under the age of twenty-one years; and

(c) the child has been placed in the adoptive home by an agency pursuant to this Act. 2002, c. 5, s. 2; 2015, c. 37, s. 66.

Transfer of subsidy

88 Where a person receiving a subsidy granted pursuant to Section 87 has died or become unable to care for the child in respect of whom the subsidy was granted, the Minister may grant a subsidy to another person, where

(a) the child is residing with the person;

(b) the child is under the age of nineteen years or, where the child is pursuing an education program, the child is under the age of twenty-one years; and

(c) an agency determines that the placement of the child with the person is in the child's best interests. 2015, c. 37, s. 67.

Review of Act

88A (1) The Minister shall periodically appoint a committee to conduct a review of this Act or those provisions of it specified by the Minister.

(2) The Minister shall inform the public when a review under this Section begins and of the provisions of the Act included in the review.

(3) The committee shall prepare a written report respecting the review for the Minister.

(4) The Minister shall make the report available to the public.

(5) The first review shall be completed and the report made available to the public within four years after the day this Section comes into force.

(6) Each subsequent review shall be completed and the report made available to the public within four years after the day the report on the previous review has been made available to the public. 2015, c. 37, s. 67.

Order to bring child

89 Where an application respecting a child is pending before the court, the court may order that the child be brought before the court at any time, and for this purpose may make such order as the court deems proper. 1990, c. 5, s. 89.

Enforcement of order

90 Where a person, who is required by an order of the court pursuant to this Act to do an act or to abstain from doing an act in relation to the custody, care, or care and custody of a child or access to a child, disobeys the order, the court may enforce the order or punish for contempt of court in the same manner and following the same procedure as provided for such a case in the Supreme Court. 1990, c. 5, s. 90.

Assistance by peace officers

91 **(1)** It is the duty of all peace officers to assist representatives in carrying out the provisions of this Act.

(2) It is the duty of peace officers to serve any process issued out of any court.

(3) Where a court certifies that a peace officer has performed services pursuant to this Section, that peace officer is entitled to receive fees for services on the scale prescribed for an indictable offence from the municipality that would be liable to pay such fees if the proceeding had been such a prosecution. 1990, c. 5, s. 91; 2015, c. 37, s. 74.

Offences and penalties

92 **(1)** Where a child is the subject of a temporary-care agreement pursuant to Section 17, an interim order pursuant to Section 39, a disposition order pursuant to Section 42, a secure-treatment certificate or a secure-treatment order a person who

(a) induces or attempts to induce the child to leave the care or care and custody of a person with whom the child is placed by the court or an agency, as the case may be;

(b) detains or harbours the child after the person or agency referred to in clause (a) requires that the child be returned;

(c) interferes with the child or removes or attempts to remove the child from any place; or

(d) for the purpose of interfering with the child, visits or communicates with the person referred to in clause (a),

is guilty of an offence and upon summary conviction is liable to a fine or not more than two thousand dollars or to imprisonment for a period not exceeding six months or to both.

(2) A person who induces or attempts to induce a child to leave a child-caring facility is guilty of an offence and upon summary conviction is liable to a fine of not more than two thousand dollars or to imprisonment for a period not exceeding six months or to both.

(3) A person who obstructs, interferes with or attempts to obstruct or interfere with a representative or agency employee in the discharge of duties pursuant to this Act is guilty of an offence and upon summary conviction is liable to a fine of not more than two thousand dollars or to imprisonment for six months or to both. 1990, c. 5, s. 92; 1996, c. 10, s. 15; 2015, c. 37, ss. 68, 74.

Hearings public

93 Except where this Act otherwise provides, a proceeding pursuant to this Act shall be held in public except that where the court is satisfied that

(a) the presence of the public could cause emotional harm to a child who is a witness at or a participant in the hearing or is the subject of the proceeding;

(b) it is necessary to exclude the public to obtain the full and candid testimony of a witness at the hearing; or

(c) it would otherwise be in the interest of the proper administration of justice to exclude any or all members of the public from the hearing,

the court may exclude any or all members of the public from all or any part of the hearing. 1990, c. 5, s. 93.

Prohibition on publication

94 **(1)** No person shall publish or make public information that has the effect of identifying a child who is a witness at or a participant in a hearing or the subject of a proceeding pursuant to this Act, or a parent or guardian, a foster parent or a relative of the child.

(2) Where the court is satisfied that the publication of a report of a hearing or proceeding, or a part thereof, would cause emotional harm to a child who is a participant in or a witness at the hearing or is the subject of the proceeding, the court may make an order prohibiting the publication of a report of the hearing or proceeding, or the part thereof.

(3) Where the court makes an order pursuant to subsection (2), no person shall publish a report contrary to the order.

(4) A person who contravenes subsection (1) or (3), and a director, officer or employee of a corporation who authorizes, permits or concurs in such a contravention by the corporation, is guilty of an offence and upon summary conviction is liable to a fine of not more than ten thousand dollars or to imprisonment for two years or to both. 1990, c. 5, s. 94.

Jurisdiction of court

95 The Provincial Court has exclusive original jurisdiction over the prosecution of an offence against this Act. 1990, c. 5, s. 95; 2015, c. 37, s. 69.

Evidence

96 **(1)** At a proceeding pursuant to this Act other than Sections 68 to 87, the court may, subject to subsection (2) of Section 40, admit as evidence

(a) evidence from proceedings, pursuant to this Act or any other similar legislation, respecting the child that is the subject of the hearing, or respecting another child that was in the care or custody of a parent or guardian of the child that is the subject of the hearing; or

(b) evidence taken by a commissioner appointed by the court to take the evidence of a witness,

upon such terms as the court directs.

(2) In a proceeding pursuant to this Act other than Sections 68 to 87, the privileges pursuant to Sections 49 and 59 of the *Evidence Act* do not apply.

(3) Upon consent of the parties or upon application by a party, the court may, having regard to the best interests of the child and the reliability of the statements of the child, make such order concerning the receipt of the child's evidence as the court considers appropriate and just, including

(a) the determination of the persons, including parties, who may be present while the child is giving *viva voce* evidence; and

(b) the admission into evidence of out-of-court statements made by the child. 1990, c. 5, s. 96.

Effect of out-of-province order

97 Where an order has been made by a court of competent jurisdiction in another province of Canada pursuant to provisions similar in effect to this Act, the order has the same force and effect in the Province as an order made pursuant to this Act unless the court otherwise orders. 1990, c. 5, s. 97.

No action lies

98 No action lies against a person in relation to the exercise or performance, in good faith and without negligence, of a power, duty or function conferred pursuant to this Act. 2015, c. 37, s. 70.

Regulations

99 **(1)** The Governor in Council may make regulations

(a) respecting the functions and duties of agencies;

(b) respecting the procedures for revocation or suspension of the powers and functions of an agency;

(c) respecting the qualifications, appointment and duties of representatives;

(d) respecting services to promote the integrity of families;

(e) respecting the provision of services to persons sixteen years of age or more but under nineteen years of age;

(f) respecting standards and procedures for the licensing, approval, inspection, evaluation, and suspension or cancellation of licences or approvals of child-care services and child-caring facilities;

(g) providing for payments by the Minister to agencies, child-caring facilities and child-care services for services performed by them and prescribing the conditions and procedures under which payments are to be made;

(h) respecting the approval of foster homes and foster parents;

(i) respecting procedures and conditions for admission to a child-caring facility;

(ia) respecting standards and procedures for the use in licensed child-caring facilities of therapeutic quiet rooms and physical restraints;

(j) respecting the functions and duties of advisory boards appointed pursuant to Section 16;

(k) prescribing the procedures for temporary-care agreements, special-needs agreements, services agreements, placement agreements, agreements with older adolescents and adoption agreements;

(l) respecting the qualifications, appointment and payment of mediators;

(m) respecting the reporting and investigation of reports of abuse by persons acting in the course of professional or official duties;

(n) respecting payment of the costs of taking a child into care and the maintenance of a child in care;

(o) respecting payment of the reasonable fees and disbursements of counsel appointed to represent the child;

(p) respecting payment of the reasonable fees and disbursements of a guardian *ad litem* appointed for a child;

(q) respecting the transfer between agencies of children in permanent care and custody;

(r) respecting procedures for the handling of complaints by agencies;

(s) providing for the charging of fees for services provided in relation to international adoptions;

(sa) respecting the amount payable for maintaining a child in care;

(t) respecting the voluntary admission of children to secure treatment facilities;

(u) respecting the form and issuance of secure-treatment certificates;

(ua) respecting the designation of a person by the Minister for the purpose of subsection (3) of Section 59;

(v) respecting leaves of absence from and transfers between secure treatment facilities;

(w) respecting the information to be entered in the Child Abuse Register;

(x) respecting the offences contrary to the *Criminal Code* (Canada) in respect of which a person may be entered in the Child Abuse Register;

(y) prescribing the procedures and notices for the registration of names and information in the Child Abuse Register;

(z) respecting the use of the Child Abuse Register for the purposes of research;

(za) providing for the charging of a fee for a search under the Child Abuse Register;

(aa) respecting procedures for the disclosure of information in the Child Abuse Register to persons requesting such information;

(ab) further defining when proceedings for adoption are commenced;

(ac) respecting the forwarding and retention of all records and documents pertaining to adoption;

(ad) *repealed 1996, c. 3, s. 38.*

(ae) prescribing the form of agreements for the purpose of this Act;

(af) prescribing forms for the purpose of this Act;

(ag) defining any word or expression used in this Act not defined herein;

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

(1A) *repealed 2015, c. 37, s. 71.*

(2) The exercise by the Governor in Council of the authority contained in subsection (1) shall be regulations within the meaning of the *Regulations Act*. 1990, c. 5, s. 99; 1994-95, c. 7, s. 15; 1996, c. 3, s. 38; 2001, c. 3, s. 4; 2002, c. 5, s. 3; 2015, c. 37, ss. 71, 74.

Repeal of Children's Services Act

100 Chapter 68 of the Revised Statutes, 1989, the *Children's Services Act*, is repealed. 1990, c. 5, s. 100.

101 to **103** *repealed 2015, c. 37, s. 72.*

Former Child Abuse Register

104 (1) In this Section, "former Register" means the Child Abuse Register established and maintained pursuant to the former Act.

(2) Where a person's name appears on the former Register and the Minister is satisfied that the person has been convicted of an offence against a child contrary to the *Criminal Code* (Canada) as prescribed in the regulations, and which relates to the matter upon which registration on the former Register was based, the name of the person and such information as is prescribed by the regulations shall be entered in the Child Abuse Register pursuant to this Act.

(3) Where a person's name appears in the former Register and an application was made by that person to the court to have the information struck from the former Register and the application was dismissed, the name of the person and such information as is prescribed by the regulations shall be entered in the Child Abuse Register pursuant to this Act.

(4) Where a person's name is entered in the Child Abuse Register pursuant to subsection (2) or (3), the person shall be given written notice of registration in the form prescribed by the regulations. 1990, c. 5, s. 104.

105 and **106** *repealed 2015, c. 37, s. 73*.

Family Maintenance Act amended

107 *amendments*

Infants' Custody Act repealed

108 Chapter 228 of the Revised Statutes 1989, the *Infants' Custody Act,* is repealed. 1990, c. 5, s. 108.

Effective date or proclamation

109 (1) This Act, excepting Sections 54 to 60 and Section 73, comes into force on and not before the third day of September, 1991, or such earlier day as the Governor in Council orders and declares by proclamation.

In force - September 3, 1991

(2) Sections 54 to 60 and Section 73 come into force on and not before such day as the Governor in Council orders and declares by proclamation. 1990, c. 5, s. 109.

ss. 54-60 proclaimed - December 4, 2003
ss. 54-60 in force - December 8, 2003
s. 73 - not proclaimed

TAB 6

COVID-19 Mandatory Vaccination Protocol in High-Risk Settings

October 6, 2021

1.0 Introduction:

a) The Chief Medical Office of Health is responsible for ensuring Nova Scotians are optimally protected in workplace settings where the risk of contracting and transmitting COVID-19 is high;

b) In Nova Scotia, the ongoing presence of COVID-19 variants of concern, including the Delta variant, poses significant risk to our population;

c) Achieving high COVID-19 immunization rates through vaccination is part of a range of actions that can help prevent and limit the spread of COVID-19;

d) The Nova Scotia COVID-19 Vaccination Program has made, and continues to make, vaccines available to all Nova Scotians;

e) There is higher risk of both infection and transmission of COVID-19 by persons who are not fully vaccinated. This also poses a risk to those who are vaccinated, particularly in light of the Delta variant and other current and emerging variants of concern;

f) It is necessary to set out a consistent, provincial approach to COVID-19 protection in settings where the risk of contracting and transmitting COVID-19 is high;

g) It is also necessary to ensure Nova Scotians working and volunteering in settings where there is high risk of contracting and transmitting COVID-19 have access to the information required to make informed decisions about COVID-19 vaccination;

h) Employers and operators in sectors where there is a high risk of transmission will play a key role in ensuring this Protocol is implemented effectively and in accordance with public health principles. Therefore, employers and facility operators need to know the vaccination status of employees, outside service providers and volunteers to implement infection prevention and control measures to protect patients, residents, clients and other personnel;

i) The Chief Medical Officer of Health requires the aggregate, non-identifiable information regarding vaccination rates in each of the identified high-risk settings to support the management of the public health response to the pandemic;

j) This Protocol has been developed with consideration of the interests of persons who have a valid medical contraindication against receiving COVID-19 vaccine as supported by either a physician or a nurse practitioner; and

k) This Protocol has been further developed with consideration of the interests protected by Nova Scotia's Human Rights Act and the privacy interests of impacted employees, outside service providers and volunteers with a view to balancing the interests of the public, including constitutionally protected interests, against the risk of harm to other personnel as well as to those who receive care and services in high-risk settings.

2.0 Definitions

"Designated Care Giver": means a person (other than the parent or legal guardian of a minor, as defined in the Age of Majority Act) who, in the following settings, is the family member and/or support person who has been designated by a resident, client, patient or their substitute decision maker and the facility where they reside, who has been regularly involved in the resident's life, supporting their health and well-being:

- A hospital as defined by the Hospitals Act;
- Long-term care facilities licensed under the Homes for Special Care Act;
- Privately-operated long-term care facilities identified in Appendix A to this Protocol;
- Community Hospice Operators and Community Hospices as defined in the Community Hospices Regulations made under Section 78 of the Health Authorities Act;
- Homes licensed by the Minister of Community Services under the Homes of Special Care Act;
- Child-caring facilities approved or operated by the Minister of Community Services under the Children and Family Services Act, except foster homes;
- Organizations primarily funded by the Minister of Community Services that provide residential placements and supervision to:
    - Participants of the Disability Support Program, including Temporary Shelter Arrangements, Independent Living Support and Supervised Apartments; and

- Children and youth in the care of the Minister of Community Services under the Children and Family Services Act,

- Organizations primarily funded by the Minister of Community Services that provide Adult Day Programming for persons with disabilities; and
- Organizations primarily funded by the Minister of Seniors and Long Term Care that provide Seniors Adult Day Programming for seniors.

"Employer or Operator in a High-Risk Setting" means the employers and operators of the following:

- A hospital as defined by the Hospitals Act;
- A Health Authority as defined in the Health Authorities Act;
- A home care agency funded under the Homemaker Services Act;
- Emergency health services, ambulance services and communications centre as defined in the Emergency Health Services Act;
- An office of 811 Telehealth;
- An office of Nova Scotia Hearing and Speech;
- A long-term care facility licensed under the Homes for Special Care Act;
- Privately-operated care facilities for seniors, along with independent or assisted living services for seniors;
- Privately-operated home care services and agencies;
- Community Hospice Operators and Community Hospices as defined in the Community Hospices Regulations made under Section 78 of the Health Authorities Act;
- All facilities, agencies and family childcare homes as defined in the Early Learning and Childcare Act;
- An Education Entity as defined under the Education Act, and the public schools and related programs and services offered for or on behalf of an education entity, including transportation and cafeteria services and pre-primary programs;
- Homes licensed by the Minister of Community Services under the Homes of Special Care Act;

- Child-caring facilities approved or operated by the Minister of Community Services under the Children and Family Services Act, except foster homes;
- Organizations primarily funded by the Minister of Community Services that provide residential placements and supervision to:
    - Participants of the Disability Support Program, including Temporary Shelter Arrangements, Independent Living Support and Supervised Apartments; and
    - Children and youth in the care of the Minister of Community Services under the Children and Family Services Act,
- Organizations primarily funded by the Minister of Community Services that provide Adult Day Programming for persons with disabilities;
- Organizations primarily funded by the Minister of Seniors and Long Term Care that provide Seniors Adult Day Programming for seniors; and
- Correctional facilities as defined in the Correctional Services Act.

"Fully vaccinated" means that a person is considered "fully vaccinated" against COVID-19 in the follow circumstances:

- 14 days or more after receiving the second dose of a two-dose series of a Health Canada authorized COVID-19 vaccine (Moderna, Pfizer-BioNTech, AstraZeneca) following minimum dosing intervals. This includes a mix of these vaccines, such as one dose of AstraZeneca and one dose of Moderna;
- 14 days or more after receiving a one-dose series of a Health Canada authorized COVID-19 vaccine (Janssen/Johnson & Johnson); or
- 14 days or more after receiving the final dose of any other World Health Organization authorized series of COVID-19 vaccine (such as Sinopharm or Sinovac).

"Health Care Facility" means:

- A hospital as defined by the Hospitals Act;
- A Health Authority as defined in the Health Authorities Act;
- A home care agency funded under the Homemaker Services Act;
- Ambulance services as defined by the Emergency Health Services Act; and
- An office of Nova Scotia Hearing and Speech.

"Not fully vaccinated" means no receipt of any vaccine dose or receipt of 1 dose of a vaccine authorized as a 2 dose vaccine series such as Pfizer, Moderna or AstraZeneca plus 14 days.

"Outside service provider" means:

- In a health care setting: a physician, nurse, physiotherapist, occupational therapist, home support worker, faculty member of a health care or personal care educational or training facility, student engaging in a training opportunity with the Employer, emergency medical assistant/paramedic present in a facility on a non-urgent basis, patient transport worker or any other non-staff member who provides health care or personal care to a resident, but does not include a visitor or designated care giver;
- In a public education setting: a non-staff person providing health or personal care, mental health, social, education, transportation, recreation or food services, a student participating in a training opportunity with the Employer, or any other non-staff member contracted or engaged by the Employer or otherwise authorized to provide programs or services for students, pre-primary children or staff, but does not include a visitor or designated care giver;
- In a community services residential and day programming setting: a non-staff person providing health or personal care, mental health, social, education, access, transportation, recreation, or food services and a student participating in a training opportunity, or any other non-staff member contracted or engaged by the Employer or otherwise authorized to provide programs or services for participants on site, but does not include a visitor or designated care giver; and
- In a correctional setting, a non-staff person providing health or personal care, mental health, social, education, access, transportation, recreation, or food services and a student participating in a training opportunity, or any other non-staff member contracted or engaged by the Employer or otherwise authorized to provide programs or services for offenders or persons in custody, but does not include a visitor or designated care giver.

"Personnel": means any employee, outside service provider or volunteer of an Employer or Operator in a High-Risk Setting"

"Proof of vaccination": means a document issued by the government or non-government entity that administered the COVID-19 vaccine that meets the criteria set out in Appendix A: "Acceptable Forms of Proof of Vaccination".

"Universal Pandemic Precautions": means the use of a mask and face/eye protection (hospital supplied mask with visor, face shield, or goggles) for all direct patient contacts.

"Vaccine": means a vaccine against COVID-19 that has been approved by either the Public Health Agency of Canada or the World Health Organization.

"Visitor": other than in a foster home as defined by the Child and Family Services Act or a patient as defined in the Hospitals Act, means anyone entering the facility of an Employer or Operator in a High-Risk Setting who is not Personnel.

"Volunteer": means a person who gives freely of their time and skills, without monetary compensation, within a facility overseen by an Employer or Operator in a High-Risk Setting.

3.0 Employers and Operators in a High-Risk Setting

3.1 Every employer and operator shall require all personnel and visitors to provide one of the following before November 30, 2021:

3.1.1 Proof of vaccination of COVID-19 vaccine administration as per the following requirements:

- if the person is partially vaccinated, proof that the first dose was administered and, within 45 days, proof of administration of the second dose or
- if the person is fully vaccinated, proof of all required doses or

3.1.2 Written proof of a valid medical contraindication against receiving COVID-19 vaccine provided by either a physician or a nurse practitioner. A physician or nurse practitioner may complete and sign a Valid Certificate of Medical Contraindication for COVID-19 Vaccination letter attesting that the person (their patient) has a valid medical contraindication that prevents vaccination approved by the Chief Medical Office of Health, setting out:

- that the person cannot be vaccinated against COVID-19 based on one of the following valid medical contraindications:
    - a history of severe allergic reaction (e.g. anaphylaxis) after previous administration of a COVID-19 vaccine using a similar platform (mRNA or viral vector)

- an allergy to any component of the specific COVID-19 vaccine or its container (polyethylene glycol for the Pfizer-BioNTech and the Moderna vaccines)
- a history of major venous and/or arterial thrombosis with thrombocytopenia following vaccination with the AstraZeneca COVID-19 vaccine
- a history of capillary leak syndrome following vaccination with the AstraZeneca vaccine
- a history of myocarditis and/or pericarditis after a first dose of an mRNA COVID-19 vaccine (Pfizer-BioNTechdec or Moderna)
- experienced a serious adverse event after receiving a first dose of COVID-19 vaccine. A serious adverse event is defined as life-threatening, requires in-patient hospitalization or prolongs an existing hospitalization, results in persistent or significant disability/incapacity, or in a congenital anomaly/ birth defect, and,

• the effective time period for the medical contraindication or

3.1.3 Written proof of an exception due to a prohibited ground of discrimination under the Nova Scotia Human Rights Act. However, nothing in this Protocol obligates an employer to grant an exception due to a prohibited ground of discrimination under the Human Rights Act. Employers shall make their own determination regarding such exceptions in accordance with the Human Rights Act.

3.2 An employer and operator in a high-risk setting may begin requesting the proof required by section 3.1 from all personnel upon the effective date of this Protocol, for the purpose of meeting the reporting requirements in section 6.1.

3.2.1 Data requested under section 3.2 must be securely collected, stored and managed in accordance with this Protocol and the Order of the Chief Medical Officer of Health under section 32 of the Health Protection Act under which this Protocol is made.

3.3 All employers and operators shall, no later than October 30, 2021, make available to their employees who have not provided the proof required by section 3.1 an educational program approved by the employer that addresses, at a minimum, all of the following:

- how COVID-19 vaccines work;
- vaccine safety related to the development of the COVID-19 vaccines;
- the benefits of vaccination;
- the risks of not being vaccinated against COVID-19; and
- the possible side effects of COVID-19 vaccination.

3.4 Where an employee has not provided the proof required by section 3.1 by November 30, 2021, or, where the employee has provided proof that the first dose was administered, but has not, within 45 days, provided proof of the administration of the second dose, the employer or operator in a high-risk setting shall:

3.4.1 place that employee on unpaid administrative leave for a period of 14 days, and,

3.4.2 should the proof required by section 3.1 not be provided by the employee by end of that 14 day period, or where the employee has provided proof that the first dose was administered, but has not, within 45 days, provided proof of the administration of the second dose, the employer or operator in a high risk setting shall place that employee on unpaid administrative leave until such time as the required proof of being fully vaccinated is provided.

3.5 Where an employee is on a Leave of Absence (for example, maternity, parental, short term disability etc.) that continues beyond November 30, 2021, the employer or operator in a high-risk setting shall:

3.5.1 require the employee to provide the proof required by section 3.1 on the date of the employee's return, and,

3.5.2 where the employee has not provided the proof required by section 3.1 on the date of the employee's return, or where the employee has provided proof that the first dose was administered, but has not, within 45 days, provided proof of the administration of the second dose, the employer or operator in a high-risk setting shall:

3.5.2.1 place that employee on unpaid administrative leave for a period of 14 days and make available to the employee the education required by section 3.3 as of the date of the employee' return, and,

3.5.2.2 should the proof required by section 3.1 not be provided by the employee by end of that 14 day period, or where the employee has provided proof that the first dose was administered, but has not, within 45 days, provided proof of the administration of the second dose, the employer or operator in a high-risk setting shall place that employee on unpaid administrative leave until such time as the required proof is provided.

3.6 Where an outside service provider or volunteer has not provided the proof required by section 3.1 by November 30, 2021, the employer or operator in a high-risk setting shall not allow that outside service provider or volunteer to enter the facility, until such time as the required proof is provided.

3.7 For greater clarity, no health care facility employer or operator, shall turn away an employee, outside service provider or volunteer who is not fully vaccinated from accessing care as a patient of a health care facility where they work or volunteer.

3.8 Where a person has provided proof under section 3.1.2, if the effective time period of a medical contraindication provided no longer applies, every employer or operator in a high-risk setting shall ensure, within 30 days of the date on which the medical contraindication no longer applies, that the person provides proof of vaccination.

3.9 The employer shall require persons who provide proof under sections 3.1.2 and 3.1.3 to wear personal protective equipment, up to and including universal pandemic precautions, in accordance with the respective employer or operator protocol, while working or volunteering, including when accompanying a patient/resident away from a facility.

3.10 Every employer and operator in a high-risk setting covered by this Protocol shall ensure that personnel who have provided written proof under sections 3.1.2 and 3.1.3:

3.10.1 meet the requirements of section 4.6 prior to entering the work site, and,

3.10.2 where a person has tested positive, shall ensure that they are prohibited from entering the high-risk setting until that person's return has been approved by the Regional Medical Officer of Health.

4.0 Employees of Employer and Operators in High-Risk Settings:

4.1 All employees must by November 30, 2021 provide their respective employer or operator in a high-risk setting with the proof required by sections 3.1.

4.2 An employee who is not fully vaccinated must take the education program offered by the employer under section 3.3 when it becomes available.

4.3 An employee who does not provide the proof required by section 3.1 by November 30, 2021, or does not provide proof, within 45 days, of the administration of the second dose, shall:

4.3.1 take unpaid leave for a period of 14 days, and,

4.3.2 should the proof required by section 3.1 not be provided by the employee by end of the period of 14 days, take unpaid administrative leave until such time as the required proof is provided.

4.4 Where an employee is on a Leave of Absence (for example, maternity, parental, short-term disability etc.) that continues beyond November 30, 2021, they shall:

4.4.1 where the proof of vaccination per section 3.1 has not been provided on the date of return, take the education required by section 3.3;

4.4.2 where the employee has not provided the proof required by section 3.1, within 30 days of the date of their return, or has not provided proof, within 45 days, of the administration of the second dose:

4.4.2.1 the employee will take unpaid administrative leave for a period of 14 days, and,

4.4.2.2 should the proof required by section 3.1 not be provided by the employee by end of the period of 14 days, the employee shall take unpaid administrative leave until such time as the required proof is provided.

4.5 For greater clarity, an employee of a health care facility who is not fully vaccinated may still access care as a patient at a health care facility where they work or volunteer.

Employees with Exceptions

4.6 Where an employee has provided proof under section 3.1.2 or 3.1.3, they:

4.6.1 must wear a medical mask which covers their nose and mouth when working or volunteering, or when accompanying a patient/resident away from a facility of the employer or operator in a high-risk setting, other than when they are consuming food or a beverage and in accordance with any other personnel directives from the employer or operator;

4.6.2 must complete twice weekly (72 hours apart) COVID-19 tests, where testing is the responsibility of the personnel and must be completed outside of work hours;

4.6.3 are responsible for all travel expenses to complete the testing requirements as outlined above;

4.6.4 may continue to report to work while waiting for test results, provided they are asymptomatic and do not meet the criteria for self isolation; and

4.6.5 must immediately self-isolate when they receive a positive COVID-19 result and may only return when it has been approved by the Regional Medical Officer of Health.

4.7 Where an employee has provided proof under section 3.1.2, and, if the effective time period of a medical contraindication provided no longer applies, the employee must,

4.7.1 within 30 days of the medical contraindication expiring provide proof of vaccination as per section 3.1, or\

4.7.2 where the employee and has not provided the proof required by section 3.1, within 30 days of the date on which the medical contraindication no longer applies, or has provided proof of being partially vaccinated before November 30, 2021, but has not provided proof of being fully vaccinated within 45 calendar days, they shall:

4.7.2.1 take unpaid administrative leave for a period of 14 days, and,

4.7.2.2 should the proof required by section 3.1 not be provided by the employee by end of that 14 day period, the employee shall take unpaid administrative leave until such time as the required proof is provided.

5.0 Outside Service Providers, Volunteers, Visitors and Designated Care Givers

5.1 An outside service provider, volunteer, visitor or designated care giver may not enter a facility of an Employer or Operator in a High-Risk Setting after November 30, 2021, unless they are fully vaccinated and provide proof of vaccination or have provided proof of an exception per section 3.1, to the Employer or Operator in a High-Risk setting.

5.2 For greater clarity, where the time period of a medical contraindication provided by a visitor or designated care giver under section 3.1.2 no longer applies, they shall not enter the facility until such time as they are fully vaccinated and provide proof of vaccination.

5.3 For greater clarity, this Protocol does not apply to a visitor of a patient or resident in a facility of an Employer or Operator in a High-Risk setting, where the patient or resident is receiving end of life care, as clinically determined by the respective facility.

6.0 Monitoring

6.1 Starting on November 1, 2021 and the first of every month thereafter, every employer or operator in a high-risk setting shall collect, maintain, and disclose to the Chief Medical Officer of Health or their delegate, and in a manner set out by the Chief Medical Officer of Health or their delegate, the following information:

- the total number of employees, outside service providers and volunteers for the reporting cycle; and
- the total number of persons who submitted the proof as per the requirements of section 3.1 broken down by role (employees, outside service providers and volunteers) and which type of proof was provided (proof of vaccination, medical or human rights exception) or that no proof was provided after the November 30th mandatory timeline.

Appendix A: Acceptable forms of proof of full vaccination

Original proof of full vaccination records are acceptable in paper and digital formats, as well as clear photos, screenshots and photocopies.

Required information
At minimum, a record must show all the following information to demonstrate proof of full vaccination:

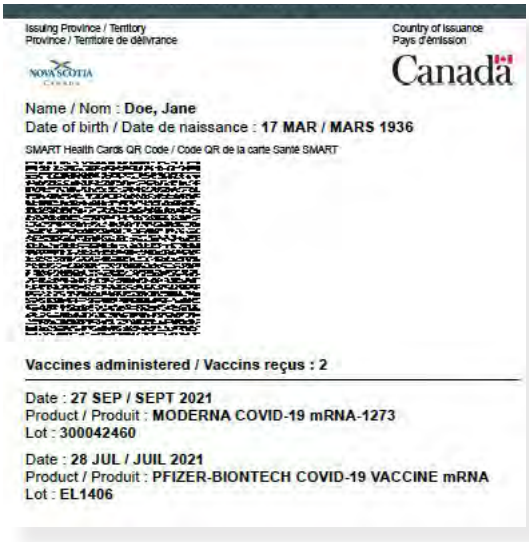
- the person's name
- the brand(s) of vaccine received (such as Moderna, Pfizer, etc)
- an indication that all required doses for that brand of vaccine were received
- the date when the final dose was received

For example:

Jane Doe
COVID-19 Dose 1
Pfizer-BioNTech
Received on May 14, 2021

COVID-19 Dose 2
Pfizer-BioNTech
Received on July 9, 2021

Preferred format of proof of full vaccination
The federal government has developed a standard proof of vaccination for Canadians. It allows all provinces and territories to have a standard, recognizable proof of vaccination. Effective October 1, 2021, Nova Scotia is adopting it as the province's standard format for proof of vaccination:


Issuing Province / Territory
Province / Territoire de délivrance
NOVA SCOTIA

Country of Issuance
Pays d'émission
Canada

Name / Nom : **Doe, Jane**
Date of birth / Date de naissance : **17 MAR / MARS 1936**
SMART Health Cards QR Code / Code QR de la carte Santé SMART

Vaccines administered / Vaccins reçus : 2

Date : **27 SEP / SEPT 2021**
Product / Produit : **MODERNA COVID-19 mRNA-1273**
Lot : **300042460**

Date : **28 JUL / JUIL 2021**
Product / Produit : **PFIZER-BIONTECH COVID-19 VACCINE mRNA**
Lot : **EL1406**

Everyone who is vaccinated in Nova Scotia on or after October 1, 2021 will receive their proof of vaccination in this standard format. Everyone who was vaccinated in Nova Scotia before that date is encouraged to download their proof of vaccination in this new format, starting October 1. This will make it easier for businesses and organizations in Nova Scotia to check proof of vaccination.

People who were vaccinated outside Nova Scotia or outside Canada can use the proof of vaccination they received in another jurisdiction. If they wish, starting October 4, they can follow instructions to upload their vaccine record from the jurisdiction(s) where they were vaccinated in order to receive their proof of vaccination in Nova Scotia's standard format. It will take several weeks to receive it because the information submitted must be verified.

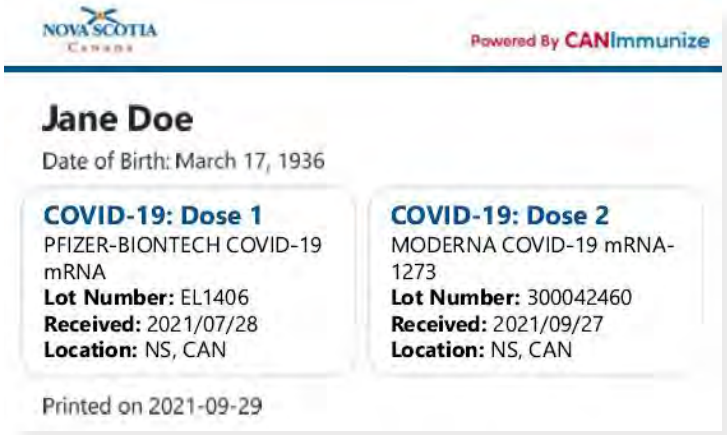
This standard proof of vaccination has a quick response (QR) code that can be scanned by a business or organization that requires a person's proof of full vaccination. Nova Scotia will implement VaxCheckNS starting October 22. It is a QR scanner app to scan this code and provide a simple green "confirmed" response or a red "sorry" response.

Once it is launched, scanning the new standard proof of vaccination with VaxCheckNS will be the preferred method of providing and checking proof of full vaccination. People are encouraged to use this process to make providing and checking proof of full vaccination easier for everyone. It will also best protect people's personal health information regarding their vaccination status. (See more in Section 2.4.)

Other acceptable formats of proof of full vaccination
Other options will be acceptable as proof of vaccination both before and after VaxCheckNS is available.

People who were vaccinated in Canada can use the standard proof of vaccination (shown above), whether or not the QR code it contains is scanned. It provides all the information required under this Protocol. It is acceptable as proof of vaccination within Nova Scotia, whether it is printed or photocopied or in digital form (such as a PDF or screenshot image saved on your phone or in the CanImmunize app).

People who were vaccinated in Nova Scotia before October 4 had access to the original format of the Nova Scotia COVID-19 vaccine record. A wallet-sized version of this record was also available – it can be laminated but does not have to be. It provides all the information required under this Protocol. It is acceptable as proof of vaccination within Nova Scotia, whether it is printed or photocopied or in digital form (such as a PDF or screenshot image saved on your phone or in the CanImmunize app):



People who received one or more doses of vaccine in another province, territory or country may show the proof of vaccination they received from that jurisdiction. Some people may need to show proof of vaccination from more than one jurisdiction if they got doses in different places. These records must provide the required information outlined in Section 2.2 of this Protocol.

Valid ID

In some cases, valid ID will be required along with proof of full vaccination to verify that a person is providing their own proof of vaccination.

In cases where a person's identity is already, valid ID is not required.

Acceptable forms of valid ID include:

- drivers license
- passport
- government issued ID card
- health card
- birth certificate
- student card
- Secure Certificate of Indian Status

Original ID records are acceptable in card, paper and digital formats, as well as clear photos, screenshots and photocopies.

Appendix B: Medical Accommodation Request Form

This form and the Physician's/Nurse Practitioner's Certificate below note must be completed and submitted [insert process - e.g., by emailing it to name/department/address] by [insert date], 2021.

Employee's full name: _____

Department: _____

By signing below I confirm that:_____

- I have a medical condition that requires accommodation from the COVID-19 Mandatory Vaccine Protocol for High-Risk Settings,
- the Physician's/Nurse Practitioner's Certificate attached hereto is accurate and was completed by my doctor,
- I consent to my employer contacting the doctor below to confirm my qualification for an accommodation,
- I understand that my employer reserves the right to impose additional restrictions or requirements on me for health and safety reasons which may not apply to fully vaccinated employees, and
- I understand that I can face disciplinary measures (including dismissal) for submitting a false or fraudulent accommodation request.

I understand that the information collected herein is for the purpose of safeguarding the health and wellbeing of the workplace, and is collected in accordance with the Nova Scotia Health Protection Act and the COVID-19 Mandatory Vaccine Protocol for High-Risk Settings.

By signing below, I hereby consent to the collection, use and disclosure of this information for the purposes of administering the COVID-19 Mandatory Vaccine Protocol for High-Risk Settings, and I recognize that it will be accessed, used and disclosed only in accordance with that policy and/or as required or permitted by law.

DATED this_____ day of_____ , 2021.

Signature:_____

Print Name:_____

TAB 7

COVID-19 Protocol for Proof of Full Vaccination for Events and Activities

October 4, 2021

1.0 Overview

The purpose of this protocol is to provide a layer of protection as Nova Scotia enters the fourth wave of COVID-19 and Phase 5 of its reopening plan. As gathering limits and other requirements are lifted in Phase 5, this protocol allows our businesses, schools and communities to remain fully open by requiring participants in certain events and activities to be fully vaccinated.

Everyone in Nova Scotia will continue to have access to essential, non-discretionary services such as groceries, pharmacies, health care and more. Proof of full vaccination is not required to access essential services.

This protocol is effective October 4, 2021. It focuses on events and activities where people gather together and that are considered discretionary and non-essential. It applies to people who are 12 and older. Children who are 11 and younger and therefore unable to be vaccinated can attend events and activities with a fully vaccinated adult or on their own if feasible. There are grace periods for youth 12 and older to get vaccinated and there are exceptions for a limited number of circumstances.

Vaccination is the best defense against COVID-19. There are very few medical reasons that prevent vaccination. Everyone who can get vaccinated should do so. Anyone who needs to get vaccinated can book an appointment in Nova Scotia. There is no fee. More information is available at novascotia.ca/coronavirus.

NOTE: To date, most COVID-19 vaccines have been referred to by their manufacturers' names. Recently, manufacturers released brand names for their vaccines. Moderna manufactures Spikevax. Pfizer-BioNTech manufactures Comirnaty. AstraZeneca manufactures Vaxzevria and COVIDSHIELD. Throughout this protocol, the manufacturer names continue to be used because they are most familiar to Nova Scotians.

2.0 Proof of full vaccination

2.1 Definition of full vaccination

A person is considered fully vaccinated against COVID-19 in Nova Scotia in the following circumstances:

- 14 days or more after receiving the second dose of a two-dose series of a Health Canada authorized COVID-19 vaccine (Moderna, Pfizer-BioNTech, AstraZeneca) following minimum dosing intervals. This includes a mix of these vaccines, such as one dose of AstraZeneca and one dose of Moderna.
- 14 days or more after receiving a one-dose series of a Health Canada authorized COVID-19 vaccine (Janssen/Johnson & Johnson).
- 14 days or more after receiving the final dose of any other World Health Organization authorized series of COVID-19 vaccine (such as Sinopharm or Sinovac).

People who received vaccine in another country that is not authorized by the World Health Organization can book appointments in Nova Scotia to get two doses of Moderna, Pfizer-BioNTech or a combination of these two vaccines to achieve full vaccination 14 days after the second dose.

The day a person got their second/final dose of vaccine is considered day 1. They are considered fully vaccinated 14 days after. In other words, they can participate in an event or activity covered by Section 3.1 of this protocol on the 15th day or later as long as they show their proof of full vaccination.

Testing, wearing a mask or other personal protective equipment, maintaining physical distance, or using a gathering limit or other mitigation measures are all important public health measures but they cannot replace the requirement of providing proof of full vaccination for events and activities outlined in Section 3.1 of this protocol. Any public health measures that are in effect must be followed, in addition to this protocol.

2.2 Acceptable forms of proof of full vaccination

Original proof of full vaccination records are acceptable in paper and digital formats, as well as clear photos, screenshots and photocopies.

Required information
At minimum, a record must show all the following information to demonstrate proof of full vaccination:

- the person's name
- the brand(s) of vaccine received (such as Moderna, Pfizer, etc)
- an indication that all required doses for that brand of vaccine were received
- the date when the final dose was received

For example:

Jane Doe
COVID-19 Dose 1
Pfizer-BioNTech
Received on May 14, 2021

COVID-19 Dose 2
Pfizer-BioNTech
Received on July 9, 2021

Preferred format of proof of full vaccination

The federal government has developed a standard proof of vaccination for Canadians. It allows all provinces and territories to have a standard, recognizable proof of vaccination. Effective October 1, 2021, Nova Scotia is adopting it as the province's standard format for proof of vaccination:


Issuing Province / Territory
Province / Territoire de délivrance
NOVA SCOTIA

Country of Issuance
Pays d'émission
Canada

Name / Nom : **Doe, Jane**
Date of birth / Date de naissance : **17 MAR / MARS 1936**
SMART Health Cards QR Code / Code QR de la carte Santé SMART

Vaccines administered / Vaccins reçus : 2

Date : **27 SEP / SEPT 2021**
Product / Produit : **MODERNA COVID-19 mRNA-1273**
Lot : **300042460**

Date : **28 JUL / JUIL 2021**
Product / Produit : **PFIZER-BIONTECH COVID-19 VACCINE mRNA**
Lot : **EL1406**

Everyone who is vaccinated in Nova Scotia on or after October 1, 2021 will receive their proof of vaccination in this standard format. Everyone who was vaccinated in Nova Scotia before that date is encouraged to download their proof of vaccination in this new format, starting October 1. This will make it easier for businesses and organizations in Nova Scotia to check proof of vaccination.

People who were vaccinated outside Nova Scotia or outside Canada can use the proof of vaccination they received in another jurisdiction. If they wish, starting October 4, they can follow instructions to upload their vaccine record from the jurisdiction(s) where they were vaccinated in order to receive their proof of vaccination in Nova Scotia's standard format. It will take several weeks to receive it because the information submitted must be verified.

This standard proof of vaccination has a quick response (QR) code that can be scanned by a business or organization that requires a person's proof of full vaccination. Nova Scotia will implement VaxCheckNS starting October 22. It is a QR scanner app to scan this code and provide a simple green "confirmed" response or a red "sorry" response.

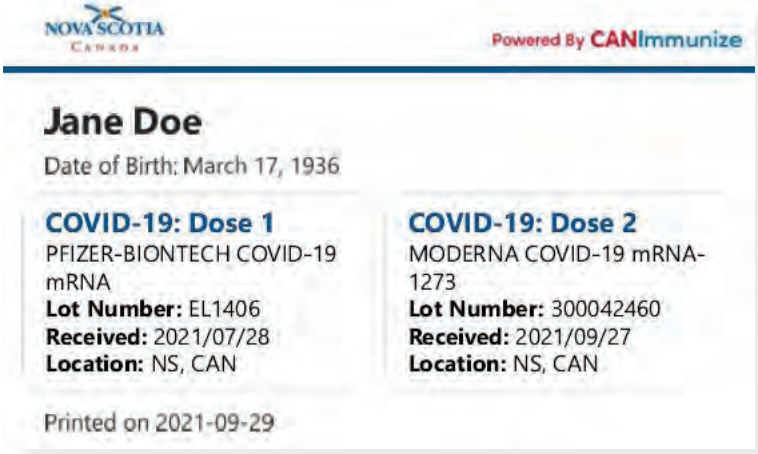
Once it is launched, scanning the new standard proof of vaccination with VaxCheckNS will be the preferred method of providing and checking proof of full vaccination. People are encouraged to use this process to make providing and checking proof of full vaccination easier for everyone. It will also best protect people's personal health information regarding their vaccination status. (See more in Section 2.4.)

Other acceptable formats of proof of full vaccination

Other options will be acceptable as proof of vaccination both before and after VaxCheckNS is available.

People who were vaccinated in Canada can use the standard proof of vaccination (shown above), whether or not the QR code it contains is scanned. It provides all the information required under this protocol. It is acceptable as proof of vaccination within Nova Scotia, whether it is printed or photocopied or in digital form (such as a PDF or screenshot image saved on your phone or in the CanImmunize app).

People who were vaccinated in Nova Scotia before October 4 had access to the original format of the Nova Scotia COVID-19 vaccine record. A wallet-sized version of this record was also available – it can be laminated but does not have to be. It provides all the information required under this protocol. It is acceptable as proof of vaccination within Nova Scotia, whether it is printed or photocopied or in digital form (such as a PDF or screenshot image saved on your phone or in the CanImmunize app):



People who received one or more doses of vaccine in another province, territory or country may show the proof of vaccination they received from that jurisdiction. Some people may need to show proof of vaccination from more than one jurisdiction if they got doses in different places. These records must provide the required information outlined in Section 2.2 of this protocol.

Getting your Nova Scotia COVID-19 Proof of Vaccination
The Nova Scotia COVID-19 Proof of Vaccination can be accessed online or by phone.

To access your record online, you will need your health card number and the email address or phone number you provided when you booked your vaccination appointments.

If you enter your email address, you will receive an email from noreply@canimmunize.ca with instructions to log in and access your record. If you enter your phone number, you will be sent a verification code used to access your record through your browser.

If you are unable to access your record online, you can call toll-free at 1-833-797-7772. An operator can issue your record by email or by mail.

2.3 Valid ID

In some cases, valid ID will be required along with proof of full vaccination to verify that a person is providing their own proof of vaccination.

In cases where a person's identity is already known (i.e. where they have an existing membership such as gyms or they are already registered as participants in an activity such as recreation programs), valid ID is not required.

In cases where the person does not already have this kind of relationship with the business or organization, such as bars and restaurants, many leisure activities, and new members and participants, valid ID will be required along with proof of vaccination.

Acceptable forms of valid ID include:

- drivers license
- passport
- government issued ID card
- health card
- birth certificate
- student card
- Secure Certificate of Indian Status

Original ID records are acceptable in card, paper and digital formats, as well as clear photos, screenshots and photocopies.

2.4 Checking proof of full vaccination

Businesses and organizations hosting events and activities that are covered in Section 3.1 of this protocol are responsible to check that participants are fully vaccinated before they engage in the event or activity.

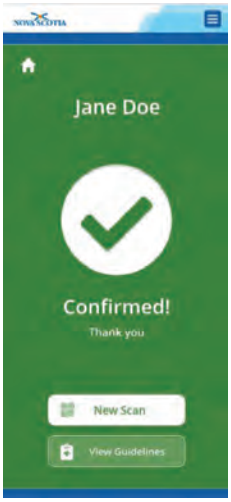
People are allowed to enter a lobby area in order to provide their proof of full vaccination but not allowed further into a business or facility until they have provided their proof. If there are other businesses or organizations where proof of vaccination is not required that share the lobby space, people can go through the lobby to access them.

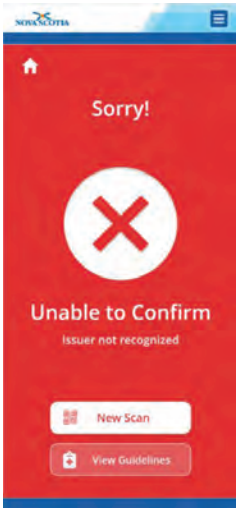
People who have the new standard proof of full vaccination for Nova Scotia or another Canadian province or territory can show a paper or digital version. The business or organization can scan the QR code. They can also look at the paper or digital version to review required information outlined in Section 2.2 of this protocol.

Currently, the person scanning the code will see the all the details on the proof of vaccination from the province or territory where the person was vaccinated.

Starting October 22, Nova Scotia will implement VaxCheckNS, a unique QR code scanner app that businesses and organizations can use on a smartphone or other device to scan a paper or digital version of person's proof of vaccination. VaxCheckNS will be available as free download in the App Store for Apple devices and Google Play for other devices.

If the proof of vaccination was provided by a Canadian province or territory, VaxCheckNS will produce a green “confirmed” response or a red “sorry” response instead of showing the entire vaccine record. If the person chooses, they can fold a paper version or adjust the display on their phone such that only the QR code is visible to the person who is scanning. This protects their full vaccine record from being seen by anyone.





Businesses and organizations are not required to use VaxCheckNS. However, it is strongly recommended as a fast method of checking proof of full vaccination that also best protects personal health information. Other QR code scanners are not recommended because they reveal all the details on the person’s proof of full vaccination.

In cases where a person does not present the standard proof of vaccination outlined above or the business or organization chooses not to use VaxCheckNS, the business or organization will need to review the details on the person’s proof of vaccination to check for the required information as outlined in Section 2.2 of this protocol. They may also need to check the person’s ID as outlined in Section 2.3 of this protocol.

The business or organization needs to ensure the person received their final dose of an acceptable COVID-19 vaccine (as outlined in Section 2.1 of this protocol) at least 14 days earlier than the day of the event or activity. For example, if the event or activity is on October 30, the person would only be considered fully vaccinated if they received their final dose of an acceptable vaccine on October 16 or earlier.

Privacy

Nova Scotia's Personal Health Information Act prevents businesses and organizations from keeping records about people's health unless they provide consent. While businesses and organizations need to review proof of vaccination, they cannot keep copies of this private health information without the person's consent. They cannot keep a paper or electronic list of people who have or have not shown their proof of vaccination without their consent. Consent is recommended to be in writing but may be obtained verbally or in writing.

Businesses and organizations are allowed to create their own solutions for checking proof of vaccination as long as they respect privacy requirements. In some cases, they will need to require proof of vaccination every time a person accesses their events or activities. In other cases where a system that respects privacy requirements can be implemented, full proof of vaccination may only need to be shown once.

Responsibility in shared spaces

Some businesses and organizations that host events and activities covered under Section 3.1 of this protocol rent or use space within a building. In these cases, there is a joint responsibility between the business or organization and the building owner/manager. The building owner/manager needs to ensure renters and users of their spaces have proper processes in place for checking proof of full vaccination for participants in these events and activities. They can accomplish this through their rental agreement.

In cases where the renter or user of the owner/manager is not willing or capable of implementing a proper process for checking participants' proof of full vaccination, the owner/manager will be held responsible if there is demonstrated non-compliance with this protocol. If the owner/manager does not wish to take on the responsibility, they should not rent the space or make it available for the event or activity. The owner/manager cannot have the renter or user of the space sign a waiver absolving them of the responsibility.

If a business or organization that does not host events and activities covered under Section 3.1 of this protocol rents or uses a space in a building, they continue to be exempt from requiring proof of vaccination, even if events or activities in other parts of the building require it.

3.0 Where the proof of full vaccination requirement applies

3.1 Proof of full vaccination is required

People need proof of full vaccination to go to or participate in discretionary, non-essential events, activities and services that gather people together, including but not limited to:

- full-service restaurants where patrons sit at tables to be served, both indoors and on patios
- food establishments (such as fast food and coffee shops) where people sit to eat/drink, both indoors and on patios (not including takeout, drive-thru or delivery)
- liquor licensed (drinking) establishments (like bars, wineries, distillery tasting rooms, craft taprooms and liquor manufacturers)
- casinos and gaming establishments, both indoors and on patios
- fitness establishments (like gyms and yoga studios) and sport and recreation facilities (like arenas, pools and large multipurpose recreation facilities)
- businesses and organizations offering indoor and outdoor recreation and leisure activities (like climbing facilities, dance classes, escape rooms, go-carts, indoor arcades, indoor play spaces, music lessons, pottery painting, shooting ranges and outdoor adventure)
- indoor and outdoor festivals, special events and arts and culture events and activities (like theatre performances, concerts and movie theatres), unless they are outdoor events held in a public space with no specific entry point (like Nocturne)
- indoor and outdoor sports practices, games, competitions and tournaments (participants and spectators)
- indoor and outdoor extracurricular school-based activities, including sports
- bus, boat and walking tours
- museums, Art Gallery of Nova Scotia, and public library programs

- indoor and outdoor events and activities like receptions, social events and conferences that are hosted by a business or organization
- indoor and outdoor wedding ceremonies and funerals (including receptions and visitation) that are hosted by a business or organization
- community meetings in rental spaces and/or where the public may be present, such annual general meetings of businesses or organizations
- training hosted by a recognized business or organization (such as driver training or courses offered by a training business) and/or using a rental space

3.2 Proof of full vaccination is not required

Proof of full vaccination is not required for most places that don't host formal gatherings and that offer essential, non-discretionary services and activities. Some examples include:

- retail stores
- financial institutions
- professional services like accountants and lawyers
- personal services like hair salons, barber shops, spas, nail salons and body art establishments
- healthcare services and health professions like doctor's offices, dental care, massage therapy and physiotherapy
- rental accommodations like hotel rooms, cottages and campgrounds
- regular faith services (such as daily or weekly)
- pre-primary to Grade 12 school-based activities and field trips that take place during the school day (unless a field trip is for an event or activity where proof of full vaccination is required), before and after school programs and school buses
- post-secondary institutions (universities, NSCC, private career colleges, language schools) unless they are hosting events or activities that the general public attend

- business meetings and other activities in the workplace when they involve people who regularly work together and where the general public is not present (unless it's in a rental space)
- legislatively required meetings where public participation cannot be done virtually (such as municipal council meetings where citizens have a democratic right to participate)
- places where government services are offered, such as Access Nova Scotia centres
- mental health and addictions support groups
- food banks, shelters, family resource centres and adult day programs for seniors and people with disabilities
- programs and services for vulnerable populations that cannot be offered virtually (except if meals are offered – they can only be provided via takeout or delivery to people who cannot show proof of full vaccination)
- informal gatherings at a private residence (gathering limit of 15 indoors and 50 outdoors)
- general access to public libraries (such as borrowing books, using computers)
- public transportation

3.3 Employees and volunteers

Proof of full vaccination is not required for full-time or part-time staff of businesses and organizations that host events and activities covered by Section 3.1 of this protocol.

However, if an employee accesses the event or activity on their own time, this protocol applies to them. For example, a staff member at a gym does not need to provide proof of full vaccination to work but does need to provide it to use the facility personally, such as attending fitness classes or using the weight room for their own workout.

Proof of full vaccination is not required under this protocol if your job requires you to access a business or organization that hosts an event or activity covered by this protocol (such as a liquor inspector, delivery person, public health officer, police officer, contractor). It is not required for service providers at an event or activity, such as caterers, photographers and DJs, because they are effectively in their workplace.

Proof of full vaccination is required for volunteers who host, lead or organize the events and activities covered by Section 3.1 of this protocol. Some examples include people who organize community events and programs, lead or organize club type activities, and coaches, referees and other officials who volunteer with sports activities.

Children and youth who are volunteers for events and activities covered by Section 3.1 of this protocol have the same grace period to get vaccinated as children and youth who are participants, as outlined in Section 3.4.

Any business or organization may choose to implement its own vaccine policy for staff and volunteers (see Section 4.0).

3.4 Children and youth

Children can participate in events and activities covered in Section 3.1 of this protocol (even if their parents are not fully vaccinated) if they meet one of the following conditions:

- they are 12 or older and are fully vaccinated as outlined in Section 2.1 of this protocol
- they are 11 or under and therefore unable to be vaccinated
- they meet the criteria in one of the grace periods outlined below

Parents who are not fully vaccinated would have to either drop off their children for these activities (if that is possible) or have a fully vaccinated adult accompany them (if adult supervision is required or preferred).

Children who turned 12 between January 1 and October 4, 2021 have until December 31, 2021 to attend events and activities while they get vaccinated. Children who turn 12 after October 4, 2021 have 3 months from their birthday to get vaccinated.

Youth who are 13 to 18 and have proof that they received 1 dose of COVID-19 vaccine can participate in sport, recreation, arts and culture programming hosted by a business or organization as of October 4. To continue participating, they must provide proof of full vaccination by November 9, 2021. In order to be fully vaccinated by November 9, a person needs to get a first dose no later than September 28 and a second dose no later than October 26.

If youth choose not to get vaccinated by the time these grace periods end, they will no longer be able to participate until they can provide proof of full vaccination.

3.5 Exceptions

Medical exceptions

People with a valid medical reason that prevents them from getting vaccinated can request an exception from the requirement to show proof of full vaccination for events and activities covered by Section 3.1 of this protocol. Medical exceptions will only be granted in the following circumstances:

- a history of severe allergic reaction (e.g. anaphylaxis) after previous administration of a COVID-19 vaccine using a similar platform (mRNA or viral vector)
- an allergy to any component of the specific COVID-19 vaccine or its container (polyethylene glycol for the Pfizer-BioNTech and the Moderna vaccines)
- a history of major venous and/or arterial thrombosis with thrombocytopenia following vaccination with the AstraZeneca COVID-19 vaccine
- a history of capillary leak syndrome following vaccination with the AstraZeneca vaccine
- a history of myocarditis and/or pericarditis after a first dose of an mRNA COVID-19 vaccine (Pfizer-BioNTech or Moderna)
- experienced a serious adverse event after receiving a first dose of COVID-19 vaccine. A serious adverse event is defined as life-threatening, requires in-patient hospitalization or prolongs an existing hospitalization, results in persistent or significant disability/ incapacity, or in a congenital anomaly/birth defect.

People must ask a physician or nurse practitioner to complete and sign a Valid Medical Contraindication for COVID-19 Vaccination letter attesting that they have a valid medical reason that prevents vaccination. Physicians and nurse practitioners have a template of this letter to complete. The letter will include:

- The Nova Scotia logo with the Department of Health and Wellness identifier
- The patient's name three times throughout the document
- The physician or nurse practitioner's signature and the date
- The physician or nurse practitioner's name printed along with their credentials and the date

Anyone with a medical exception needs to present this letter and valid ID in place of proof of full vaccination for events and activities covered by Section 3.1 of this protocol.

Participants in clinical trials for COVID-19 vaccines
A small number of Nova Scotians are participating in clinical trials for COVID-19 vaccines that are not yet approved by Health Canada or the World Health Organization. They are not required to show proof of full vaccination for events and activities covered by Section 3.1 of this protocol.

Participants in these trials do not need to request this exception. The Canadian Centre for Vaccinology has been authorized by the Department of Health and Wellness to send exception letters directly to these participants. The letter will include:

- The Nova Scotia logo with the Department of Health and Wellness identifier
- The participant's name two times throughout the document
- The name of the clinical trial
- Signature of Dr. Robert Strang, chief medical officer of Health for Nova Scotia and the date
- Signature of the lead researcher(s) for the clinical trial in which the person participated and the date

Anyone with an exception because they are in a clinical trial needs to present this letter and valid ID in place of proof of full vaccination for events and activities covered by Section 3.1 of this protocol.

4.0 Business and organization vaccine policies

A business or organization that hosts events and activities covered in Section 3.1 of this protocol may choose to implement its own vaccination policy for employees, volunteers and customers, members or clients. Any policies they create cannot be less stringent than this protocol.

Many businesses and organizations are not subject to this protocol. Some examples are given in Section 3.2. They can also set their own vaccination policies for employees, volunteers and customers, members or clients.

All vaccination policies need to take legal and ethical implications into consideration. People who are not fully vaccinated need to be able to access essential, non-discretionary services such as grocery stores, pharmacies, health care services and more.

5.0 Compliance

5.1 Inspection of events and activities

Provincial inspectors will conduct compliance checks at events and activities covered in Section 3.1 of this protocol. Some may be coupled with regular inspections, such as food safety. Some may be based on complaints. Not every event and activity will be inspected.

Inspectors will ensure the business or organization has a system in place to only allow people who are either age 11 or under or have provided proof of full vaccination to participate. They will also check for compliance with other aspects of the Health Protection Act Order that may apply.

Any compliance action will take into consideration the risk to public health and the willingness of the business or organization to comply with this protocol. If aspects of non-compliance are noted, enforcement will take a measured approached with the use of a range of available options to ensure compliance with this protocol (e.g. education, ticketing, etc.).

If necessary, enforcement action could include fines of $2,422.50 per individual or $11,622.50 per corporation. It could include closure of the business or organization hosting the event or activity until they comply.

5.2 Compliance by patrons

Businesses and organizations may have many patrons who are willing to comply with this proof of full vaccination protocol. They may face opposition from some.

It will be important for businesses and organizations to remind patrons that the proof of vaccination requirement is the law in Nova Scotia under the Health Protection Act Order issued by the Chief Medical Officer of Health to protect people during the ongoing pandemic.

People who wish to access events and activities covered in Section 3.1 of this protocol are required by law to show their proof of full vaccination. Businesses and organizations are required check for it and deny entry to those who cannot provide it.

It is an offence to knowingly provide false or misleading information, either orally or in writing, under the Nova Scotia Health Protection Act which could result in a fine of $2,422.50 per occurrence. Businesses and organizations can call their local police should they need assistance (i.e. to help manage people who are causing disturbances).

Skills Online NS offers free online training course that may help businesses and organizations manage challenging situations with patrons. A recommended bundle of courses includes:

- Working in a Challenging Time
- Specialities: Customer Service
- Bullying and Violence in the Workplace

6.0 Resources

Proof of full vaccination required signage

Consent form for recording vaccination status (see Appendix B)

How to access Nova Scotia COVID-19 Proof of Vaccination

Guide for participants at events and activities requiring proof of full vaccination

Guide for businesses and organizations to check proof of full vaccination

Skills Online NS

Nova Scotia coronavirus website

Nova Scotia Health Protection Act Order

TAB 8

Nova Scotia

Nova Scotia judge launches $5M lawsuit over dispute related to COVID-19 vaccination

Judge Rickcola Brinton is suing province, another judge over revealing vaccination status

Blair Rhodes · CBC News · Posted: Oct 06, 2023 3:00 PM ADT | Last Updated: October 6

A Nova Scotia provincial court judge is suing the province and another judge for $5 million in damages. The lawsuit launched by Judge Rickola Brinton, 48, lays bare a long-simmering dispute over COVID-19 vaccinations. (Belenos/Shutterstock)

The lawsuit launched by Judge Rickcola Brinton, 48, lays bare a long-simmering dispute over COVID-19 vaccinations.

The suit was filed late last month in Nova Scotia Supreme Court and first reported by allNovaScotia.

While rumours and questions about Brinton's absence from the courtroom have swirled for months, details in this lawsuit are the first to lay out a version of what was going on behind the scenes. Until this, the official explanation was that Brinton was on an unspecified medical leave.

Brinton's absence led to some cases being dismissed because they hadn't been dealt with in a timely manner, part of a larger problem with court delays.

The issue of requiring a COVID-19 vaccination in order to work roiled the nation in 2022 with protesters paralyzing Ottawa for weeks. A trial of that demonstration's leaders is still playing out in court.

According to Brinton's lawsuit, in September 2021, Chief Judge Pamela Williams emailed provincial court judges in the midst of the pandemic to ask them if they'd be prepared to reveal their vaccination status.

Brinton replied to that general query on Oct. 1, 2021.

'I have concerns with medical privacy'

"I have concerns with medical privacy," she wrote.

On Oct. 7, 2021, according to her lawsuit, Brinton went further, saying that her position was "a matter of conscience and a result of prayerful contemplation."

Nova Scotia's Chief Justice Michael MacDonald applauds during Judge Rickcola Brinton's robing ceremony to become a provincial and family court judge in May 2017. (Images East Photography/The Executive Office of the Nova Scotia Judiciary)

As a compromise, Brinton proposed she frequently self-test for COVID. Williams reportedly dismissed that idea because it was not an option available to everyone. Williams proposed that Brinton could preside over arraignments from her home, providing other judges take over her trials. Again, according to the lawsuit, other

"I can advise that only fully vaccinated judges will be assigned to sit in our courtrooms for the foreseeable future. I am not inclined to issue a public statement to this effect but each of you are at liberty to advise staff, lawyers and members of the public that provincial court judges sitting in courtrooms are fully vaccinated."

Vaccination status not disclosed

Twenty four days later, Williams issued a public statement, saying all presiding judges are fully vaccinated. In the meantime, Brinton and her family all tested positive for COVID and she underwent a 10-day quarantine period.

Then, according to her lawsuit, "Brinton found herself suffering from overwhelming exhaustion and anxiety arising from Williams's actions." Her doctor advised she go off work for four weeks and avoid reading work emails.

On Dec. 17, 2021, Brinton wrote to Williams, saying she'd been advised by her doctor to take another four to six weeks off work. On Feb. 22, 2022, Williams replied, saying she will not approve disability leave, unless Brinton provides "evidence of a disability".

In that email, Williams goes on to say that because Brinton will not divulge her vaccination status, she will be considered unvaccinated and unable to preside in person in a courtroom. The note concludes: "Regrettably, I will have no recourse other than to suspend you and refer the matter to the judicial council."

Former chief judge Pamela Williams ended her term in that position in August. (CBC)

Brinton replies that she will go on long-term disability. Her doctor provides a note, saying Brinton will be off from December 2021 to at least mid-May 2022.

The lawsuit claims that Williams wrote directly to Brinton's doctor, asking about her medical status. The doctor did not disclose that information because Brinton had not approved it.

Emotional and mental damage

The lawsuit claims that Williams' actions violated principles of judicial independence and judicial impartiality and also violated Brinton's rights to medical privacy.

Brinton claims Williams' actions caused emotional and mental damages in the form of stress, demoralization, betrayal, anxiety and depression and amount to bad faith and constructive removal. The lawsuit further claims Williams' actions were "malicious, oppressive and high-handed."

No comment from iudiciarv

TAB 9

LAW REFORM COMMISSION OF NOVA SCOTIA

Vexatious Litigants

Final Report - April 2006

LAW REFORM
COMMISSION
OF
NOVA SCOTIA

Final Report

VEXATIOUS LITIGANTS

Law Reform Commission of Nova Scotia
April 2006

The Law Reform Commission of Nova Scotia was established in 1991 by the Government of Nova Scotia under an *Act* to *Establish an Independent Law Reform Commission.*

The Commissioners are:

Keith R. Evans, President
Anthony Chapman
Thomas A. Cromwell
Diana E. Ginn
Darlene A. Jamieson
John L. McMullan
E. Arleen Paris

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The Law Reform Commission receives funding from the Law Foundation of Nova Scotia and from the Government of Nova Scotia.
The Commission gratefully acknowledges this financial support.

Law Reform Commission of Nova Scotia

To: The Honourable Murray K. Scott
Attorney General and Minister of Justice

In accordance with section 12(3) of the *Law Reform Commission Act,* we are pleased to present the Commission's Final Report, ***Vexatious Litigants***.

Keith R. Evans
President

Justice Thomas A. Cromwell
Commissioner

Diana E. Ginn
Commissioner

Darlene A. Jamieson
Commissioner

Anthony Chapman, Q.C.
Commissioner

E. Arleen Paris
Commissioner

John L. McMullan
Commissioner

SUMMARY

Vexatious litigants persistently and habitually engage in legal proceedings, without having a legitimate claim requiring resolution. The vexatious litigant may sue in order to annoy, harass, or financially punish other people.

Vexatious litigants can strain court resources. They can waste the time of judges and administrative staff and prevent other, legitimate claims from being dealt with. They can also force other people to incur otherwise unnecessary legal bills.

The Law Reform Commission is of the view that vexatious litigants can pose a serious problem for Nova Scotia's civil justice system.

Taking into account the need to ensure access to the courts for all, as well as to prevent the abuse of the courts' process and the waste of time and money, the Commission suggests the adoption of a vexatious litigants statute in Nova Scotia. The statute would explicitly empower the courts to make an order against a vexatious litigant. The order would prevent a vexatious litigant from starting any new proceedings or continuing with an existing proceeding until court leave was granted to lift the order. A balanced approach would be used, one which empowers the courts to deal effectively with vexatious litigants, but which also permits someone subject to a court order to seek court leave to have the order lifted when circumstances change.

Among other proposals, this Final Report also recommends:

- The vexatious litigants statute should apply to all Nova Scotian courts with civil jurisdiction. It would be cumulative in relation to other remedies and would not derogate from the courts' current powers.

- Rather than attempting to define the term "vexatious" or to use a substitute, a vexatious litigants provision could include a non-exclusive list of factors which could help to guide the court.

- A vexatious litigants provision should require notice to be provided to the Attorney General of an application for a vexatious litigants order. The Attorney General would be entitled to appear at the hearing of the application. The statute should make it clear that unless applying for a vexatious litigants order, the Attorney General's role would not be a partisan one.

- One should be able to appeal a vexatious litigants order. One should not, however, be able to appeal an unsuccessful leave application to have a vexatious litigants order lifted.

- Courts should be given an express rule-making power to determine how a leave application should take place, including any limits on the frequency of such applications.

- A vexatious litigants statute should specifically and clearly permit courts to deal with both new and continuing proceedings.

- The language used in a vexatious litigants statute should include vexatious spokespersons or agents.

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FINAL REPORT
VEXATIOUS LITIGANTS

1. Introduction

Access to justice issues are often in the news. We read that many Canadians cannot afford legal representation in civil litigation.[1] Most Canadians are also not able to obtain services from a provincial legal aid plan, because of eligibility requirements.[2] Without money to pay for a lawyer and without access to legal aid services, many Canadians choose to represent themselves in legal proceedings.[3]

We also read about delays in the civil justice system.[4] Some of those delays can be attributed to the involvement of self-represented litigants, who act for themselves in legal proceedings, without the assistance of a lawyer. Being unfamiliar with court procedures and the law, self-represented litigants take more time to comply with procedures, prepare required documents, and present a case in court than would a lawyer.[5] Judges often must explain legal terms and procedures to self-represented persons,[6] which adds to the time and cost of court proceedings. Many other reasons,

[1] See, for example, Cassandra Szklarski, "Don't Try This at Home..." *[St. John's] Telegram* (15 June 2003), A11. (ProQuest); Brian Flemming, "Work of Law Reform Commission Must Go On" *[Halifax] Daily News* (9 July 2003), 20. (ProQuest). This Final Report is exclusively about private law disputes and does not involve criminal law matters.

[2] Szklarski, note 1, above; Flemming, note 1, above.

[3] Szklarski, note 1, above; Flemming, note 1, above; Tracey Tyler, "Lawyers Urged to Do Free Work" *Toronto Star* (1 August 2004), A07. (ProQuest); Wendy-Anne Thompson, "Lawyerless Litigants Clog Courts" *Calgary Herald* (16 January 2002), B1. (ProQuest); Kirk Makin, "Lawyerless Litigants Slow Wheels of Justice" *The Globe and Mail* (14 January 2002), A1; "Arming Self-represented Litigants with Relevant Law," *The Society Record* (February 2005), 23.

[4] Janice Tibbetts, "Courtroom Backlog Getting Worse: StatsCan" *Calgary Herald* (11 December 2004), A10. (ProQuest); Gary Dickson, "Legal System Courting Disaster..." *Calgary Herald* (9 March 2002), OS.07; Flemming, note 1, above.

[5] Thompson, note 3, above; Tibbetts, note 4, above; Flemming, note 1, above; Szklarski, note 1, above; Makin, note 3, above.

[6] For a general discussion about what types of information a judge might provide, see D.A. Rollie Thompson, "The Judge as Counsel" (Spring 2005) 8 News & Views on Civil Justice Reform 3.

however, such as the adversarial nature of our justice system, the increasing complexity of certain types of cases, and a lack of resources, all contribute to delays.[7]

Although it doesn't receive the same amount of media attention, another phenomenon has links to both the cost of legal representation and delays in the civil justice system. This is the instance of the "vexatious litigant", someone who persistently engages in legal proceedings,[8] often against a large number of people, without having a legitimate claim requiring resolution.[9] Although we are not aware of his or her private motivations, the vexatious litigant may sue in order to annoy, harass, or financially punish other people. Many vexatious litigants also seem to exhibit behaviour consistent with some types of mental illness.[10]

Vexatious litigants can strain court resources. They can waste the time of judges and administrative staff and prevent other, legitimate claims from being dealt with. They can also force other people to incur otherwise unnecessary legal bills. Even if a claim seems without merit, the person against whom it is made must still file a defence, or risk losing the case by default. Although having committed no wrong, a person subject to vexatious litigation might also feel compelled to pay an amount in settlement of the claim, in order to avoid the expense and inconvenience of further proceedings.

[7] Tibbetts, note 4, above; Dickson, note 4, above; "Clogged Courts Waste Time and Money, Lamer Says" *Canadian Press* (20 April 1995), A14. (ProQuest); Peter Calamai, "Judicial Gridlock Costing Millions" *The Windsor Star* (10 April 1995), A11. (ProQuest).

[8] It is possible for a defendant to act in a vexatious fashion. See, for example, *Household Trust Co.* v. *Golden Horse Farms Inc.* (1992), 65 B.C.L.R. (2d) 355 (B.C.C.A.). Most commonly, though, one thinks of vexatious litigants as plaintiffs, people who begin legal proceedings. In the rest of this report, unless indicated otherwise, "vexatious litigant"means a plaintiff. For the most part, to bring an issue to a court's attention for resolution, one takes one of two procedural paths, either "application" or "action." An application is used where the principal issue involves the interpretation of a statute or document or the resolution of a question of law, in either case without any substantial dispute of fact. One begins an action when the major issues involve disputes over facts. See Arthur J. Meagher & Ronald A. Meagher, *Civil Procedure Simplified* (Toronto: Butterworths) at 87-88. Unless otherwise necessary, this Final Report uses the more general terms "legal proceedings" or "proceedings" to refer to both "applications" and "actions."

[9] *Webster's Ninth New Collegiate Dictionary* (Markham, Ont.: Thomas Allen & Son Ltd., 1991) at 1312 defines "vexatious" as "intended to harass." Vexatious litigation has also been referred to as "legal bullying" (Esther L. Lenkinski, Barbara Orser, & Alana Schwartz, "Legal Bullying, Abusive Litigation within Family Law Proceedings" 22 C.F.L.Q. 337) and vexatious litigants as "legal terrorists" (Tyler, note 4, above).

[10] Yves-Marie Morissette, "Abus de Droit, Quérulence et Parties Non Représentées" (2004) 49 McGill L.J. 23 at 27-30. See also Grant Lester & Simon B. Smith, "Inventor, Entrepreneur, Rascal, Crank or Querulent?: Australia's Vexatious Litigant Sanction 75 Years On" (2006) 13 Psychiatry, Psychology and Law [forthcoming] at 13-17.

Although most vexatious litigants represent themselves, this Final Report does not suggest there is a link between self-representation and vexatious litigation. Of course, not all self-represented litigants are vexatious. Being able to represent oneself is a fundamental part of our judicial system.[11] Rather, given the groundless and unreasonable nature of their claims, it should be difficult for most vexatious litigants to find a lawyer willing to represent them. Therefore, in most cases, a vexatious litigant will be self-represented. This Final Report also does not suggest there is anything wrong in general with a litigant who pursues a legal claim in a determined fashion. However, to pursue tenaciously a claim that is obviously without merit could involve engaging in vexatious litigation.

In our society, access to justice is an important right, to be limited only in exceptional circumstances. The actions of vexatious litigants, however, are so extreme that in invoking their right to access justice, they may undermine the rights of others. In the words of Wakeling J.A., of the Saskatchewan Court of Appeal, a "...right to have whatever legally grounded dispute...duly considered and adjudicated by the courts...is not [a] right to continually require any party to spend time, effort and money in responding to a claim that has no legal foundation." [12]

2. Development of the Project

Further to concerns expressed by members of the Nova Scotia Bar and Judiciary, the Law Reform Commission decided to investigate the topic of vexatious litigants. Elsewhere in Canada, the negative impact which a small number of vexatious litigants can produce has been acknowledged. For instance, in relation to one litigant, deemed "recalcitrant, defiant, obstinate, unyielding and undeserving," the Manitoba Court of Appeal remarked, "[f]rom time to time the court system is challenged almost to the breaking point by a litigant who is unable to take advice; to comprehend the judgments and orders of the court; or to respect them and comply with them."[13] The Law Reform Commission understands that some litigants in Nova Scotia behave in a similarly inappropriate manner. Although statistics on the number of vexatious litigants in this Province are not compiled, it was apparent that a few individuals can and do create significant problems in our justice system. John E.S. Briggs, Executive Director of the Law Reform Commission, has remarked, "Judges and lawyers felt there is a problem sometimes in the system with a few people who create havoc . . . You don't need an epidemic."[14]

[11] See, for example, r. 9.08 of the Nova Scotia Civil Procedure Rules, which sets out the right to engage in legal proceedings in person or through a lawyer.

[12] *Saskatchewan Wheat Pool* v. *Kieling*, [1994] 6 W.W.R. 730 at 730 (Sask. C.A.).

[13] *Winkler* v. *Winkler* (1987), 46 Man. R. (2d) 150 at 150 (C.A.).

[14] Quoted in donalee Moulton, "Nova Scotia Commission Discussion Paper Deals with Vexatious Litigation" *The Lawyers Weekly* (10 February 2006) at 28.

As is our general practice, having chosen to study this topic, the Commission formed an Advisory Group to provide background information and to help identify relevant issues. The Advisory Group comprised judges, a court administrator, and practicing lawyers. The Commission is grateful for the contributions of the Advisory Group, whose members are identified at Appendix B.

The next step in the process was the creation of a Discussion Paper, which introduced the topic, summarized the law, and provided the Commission's preliminary proposals for reform. The Commission widely distributed copies of the Discussion Paper (among others, to members of the House of Assembly, judges, members of the Bar, and libraries) and made it available at the Commission website. A number of people responded in writing to the Discussion Paper's invitation for comments, and the Commission thanks those commentators for their suggestions.

On November 25, 2005, William Laurence, Legal Research Counsel at the Commission, summarized the Discussion Paper's proposals at the Annual Fall Forum, organized by the Legislation and Law Reform Committee of the Canadian Bar Association, Nova Scotia Branch. At that time, a number of Forum attendees provided input about the problem of vexatious litigants and the Commission's proposed reforms.

Having discussed the comments received and having completed additional research where necessary, the Commission prepared this Final Report, which contains recommendations for reform in this area of the law.

3. Examples of Vexatious Litigation

The merit (or lack thereof) of each claim is unique, depending on the facts and how they relate to the applicable law. Nonetheless, factual summaries from a number of vexatious litigation cases can provide some idea of the behaviour of vexatious litigants, as well as the impact they may have on other people and on the civil justice system. In *Winkler* v. *Winkler*, for instance, the court pointed to the repetitive behaviour of a vexatious litigant:

> The litigation between Mr. and Mrs. Winkler has unfortunately fallen into a regular pattern. Mrs. Winkler brings custody, access and support claims (among others) before the court; these are unsuccessful, generally; costs are awarded against her which she cannot pay; she waits a period of time, and then brings the same matters back before the court.
>
> She does not allege, let alone prove, facts that demonstrate any change in circumstances between one application and the next. Her material (which on this application totaled 367

> pages of affidavit material, including exhibits) repeats the litany of complaints that she has had since day one.[15]

To illustrate what constitutes vexatious litigation, Webber J.A. in *Ayangma* v. *Prince Edward Island (Attorney General)* mentioned the procedural history of another case from Ontario, in which one party demonstrated a tendency to begin numerous, unnecessary actions:

> The Chavalis, who had amassed a substantial real estate portfolio, claimed their lawyer and their accountant defrauded them, causing them their financial problems. The Chavalis started a multiplicity of actions, 'often being four or five against the same person.' Numerous actions were taken against the mortgagee of the properties and personally against the lawyer who acted for the mortgagee, and several actions against the people who bought a residential property through a power of sale by mortgage. Four actions were taken against the court-appointed manager/receiver/trustee in respect of construction liens. These are only some of the Chavalis' actions.
>
> The *Chavali* decision also noted a 'plethora of motions' and contraventions of undertakings. During a six week period six actions were dismissed but 'A near identical 66-page statement of claim to one of these dismissed actions was commenced ...' less than a month later. That action was then stayed as a patent abuse of the court's process. Further actions were commenced raising substantially the same issues as those that were previously dismissed. The Chavalis were found to have misrepresented facts to the Court. They brought court proceedings against more than twenty solicitors 'being either their own solicitors or solicitors who have represented parties whom the Chavalis have sued in respect of the loss of their real estate.' The court found that the Chavalis had instituted vexatious proceedings and conducted proceedings in a vexatious manner.[16]

In *Yorke* v. *Paskell-Mede*, the Quebec Superior Court summarized the unreasonable behaviour of one litigant:

> These actions in Superior Court are interrelated and share the same pattern: voluminous, inconsistent, incoherent, not to say preposterous allegations; disregard for the Superior Court by instituting but not pursuing Court proceedings against several of the persons impleaded; voluminous exhibits; reiteration of issues covering mostly the same grounds as before; extreme and unsubstantiated allegations; abuse of the process of law and harassing everyone and anyone connected or not, directly or indirectly, with the bankruptcy of Plaintiffs' business.[17]

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[15] [1991] 2 W.W.R. 369 at 375 (Man. Q.B.).

[16] (2004), 238 Nfld. & P.E.I.R. 219 at 222-223 (P.E.I.S.C.A.D.).

[17] [1996] R.J.Q. 1964 at 1968 (Que. Sup. Ct.)

These summaries illustrate a number of common features involving vexatious litigants. Their claims are often manifestly without merit. They may ignore procedural setbacks, including awards of costs[18] that are made against them. They may resort to multiple, unnecessary proceedings, often against the same person. They may sue anyone whom they perceive as an obstacle to their goals. Vexatious litigants also do not seem to care about the resources - on the part of themselves, other litigants or the public purse - depleted through their actions.

4. Inherent Jurisdiction

Can't the courts prevent this type of behaviour from happening? Canadian courts do have various means at their disposal with which to control people and matters within their jurisdiction. Otherwise, it would be difficult to ensure the orderly administration of justice. For a superior jurisdiction court,[19] such as the Supreme Court of Nova Scotia, some of those powers are seen as included within the court's "inherent jurisdiction." The concept of inherent jurisdiction is an ancient one. It is part of the legal heritage which the Supreme Court of Nova Scotia received from England, where inherent jurisdiction has been associated with superior jurisdiction courts since their beginnings.[20] In *Halifax (Regional Municipality)* v. *Ofume*, Saunders, J.A., speaking for the Nova Scotia Court of Appeal, confirmed, "...jurisprudence in this country clearly establishes that Canadian courts of superior jurisdiction maintain a general inherent jurisdiction, which includes the discretion to control their own process."[21]

Inherent jurisdiction stems from the essential nature of a superior jurisdiction court. If it was not able to control its procedure and govern the actions of those who appear before it and who are subject to its orders, then the court's authority would quickly be undermined. In the words of English procedural law authority I.H. Jacob, "the juridical basis of this jurisdiction is therefore the authority of the judiciary to uphold, to protect and to fulfill the judicial function of administering justice according to law in a regular, orderly and effective manner."[22]

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[18] "In Canadian and English jurisdictions, the successful party in a court proceeding is entitled to recover certain court costs from the unsuccessful party as prescribed by statute or the Rules": Meagher & Meagher, note 8, above, at 119. Of course, an award of costs will not serve as a deterrent if a litigant cannot or will not pay the amount awarded against him or her.

[19] A superior jurisdiction court is a court which is not under the control of any other court except by appeal: Daphne A. Dukelow & Betsy Nurse, *The Dictionary of Canadian Law* (Scarborough, Ont.: Thomson Canada Ltd., 1991) at 1046-1047.

[20] I.H. Jacob, "The Inherent Jurisdiction of the Court" (1970) 23 Current Legal Problems 23 at 25-26.

[21] (2003), 218 N.S.R. (2d) 234 at 242 (N.S.C.A.).

[22] Jacob, note 20, above, at 27-28.

Although cautioning that the concept of inherent jurisdiction is "so amorphous and ubiquitous and so pervasive in its operation that it seems to defy the challenge to determine its quality and to establish its limits,"[23] Jacob offered this definition:

> ...the reserve or fund of powers, a residual source of powers, which the court may draw upon as necessary whenever it is just or equitable to do so, and in particular to ensure the observance of the due process of law, to prevent improper vexation or oppression, to do justice between the parties and to secure a fair trial between them.[24]

5. An Important Limitation

There is an important limitation to inherent jurisdiction as it applies to vexatious litigants. As Jacob explained, "the court has no power, even under its inherent jurisdiction, to prevent a person from commencing proceedings which may turn out to be vexatious."[25] In other words, a court may only apply its inherent jurisdiction to deal with a vexatious litigant once that person has commenced a legal proceeding, thereby bringing a matter to the court's attention. Fortunately, however, this gap in court powers can be remedied through legislation, and section 6 of this Final Report discusses in detail statutory provisions that are in place elsewhere in Canada.

In *Commonwealth Trading Bank* v. *Inglis*, the High Court of Australia took into account the reluctance of courts to proceed without specific legislative authority as being one indication that under English and Australian law, inherent jurisdiction does not empower courts to preclude a future legal action by a particular person:

> It is apparent that the courts, both in England and in this country, have declined to regard themselves as having power to do so, except where such power has been conferred upon them by an Act of Parliament or by rules promulgated under statutory authority. This is demonstrated, not merely by the absence of reported cases in which such orders have been made under the inherent power of the court, but by the fact that it has been thought necessary to deal with specific cases of the bringing of numerous unfounded proceedings by legislation rather than by invoking the inherent power of the court. There have been cases in which the vexatious character of the proceedings was so clear that it cannot be

[23] Note 20, above, at 23.

[24] Note 20, above, at 51.

[25] Note 20, above, at 43. See also, for example, *Shaward* v. *Shaward* (1988), 3 W.W.R. 319 at 325 (Man. C.A.); *Midwest Property Management* v. *Moore* (2003), 341 A.R. 386 at 394 (Alta. Q.B.); *Dieppe (Town) et al.* v. *Charlebois et al.* (1995), 163 N.B.R. (2d) 394 at 398-400 (Q.B.); *Commonwealth Trading Bank* v. *Inglis* (1974), 131 C.L.R. 311 at 318 (H.C. Aus.).

> supposed that the court would have hesitated to exercise such a power if it had been regarded as existing.[26]

The little Nova Scotian case law available on this concept is consistent with the limitation on inherent jurisdiction that was identified by Jacob and discussed in the *Commonwealth* decision. In *Re MacCulloch Estate*,[27] a 1993 decision, the Nova Scotia Court of Appeal considered the appropriateness of a trial-level decision which in part ordered the appellant not to bring further proceedings against certain defendants. The Court of Appeal noted that "[c]ounsel were unable to cite authority which would enable a trial judge to make such orders other than the general proposition that the court has the authority to control the conduct of its own proceedings."[28] Calling it a "drastic remedy" which should not be granted in that instance, namely where future information might become available on which the appellant could base a reasonable action, the Court of Appeal struck out those parts of the trial decision which prevented the appellant from taking future proceedings against other specified parties.[29] More recently, in a 2005 case,[30] at issue in part was an application for an injunction[31] to prevent the plaintiff from taking future legal proceedings against the defendants without court leave. Summarizing the history of the proceedings between the parties, the court agreed "that the present action is vexatious and oppressive."[32] In particular, the plaintiff, whose legal proceedings against the defendants had been found to be without merit on two other occasions, "appears to refuse to accept the prior decisions made by Courts, and to accept anything less than a ruling in her favour."[33] Although acknowledging that "it is not fair that the defendant estate must pay legal counsel to continuously respond to the similar claims from the same plaintiff," the court nonetheless held, "the defendants have not satisfied this court that jurisdiction exists to grant the requested

[26] *Commonwealth*, note 25, above, at 315. The first Australian vexatious litigants statute was enacted in the State of Victoria in 1928: *Commonwealth*, at 316. Lester & Smith, note 10, above, provide an interesting case study of events which fostered enactment of that statute and examine its application since 1928.

[27] (1993), 123 N.S.R. (2d) 351 (N.S.C.A.)

[28] *MacCulloch Estate*, note 27, above, at 354.

[29] Note 27, above, at 354.

[30] *Ashby* v. *McDougall Estate*, 2005 NSSC 148.

[31] An injunction is a court order requiring someone to do something or to stop doing something.

[32] *Ashby*, note 30, above, at para. 88.

[33] Note 30, above, at para. 88.

injunction."[34] In reaching this conclusion, the court relied on the Court of Appeal's reasoning in the *MacCulloch* decision.

In recent years, a few Canadian courts have made decisions implying that their traditional inherent jurisdiction, without the aid of a statute specifically empowering them to do so, does permit them to disallow vexatious litigants from commencing future legal proceedings. In *Yorke* v. *Paskell-Mede*,[35] the plaintiffs were declared vexatious litigants, and therefore not permitted to commence any future actions in the Quebec Superior Court without the court's leave. As part of its decision, the court relied on Jacob's article discussing inherent jurisdiction[36] and stated: "This jurisdiction include[s] 'in the case of an abuse of process, (the power for the Court) to stay or dismiss the action or impose terms as it thinks fit.'"[37] The court did not, however, refer to the conceptual gap, identified by Jacob, which has traditionally prevented courts from acting against vexatious litigants prior to a proceeding being commenced.

In *Mazhero* v. *Yukon* (*Ombudsman & Privacy Commissioner*), a 2001 decision,[38] the Yukon Territory Supreme Court relied on the result in *Yorke* in deciding that the Yukon court's inherent jurisdiction included the power to prevent abuse of process, even relating to the commencement of vexatious litigation. Nonetheless, the court went on to suggest that the Yukon legislature should enact legislation specifically empowering a court to deal with vexatious litigants before they commence a legal action.[39]

Outside Canada, in *Ebert* v. *Venvil*, a 2000 decision,[40] the English Court of Appeal found there was no reason, apart from legislation which stated otherwise, why the court's inherent jurisdiction should not include the power to prevent future proceedings being taken by certain people who have shown themselves to be vexatious litigants. Drawing an analogy to an injunction, the court reasoned that it should be able to protect a party from anticipated harm. Moreover, the court indicated that a broad approach should be taken to the nature of inherent jurisdiction.

[34] Note 30, above, at para. 89.

[35] *Yorke*, note 17 above.

[36] Note 20, above.

[37] Note 17, above, at 1969.

[38] 2001 YKSC 520. An appeal of this decision was dismissed (2002 YKCA 5), but for reasons unrelated to the issue of vexatious litigants.

[39] Note 38, above, at para. 47.

[40] [2000] Ch. 484 (C.A.).

Where does this leave us? At most, it might be suggested there is some case law support for expanding the concept of inherent jurisdiction to empower a court to prevent a known vexatious litigant from commencing a legal proceeding. This would, however, be at odds with the traditionally-understood nature of inherent jurisdiction. There is no reported decision suggesting that Nova Scotia courts are amenable to a wider form of inherent jurisdiction, and in fact, existing case law suggests the contrary. Moreover, none of the three, non-Nova Scotian decisions (*Yorke*, *Mazhero*, *Ebert*) mentioned earlier in this section bind Nova Scotian courts. Although it is doubtful whether a vexatious litigants order could be granted on the basis of inherent jurisdiction, there is no question that such an order would be available if permitted through legislation which specifically grants courts the power to prevent known vexatious litigants from commencing any more proceedings. The next section examines such statutory measures which are in place elsewhere in Canada.

6. Canadian Vexatious Litigants Provisions

Canadian vexatious litigants provisions have their roots in England, which enacted its first vexatious litigants statute in 1896.[41] The 1925 English statute,[42] which provided the model for an equivalent 1930 Ontario statute,[43] referred to a person who "has habitually and persistently and without any reasonable ground instituted vexatious legal proceedings...." If an order was obtained against a person so that he or she could not commence legal proceedings in any court without leave (permission), that person would have to satisfy the court that a legal proceeding would not be an abuse of the court's process and that there would be a *prima facie* ground for the proceeding. The 1925 English statute made it clear that there would be an opportunity for a person facing a vexatious litigants order to be heard by the court. If because of poverty, that person would be unable to retain a lawyer, the court would engage legal counsel on that person's behalf.

[41] *Vexatious Actions Act*, 1896 (U.K.) 59 & 60 Vict., c. 51. This statute was primarily meant to protect public bodies or officers from vexatious litigation: see Simon Smith, "Vexatious Litigants and Their Judicial Control - The Victorian Experience" (1989) 15 Monash U.L. Rev. 48 at 57.

[42] 1925 (15 & 16 Geo. 5) , c. 49, s. 51, which slightly amended the 1896 statute.

[43] Ontario first enacted a vexatious litigants statute, modelled after British legislation, in 1930: *Shaward*, note 25, above, at 321 (Man. C.A.). Although their histories of having vexatious litigants legislation are not nearly as long as Ontario's example, these provisions are well established in other Canadian jurisdictions. For example, this type of provision dates back to 1975 in Alberta (S.A. 1975 (2nd), c. 43, s. 3 (5)), 1989 in B.C. (S.B.C. 1989, c. 40, s. 16) , 1990 in the Federal Courts (S.C. 1990, c. 8, s. 11), 1988 in Manitoba (S.M. 1988-89, c. 4, ss. 73-75), and 1987 in P.E.I. (S.P.E.I. 1987, c. 66, s. 61).

Distinct from the current Canadian approach, under the 1925 English statute the attorney general was required to apply for an order against a vexatious litigant.[44]

A number of Canadian provincial jurisdictions, namely Alberta, British Columbia (B.C.), Manitoba, Ontario, Quebec, Prince Edward Island (P.E.I.), and Saskatchewan, as well as a number of federally-created courts (the Federal Court of Canada, the Federal Court of Appeal, and the Supreme Court of Canada), have provisions which specifically authorize courts to deal with vexatious litigants.[45]

These provisions are summarized in the table attached to this Final Report. Much similarity prevails among these provisions. The remainder of this section highlights the most significant features.[46]

a) Starting the Process

In all instances, a challenge to a vexatious litigant is to be commenced by application (called a motion in Quebec and the Supreme Court of Canada).[47] The provisions tend not to provide any detail about the type of application or whether any particular notice requirements are involved.

The B.C. provisions expressly state that any person may commence the application, while under the Supreme Court of Canada rules, the court registrar requests the order. In the Supreme Court of Canada, each party will have 10 days to respond following receipt of the registrar's notice.

[44] The current English vexatious litigants provisions are at s. 42 of the *Supreme Court Act 1981*, (U.K.), 1981, c. 54 (as amended), supplemented by Civil Procedure Rule 3.11, Practice Direction 3C ("Civil Restraint Orders"), Civil Procedure Rule 3.4, and Practice Direction 3 ("Striking Out a Statement of Case"). Her Majesty's Courts Service maintains an internet list of vexatious litigants and the dates of applicable orders. Online: HMCS, "Vexatious Litigants" < www.hmcourts-service.gov.uk/infoabout/vexatious_litigant/index.htm> (date accessed: 11 April 2006).

[45] Alberta, *Judicature Act*, R.S.A. 2000, c. J-2, s. 23; British Columbia, *Supreme Court Act*, R.S.B.C. 1996, c. 443, s. 18; British Columbia, *Court of Appeal Act*, R.S.B.C. 1996, c. 77; *Federal Courts Act*, R.S.C. 1985, c. F-7, s. 40; Manitoba, *Court of Queen's Bench Act*, C.C.S.M. c. C280, ss. 73-75; Ontario, *Courts of Justice Act*, R.S.O. 1990, c. C. 43, s. 140; PEI, *Supreme Court Act*, R.S.P.E.I. 1988, c. S-10, s. 61 ; Quebec, *Rules of Practice of the Superior Court of Quebec in Civil Matters*, RQ c. C-25, r. 8; Saskatchewan, *Queen's Bench Rules*, r. 662; Supreme Court of Canada, *Rules, Forms and Tariffs of the Supreme Court of Canada*, rr. 66-67.

[46] To avoid repetition, in this section, individual footnotes are not provided for specific features of vexatious litigants provisions, all of which are cited at footnote 45. The reader who seeks more information is invited to view the Comparative Table at Appendix A.

[47] An application is a request that a judge make a ruling or take some other action.

Apart from the Quebec rule, all of the provisions use the term "vexatious," which is not a defined term. The Quebec provision at article 84 refers instead to a person who "...acts in a quarrelsome manner, that is if that person exercises litigious rights in an excessive or unreasonable manner."

b) Role of the Attorney General

The position of Attorney General, the principal law officer of the Crown, exists at the federal and provincial levels of government. In four out of the ten provisions identified (Alberta, Federal Courts, Manitoba, Saskatchewan), the relevant Attorney General must provide his or her consent to an application for a vexatious litigants order.[48] The Alberta provision specifies that this consent must be in writing.[49] The P.E.I. statute only states that notice of one's application must be given to the Attorney General. Provisions applicable respectively in the Federal Courts, Manitoba, Ontario, and P.E.I. expressly allow the Attorney General to be heard on an application for a vexatious litigants order, as well as on an application for lifting of such an order. Alberta's statute only mentions the Attorney General's entitlement to be heard in the context of an application for a vexatious litigants order. In *Pawlus* v. *Pope*,[50] the Alberta Court of Appeal suggested that allowing the Attorney General to be heard would provide him or her with an opportunity to present arguments as to the interpretation of the Alberta vexatious litigants provision and its effect, if any, on the court's inherent jurisdiction. Saskatchewan's vexatious litigants rule is the only one which specifically mentions the possibility of the Attorney General of that province bringing an application to obtain a vexatious litigants order.

[48] The Saskatchewan rule requires the Attorney General's consent, or for the Attorney General to make the application. In calculating the number of provisions in this Paper, the B.C. provisions are counted as two, as they are found in two different statutes, each of which applies to a different court.

[49] Although the Federal Court and Manitoba provisions do not expressly require the Attorney General's consent to be in writing, as a matter of practice, this would likely be the case. For example, in *Henson* v. *Berkowits*, 2005 MBQB 32, it was noted at para. 22 that the Manitoba Attorney General filed with the court a written consent to the vexatious litigants application, but did not take part in the hearing of the matter.

[50] 2004 ABCA 396.

c) Criteria for Obtaining an Order

The provisions share similar criteria for obtaining an order against a vexatious litigant,[51] though some notable differences do exist. Alberta, B.C., and Saskatchewan are the only jurisdictions which use the qualifier "habitually" in relation to the commencement of vexatious proceedings, while provisions applicable to the Federal Courts and the Supreme Court of Canada are the sole provisions which do not refer to unreasonableness as part of their criteria. Four of the ten provisions studied (Federal Courts, Manitoba, Ontario, P.E.I.) expressly empower the court both to prevent a vexatious proceeding from being commenced and to stop any ongoing vexatious litigation.[52] The Alberta, B.C. (Supreme Court), and Saskatchewan provisions specify that a court order might take into account vexatious legal proceedings against the same person or against different persons.

d) Scope of Order

Under the Alberta, B.C. (Supreme Court), Ontario, and P.E.I. provisions, a vexatious litigants order prevents the subject from taking proceedings "in any court." This would include all courts which hear civil cases in each respective jurisdiction. For instance, the B.C. Supreme Court provision, in its criteria for an order, refers to "vexatious legal proceedings in the Supreme Court or in the Provincial Court."[53]

e) Appeals of Orders

An appeal is a court proceeding to set aside or vary a decision made by another court. Although this is not expressly set out in any of the respective vexatious litigants provisions, all Canadian courts (except for the Supreme Court of Canada, which serves as the final court of appeal in the country), which issue vexatious litigants orders allow those orders to be appealed.[54]

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[51] In general, the statutes require each respective court to be satisfied that a person has persistently and without reasonable grounds commenced vexatious proceedings.

[52] This is implicit in the Quebec provision.

[53] B.C.'s Provincial Court as part of its jurisdiction hears smaller claims matters, those involving amounts in dispute of $10,000 or less. Online: Provincial Court of British Columbia, "About the Court" <www.provincialcourt.bc.ca/aboutthecourt/index.html> (date accessed: 05 April 2006).

[54] See, for example, *Ayangma* v. *Prince Edward Island (Human Rights Commission)*, 2004 PESCAD 3; *S.* v. *S*, [1998] B.C.J. No. 2912 (B.C.C.A.) (QL); *Canada (Attorney General)* v. *Mishra*, [2000] F.C.J. No. 1734 (F.C.A.) (QL); *Law Society of Upper Canada* v. *Chavali*, [1998] O.J. No. 5344 (Ont. C.A.) (QL); *SMBD - Jewish General Hospital* v. *Saraffian*, [2004] J.Q. no. 12149 (Que. C.A.) (QL); *Lee* v. *Lee*, [1990] M.J. No. 627 (Man. C.A.) (QL); *Kieling*, note 12, above.

f) Leave to Continue

If the application for a vexatious litigants order is successful, then the person subject to the order must obtain court leave, either to commence a proceeding or (if the provision encompasses such a scenario) to continue with an ongoing one. The B.C., Quebec, and Saskatchewan provisions provide no criteria for the granting of court leave. In five of the provisions (Alberta, Federal Courts, Manitoba, Ontario, P.E.I.) the relevant standards are that the proceedings must not be an abuse of the process of the court, and there must be grounds for the proceedings (Alberta differs from the other five in not using the qualifier "reasonable" in relation to grounds).
Four of the provisions studied (Federal Courts, Manitoba, Ontario, P.E.I.) expressly state that there is no appeal from a decision relating to an application for relief from a vexatious litigants order.[55] The other provisions are silent about appeals in this context or whether there are any limits on the number of times one might seek leave to proceed in spite of a vexatious litigants order.

g) Some Distinctive Aspects

The legislation in Manitoba, Ontario, and P.E.I. all expressly state that they do not diminish the court's authority to stay (halt) or dismiss a proceeding as an abuse of process or on any other ground. In other words, the inherent jurisdiction of superior jurisdiction courts in Manitoba, Ontario, and P.E.I. is not otherwise affected by their vexatious litigants provisions.

The Quebec provision includes a number of unique aspects. An order against a vexatious litigant, known as an "order of prohibition," may be general or limited to one or more judicial districts. It may apply to more than one person. Moreover, "[i]n an extreme case, the order of prohibition may include an order preventing the person from having access to the court-house." Finally, when an application is made to have a prohibition order lifted, no hearing is necessary.

The majority of vexatious litigants provisions apply to trial-level courts. Three provisions, applicable respectively in the B.C. Court of Appeal, the Federal Court of Appeal, and the Supreme Court of Canada, contemplate that vexatious litigation might occur at the appeal stage.

h) Built-in Balance

With the exception of the Supreme Court of Canada rule, all vexatious litigants provisions expressly allow a person who is subject to a vexatious litigants order to apply for court leave to

[55] In *Winkler* v. *Winkler*, [1994] M.J. No. 289 (QL) at para. 1, the Manitoba Court of Appeal held that the Manitoba provision, by its "plain wording," expressly denied a right of appeal of a decision to deny leave.

lift the order.[56] The provisions do not prevent people from commencing or continuing with a proceeding, as long as they are able to show to the court before such proceeding is commenced that there is a reasonable basis for their claim. Stone J.A. of the Federal Court of Appeal has confirmed the balance built into the provisions applicable to the Federal Courts:

> The power conferred on the Court by subsection 40 (1) of the Act is, of course, most extraordinary, so much so that it must be exercised sparingly and with the greatest of care. In a society such as ours, the subject is generally entitled to access the courts with a view of vindicating his or her rights. This concern was obviously in the mind of the legislators, seeing that some balance is built into section 40 by allowing proceedings to be instituted or continued with leave of the Court.[57]

Howland C.J.O., of the Ontario Court of Appeal summarized the nature of vexatious litigation statutes as follows:

> Vexatious proceedings legislation does not take away an individual's right to redress. Rather it provides that if an order is made against him under the legislation, he cannot seek redress until he has satisfied the proper authority that the proposed legal proceedings are not an abuse of process of the Court and there is prima facie ground for them.[58]

In similar fashion, the Federal Court of Appeal rejected as without merit an argument that the vexatious litigants provision applicable in the Federal Court was unconstitutional, depriving Canadians of access to the courts:

> An order under subsection 40(1) does not put an end to a legal claim or the right to pursue a legal claim. Subsection 40(1) applies only to litigants who have used unrestricted access to the courts in a manner that is vexatious (as that term is understood in law), and the only legal effect of an order under subsection 40(1) is to ensure that the claims of such litigants are pursued in an orderly fashion, under a greater degree of court supervision than applies to other litigants.[59]

[56] Implicitly, this could also be permitted under the Supreme Court of Canada provision, as r. 66 (1) empowers a judge to order a stay of proceedings "on the terms the judge considers appropriate."

[57] *R.* v. *Olympia Interiors Ltd.* (2004), 323 N.R. 191 at 193 (F.C.A.).

[58] *Foy* v. *Foy (No. 2)* (1979), 26 O.R. (2d) 220 at 225 (Ont. C.A.).

[59] *Canada (Attorney General)* v. *Mishra*, note 54, above, at para. 16 (F.C.A.). The Supreme Court of Canada has also recently declined to hear appeals arguing in part that vexatious litigants legislation is unconstitutional. See, for example, *Founder* v. *Canada (Minister of Canada Customs and Revenue Agency)* [2003] S.C.C.A. No. 442; *R.* v. *Nelson* [2004] S.C.C.A. No. 100.

7. Nova Scotian Legislation & Court Rules

Nova Scotia does not have vexatious litigants legislation. In the widest sense, a 2003 private member's bill, *The Protection of Public Participation Act*,[60] did have some connection to vexatious litigants. The real aim of that proposed legislation, though, seemed to be to prevent certain people from launching groundless law suits in an effort to silence their public critics. It therefore seemed to focus on the phenomenon of "Strategic Litigation Against Public Participation" (SLAPP). Generally associated with litigation in the United States, SLAPP involves an attempt to silence critics through the threat of expensive, but perhaps baseless, proceedings in the courts.[61] Under the proposed Nova Scotian legislation, in order for a proceeding or claim to be considered brought or maintained for "an improper purpose," clause 2(2) required as a principal purpose an attempt to prevent a person from engaging in public participation, to divert that person's resources from public participation, or to penalize that person for engaging in public participation. At clause 2(1)(h), the Bill defined "public participation" as "communication or conduct aimed at influencing public opinion, or promoting or furthering lawful action by the public or by any government body, in relation to an issue of public interest." Although in some respects this type of conduct could fall within the boundaries of what one might associate with vexatious litigation, vexatious litigation is generally understood to have a wider scope. A vexatious litigant might seek to harass or annoy, with no thought about whether "public participation" is in issue. Moreover, much civil litigation concerns private disputes and as such, has no connection to "an issue of public interest." In any event, the private member's Bill did not go beyond first reading and therefore has not become law.

The Nova Scotia Civil Procedure Rules include rule 14.25, whereby a court may strike out a pleading[62] in part on the ground that it is "false, scandalous, frivolous or vexatious," yet this rule could not be used to prevent someone from commencing a proceeding. The court's attention could only be drawn to the nature of a claim once it has been commenced and filed.[63] Rule 14.25 doesn't refer to a litigant's behaviour in court, nor does it prevent a litigant from relaunching the

[60] Bill 23, *An Act to Encourage Public Participation and Dissuade Persons from Bringing or Maintaining Legal Proceedings or Claims for an Improper Purpose and to Preserve Access to the Courts*, 3rd Sess., 58th General Assembly, Nova Scotia, 2003.

[61] See Stephen Kimber, Dissent Silenced, [*Halifax*] *Daily News* (22 February 2004), 16 (ProQuest); Rick Howe, "Time to Help Out Digby Quarry Battle..." [*Halifax*] *Daily News* (31 October 2003), 23. (ProQuest).

[62] A pleading is a document in which a party to civil litigation sets out its position and responds to claims made by the other side.

[63] Referring to the Manitoba court rules in the same context, the Manitoba Court of Appeal in *Shaward*, note 25, above, at 322, has stated, "[t]he pleading must be before the court before it can be struck out as vexatious."

same legal proceeding. The shortcomings of court rules which do not include a provision specifically focused on vexatious litigants were summarized in *Ayangma* :

> In spite of courts striking out pleadings, ordering costs to be paid, rendering decisions against a litigant, the same litigant would come back again and again litigating the same matter either using the excessive litigation to attempt to force a party to pay compensation even though it had won at trial and appeal...or using the litigation as a means of intimidating others from making claims against them...In the circumstances faced by those courts, the remedies existing in the normal rules - striking out, security for costs, orders, etc. - would not stop the actions.[64]

8. Judicial Treatment of Vexatious Litigants Statutes

Given the similarity in legislative language, it is no surprise that Canadian courts take a similar approach to the application of vexatious litigants provisions. Canadian courts agree that access to justice is a fundamental right in our society.[65] Restricting that right will only be done in exceptional circumstances.[66] As a result, whether to grant a vexatious litigants order is not an issue taken lightly, and courts will proceed with caution.[67]

Canadian courts have not identified a clear definition for the term "vexatious".[68] They seem to agree, though, that whether a proceeding is vexatious is a matter to be determined by objective rather than subjective standards.[69] A frequently cited decision in this context is *Lang Mitchener/Johnston* v. *Fabian*, in which Henry J. reviewed a number of other relevant Ontario decisions and distilled a number of relevant principles:

(a) the bringing of one or more actions to determine an issue which has already been determined by a Court of competent jurisdiction constitutes a vexatious proceeding;

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[64] *Ayangma*, note 16, above, at 232.

[65] See, for example *Mazhero* v. *Yukon (Human Rights Commission & Commissioners)* 2002 YKCA 5 at para. 12 (Yukon C.A.) ; *Olympia*, note 57, above, at 193; *Winkler*, note 15, above, at 374.

[66] *Midwest,* note 25, above, at 394 (Alta. Q.B.); *Winkler*, note 15, above, at 374; *Ayangma*, note 16, above, at 232-233.

[67] See *Household*, note 8, above, at 361; *Olympia*, note 57, above, at 193.

[68] *Foy* v. *Foy (No. 2)*, note 58, above, at 225-228 (Ont. C.A.).

[69] *Prince Edward Island* v. *Ayangma*, [1999] P.E.I.J. No. 30 (P.E.I.S.C.T.D.) (QL) at para. 12; *Henson* v. *Berkowits*, note 49, above, at para. 28.

(b) where it is obvious that an action cannot succeed, or if the action would lead to no possible good, or if no reasonable person can reasonably expect to obtain relief, the action is vexatious;

(c) vexatious actions include those brought for an improper purpose, including the harassment and oppression of other parties by multifarious proceedings brought for purposes other than the assertion of legitimate rights;

(d) it is a general characteristic of vexatious proceedings that grounds and issues raised tend to be rolled forward into subsequent actions and repeated and supplemented, often with actions brought against the lawyers who have acted for or against the litigant in earlier proceedings;

(e) in determining whether proceedings are vexatious, the Court must look at the whole history of the matter and not just whether there was originally a good cause of action;

(f) the failure of the person instituting the proceedings to pay the costs of unsuccessful proceedings is one factor to be considered in determining whether proceedings are vexatious;

(g) the respondent's conduct in persistently taking unsuccessful appeals from judicial decisions can be considered vexatious conduct of legal proceedings.[70]

Although Henry J's list is a comprehensive one, courts seem to concur that what may constitute vexatious behaviour is not a closed concept. It should not be overlooked that each factual situation is unique, and that in deciding whether to grant a vexatious litigants order, a judge will therefore have to take into account all relevant circumstances. For instance, in the family law context, in which situations might frequently change, a court will try to be flexible in considering variation claims being brought to court.[71]

[70] (1987), 59 O.R. (2d) 353 at 358-359 (Ont. H.C.).

[71] *Winkler*, note 15, above, at 375. The court in *Winkler* also noted, however (p. 375) that "[o]n the other hand, domestic litigants should not be able with impunity to harass the other party, or bring repetitive motions before the court with little or no prospect of success, merely because they are *domestic* litigants.

9. Issues to Consider

1. Should a vexatious litigants provision be adopted in Nova Scotia?

Is a vexatious litigants provision appropriate for Nova Scotia? The inherent jurisdiction of courts is both powerful and wide-ranging. Moreover, rules of court supplement those powers. Neither inherent jurisdiction, nor the current court rules, seem to be adequate, however, to prevent vexatious litigants from starting groundless lawsuits, which are an unnecessary strain on resources, both of the courts and of the people who are the subject of vexatious claims. In the words of Hall, J.A. of the British Columbia Court of Appeal, "[i]t is obviously of the utmost importance that there be unfettered access to the courts by citizens but I should think that a corollary of that is that continuing abuse of this most valuable and deeply enshrined democratic right should be dealt with decisively to preserve the rights of all."[72]

Taking into account the need to ensure access to the courts for all, as well as to prevent the abuse of the courts' process and the waste of time and money, the Commission is of the view that it would be appropriate to adopt a vexatious litigants provision in Nova Scotia. The provision would explicitly empower the courts to make an order against a vexatious litigant. The order would prevent a vexatious litigant from starting any new proceedings (actions or applications) or continuing with an existing proceeding until court leave was granted to lift the order. As in other Canadian jurisdictions which have put into place mechanisms to deal with vexatious litigants, a balanced approach should be used here, one which empowers the courts to deal effectively with vexatious litigants, but which also permits someone who is subject to a court order to seek court leave to have the order lifted where circumstances have changed.

As shown by the example of other Canadian jurisdictions, vexatious litigants provisions take one of two forms, legislation or court rules. Legislation is a written law adopted by a body of elected representatives, following a debate of the legislation's merits. Court rules govern proceedings in a particular court. In Nova Scotia, further to s. 46 of the *Judicature Act*,[73] the judges of the Supreme Court of Nova Scotia and of the Nova Scotia Court of Appeal create the Civil Procedure Rules, which apply to matters in those respective courts.

The Commission is of the view that a vexatious litigants provision should take the form of legislation. The merits of such a measure would be subjected to public debate and scrutiny in the House of Assembly. This is important, as some people may have concerns about how such a provision might affect the right of access to the courts. It will also enable the Government to fully explain the motivation behind such a provision, and in particular, how it attempts to balance the rights of all. As discussed earlier, at Section 4, there is also considerable doubt about whether

[72] *S. (M.)* v. *S. (P. I.)*, (1998), 115 B.C.A.C. 146 (B.C.C.A.).

[73] R.S.N.S. 1989, c. 240.

a Nova Scotian court would be able, on the basis of inherent jurisdiction alone, to prevent a known vexatious litigant from commencing a legal proceeding in that court.

Although of the view that a vexatious litigants provision should take the form of legislation, the Commission wishes to avoid any misunderstanding that the adoption of that measure would somehow mean a reduction in the courts' other powers, and in particular, the scope of their inherent jurisdiction. The Commission therefore suggests that the proposed legislation would clearly indicate that it is meant to be cumulative in relation to other remedies, and that it would not derogate from the courts' current powers.

The majority of vexatious litigants provisions apply to trial-level courts. Those provisions exist to prevent people from commencing vexatious legal proceedings or once begun, conducting those proceedings in a vexatious manner. Once a trial ends and a court provides its decision, there is no guarantee, however, that a vexatious litigant, if disappointed by the result, will let the matter drop. Rather, a vexatious litigant might simply carry on with his or her improper behaviour, but at the appeal stage. Recognizing this, the Supreme Court of Canada, which serves as a final court of appeal for the entire country, created a two-part vexatious litigants provision in 1996.[74] The process is begun by a motion from the court registrar. Where a judge is satisfied that a party is conducting a Supreme Court of Canada proceeding in a vexatious manner, the judge is empowered to order a stay on appropriate terms. Under the second part of the provision, a judge may order that no further documents be filed relating to an application for which leave to appeal has been dismissed, if the judge is satisfied that the filing of further documents would be vexatious or made for an improper purpose. A published commentary on this provision suggested that "the Court occasionally attracts the attention of vexatious litigants who bombard the Registry with motions and requests," and that the provision was meant to allow the court "to protect its processes and to conserve judicial resources."[75]

Taking the Supreme Court of Canada provision into account, as well as vexatious litigants provisions applicable in the B.C. Court of Appeal and the Federal Court of Appeal, the Commission acknowledges that vexatious litigants can cause difficulties at the appeal level similar to those they create at the trial level. As a result, the Commission suggests that a vexatious litigants provision should apply to both the Supreme Court of Nova Scotia and where relevant to the Nova Scotia Court of Appeal.

Furthermore, as a matter of consistency and thoroughness, the Commission takes the position that a vexatious litigants rule should apply to all Nova Scotian courts with civil jurisdiction. This would include the Small Claims Court of Nova Scotia. The Commission has received no

[74] Supreme Court of Canada, *Rules*, note 45, above.

[75] Brian A. Crane & Henry S. Brown, *Supreme Court of Canada Practice 2002* (Scarborough, Ont.: Carswell, 2002) at 342.

indication that vexatious litigants currently constitute a particular problem in Small Claims. However, it has been noted elsewhere that if thwarted at one court, vexatious litigants tend to attempt to transfer their proceedings to another court.[76] The Commission is of the view that if a gap exists in the potential applicability of a vexatious litigants provision, this could encourage vexatious litigants to take advantage of that gap, by bringing more of their claims to decision-making bodies where a vexatious litigants order could not apply.

The Commission is not suggesting that Small Claims Court adjudicators, who are practicing lawyers, rather than judges,[77] would be empowered to make vexatious litigants orders. Instead, consistent with the approach in the majority of Canadian jurisdictions which allow for vexatious litigants orders, the Nova Scotia Supreme Court would make such an order, the scope of which could include Small Claims Court matters.

The Commission Recommends:

- A vexatious litigants provision should be adopted in Nova Scotia.
- The provision would explicitly empower the courts to make an order against a vexatious litigant. The order would preclude a vexatious litigant from starting any new proceedings (actions or applications) or continuing with an existing proceeding until court leave was granted to lift the order.
- The provision should take a balanced approach, empowering the courts to deal effectively with vexatious litigants, but also permitting someone who is subject to such an order to seek court leave to have the order lifted.
- The vexatious litigants provision should take the form of legislation.
- The legislation would make it clear it is meant to be cumulative in relation to other remedies, and that it would not derogate from the courts' current powers.
- The vexatious litigants provision should apply to both the Supreme Court of Nova Scotia and where relevant, the Nova Scotia Court of Appeal.

[76] Smith, note 41, above at 64.

[77] *Small Claims Court Act*, R.S.N.S. 1989, s. 6.

- A vexatious litigants provision should apply to all Nova Scotian courts with civil jurisdiction.

2. Should the term "vexatious" be defined?

With the exception of Quebec,[78] all Canadian jurisdictions which have vexatious litigants provisions use the term "vexatious," but do not define it. In most of those jurisdictions, pursuing a legal proceeding without any reasonable ground is part of what makes up a vexatious proceeding. This doesn't bring us any closer to what is meant by the term "vexatious." If "without any reasonable ground" and vexatious were synonymous, then one would be unnecessary if both were used to describe a litigant's vexatious behaviour. It is, however, a principle of statutory interpretation that a legislature will be assumed not to have created any redundancies.[79] In *Foy* v. *Foy (No. 2)*, the Ontario Court of Appeal, specifically considering the meaning of "vexatious" in Ontario legislation, but also keeping in mind its use in England, concluded that it was not clearly defined.[80]

Rather than attempting a statutory definition for "vexatious," which in any event would have to remain rather general in nature, one could include, as part of a vexatious litigants provision, a non-exclusive list of factors which a court could take into account in determining whether a litigant's conduct is vexatious. In addition to serving as a guide to courts, the list could provide direction to parties involved in litigation. A modified version of Henry J's list of relevant factors in *Lang/Michener* could form the basis of the list:

Examples of vexatious behaviour by a person in the context of court proceedings may include the following:

1) bringing one or more proceedings to determine an issue which has already been determined by a court of competent jurisdiction;

2) bringing a proceeding which cannot succeed, which would lead to no possible good, or which has no reasonable expectation of providing relief;

[78] Quebec uses instead the standard of someone acting "in a quarrelsome manner, that is if that person exercises rights in an excessive or unreasonable manner."

[79] *Ayangma*, note 69, above, at para. 12.

[80] Note 58, above.

3) bringing a proceeding for an improper purpose, including the harassment and oppression of other parties;

4) inappropriately using previously-raised grounds and issues in subsequent proceedings;[81]

5) a pattern of failing to pay the costs of unsuccessful proceedings on the part of the person who commenced those proceedings;

6) persistently taking unsuccessful appeals from judicial decisions.

To the above list, the Commission thinks it is important to add a factor which would address a litigant's inappropriate behaviour in court. The Commission suggests the following:

"7) persistently engaging in inappropriate courtroom behaviour, such as being disrespectful to the court, failing to observe rulings and directions from the presiding judge, or engaging in unnecessarily protracted submissions."

Another possibility, based upon the approach in a number of American statutes,[82] is to suggest that one could be declared a vexatious litigant upon the satisfaction of precise, numerical criteria. For example, under Florida law, a vexatious litigant may be defined as someone who has unsuccessfully taken, on his or her own, 5 or more civil actions in any Florida state court (except for small claims) over the immediately preceding 5 years.[83] If found to be a vexatious litigant in that fashion, one would then have to post suitable security in order to continue with an action.[84]

[81] The Commission has added the qualifier, "inappropriately," to this example.

[82] The American states of California, Florida, Hawaii, Ohio, and Texas have legislation dealing with vexatious litigants. Of those statutes, only the Ohio law does not identify a certain number of failed actions within a set time as one means of deeming someone a vexatious litigant. See Lee W. Rawles, "The California Vexatious Litigant Statute..." (1998-99) 72 S. Cal. L. Rev. 275; Deborah L. Neveils, "Florida's Vexatious Litigant Law: An End to the Pro Se Litigant's Courtroom Capers?" (2000-2001) 25 Nova L. Rev. 343.

[83] See s. 68.093 of the Florida Civil Practice and Procedure statute, available online at: <www.leg.state.fl.us>, under the "Statutes, Constitution, & Laws of Florida" link (date accessed 10 April 2006).

[84] Florida law also includes the possibility of "prefiling orders," whereby the court or a person could apply to have someone declared a vexatious litigant before that person began a new action.

Upon reflection, the Commission is not in favour of basing vexatious litigant status on numerical standards. Setting a numerical threshold would be an arbitrary exercise. If set fairly high, and meant as a minimum, the threshold would make obtaining a vexatious litigants order too difficult and could encourage inappropriate behaviour on the part of certain litigants. Some litigants would realize that they could safely commence a certain number of groundless proceedings before they would be at risk of becoming subject to a vexatious litigants order.

The Commission is of the view that an all-encompassing, general definition of "vexatious" should not be attempted for the purpose of vexatious litigants legislation. Instead, as an approach which provides definite direction, yet which allows courts flexibility to deal with particular circumstances, the Commission recommends that a vexatious litigants provision include the non-exclusive list of factors (identified earlier in this section) setting out examples of potentially vexatious behaviour.

The Commission Recommends:

8) Rather than attempting to define the term "vexatious" or to use a substitute, a vexatious litigants provision should include a non-exclusive list of factors which could help to guide the court.

Examples of vexatious behaviour by a person in the context of court proceedings may include the following:

1) bringing one or more proceedings to determine an issue which has already been determined by a court of competent jurisdiction;
2) bringing a proceeding which cannot succeed, which would lead to no possible good, or which has no reasonable expectation of providing relief;
3) bringing a proceeding for an improper purpose, including the harassment and oppression of other parties;
4) inappropriately using previously-raised grounds and issues in subsequent proceedings;
5) a pattern of failing to pay the costs of unsuccessful proceedings on the part of the person who commenced those proceedings;
6) persistently taking unsuccessful appeals from judicial decisions.
7) persistently engaging in inappropriate courtroom behaviour, such as being disrespectful to the court, failing to observe rulings and directions from the presiding judge, or engaging in unnecessarily protracted submissions.

3. Should there be a specifically mentioned role for the Attorney General?

If not involved in a legal proceeding, the Attorney General could be in the position, as an objective third party, to bring to the court's attention information about the purpose of a vexatious litigants provision. The Attorney General might discern that a public interest is involved in a particular proceeding and wish to protect that public interest by making an appearance, in order to explain a particular perspective to the court. Moreover, the Attorney General may wish to keep informed about the situations in which vexatious litigants applications are being made, in order to understand how well the provision is understood and functions in practice. For these reasons, the Commission agrees that a vexatious litigants provision should require notice to the Attorney General of any application for a vexatious litigants order and would allow the Attorney General to appear at a hearing of that application. Nonetheless, the provision should also make it clear that unless applying for a vexatious litigants order, the Attorney General's role would be an impartial one, to represent the interests of the public. Consistent with that theme, the Commission is not in favour of requiring the Attorney General's consent for such an application to be made, which may signal an undue, and even partisan, involvement.[85]

The Commission Recommends:

- A vexatious litigants provision should require notice to be provided to the Attorney General of an application for a vexatious litigants order.
- The Attorney General would also be entitled to appear at the hearing of the application.
- An application for a vexatious litigants order would not require the Attorney General's consent.
- The legislation should make it clear that unless applying for a vexatious litigants order, the Attorney General's role would not be a partisan one.

[85] In the Australian context, one writer has suggested that a vexatious litigants provision requiring an Attorney General's approval for operation "...inevitably increases the scope for political considerations to interfere with an important judicial safeguard": Smith, note 41, above, at 66.

4. Challenges to a vexatious litigants order.

Apart from the Supreme Court of Canada, which serves as the final court of appeal for the entire country, all Canadian jurisdictions which issue vexatious litigants orders allow those orders to be appealed. An appeal is a court proceeding to set aside or vary a decision made by another court. This enables the subject of an order to challenge it, if he or she thinks the order was made unfairly or on improper grounds. The Commission agrees with this approach and suggests that a vexatious litigants provision in Nova Scotia should allow for an appeal of the granting of an order.

Once a vexatious litigants order has been made, all Canadian jurisdictions permit the subject of the order to apply to the court for leave to continue, in other words, for the order to be lifted. It is different from an appeal, in that the applicant is not suggesting that the order was flawed. Rather, the leave provision is meant to allow an applicant to bring to light details not available or in existence when the order was granted. It also permits a person to attempt to convince a court why an action should continue, despite the existence of an order.

A leave application will produce one of three results: 1) an order will be lifted; 2) an order will be lifted, but with conditions (in other words, a partial lifting); or 3) no change to the order will be granted. If a leave to continue application is unsuccessful, four jurisdictions (Federal Courts, Manitoba, Ontario, P.E.I.) expressly prevent that decision from being appealed. In the interest of trying to reduce the effect of vexatious litigants on the judicial system, the Commission is of the view that there should be no appeal of an unsuccessful application for leave to continue. Instead, an unsuccessful applicant would again be entitled to seek leave to continue should relevant circumstances change.

The Commission acknowledges that there is potential for some persons to abuse the leave provision, by bringing numerous unsuccessful leave applications, perhaps after having only tinkered with the substance of their claim. The Commission does not wish to transfer a problem from an early point in the litigation process to a later stage. As a result, the Commission suggests that courts should be given an express, rule-making power to determine how a leave application should take place, including any limits on the frequency of such applications.

The Commission Recommends:

- One should be able to appeal a vexatious litigants order.
- Once a vexatious litigants order is in effect, once should not be able to appeal an unsuccessful application for leave to continue.

- Courts should be given an express rule-making power to determine how a leave application should take place, including any limits on the frequency of such applications.

5. New and existing proceedings

In addition to preventing a vexatious litigant from starting a new legal proceeding, one might wish to curtail a litigant who originally had a reasonable claim, but who then pursues that claim in a vexatious fashion. For instance, that person might insist on pursuing numerous, unnecessary, preliminary matters. It should also not be overlooked that the problem might lie not with a plaintiff, but with a defendant, who chooses to conduct proceedings in a vexatious manner. To limit such behaviour, a number of vexatious litigants provisions specifically permit courts to deal with both new and continuing proceedings. The Commission agrees with this approach.

In *Foy* v. *Foy*, the Ontario Court of Appeal, in examining an earlier version of the Ontario legislation, held that to encompass both new and continuing proceedings, a vexatious litigants provision had to do so clearly. More particularly, a former version of the Ontario legislation, which referred to someone who "instituted" vexatious legal proceedings, was held not to include interlocutory proceedings (those taking place after commencement of an action) and appeals.[86] The Ontario provision was subsequently amended and now refers both to "instituted vexatious proceedings in any court," as well as a person who "conducted a proceeding in any court in a vexatious manner."[87] The Commission therefore also recommends that particular attention be paid to the language of any proposed vexatious litigants provision, to ensure that it clearly contemplates new and continuing proceedings.

The Commission Recommends:

- A vexatious litigants provision should specifically and clearly permit courts to deal with both new and continuing proceedings.

[86] Note 58, above, at 230-233.

[87] Ontario, *Courts of Justice Act*, note 45, above, s. 140.

6. The vexatious spokesperson

Related to the phenomenon of the vexatious litigant is that of the vexatious spokesperson or agent. This involves litigation carried on in a vexatious fashion by a person without legal training,[88] such as a friend or family member, on someone else's behalf. Such a spokesperson might conduct a legitimate claim in a vexatious manner, or might convince other people to allow him or her to begin groundless legal proceedings on their behalf. Perhaps the vexatious representative has a difficult personality or bears a grudge against a defendant. In any event, the end result is the same: either valid claims are being undertaken in a vexatious and therefore, inappropriate manner, or vexatious and therefore, improper proceedings are being commenced.

If not phrased widely enough, a vexatious litigants provision might not encompass the actions of a vexatious spokesperson. For instance, under the Alberta provision, "the Court may order that no legal proceedings shall, without leave of the Court, be instituted in any court by the person taking those vexatious legal proceedings."[89] The order seems to apply only to the person in whose name the proceedings are undertaken, and would therefore not include any representative.

The courts have the authority to deal with the conduct of an agent who comes before the court. Specifically, there is no right to be represented by an agent without court approval. The Nova Scotia Supreme Court has, for example, "the discretion to control its own process by, among other things, allowing or excluding lay persons from representing parties before the court."[90] This would not solve the problem, however, of a spokesperson who uses inappropriate methods to represent a series of people, in essence acting as a serial vexatious agent, either convincing other people to begin merit less proceedings or jeopardizing a reasonable claim through his or her objectionable behaviour. If a court makes an order because of an agent's behaviour in relation to one proceeding, there is no guarantee that the agent may not try again in any other matter.

In a 2005 decision, the British Columbia Supreme Court considered applications for a number of orders against D., "[a] self-styled 'forensic litigation specialist' [who] has commenced and defended, both on his own behalf and as an agent for others, a great many legal proceedings in [B.C.] ... [being] singularly unsuccessful in these endeavours."[91] Although providing no proof of his qualifications, D. claimed to be a law graduate. The court also found that D. had misrepresented himself as a lawyer. Given D.'s long history of bringing groundless proceedings,

[88] The Commission does not have in mind here lawyers, the essence of whose profession involves representing other people in legal matters. Unlike non-lawyers, lawyers must adhere to professional standards of conduct, and are subject to discipline if they do not respect those standards.

[89] Alberta, *Judicature Act*, note 45, above, s. 23.

[90] *Ofume*, note 21, above at 243.

[91] *Law Society of British Columbia* v. *Dempsey*, 2005 BCSC 1277 at para. 1.

attempting to relitigate decided matters, and not paying costs awarded against him, the court agreed that a vexatious litigants order against D. was appropriate. That order, however, only applied to D. bringing proceedings in his own name. Although not mentioned by the court, the language of the B.C. Supreme Court vexatious litigants provision, which refers to an order being made against "a person" who "habitually, persistently and without reasonable grounds" commences vexatious legal proceedings, likely could not have sustained an order against D. in his representative capacity. One of the other orders made against D. was that he was "... required to inform the Law Society of British Columbia of any proceedings presently instituted or which may be instituted in any court in British Columbia in which he seeks to apply for privilege of audience."[92] The term "privilege of audience" refers to the court consenting to a non-lawyer appearing in court as an agent on the litigant's behalf. Through that latter order, the Law Society, which regulates the practice of law in B.C., could "... intervene where it deems it necessary to ensure the public interest is protected."[93]

The Commission suggests that the language used in a vexatious litigants provision should include vexatious spokespersons or agents. More specifically the Commission suggests that a vexatious litigants provision should empower the courts to make an order against a vexatious agent based on his or her cumulative history of commencing or conducting vexatious proceedings.

The Commission Recommends:

- The language used in a vexatious litigants provision should include vexatious spokespersons or agents. More specifically, the provision should empower the courts to make an order against a vexatious agent based upon his or her cumulative history of commencing or conducting vexatious proceedings.

[92] Note 91, above, at para. 194.

[93] Note 91, above, at para. 192.

LIST OF RECOMMENDATIONS

1. A vexatious litigants provision should be adopted in Nova Scotia.[pp. 20-23]

2. The provision would explicitly empower the courts to make an order against a vexatious litigant. The order would preclude a vexatious litigant from starting any new proceedings (actions or applications), or continuing with an existing proceeding until court leave was granted to lift the order. [pp. 20-23]

3. The provision should take a balanced approach, empowering the courts to deal effectively with vexatious litigants, but also permitting someone who is subject to such an order to seek court leave to have the order lifted. [pp. 20-23]

4. The vexatious litigants provision should take the form of legislation. [pp. 20-23]

5. The legislation would make it clear it is meant to be cumulative in relation to other remedies, and that it would not derogate from the courts' current powers. [pp. 20-23]

6. The vexatious litigants provision should apply to both the Supreme Court of Nova Scotia and where relevant, the Nova Scotia Court of Appeal. [pp. 20-23]

7. A vexatious litigants provision should apply to all Nova Scotian courts with civil jurisdiction. [pp. 20-23]

8. Rather than attempting to define the term "vexatious" or to use a substitute, a vexatious litigants provision could include a non-exclusive list of factors which could help to guide the court. [pp. 23-25]

9. Examples of vexatious behaviour by a person in the context of court proceedings may include the following: [pp. 23-25]

    1) bringing one or more actions to determine an issue which has already been determined by a court of competent jurisdiction;
    2) bringing an action which cannot succeed, which would lead to no possible good, or which has no reasonable expectation of providing relief;
    3) bringing an action for an improper purpose, including the harassment and oppression of other parties;
    4) inappropriately using previously-raised grounds and issues in subsequent actions;
    5) a pattern of failing to pay the costs of unsuccessful proceedings on the part of the person who commenced those proceedings;
    6) persistently taking unsuccessful appeals from judicial decisions.

7) persistently engaging in inappropriate courtroom behaviour, such as being disrespectful to the court, failing to observe rulings and directions from the presiding judge, or engaging in unnecessarily protracted submissions.

10. A vexatious litigants provision should require notice to be provided to the Attorney General of an application for a vexatious litigants order. [p. 26]

11. The Attorney General would also be entitled to appear at the hearing of the application. [p. 26]

12. An application for a vexatious litigants order would not require the Attorney General's consent. [p. 26]

13. The legislation should make it clear that unless applying for a vexatious litigants order, the Attorney General's role would not be a partisan one. [p. 26]

14. One should be able to appeal a vexatious litigants order. [pp. 27-28]

15. Once a vexatious litigants order is in effect, one should not be able to appeal an unsuccessful application for leave to continue. [pp. 27-28]

16. Courts should be given an express rule-making power to determine how a leave application should take place, including any limits on the frequency of such applications. [pp. 27-28]

17. A vexatious litigants provision should specifically and clearly permit courts to deal with both new and continuing proceedings. [p. 28-30]

18. The language used in a vexatious litigants provision should include vexatious spokespersons or agents. More specifically, the provision should empower the courts to make an order against a vexatious agent based upon his or her cumulative history of commencing or conducting vexatious proceedings. [pp. 28-30]

APPENDIX A
Comparative Tables

VEXATIOUS LITIGANTS
COMPARATIVE TABLE
(Portion of table left blank if no relevant provision)

	How Challenge Made	Involvement of Attorney General (AG)	Criteria For Order	Consequences of Successful Application	How to Obtain Leave to Continue	Appeal of Order Refusing Leave	Court's Authority Otherwise Unaffected
Alberta (Judicature Act, RSA 2000, c. J-2, s.23)	Application made by way of originating notice to Court of Queen's Bench	• consent in writing required from Minister of Justice and Attorney General of Alberta • AG with right to appear and be heard on the application for an order	Court satisfied "that a person has habitually and persistently and without any reasonable ground instituted vexatious legal proceedings in the court or in any other court against the same person or against different persons".	The Court may order that no legal proceedings shall, without leave of the Court, be instituted in any court by the person taking the vexatious legal proceedings.	Leave to continue with a proceeding may be granted where "the Court is satisfied that the proceedings are not an abuse of the process of the Court and that there is on its face ground for the proceedings"		
British Columbia (Supreme Court Act, RSBC 1996, c.443, s.18)	On application by any person to the Supreme Court of British Columbia		Court satisfied "that a person has habitually, persistently and without reasonable grounds, instituted vexatious legal proceedings in the Supreme Court or in the Provincial Court against the same or different persons."	"The Court may, after hearing that person or giving him or her an opportunity to be heard, order that a legal proceeding must not, without leave of the Court, be instituted by that person in any court."			
British Columbia (Court of Appeal Act, RSBC 1996, c. 77)	On application to the B.C. Court of Appeal - by any person.		A justice satisfied "that a person has habitually, persistently and without reasonable cause commenced vexatious proceedings in the court."	Justice "may, after hearing that person or giving that person an opportunity to be heard, order that proceedings must not be brought or commenced in the court without leave of a justice."			

	How Challenge Made	Involvement of AG	Criteria For Order	Consequences of Successful Application	How to Obtain Leave to Continue	Appeal of Order Refusing Leave	Court's Authority Otherwise Unaffected
Federal Court of Canada (Federal Courts Act, RSC 1985, c. F-7, s.40)	On application before the Federal Court of Appeal or the Federal Court	• Application for vexatious litigant order only with consent of Attorney General of Canada. • AG entitled to be heard on the application for an order, as well as on application for rescission* or leave	Court satisfied "that a person has persistently instituted vexatious proceedings or has conducted a proceeding in a vexatious manner"	Court "may order that no further proceedings be instituted by the person in that court or that a proceeding previously instituted by the person in that court not be continued, except by leave of that court."	A person against whom an order has been made may apply to the court for rescission of the order or for leave to institute or continue a proceeding. The Court may grant leave if it is satisfied "that the proceeding is not an abuse of process and that there are reasonable grounds for the proceeding."	The Court's decision relating to leave to institute or continue a proceeding is final and not subject to appeal.	
Manitoba (Court of Queen's Bench Act, CCSM c. C280, ss. 73-75)	On application to a judge of the Court of Queen's Bench	• Consent of Attorney General required for application for vexatious litigant order. • AG entitled to be heard on the application for an order, as well as an application for rescission or leave. • Person applying for leave to proceed must give notice to AG.	Judge satisfied "that a person, persistently and without reasonable grounds, is instituting vexatious proceedings in the court or conducting a proceeding in a vexatious manner."	The judge may order that the person shall not institute a further proceeding or a proceeding instituted by the person not be continued, except with leave of a judge.	A person subject to an order may apply for leave to institute or continue the proceeding, or rescission of the order, "and for no other relief, including costs." The judge must be satisfied that "a proceeding to be instituted or continued is not an abuse of process and that there are reasonable grounds for the proceeding."	No appeal lies from a refusal to grant leave to proceed or rescission.	"Nothing in this Part limits the authority of the court to stay or dismiss a proceeding as an abuse of process or on any other ground."
Ontario (Courts of Justice Act, RSO 1990, c. C.43, s. 140)	Application to the Superior Court of Justice	Attorney General entitled to be heard on an application for leave or rescission	Judge satisfied "that a person has persistently and without reasonable grounds, instituted vexatious proceedings in any court, or conducted a proceeding in any court in a vexatious manner."	The judge may order that no further proceeding be instituted by the person in any court, or a proceeding previously instituted by the person in any court not be continued, except by leave of a judge of the Superior Court of Justice.	Leave to proceed "shall be granted only if the court is satisfied that the proceeding sought to be instituted or continued is not an abuse of process and that there are reasonable grounds for the proceeding." Apart from rescission of the order made, a person may not seek any other relief on the application.	No appeal lies from a refusal to grant relief to the applicant.	"Nothing in this section limits the authority of a court to stay or dismiss a proceeding as an abuse of process or on any other ground."

* Rescinding an order (noun "rescission") is to repeal it.

P.E.I. (Supreme Court Act, RSPEI 1988, c. S-10, s. 61)	**How Challenge Made** Application to a judge of the Supreme Court	**Involvement of AG** • Application for a vexatious litigant order shall be made only on notice to the Attorney General, who is entitled to be heard on the application. • AG also entitled to be heard on an application for leave or rescission.	**Criteria For Order** Judge satisfied "that a person has persistently and without reasonable grounds instituted vexatious proceedings in any court, or conducted a proceeding in any court in a vexatious manner."	**Consequences of Successful Application** The judge may order that no further proceeding be instituted by the person in any court, or a proceeding previously instituted by the person in any court not be continued, except by leave of a judge of the Supreme Court.	**How to Obtain Leave to Continue** • Leave to proceed shall be granted "only if the court is satisfied that the proceeding sought to be instituted or continued is not an abuse of process and that there are reasonable grounds for the proceeding." • Apart from seeking rescission of the order made, the person making the application may not seek any other relief on the application.	**Appeal of Order Refusing Leave** No appeal lies from refusal to grant relief to the applicant.	**Court's Authority Otherwise Unaffected** "Nothing in this section limits the authority of a court to stay or dismiss a proceeding as an abuse of process or on any other ground."
Quebec (Rules of Practice of the Superior Court of Quebec in Civil Matters, art. 84-86)	By motion (not specifically mentioned)		Person acting "in a quarrelsome manner, that is if that person exercises litigious rights in an excessive or unreasonable manner."	The Court may prohibit that person from instituting an action or an application without first having obtained prior judicial authorization. Order may be general or limited to one or more judicial districts, or with respect to one or more persons. Order may prevent person from having access to a courthouse.	• By application to Chief Justice of the Superior Court or a designate. • Hearing not necessary.		
Saskatchewan (Queen's Bench Rules, r.662)	Application to the Court of Queen's Bench	Application to be by or with the consent in writing of the Attorney General	Court satisfied "that any person has habitually and persistently and without any reasonable ground instituted vexatious legal proceedings against the same person or against different persons."	• "Court may order that no proceedings shall, without leave of the Court, be instituted in the Court of Queen's Bench by such person." • Court may require that the local registrar at each judicial centre be notified of such order.			

Supreme Court of Canada (Rules, Forms and Tariffs of the Supreme Court of Canada, rr. 66-67)	**How Challenge Made** By motion	**Involvement of AG**	**Criteria For Order** • Judge satisfied "that a party is conducting a proceeding in a vexatious manner." • Judge satisfied that the filing by a party of further documents relating to an application for leave to appeal which has been dismissed would be vexatious or made for an improper purpose.	**Consequences of Successful Application** • Judge may order that the proceeding be stayed, on terms the judge considers appropriate. • Judge may order that no further documents be filed relating to an application for leave which has been dismissed.	**How to Obtain Leave to Continue**	**Appeal of Order Refusing Leave**	**Court's Authority Otherwise Unaffected**

APPENDIX B

List of Advisory Group Members

APPENDIX B
List of Advisory Group Members

Members of the Advisory Group:

Annette Boucher	Prothonotary, Supreme Court of Nova Scotia
Joel E. Fichaud	Justice, Nova Scotia Court of Appeal
A. David MacAdam	Justice, Supreme Court of Nova Scotia
Scott Norton, Q.C.	Lawyer, Stewart McKelvey Stirling Scales
W. Augustus Richardson, Q.C.	Lawyer, Huestis Ritch

TAB 10

5.3.6 CUMULATIVE ANALYSIS OF POST-AUTHORIZATION ADVERSE EVENT REPORTS OF PF-07302048 (BNT162B2) RECEIVED THROUGH 28-FEB-2021

Report Prepared by:

Worldwide Safety

Pfizer

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LIST OF ABBREVIATIONS

Acronym	Term
AE	adverse event
AESI	adverse event of special interest
BC	Brighton Collaboration
CDC	Centers for Disease Control and Prevention
COVID-19	coronavirus disease 2019
DLP	data lock point
EUA	emergency use authorisation
HLGT	(MedDRA) High Group Level Term
HLT	(MedDRA) High Level Term
MAH	marketing authorisation holder
MedDRA	medical dictionary for regulatory activities
MHRA	Medicines and Healthcare products Regulatory Agency
PCR	Polymerase Chain Reaction
PT	(MedDRA) Preferred Term
PVP	pharmacovigilance plan
RT-PCR	Reverse Transcription-Polymerase Chain Reaction
RSI	reference safety information
TME	targeted medically event
SARS-CoV-2	severe acute respiratory syndrome coronavirus 2
SMQ	standardised MedDRA query
SOC	(MedDRA) System Organ Class
UK	United Kingdom
US	United States
VAED	vaccine-associated enhanced disease
VAERD	vaccine-associated enhanced respiratory disease
VAERS	vaccine adverse event reporting system

1. INTRODUCTION

Reference is made to the Request for Comments and Advice submitted 04 February 2021 regarding Pfizer/BioNTech's proposal for the clinical and post-authorization safety data package for the Biologics License Application (BLA) for our investigational COVID-19 Vaccine (BNT162b2). Further reference is made to the Agency's 09 March 2021 response to this request, and specifically, the following request from the Agency.

"Monthly safety reports primarily focus on events that occurred during the reporting interval and include information not relevant to a BLA submission such as line lists of adverse events by country. We are most interested in a cumulative analysis of post-authorization safety data to support your future BLA submission. Please submit an integrated analysis of your cumulative post-authorization safety data, including U.S. and foreign post-authorization experience, in your upcoming BLA submission. Please include a cumulative analysis of the Important Identified Risks, Important Potential Risks, and areas of Important Missing Information identified in your Pharmacovigilance Plan, as well as adverse events of special interest and vaccine administration errors (whether or not associated with an adverse event). Please also include distribution data and an analysis of the most common adverse events. In addition, please submit your updated Pharmacovigilance Plan with your BLA submission."

This document provides an integrated analysis of the cumulative post-authorization safety data, including U.S. and foreign post-authorization adverse event reports received through 28 February 2021.

2. METHODOLOGY

Pfizer is responsible for the management post-authorization safety data on behalf of the MAH BioNTech according to the Pharmacovigilance Agreement in place. Data from BioNTech are included in the report when applicable.

Pfizer's safety database contains cases of AEs reported spontaneously to Pfizer, cases reported by the health authorities, cases published in the medical literature, cases from Pfizer-sponsored marketing programs, non-interventional studies, and cases of serious AEs reported from clinical studies regardless of causality assessment.

The limitations of post-marketing adverse drug event reporting should be considered when interpreting these data:

- Reports are submitted voluntarily, and the magnitude of underreporting is unknown. Some of the factors that may influence whether an event is reported include: length of time since marketing, market share of the drug, publicity about a drug or an AE, seriousness of the reaction, regulatory actions, awareness by health professionals and consumers of adverse drug event reporting, and litigation.

- Because many external factors influence whether or not an AE is reported, the spontaneous reporting system yields reporting proportions not incidence rates. As a result, it is generally not appropriate to make between-drug comparisons using these

proportions; the spontaneous reporting system should be used for signal detection rather than hypothesis testing.

- In some reports, clinical information (such as medical history, validation of diagnosis, time from drug use to onset of illness, dose, and use of concomitant drugs) is missing or incomplete, and follow-up information may not be available.

- An accumulation of adverse event reports (AERs) does not necessarily indicate that a particular AE was caused by the drug; rather, the event may be due to an underlying disease or some other factor(s) such as past medical history or concomitant medication.

- Among adverse event reports received into the Pfizer safety database during the cumulative period, only those having a complete workflow cycle in the safety database (meaning they progressed to Distribution or Closed workflow status) are included in the monthly SMSR. This approach prevents the inclusion of cases that are not fully processed hence not accurately reflecting final information. Due to the large numbers of spontaneous adverse event reports received for the product, the MAH has prioritised the processing of serious cases, in order to meet expedited regulatory reporting timelines and ensure these reports are available for signal detection and evaluation activity. The increased volume of reports has not impacted case processing for serious reports, and compliance metrics continue to be monitored weekly with prompt action taken as needed to maintain compliance with expedited reporting obligations. Non-serious cases are entered into the safety database no later than 4 calendar days from receipt. Entrance into the database includes the coding of all adverse events; this allow for a manual review of events being received but may not include immediate case processing to completion. Non-serious cases are processed as soon as possible and no later than 90 days from receipt. Pfizer has also taken a multiple actions to help alleviate the large increase of adverse event reports. This includes significant technology enhancements, and process and workflow solutions, as well as increasing the number of data entry and case processing colleagues. To date, Pfizer has onboarded approximately (b) (4) additional full-time employees (FTEs). More are joining each month with an expected total of more than (b) (4) additional resources by the end of June 2021.

3. RESULTS

3.1. Safety Database

3.1.1. General Overview

It is estimated that approximately (b) (4) doses of BNT162b2 were shipped worldwide from the receipt of the first temporary authorisation for emergency supply on 01 December 2020 through 28 February 2021.

Cumulatively, through 28 February 2021, there was a total of 42,086 case reports (25,379 medically confirmed and 16,707 non-medically confirmed) containing 158,893 events. Most cases (34,762) were received from United States (13,739), United Kingdom (13,404) Italy (2,578), Germany (1913), France (1506), Portugal (866) and Spain (756); the remaining 7,324 were distributed among 56 other countries.

Table 1 below presents the main characteristics of the overall cases.

Table 1. General Overview: Selected Characteristics of All Cases Received During the Reporting Interval

Characteristics		Relevant cases (N=42086)
Gender:	Female	29914
	Male	9182
	No Data	2990
Age range (years): 0.01 -107 years Mean = 50.9 years n = 34952	≤ 17 18-30 31-50 51-64 65-74 ≥ 75 Unknown	175[a] 4953 13886 7884 3098 5214 6876
Case outcome:	Recovered/Recovering	19582
	Recovered with sequelae	520
	Not recovered at the time of report	11361
	Fatal	1223
	Unknown	9400

a. in 46 cases reported age was <16-year-old and in 34 cases <12-year-old.

As shown in Figure 1, the System Organ Classes (SOCs) that contained the greatest number (≥2%) of events, in the overall dataset, were General disorders and administration site conditions (51,335 AEs), Nervous system disorders (25,957), Musculoskeletal and connective tissue disorders (17,283), Gastrointestinal disorders (14,096), Skin and subcutaneous tissue disorders (8,476), Respiratory, thoracic and mediastinal disorders (8,848), Infections and infestations (4,610), Injury, poisoning and procedural complications (5,590), and Investigations (3,693).

Figure 1. Total Number of BNT162b2 AEs by System Organ Classes and Event Seriousness

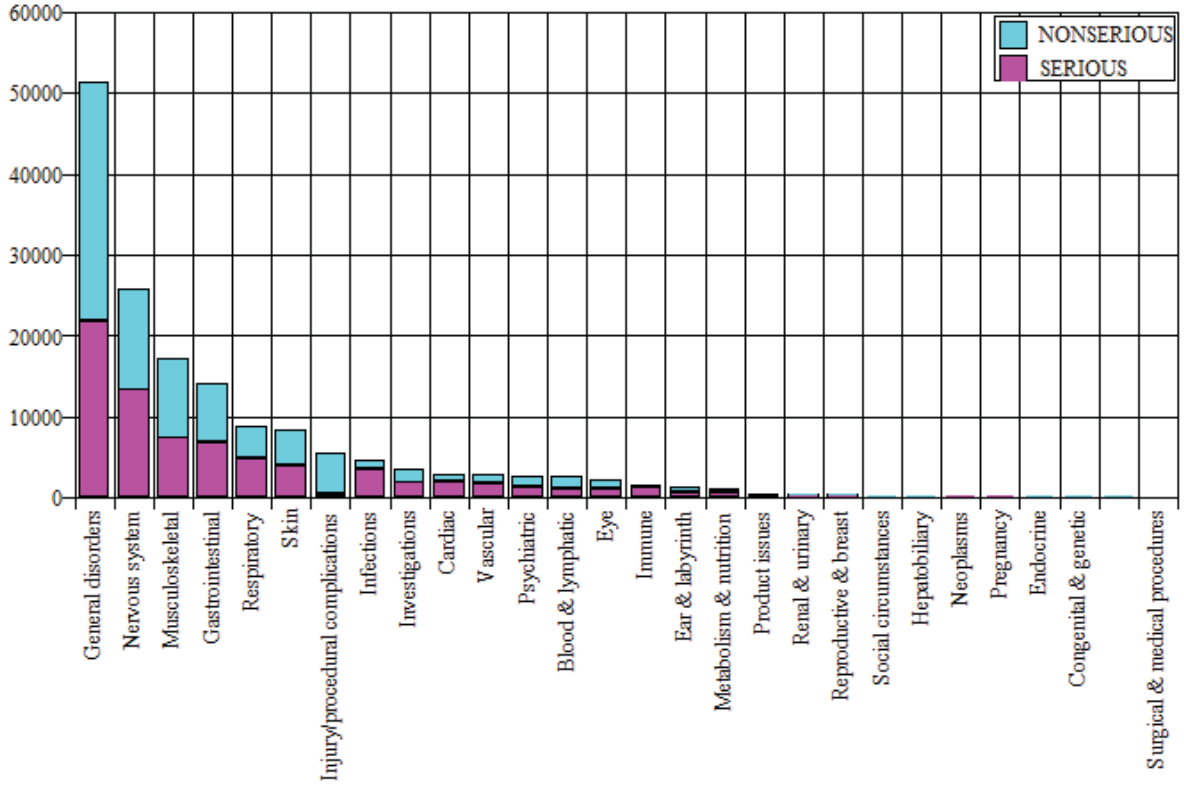

Table 2 shows the most commonly (≥2%) reported MedDRA (v. 23.1) PTs in the overall dataset (through 28 February 2021),

Table 2. Events Reported in ≥2% Cases

		Cumulatively Through 28 February 2021
MedDRA SOC	**MedDRA PT**	**AEs (AERP%) N = 42086**
Blood and lymphatic system disorders		
	Lymphadenopathy	1972 (4.7%)
Cardiac disorders		
	Tachycardia	1098 (2.6%)
Gastrointestinal disorders		
	Nausea	5182 (12.3%)
	Diarrhoea	1880 (4.5%)
	Vomiting	1698 (4.0%)
General disorders and administration site conditions		
	Pyrexia	7666 (18.2%)
	Fatigue	7338 (17.4%)
	Chills	5514 (13.1%)
	Vaccination site pain	5181 (12.3%)

Table 2. Events Reported in ≥2% Cases

		Cumulatively Through 28 February 2021
MedDRA SOC	**MedDRA PT**	**AEs (AERP%) N = 42086**
	Pain	3691 (8.8%)
	Malaise	2897 (6.9%)
	Asthenia	2285 (5.4%)
	Drug ineffective	2201 (5.2%)
	Vaccination site erythema	930 (2.2%)
	Vaccination site swelling	913 (2.2%)
	Influenza like illness	835 (2%)
Infections and infestations		
	COVID-19	1927 (4.6%)
Injury, poisoning and procedural complications		
	Off label use	880 (2.1%)
	Product use issue	828 (2.0%)
Musculoskeletal and connective tissue disorders		
	Myalgia	4915 (11.7%)
	Pain in extremity	3959 (9.4%)
	Arthralgia	3525 (8.4%)
Nervous system disorders		
	Headache	10131 (24.1%)
	Dizziness	3720 (8.8%)
	Paraesthesia	1500 (3.6%)
	Hypoaesthesia	999 (2.4%)
Respiratory, thoracic and mediastinal disorders		
	Dyspnoea	2057 (4.9%)
	Cough	1146 (2.7%)
	Oropharyngeal pain	948 (2.3%)
Skin and subcutaneous tissue disorders		
	Pruritus	1447 (3.4%)
	Rash	1404 (3.3%)
	Erythema	1044 (2.5%)
	Hyperhidrosis	900 (2.1%)
	Urticaria	862 (2.1%)
Total number of events		**93473**

3.1.2. Summary of Safety Concerns in the US Pharmacovigilance Plan

Table 3. Safety concerns

Important identified risks	Anaphylaxis
Important potential risks	Vaccine-Associated Enhanced Disease (VAED), Including Vaccine-associated Enhanced Respiratory Disease (VAERD)
Missing information	Use in Pregnancy and lactation Use in Paediatric Individuals <12 Years of Age Vaccine Effectiveness

Table 4. Important Identified Risk

<table>
<tr><th>Topic</th><th>Description</th></tr>
<tr><td>Important Identified Risk</td><td>Post Authorization Cases Evaluation (cumulative to 28 Feb 2021)
Total Number of Cases in the Reporting Period (N=42086)</td></tr>
<tr><td>Anaphylaxis</td><td>Since the first temporary authorization for emergency supply under Regulation 174 in the UK (01 December 2020) and through 28 February 2021, 1833 potentially relevant cases were retrieved from the Anaphylactic reaction SMQ (Narrow and Broad) search strategy, applying the MedDRA algorithm. These cases were individually reviewed and assessed according to Brighton Collaboration (BC) definition and level of diagnostic certainty as shown in the Table below:

<table>
<tr><td>Brighton Collaboration Level</td><td>Number of cases</td></tr>
<tr><td>BC 1</td><td>290</td></tr>
<tr><td>BC 2</td><td>311</td></tr>
<tr><td>BC 3</td><td>10</td></tr>
<tr><td>BC 4</td><td>391</td></tr>
<tr><td>BC 5</td><td>831</td></tr>
<tr><td>Total</td><td>1833</td></tr>
</table>
Level 1 indicates a case with the highest level of diagnostic certainty of anaphylaxis, whereas the diagnostic certainty is lowest for Level 3. Level 4 is defined as “reported event of anaphylaxis with insufficient evidence to meet the case definition” and Level 5 as not a case of anaphylaxis.

There were 1002 cases (54.0% of the potentially relevant cases retrieved), 2958 potentially relevant events, from the Anaphylactic reaction SMQ (Broad and Narrow) search strategy, meeting BC Level 1 to 4:

Country of incidence: UK (261), US (184), Mexico (99), Italy (82), Germany (67), Spain (38), France (36), Portugal (22), Denmark (20), Finland, Greece (19 each), Sweden (17), Czech Republic , Netherlands (16 each), Belgium, Ireland (13 each), Poland (12), Austria (11); the remaining 57 cases originated from 15 different countries.
Relevant event seriousness: Serious (2341), Non-Serious (617);
Gender: Females (876), Males (106), Unknown (20);
Age (n=961) ranged from 16 to 98 years (mean = 54.8 years, median = 42.5 years);
Relevant even outcome[a]: fatal (9)[b], resolved/resolving (1922), not resolved (229), resolved with sequelae (48), unknown (754);
Most frequently reported relevant PTs (≥2%), from the Anaphylactic reaction SMQ (Broad and Narrow) search strategy: Anaphylactic reaction (435), Dyspnoea (356), Rash (190), Pruritus (175), Erythema (159), Urticaria (133), Cough (115), Respiratory distress, Throat tightness (97 each), Swollen tongue (93), Anaphylactic shock (80), Hypotension (72), Chest discomfort (71), Swelling face (70), Pharyngeal swelling (68), and Lip swelling (64).

Conclusion: Evaluation of BC cases Level 1 - 4 did not reveal any significant new safety information. Anaphylaxis is appropriately described in the product labeling as are non-anaphylactic hypersensitivity events. Surveillance will continue.</td></tr>
</table>

a Different clinical outcome may be reported for an event that occurred more than once to the same individual.
b There were 4 individuals in the anaphylaxis evaluation who died on the same day they were vaccinated. Although these patients experienced adverse events (9) that are potential symptoms of anaphylaxis, they all had serious underlying medical conditions, and one individual appeared to also have COVID-19 pneumonia, that likely contributed to their deaths

Table 5. Important Potential Risk

Topic	Description
Important Potential Risk	**Post Authorization Cases Evaluation (cumulative to 28 Feb 2021) Total Number of Cases in the Reporting Period (N=42086)**
Vaccine-Associated Enhanced Disease (VAED), including Vaccine-Associated Enhanced Respiratory Disease (VAERD)	No post-authorized AE reports have been identified as cases of VAED/VAERD, therefore, there is no observed data at this time. An expected rate of VAED is difficult to establish so a meaningful observed/expected analysis cannot be conducted at this point based on available data. The feasibility of conducting such an analysis will be re-evaluated on an ongoing basis as data on the virus grows and the vaccine safety data continues to accrue. The search criteria utilised to identify potential cases of VAED for this report includes PTs indicating a lack of effect of the vaccine and PTs potentially indicative of severe or atypical COVID-19[a]. Since the first temporary authorization for emergency supply under Regulation 174 in the UK (01 December 2020) and through 28 February 2021, 138 cases [0.33% of the total PM dataset], reporting 317 potentially relevant events were retrieved: Country of incidence: UK (71), US (25), Germany (14), France, Italy, Mexico, Spain, (4 each), Denmark (3); the remaining 9 cases originated from 9 different countries; Cases Seriousness: 138; Seriousness criteria for the total 138 cases: Medically significant (71, of which 8 also serious for disability), Hospitalization required (non-fatal/non-life threatening) (16, of which 1 also serious for disability), Life threatening (13, of which 7 were also serious for hospitalization), Death (38). Gender: Females (73), Males (57), Unknown (8); Age (n=132) ranged from 21 to 100 years (mean = 57.2 years, median = 59.5); Case outcome: fatal (38), resolved/resolving (26), not resolved (65), resolved with sequelae (1), unknown (8); Of the 317 relevant events, the most frequently reported PTs (≥2%) were: Drug ineffective (135), Dyspnoea (53), Diarrhoea (30), COVID-19 pneumonia (23), Vomiting (20), Respiratory failure (8), and Seizure (7). Conclusion: VAED may present as severe or unusual clinical manifestations of COVID-19. Overall, there were 37 subjects with suspected COVID-19 and 101 subjects with confirmed COVID-19 following one or both doses of the vaccine; 75 of the 101 cases were severe, resulting in hospitalisation, disability, life-threatening consequences or death. None of the 75 cases could be definitively considered as VAED/VAERD. In this review of subjects with COVID-19 following vaccination, based on the current evidence, VAED/VAERD remains a theoretical risk for the vaccine. Surveillance will continue.

a. Search criteria: Standard Decreased Therapeutic Response Search AND PTs Dyspnoea; Tachypnoea; Hypoxia; COVID 19 pneumonia; Respiratory Failure; Acute Respiratory Distress Syndrome; Cardiac Failure; Cardiogenic shock; Acute myocardial infarction; Arrhythmia; Myocarditis; Vomiting; Diarrhoea; Abdominal pain; Jaundice; Acute hepatic failure; Deep vein thrombosis; Pulmonary embolism; Peripheral Ischaemia; Vasculitis; Shock; Acute kidney injury; Renal failure; Altered state of consciousness; Seizure; Encephalopathy; Meningitis; Cerebrovascular accident; Thrombocytopenia; Disseminated intravascular coagulation; Chillblains; Erythema multiforme; Multiple organ dysfunction syndrome; Multisystem inflammatory syndrome in children.

Table 6. Description of Missing Information

Topic	Description
Missing Information	**Post Authorization Cases Evaluation (cumulative to 28 Feb 2021) Total Number of Cases in the Reporting Period (N=42086)**
Use in Pregnancy and lactation	• Number of cases: 413[a] (0.98% of the total PM dataset); 84 serious and 329 non-serious; • Country of incidence: US (205), UK (64), Canada (31), Germany (30), Poland (13), Israel (11); Italy (9), Portugal (8), Mexico (6), Estonia, Hungary and Ireland, (5 each), Romania (4), Spain (3), Czech Republic and France (2 each), the remaining 10 cases were distributed among 10 other countries. Pregnancy cases: 274 cases including: • 270 mother cases and 4 foetus/baby cases representing 270 unique pregnancies (the 4 foetus/baby cases were linked to 3 mother cases; 1 mother case involved twins). • Pregnancy outcomes for the 270 pregnancies were reported as spontaneous abortion (23), outcome pending (5), premature birth with neonatal death, spontaneous abortion with intrauterine death (2 each), spontaneous abortion with neonatal death, and normal outcome (1 each). No outcome was provided for 238 pregnancies (note that 2 different outcomes were reported for each twin, and both were counted). • 146 non-serious mother cases reported exposure to vaccine in utero without the occurrence of any clinical adverse event. The exposure PTs coded to the PTs Maternal exposure during pregnancy (111), Exposure during pregnancy (29) and Maternal exposure timing unspecified (6). Trimester of exposure was reported in 21 of these cases: 1st trimester (15 cases), 2nd trimester (7), and 3rd trimester (2). • 124 mother cases, 49 non-serious and 75 serious, reported clinical events, which occurred in the vaccinated mothers. Pregnancy related events reported in these cases coded to the PTs Abortion spontaneous (25), Uterine contraction during pregnancy, Premature rupture of membranes, Abortion, Abortion missed, and Foetal death (1 each). Other clinical events which occurred in more than 5 cases coded to the PTs Headache (33), Vaccination site pain (24), Pain in extremity and Fatigue (22 each), Myalgia and Pyrexia (16 each), Chills (13) Nausea (12), Pain (11), Arthralgia (9), Lymphadenopathy and Drug ineffective (7 each), Chest pain, Dizziness and Asthenia (6 each), Malaise and COVID-19 (5 each). Trimester of exposure was reported in 22 of these cases: 1st trimester (19 cases), 2nd trimester (1 case), 3rd trimester (2 cases). • 4 serious foetus/baby cases reported the PTs Exposure during pregnancy, Foetal growth restriction, Maternal exposure during pregnancy, Premature baby (2 each), and Death neonatal (1). Trimester of exposure was reported for 2 cases (twins) as occurring during the 1st trimester. Breast feeding baby cases: 133, of which: • 116 cases reported exposure to vaccine during breastfeeding (PT Exposure via breast milk) without the occurrence of any clinical adverse events; • 17 cases, 3 serious and 14 non-serious, reported the following clinical events that occurred in the infant/child exposed to vaccine via breastfeeding: Pyrexia (5), Rash (4), Infant irritability (3), Infantile vomiting, Diarrhoea, Insomnia, and Illness (2 each), Poor feeding infant, Lethargy, Abdominal discomfort, Vomiting, Allergy to vaccine, Increased appetite, Anxiety, Crying, Poor quality sleep, Eructation, Agitation, Pain and Urticaria (1 each). Breast feeding mother cases (6): • 1 serious case reported 3 clinical events that occurred in a mother during breast feeding (PT Maternal exposure during breast feeding); these events coded to the PTs Chills, Malaise, and Pyrexia • 1 non-serious case reported with very limited information and without associated AEs.

Table 6. Description of Missing Information

Topic	Description
Missing Information	**Post Authorization Cases Evaluation (cumulative to 28 Feb 2021) Total Number of Cases in the Reporting Period (N=42086)**
	• In 4 cases (3 non-serious; 1 serious) Suppressed lactation occurred in a breast feeding women with the following co-reported events: Pyrexia (2), Paresis, Headache, Chills, Vomiting, Pain in extremity, Arthralgia, Breast pain, Scar pain, Nausea, Migraine, Myalgia, Fatigue and Breast milk discolouration (1 each). Conclusion: There were no safety signals that emerged from the review of these cases of use in pregnancy and while breast feeding.
Use in Paediatric Individuals <12 Years of Age	<u>Paediatric individuals <12 years of age</u> • Number of cases: 34[d] (0.1% of the total PM dataset), indicative of administration in paediatric subjects <12 years of age; • Country of incidence: UK (29), US (3), Germany and Andorra (1 each); • Cases Seriousness: Serious (24), Non-Serious (10); • Gender: Females (25), Males (7), Unknown (2); • Age (n=34) ranged from 2 months to 9 years, mean = 3.7 years, median = 4.0; • Case outcome: resolved/resolving (16), not resolved (13), and unknown (5). • Of the 132 reported events, those reported more than once were as follows: Product administered to patient of inappropriate age (27, see Medication Error), Off label use (11), Pyrexia (6), Product use issue (5), Fatigue, Headache and Nausea (4 each), Vaccination site pain (3), Abdominal pain upper, COVID-19, Facial paralysis, Lymphadenopathy, Malaise, Pruritus and Swelling (2 each). Conclusion: No new significant safety information was identified based on a review of these cases compared with the non-paediatric population.
Vaccine Effectiveness	Company conventions for coding cases indicative of lack of efficacy: The coding conventions for lack of efficacy in the context of administration of the COVID-19 vaccine were revised on 15 February 2021, as shown below: • PT "Vaccination failure" is coded when ALL of the following criteria are met: o The subject has received the series of two doses per the dosing regimen in local labeling. o At least 7 days have elapsed since the second dose of vaccine has been administered. o The subject experiences SARS-CoV-2 infection (confirmed laboratory tests). • PT "Drug ineffective" is coded when either of the following applies: o The infection is not confirmed as SARS-CoV-2 through laboratory tests (irrespective of the vaccination schedule). This includes scenarios where LOE is stated or implied, e.g., "the vaccine did not work", "I got COVID-19". o It is unknown: ▪ Whether the subject has received the series of two doses per the dosing regimen in local labeling; ▪ How many days have passed since the first dose (including unspecified number of days like" a few days", "some days", etc.); ▪ If 7 days have passed since the second dose; o The subject experiences a vaccine preventable illness 14 days after receiving the first dose up to and through 6 days after receipt of the second dose. Note: after the immune system as had sufficient time (14 days) to respond to the vaccine, a report of COVID-19 is considered a potential lack of efficacy even if the vaccination course is not complete. Summary of the coding conventions for onset of vaccine preventable disease versus the vaccination date:

Table 6. Description of Missing Information

Topic	Description
Missing Information	**Post Authorization Cases Evaluation (cumulative to 28 Feb 2021) Total Number of Cases in the Reporting Period (N=42086)**

1st dose (day 1-13)	From day 14 post 1st dose to day 6 post 2nd dose	Day 7 post 2nd dose
Code only the events describing the SARS-CoV-2 infection	Code "Drug ineffective"	Code "Vaccination failure"
Scenario Not considered LOE	Scenario considered LOE as "Drug ineffective"	Scenario considered LOE as "Vaccination failure"

Lack of efficacy cases

- Number of cases: 1665[b] (3.9 % of the total PM dataset) of which 1100 were medically confirmed and 565 non medically confirmed;
- Number of lack of efficacy events: 1665 [PT: Drug ineffective (1646) and Vaccination failure (19)[f]].
- Country of incidence: US (665), UK (405), Germany (181), France (85), Italy (58), Romania (47), Belgium (33), Israel (30), Poland (28), Spain (21), Austria (18), Portugal (17), Greece (15), Mexico (13), Denmark (8), Canada (7), Hungary, Sweden and United Arab Emirates (5 each), Czech Republic (4), Switzerland (3); the remaining 12 cases originated from 9 different countries.
- COVID-19 infection was suspected in 155 cases, confirmed in 228 cases, in 1 case it was reported that the first dose was not effective (no other information).
- COVID-19 infection (suspected or confirmed) outcome was reported as resolved/resolving (165), not resolved (205) or unknown (1230) at the time of the reporting; there were 65 cases where a fatal outcome was reported.

Drug ineffective cases (1649)

- Drug ineffective event seriousness: serious (1625), non-serious (21)[e];
- Lack of efficacy term was reported:
  - after the 1st dose in 788 cases
  - after the 2nd dose in 139 cases
  - in 722 cases it was unknown after which dose the lack of efficacy occurred.
- Latency of lack of efficacy term reported after the first dose was known for 176 cases:
  - Within 9 days: 2 subjects;
  - Within 14 and 21 days: 154 subjects;
  - Within 22 and 50 days: 20 subjects;
- Latency of lack of efficacy term reported after the second dose was known for 69 cases:
  - Within 0 and 7 days: 42 subjects;
  - Within 8 and 21 days: 22 subjects;
  - Within 23 and 36 days: 5 subjects.
- Latency of lack of efficacy term reported in cases where the number of doses administered was not provided, was known in 409 cases:
  - Within 0 and 7 days after vaccination: 281 subjects.
  - Within 8 and 14 days after vaccination: 89 subjects.
  - Within 15 and 44 days after vaccination: 39 subjects.

According to the RSI, individuals may not be fully protected until 7 days after their second dose of vaccine, therefore for the above 1649 cases where lack of efficacy was reported after the 1st dose or the

Table 6. Description of Missing Information

Topic	Description
Missing Information	**Post Authorization Cases Evaluation (cumulative to 28 Feb 2021) Total Number of Cases in the Reporting Period (N=42086)**
	2nd dose, the reported events may represent signs and symptoms of intercurrent or undiagnosed COVID-19 infection or infection in an individual who was not fully vaccinated, rather than vaccine ineffectiveness. ***Vaccination failure cases (16)*** • Vaccination failure seriousness: all serious; • Lack of efficacy term was reported in all cases after the 2nd dose: • Latency of lack of efficacy was known for 14 cases: o Within 7 and 13 days: 8 subjects; o Within 15 and 29 days: 6 subjects. COVID-19 (10) and Asymptomatic COVID-19 (6) were the reported vaccine preventable infections that occurred in these 16 cases. Conclusion: No new safety signals of vaccine lack of efficacy have emerged based on a review of these cases.

a. From a total of 417 cases, 4 cases were excluded from the analysis. In 3 cases, the MAH was informed that a 33-year-old and two unspecified age pregnant female patients were scheduled to receive bnt162b2 (PT reported Off label use and Product use issue in 2 cases; Circumstance or information capable of leading to medication error in one case). One case reported the PT Morning sickness; however, pregnancy was not confirmed in this case.
b. 558 additional cases retrieved in this dataset were excluded from the analysis; upon review, 546 cases cannot be considered true lack of efficacy cases because the PT Drug ineffective was coded but the subjects developed SARS-CoV-2 infection during the early days from the first dose (days 1 – 13); the vaccine has not had sufficient time to stimulate the immune system and, consequently, the development of a vaccine preventable disease during this time is not considered a potential lack of effect of the vaccine; in 5 cases the PT Drug ineffective was removed after data lock point (DLP) because the subjects did not develop COVID-19 infection; in 1 case, reporting Treatment failure and Transient ischaemic attack, the Lack of efficacy PT did not refer to BNT162b2 vaccine; 5 cases have been invalidated in the safety database after DLP; 1 case has been deleted from the discussion because the PTs reported Pathogen resistance and Product preparation issue were not indicative of a lack of efficacy. to be eliminated.
c. Upon review, 31 additional cases were excluded from the analysis as the data reported (e.g. clinical details, height, weight, etc.) were not consistent with paediatric subjects
d. Upon review, 28 additional cases were excluded from the analysis as the data reported (e.g. clinical details, height, weight, etc.) were not consistent with paediatric subjects.
e. Different clinical outcomes may be reported for an event that occurred more than once to the same individual
f. In 2 cases the PT Vaccination failure was replaced with Drug ineffective after DLP. Another case was not included in the discussion of the Vaccination failure cases because correct scheduling (21 days apart between the first and second dose) cannot be confirmed.

3.1.3. Review of Adverse Events of Special Interest (AESIs)

Please refer to Appendix 1 for the list of the company's AESIs for BNT162b2.

The company's AESI list takes into consideration the lists of AESIs from the following expert groups and regulatory authorities: Brighton Collaboration (SPEAC), ACCESS protocol, US CDC (preliminary list of AESI for VAERS surveillance), MHRA (unpublished guideline).

The AESI terms are incorporated into a TME list and include events of interest due to their association with severe COVID-19 and events of interest for vaccines in general.

The AESI list is comprised of MedDRA PTs, HLTs, HLGTs or MedDRA SMQs and can be changed as appropriate based on the evolving safety profile of the vaccine.

Table 7 provides a summary review of cumulative cases within AESI categories in the Pfizer safety database. This is distinct from safety signal evaluations which are conducted and included, as appropriate, in the Summary Monthly Safety Reports submitted regularly to the FDA and other Health Authorities.

Table 7. AESIs Evaluation for BNT162b2

AESIs[a] **Category**	**Post-Marketing Cases Evaluation**[b] **Total Number of Cases (N=42086)**
Anaphylactic Reactions *Search criteria: Anaphylactic reaction SMQ (Narrow and Broad, with the algorithm applied), selecting relevant cases according to BC criteria*	Please refer to the Risk 'Anaphylaxis' included above in Table 4.
Cardiovascular AESIs *Search criteria: PTs Acute myocardial infarction; Arrhythmia; Cardiac failure; Cardiac failure acute; Cardiogenic shock; Coronary artery disease; Myocardial infarction; Postural orthostatic tachycardia syndrome; Stress cardiomyopathy; Tachycardia*	• Number of cases: 1403 (3.3% of the total PM dataset), of which 241 are medically confirmed and 1162 are non-medically confirmed; • Country of incidence: UK (268), US (233), Mexico (196), Italy (141), France (128), Germany (102), Spain (46), Greece (45), Portugal (37), Sweden (20), Ireland (17), Poland (16), Israel (13), Austria, Romania and Finland (12 each), Netherlands (11), Belgium and Norway (10 each), Czech Republic (9), Hungary and Canada (8 each), Croatia and Denmark (7 each), Iceland (5); the remaining 30 cases were distributed among 13 other countries; • Subjects' gender: female (1076), male (291) and unknown (36); • Subjects' age group (n = 1346): Adult[c] (1078), Elderly[d] (266) Child[e] and Adolescent[f] (1 each); • Number of relevant events: 1441, of which 946 serious, 495 non-serious; in the cases reporting relevant serious events; • Reported relevant PTs: Tachycardia (1098), Arrhythmia (102), Myocardial infarction (89), Cardiac failure (80), Acute myocardial infarction (41), Cardiac failure acute (11), Cardiogenic shock and Postural orthostatic tachycardia syndrome (7 each) and Coronary artery disease (6); • Relevant event onset latency (n = 1209): Range from <24 hours to 21 days, median <24 hours;

Table 7. AESIs Evaluation for BNT162b2

AESIs[a] Category	Post-Marketing Cases Evaluation[b] Total Number of Cases (N=42086)
	• Relevant event outcome[g]: fatal (136), resolved/resolving (767), resolved with sequelae (21), not resolved (140) and unknown (380); Conclusion: This cumulative case review does not raise new safety issues. Surveillance will continue
COVID-19 AESIs *Search criteria: Covid-19 SMQ (Narrow and Broad) OR PTs Ageusia; Anosmia*	• Number of cases: 3067 (7.3% of the total PM dataset), of which 1013 are medically confirmed and 2054 are non-medically confirmed; • Country of incidence: US (1272), UK (609), Germany (360), France (161), Italy (94), Spain (69), Romania (62), Portugal (51), Poland (50), Mexico (43), Belgium (42), Israel (41), Sweden (30), Austria (27), Greece (24), Denmark (18), Czech Republic and Hungary (17 each), Canada (12), Ireland (11), Slovakia (9), Latvia and United Arab Emirates (6 each); the remaining 36 cases were distributed among 16 other different countries; • Subjects' gender: female (1650), male (844) and unknown (573); • Subjects' age group (n= 1880): Adult (1315), Elderly (560), Infant[h] and Adolescent (2 each), Child (1); • Number of relevant events: 3359, of which 2585 serious, 774 non-serious; • Most frequently reported relevant PTs (>1 occurrence): COVID-19 (1927), SARS-CoV-2 test positive (415), Suspected COVID-19 (270), Ageusia (228), Anosmia (194), SARS-CoV-2 antibody test negative (83), Exposure to SARS-CoV-2 (62), SARS-CoV-2 antibody test positive (53), COVID-19 pneumonia (51), Asymptomatic COVID-19 (31), Coronavirus infection (13), Occupational exposure to SARS-CoV-2 (11), SARS-CoV-2 test false positive (7), Coronavirus test positive (6), SARS-CoV-2 test negative (3) SARS-CoV-2 antibody test (2); • Relevant event onset latency (n = 2070): Range from <24 hours to 374 days, median 5 days; • Relevant event outcome: fatal (136), not resolved (547), resolved/resolving (558), resolved with sequelae (9) and unknown (2110). Conclusion: This cumulative case review does not raise new safety issues. Surveillance will continue
Dermatological AESIs *Search criteria: PT Chillblains; Erythema multiforme*	• Number of cases: 20 cases (0.05% of the total PM dataset), of which 15 are medically confirmed and 5 are non-medically confirmed; • Country of incidence: UK (8), France and Poland (2 each), and the remaining 8 cases were distributed among 8 other different countries; • Subjects' gender: female (17) male and unknown (1 each); • Subjects' age group (n=19): Adult (18), Elderly (1); • Number of relevant events: 20 events, 16 serious, 4 non-serious

Table 7. AESIs Evaluation for BNT162b2

AESIs[a] Category	Post-Marketing Cases Evaluation[b] Total Number of Cases (N=42086)
	• Reported relevant PTs: Erythema multiforme (13) and Chillblains (7) • Relevant event onset latency (n = 18): Range from <24 hours to 17 days, median 3 days; • Relevant event outcome: resolved/resolving (7), not resolved (8) and unknown (6). Conclusion: This cumulative case review does not raise new safety issues. Surveillance will continue.
Haematological AESIs *Search criteria: Leukopenias NEC (HLT) (Primary Path) OR Neutropenias (HLT) (Primary Path) OR PTs Immune thrombocytopenia, Thrombocytopenia OR SMQ Haemorrhage terms (excl laboratory terms*	• Number of cases: 932 (2.2 % of the total PM dataset), of which 524 medically confirmed and 408 non-medically confirmed; • Country of incidence: UK (343), US (308), France (50), Germany (43), Italy (37), Spain (27), Mexico and Poland (13 each), Sweden (10), Israel (9), Netherlands (8), Denmark, Finland, Portugal and Ireland (7 each), Austria and Norway (6 each), Croatia (4), Greece, Belgium, Hungary and Switzerland (3 each), Cyprus, Latvia and Serbia (2 each); the remaining 9 cases originated from 9 different countries; • Subjects' gender (n=898): female (676) and male (222); • Subjects' age group (n=837): Adult (543), Elderly (293), Infant (1); • Number of relevant events: 1080, of which 681 serious, 399 non-serious; • Most frequently reported relevant PTs (≥15 occurrences) include: Epistaxis (127), Contusion (112), Vaccination site bruising (96), Vaccination site haemorrhage (51), Petechiae (50), Haemorrhage (42), Haematochezia (34), Thrombocytopenia (33), Vaccination site haematoma (32), Conjunctival haemorrhage and Vaginal haemorrhage (29 each), Haematoma, Haemoptysis and Menorrhagia (27 each), Haematemesis (25), Eye haemorrhage (23), Rectal haemorrhage (22), Immune thrombocytopenia (20), Blood urine present (19), Haematuria, Neutropenia and Purpura (16 each) Diarrhoea haemorrhagic (15); • Relevant event onset latency (n = 787): Range from <24 hours to 33 days, median = 1 day; • Relevant event outcome: fatal (34), resolved/resolving (393), resolved with sequelae (17), not resolved (267) and unknown (371). Conclusion: This cumulative case review does not raise new safety issues. Surveillance will continue
Hepatic AESIs *Search criteria: Liver related investigations, signs and symptoms (SMQ) (Narrow and Broad) OR PT Liver injury*	• Number of cases: 70 cases (0.2% of the total PM dataset), of which 54 medically confirmed and 16 non-medically confirmed; • Country of incidence: UK (19), US (14), France (7), Italy (5), Germany (4), Belgium, Mexico and Spain (3 each), Austria, and Iceland (2 each); the remaining 8 cases originated from 8 different countries; • Subjects' gender: female (43), male (26) and unknown (1); • Subjects' age group (n=64): Adult (37), Elderly (27);

Table 7. AESIs Evaluation for BNT162b2

AESIs[a] Category	Post-Marketing Cases Evaluation[b] Total Number of Cases (N=42086)
	• Number of relevant events: 94, of which 53 serious, 41 non-serious; • Most frequently reported relevant PTs (≥3 occurrences) include: Alanine aminotransferase increased (16), Transaminases increased and Hepatic pain (9 each), Liver function test increased (8), Aspartate aminotransferase increased and Liver function test abnormal (7 each), Gamma-glutamyltransferase increased and Hepatic enzyme increased (6 each), Blood alkaline phosphatase increased and Liver injury (5 each), Ascites, Blood bilirubin increased and Hypertransaminasaemia (3 each); • Relevant event onset latency (n = 57): Range from <24 hours to 20 days, median 3 days; • Relevant event outcome: fatal (5), resolved/resolving (27), resolved with sequelae (1), not resolved (14) and unknown (47). Conclusion: This cumulative case review does not raise new safety issues. Surveillance will continue
Facial Paralysis *Search criteria: PTs Facial paralysis, Facial paresis*	• Number of cases: 449[i] (1.07% of the total PM dataset), 314 medically confirmed and 135 non-medically confirmed; • Country of incidence: US (124), UK (119), Italy (40), France (27), Israel (20), Spain (18), Germany (13), Sweden (11), Ireland (9), Cyprus (8), Austria (7), Finland and Portugal (6 each), Hungary and Romania (5 each), Croatia and Mexico (4 each), Canada (3),Czech Republic, Malta, Netherlands, Norway, Poland and Puerto Rico (2 each); the remaining 8 cases originated from 8 different countries; • Subjects' gender: female (295), male (133), unknown (21); • Subjects' age group (n=411): Adult (313), Elderly (96), Infant[j] and Child (1 each); • Number of relevant events[k]: 453, of which 399 serious, 54 non-serious; • Reported relevant PTs: Facial paralysis (401), Facial paresis (64); • Relevant event onset latency (n = 404): Range from <24 hours to 46 days, median 2 days; • Relevant event outcome: resolved/resolving (184), resolved with sequelae (3), not resolved (183) and unknown (97); Overall Conclusion: This cumulative case review does not raise new safety issues. Surveillance will continue. Causality assessment will be further evaluated following availability of additional unblinded data from the clinical study C4591001, which will be unblinded for final analysis approximately mid-April 2021. Additionally, non-interventional post-authorisation safety studies, C4591011 and C4591012 are expected to capture data on a sufficiently large vaccinated population to detect an increased risk of Bell's palsy in vaccinated individuals. The timeline for conducting these analyses will be established based on the size of the vaccinated population captured in the study data sources by the first interim reports (due 30 June

Table 7. AESIs Evaluation for BNT162b2

AESIs[a] Category	Post-Marketing Cases Evaluation[b] Total Number of Cases (N=42086)
	2021). Study C4591021, pending protocol endorsement by EMA, is also intended to inform this risk.
Immune-Mediated/Autoimmune AESIs *Search criteria: Immune-mediated/autoimmune disorders (SMQ) (Broad and Narrow) OR Autoimmune disorders HLGT (Primary Path) OR PTs Cytokine release syndrome; Cytokine storm; Hypersensitivity*	• Number of cases: 1050 (2.5 % of the total PM dataset), of which 760 medically confirmed and 290 non-medically confirmed; • Country of incidence (>10 cases): UK (267), US (257), Italy (70), France and Germany (69 each), Mexico (36), Sweden (35), Spain (32), Greece (31), Israel (21), Denmark (18), Portugal (17), Austria and Czech Republic (16 each), Canada (12), Finland (10). The remaining 74 cases were from 24 different countries. • Subjects' gender (n=682): female (526), male (156). • Subjects' age group (n=944): Adult (746), Elderly (196), Adolescent (2). • Number of relevant events: 1077, of which 780 serious, 297 non-serious. • Most frequently reported relevant PTs (>10 occurrences): Hypersensitivity (596), Neuropathy peripheral (49), Pericarditis (32), Myocarditis (25), Dermatitis (24), Diabetes mellitus and Encephalitis (16 each), Psoriasis (14), Dermatitis Bullous (13), Autoimmune disorder and Raynaud's phenomenon (11 each); • Relevant event onset latency (n = 807): Range from <24 hours to 30 days, median <24 hours. • Relevant event outcome[l]: resolved/resolving (517), not resolved (215), fatal (12), resolved with sequelae (22) and unknown (312). Conclusion: This cumulative case review does not raise new safety issues. Surveillance will continue
Musculoskeletal AESIs *Search criteria: PTs Arthralgia; Arthritis; Arthritis bacterial[n]; Chronic fatigue syndrome; Polyarthritis; Polyneuropathy; Post viral fatigue syndrome; Rheumatoid arthritis*	• Number of cases: 3600 (8.5% of the total PM dataset), of which 2045 medically confirmed and 1555 non-medically confirmed; • Country of incidence: UK (1406), US (1004), Italy (285), Mexico (236), Germany (72), Portugal (70), France (48), Greece and Poland (46), Latvia (33), Czech Republic (32), Israel and Spain (26), Sweden (25), Romania (24), Denmark (23), Finland and Ireland (19 each), Austria and Belgium (18 each), Canada (16), Netherlands (14), Bulgaria (12), Croatia and Serbia (9 each), Cyprus and Hungary (8 each), Norway (7), Estonia and Puerto Rico (6 each), Iceland and Lithuania (4 each); the remaining 21 cases originated from 11 different countries; • Subjects' gender (n=3471): female (2760), male (711); • Subjects' age group (n=3372): Adult (2850), Elderly (515), Child (4), Adolescent (2), Infant (1); • Number of relevant events: 3640, of which 1614 serious, 2026 non-serious; • Reported relevant PTs: Arthralgia (3525), Arthritis (70), Rheumatoid arthritis (26), Polyarthritis (5), Polyneuropathy, Post viral fatigue syndrome, Chronic fatigue syndrome (4 each), Arthritis bacterial (1); • Relevant event onset latency (n = 2968): Range from <24 hours to 32 days, median 1 day;

Table 7. AESIs Evaluation for BNT162b2

AESIs[a] Category	Post-Marketing Cases Evaluation[b] Total Number of Cases (N=42086)
	• Relevant event outcome: resolved/resolving (1801), not resolved (959), resolved with sequelae (49), and unknown (853). Conclusion: This cumulative case review does not raise new safety issues. Surveillance will continue.
Neurological AESIs (including demyelination) *Search criteria: Convulsions (SMQ) (Broad and Narrow) OR Demyelination (SMQ) (Broad and Narrow) OR PTs Ataxia; Cataplexy; Encephalopathy; Fibromyalgia; Intracranial pressure increased; Meningitis; Meningitis aseptic; Narcolepsy*	• Number of cases: 501 (1.2% of the total PM dataset), of which 365 medically confirmed and 136 non-medically confirmed. • Country of incidence (≥9 cases): UK (157), US (68), Germany (49), Mexico (35), Italy (31), France (25), Spain (18), Poland (17), Netherlands and Israel (15 each), Sweden (9). The remaining 71 cases were from 22 different countries. • Subjects' gender (n=478): female (328), male (150). • Subjects' age group (n=478): Adult (329), Elderly (149); • Number of relevant events: 542, of which 515 serious, 27 non-serious. • Most frequently reported relevant PTs (>2 occurrences) included: Seizure (204), Epilepsy (83), Generalised tonic-clonic seizure (33), Guillain-Barre syndrome (24), Fibromyalgia and Trigeminal neuralgia (17 each), Febrile convulsion, (15), Status epilepticus (12), Aura and Myelitis transverse (11 each), Multiple sclerosis relapse and Optic neuritis (10 each), Petit mal epilepsy and Tonic convulsion (9 each), Ataxia (8), Encephalopathy and Tonic clonic movements (7 each), Foaming at mouth (5), Multiple sclerosis, Narcolepsy and Partial seizures (4 each), Bad sensation, Demyelination, Meningitis, Postictal state, Seizure like phenomena and Tongue biting (3 each); • Relevant event onset latency (n = 423): Range from <24 hours to 48 days, median 1 day; • Relevant events outcome: fatal (16), resolved/resolving (265), resolved with sequelae (13), not resolved (89) and unknown (161); Conclusion: This cumulative case review does not raise new safety issues. Surveillance will continue
Other AESIs *Search criteria: Herpes viral infections (HLT) (Primary Path) OR PTs Adverse event following immunisation; Inflammation; Manufacturing laboratory analytical testing issue; Manufacturing materials issue; Manufacturing production issue; MERS-CoV test; MERS-CoV test negative; MERS-CoV test positive; Middle East respiratory syndrome; Multiple organ dysfunction syndrome; Occupational exposure to communicable disease; Patient*	• Number of cases: 8152 (19.4% of the total PM dataset), of which 4977 were medically confirmed and 3175 non-medically confirmed; • Country of incidence (> 20 occurrences): UK (2715), US (2421), Italy (710), Mexico (223), Portugal (210), Germany (207), France (186), Spain (183), Sweden (133), Denmark (127), Poland (120), Greece (95), Israel (79), Czech Republic (76), Romania (57), Hungary (53), Finland (52), Norway (51), Latvia (49), Austria (47), Croatia (42), Belgium (41), Canada (39), Ireland (34), Serbia (28), Iceland (25), Netherlands (22). The remaining 127 cases were from 21 different countries; • Subjects' gender (n=7829): female (5969), male (1860); • Subjects' age group (n=7479): Adult (6330), Elderly (1125), Adolescent, Child (9 each), Infant (6);

Table 7. AESIs Evaluation for BNT162b2

AESIs[a] **Category**	**Post-Marketing Cases Evaluation**[b] **Total Number of Cases (N=42086)**
isolation; Product availability issue; Product distribution issue; Product supply issue; Pyrexia; Quarantine; SARS-CoV-1 test; SARS-CoV-1 test negative; SARS-CoV-1 test positive	• Number of relevant events: 8241, of which 3674 serious, 4568 non-serious; • Most frequently reported relevant PTs (≥6 occurrences) included: Pyrexia (7666), Herpes zoster (259), Inflammation (132), Oral herpes (80), Multiple organ dysfunction syndrome (18), Herpes virus infection (17), Herpes simplex (13), Ophthalmic herpes zoster (10), Herpes ophthalmic and Herpes zoster reactivation (6 each); • Relevant event onset latency (n =6836): Range from <24 hours to 61 days, median 1 day; • Relevant events outcome: fatal (96), resolved/resolving (5008), resolved with sequelae (84), not resolved (1429) and unknown (1685). Conclusion: This cumulative case review does not raise new safety issues. Surveillance will continue
Pregnancy Related AESIs *Search criteria: PTs Amniotic cavity infection; Caesarean section; Congenital anomaly; Death neonatal; Eclampsia; Foetal distress syndrome; Low birth weight baby; Maternal exposure during pregnancy; Placenta praevia; Pre-eclampsia; Premature labour; Stillbirth; Uterine rupture; Vasa praevia*	For relevant cases, please refer to Table 6, Description of Missing Information, *Use in Pregnancy and While Breast Feeding*
Renal AESIs *Search criteria: PTs Acute kidney injury; Renal failure.*	• Number of cases: 69 cases (0.17% of the total PM dataset), of which 57 medically confirmed, 12 non-medically confirmed; • Country of incidence: Germany (17), France and UK (13 each), US (6), Belgium, Italy and Spain (4 each), Sweden (2), Austria, Canada, Denmark, Finland, Luxembourg and Norway (1 each); • Subjects' gender: female (46), male (23); • Subjects' age group (n=68): Adult (7), Elderly (60), Infant (1); • Number of relevant events: 70, all serious; • Reported relevant PTs: Acute kidney injury (40) and Renal failure (30); • Relevant event onset latency (n = 42): Range from <24 hours to 15 days, median 4 days; • Relevant event outcome: fatal (23), resolved/resolving (10), not resolved (15) and unknown (22). Conclusion: This cumulative case review does not raise new safety issues. Surveillance will continue.
Respiratory AESIs *Search criteria: Lower respiratory tract infections NEC (HLT)*	• Number of cases: 130 cases (0.3% of the total PM dataset), of which 107 medically confirmed;

Table 7. AESIs Evaluation for BNT162b2

AESIs[a] Category	Post-Marketing Cases Evaluation[b] Total Number of Cases (N=42086)
(Primary Path) OR Respiratory failures (excl neonatal) (HLT) (Primary Path) OR Viral lower respiratory tract infections (HLT) (Primary Path) OR PTs: Acute respiratory distress syndrome; Endotracheal intubation; Hypoxia; Pulmonary haemorrhage; Respiratory disorder; Severe acute respiratory syndrome	• Countries of incidence: United Kingdom (20), France (18), United States (16), Germany (14), Spain (13), Belgium and Italy (9), Denmark (8), Norway (5), Czech Republic, Iceland (3 each); the remaining 12 cases originated from 8 different countries. • Subjects' gender (n=130): female (72), male (58). • Subjects's age group (n=126): Elderly (78), Adult (47), Adolescent (1). • Number of relevant events: 137, of which 126 serious, 11 non-serious; • Reported relevant PTs: Respiratory failure (44), Hypoxia (42), Respiratory disorder (36), Acute respiratory distress syndrome (10), Chronic respiratory syndrome (3), Severe acute respiratory syndrome (2). • Relevant event onset latency (n=102): range from < 24 hours to 18 days, median 1 day; • Relevant events outcome: fatal (41), Resolved/resolving (47), not recovered (18) and unknown (31). Conclusion: This cumulative case review does not raise new safety issues. Surveillance will continue.
Thromboembolic Events *Search criteria: Embolism and thrombosis (HLGT) (Primary Path), excluding PTs reviewed as Stroke AESIs, OR PTs Deep vein thrombosis; Disseminated intravascular coagulation; Embolism; Embolism venous; Pulmonary embolism*	• Number of cases: 151 (0.3% of the total PM dataset), of which 111 medically confirmed and 40 non-medically confirmed; • Country of incidence: UK (34), US (31), France (20), Germany (15), Italy and Spain (6 each), Denmark and Sweden (5 each), Austria, Belgium and Israel (3 each), Canada, Cyprus, Netherlands and Portugal (2 each); the remaining 12 cases originated from 12 different countries; • Subjects' gender (n= 144): female (89), male (55); • Subjects' age group (n=136): Adult (66), Elderly (70); • Number of relevant events: 168, of which 165 serious, 3 non-serious; • Most frequently reported relevant PTs (>1 occurrence) included: Pulmonary embolism (60), Thrombosis (39), Deep vein thrombosis (35), Thrombophlebitis superficial (6), Venous thrombosis limb (4), Embolism, Microembolism, Thrombophlebitis and Venous thrombosis (3 each) Blue toe syndrome (2); • Relevant event onset latency (n = 124): Range from <24 hours to 28 days, median 4 days; • Relevant event outcome: fatal (18), resolved/resolving (54), resolved with sequelae (6), not resolved (49) and unknown (42). Conclusion: This cumulative case review does not raise new safety issues. Surveillance will continue.
Stroke *Search criteria: HLT Central nervous system haemorrhages and cerebrovascular accidents*	• Number of cases: 275 (0.6% of the total PM dataset), of which 180 medically confirmed and 95 non-medically confirmed; • Country of incidence: UK (81), US (66), France (32), Germany (21), Norway (14), Netherlands and Spain (11 each), Sweden (9),

Table 7. AESIs Evaluation for BNT162b2

AESIs[a] **Category**	**Post-Marketing Cases Evaluation**[b] **Total Number of Cases (N=42086)**
(Primary Path) OR HLT Cerebrovascular venous and sinus thrombosis (Primary Path)	Israel (6), Italy (5), Belgium (3), Denmark, Finland, Poland and Switzerland (2 each); the remaining 8 cases originated from 8 different countries; • Subjects' gender (n= 273): female (182), male (91); • Subjects' age group (n=265): Adult (59), Elderly (205), Child[m] (1); • Number of relevant events: 300, all serious; • Most frequently reported relevant PTs (>1 occurrence) included: o PTs indicative of Ischaemic stroke: Cerebrovascular accident (160), Ischaemic stroke (41), Cerebral infarction (15), Cerebral ischaemia, Cerebral thrombosis, Cerebral venous sinus thrombosis, Ischaemic cerebral infarction and Lacunal infarction (3 each) Basal ganglia stroke, Cerebellar infarction and Thrombotic stroke (2 each); o PTs indicative of Haemorrhagic stroke: Cerebral haemorrhage (26), Haemorrhagic stroke (11), Haemorrhage intracranical and Subarachnoid haemorrhage (5 each), Cerebral haematoma (4), Basal ganglia haemorrhage and Cerebellar haemorrhage (2 each); • Relevant event onset latency (n = 241): Range from <24 hours to 41 days, median 2 days; • Relevant event outcome: fatal and resolved/resolving (61 each), resolved with sequelae (10), not resolved (85) and unknown (83). Conclusion: This cumulative case review does not raise new safety issues. Surveillance will continue.
Vasculitic Events *Search criteria: Vasculitides HLT*	• Number of cases: 32 cases (0.08% of the total PM dataset), of which 26 medically confirmed and 6 non-medically confirmed; • Country of incidence: UK (13), France (4), Portugal, US and Spain (3 each), Cyprus, Germany, Hungary, Italy and Slovakia and Costa rica (1 each); • Subjects' gender: female (26), male (6); • Subjects' age group (n=31): Adult (15), Elderly (16); • Number of relevant events: 34, of which 25 serious, 9 non-serious; • Reported relevant PTs: Vasculitis (14), Cutaneous vasculitis and Vasculitic rash (4 each), (3), Giant cell arteritis and Peripheral ischaemia (3 each), Behcet's syndrome and Hypersensitivity vasculitis (2 each) Palpable purpura, and Takayasu's arteritis (1 each); • Relevant event onset latency (n = 25): Range from <24 hours to 19 days, median 3 days; • Relevant event outcome: fatal (1), resolved/resolving (13), not resolved (12) and unknown (8). Conclusion: This cumulative case review does not raise new safety issues. Surveillance will continue

Table 7. AESIs Evaluation for BNT162b2

AESIs[a] Category	Post-Marketing Cases Evaluation[b] Total Number of Cases (N=42086)

a. For the complete list of the AESIs, please refer to Appendix 5;
b. Please note that this corresponds to evidence from post-EUA/conditional marketing authorisation approval data sources;
c. Subjects with age ranged between 18 and 64 years;
d. Subjects with age equal to or above 65 years;
e. Subjects with age ranged between 2 and 11 years;
f. Subjects with age ranged between 12 and less than 18 years;
g. Multiple episodes of the same PT event were reported with a different clinical outcome within some cases hence the sum of the events outcome exceeds the total number of PT events;
h. Subjects with age ranged between 1 (28 days) and 23 months;
i. Twenty-four additional cases were excluded from the analysis as they were not cases of peripheral facial nerve palsy because they described other disorders (stroke, cerebral haemorrhage or transient ischaemic attack); 1 case was excluded from the analysis because it was invalid due to an unidentifiable reporter;
j. This UK case report received from the UK MHRA described a 1-year-old subject who received the vaccine, and had left postauricular ear pain that progressed to left-sided Bell's palsy 1 day following vaccination that had not resolved at the time of the report;
k. If a case included both PT Facial paresis and PT Facial paralysis, only the PT Facial paralysis was considered in the descriptions of the events as it is most clinically important;
l. Multiple episodes of the same PT event were reported with a different clinical outcome within some cases hence the sum of the events outcome exceeds the total number of PT events
m. This UK case report received from the UK MHRA described a 7-year-old female subject who received the vaccine and had stroke (unknown outcome); no follow-up is possible for clarification.
n. This PT not included in the AESIs/TME list was included in the review as relevant for ACCESS protocol criteria;

3.1.4. Medication error

Cases potentially indicative of medication errors[1] that cumulatively occurred are summarized below.

- Number of relevant medication error cases: 2056[2] (4.9%) of which 1569 (3.7%) are medically confirmed.
- Number of relevant events: 2792
- Top 10 countries of incidence:
  - US (1201), France (171), UK (138), Germany (88), Czech Republic (87), Sweden (49), Israel (45), Italy (42), Canada (35), Romania (33), Finland (21), Portugal (20), Norway (14), Puerto Rico (13), Poland (12), Austria and Spain (10 each).

Medication error case outcomes:

- Fatal (7)[3],
- Recovered/recovering (354, of which 4 are serious),
- Recovered with sequelae (8, of which 3 serious)

[1] MedDRA (version 23.1) Higher Level Terms: Accidental exposures to product; Product administration errors and issues; Product confusion errors and issues; Product dispensing errors and issues; Product label issues; Product monitoring errors and issues; Product preparation errors and issues; Product selection errors and issues; Product storage errors and issues in the product use system; Product transcribing errors and communication issues, OR Preferred Terms: Accidental poisoning; Circumstance or information capable of leading to device use error; Circumstance or information capable of leading to medication error; Contraindicated device used; Deprescribing error; Device use error; Dose calculation error; Drug titration error; Expired device used; Exposure via direct contact; Exposure via eye contact; Exposure via mucosa; Exposure via skin contact; Failure of child resistant product closure; Inadequate aseptic technique in use of product; Incorrect disposal of product; Intercepted medication error; Intercepted product prescribing error; Medication error; Multiple use of single-use product; Product advertising issue; Product distribution issue; Product prescribing error; Product prescribing issue; Product substitution error; Product temperature excursion issue; Product use in unapproved therapeutic environment; Radiation underdose; Underdose; Unintentional medical device removal; Unintentional use for unapproved indication; Vaccination error; Wrong device used; Wrong dosage form; Wrong dosage formulation; Wrong dose; Wrong drug; Wrong patient; Wrong product procured; Wrong product stored; Wrong rate; Wrong route; Wrong schedule; Wrong strength; Wrong technique in device usage process; Wrong technique in product usage process.

[2] Thirty-five (35) cases were exclude from the analysis because describing medication errors occurring in an unspecified number of individuals or describing medication errors occurring with co suspects were determined to be non-contributory.

[3] All the medication errors reported in these cases were assessed as non-serious occurrences with an unknown outcome; based on the available information including the causes of death, the relationship between the medication error and the death is weak. .

- Not recovered (189, of which 84 are serious),
- Unknown (1498, of which 33 are serious).

1371 cases reported only MEs without any associated clinical adverse event. The PTs most frequently reported (≥12 occurrences) were: Poor quality product administered (539), Product temperature excursion issue (253), Inappropriate schedule of product administration (225), Product preparation error (206), Underdose (202), Circumstance or information capable of leading to medication error (120), Product preparation issue (119), Wrong technique in product usage process (76), Incorrect route of product administration (66), Accidental overdose (33), Product administered at inappropriate site (27), Incorrect dose administered and Accidental exposure to the product (25 each), Exposure via skin contact (22), Wrong product administered (17), Incomplete course of vaccination, and Product administration error (14 each) Product administered to patient of inappropriate age (12).

In 685 cases, there were co-reported AEs. The most frequently co- associated AEs (> 40 occurrences) were: Headache (187), Pyrexia (161), Fatigue (135), Chills (127), Pain (107), Vaccination site pain (100), Nausea (89), Myalgia (88), Pain in extremity (85) Arthralgia (68), Off label use (57), Dizziness (52), Lymphadenopathy (47), Asthenia (46) and Malaise (41). These cases are summarized in Table 8.

Table 8. ME PTs by seriousness with or without harm co-association (Through 28 February 2021)

	Serious		Non-Serious	
ME PTs	**With Harm**	**Without Harm**	**With Harm**	**Without Harm**
Accidental exposure to product	0	0	0	5
Accidental overdose	4	1	9	6
Booster dose missed	0	0	0	1
Circumstance or information capable of leading to medication error	0	0	5	11
Contraindicated product administered	1	0	0	2
Expired product administered	0	0	0	2
Exposure via skin contact	0	0	0	5
Inappropriate schedule of product administration	0	2	8	264
Incorrect dose administered	1	1	0	0

Table 8. ME PTs by seriousness with or without harm co-association (Through 28 February 2021)

	Serious		Non-Serious	
ME PTs	**With Harm**	**Without Harm**	**With Harm**	**Without Harm**
Incorrect route of product administration	2	6	16	127
Lack of vaccination site rotation	1	0	0	0
Medication error	0	0	0	1
Poor quality product administered	1	0	0	34
Product administered at inappropriate site	2	1	13	29
Product administered to patient of inappropriate age	0	4	0	40
Product administration error	1	0	0	3
Product dose omission issue	0	1	0	3
Product preparation error	1	0	4	11
Product preparation issue	1	1	0	14

Overall, there were 68 cases with co-reported AEs reporting Harm and 599 cases with co-reported AEs without harm. Additionally, Intercepted medication errors was reported in 1 case (PTs Malaise, clinical outcome unknow) and Potential medication errors were reported in 17 cases.

4. DISCUSSION

Pfizer performs frequent and rigorous signal detection on BNT162b2 cases. The findings of these signal detection analyses are consistent with the known safety profile of the vaccine. This cumulative analysis to support the Biologics License Application for BNT162b2, is an integrated analysis of post-authorization safety data, from U.S. and foreign experience, focused on Important Identified Risks, Important Potential Risks, and areas of Important Missing Information identified in the Pharmacovigilance Plan, as well as adverse events of special interest and vaccine administration errors (whether or not associated with an adverse event). The data do not reveal any novel safety concerns or risks requiring label changes and support a favorable benefit risk profile of to the BNT162b2 vaccine.

5. SUMMARY AND CONCLUSION

Review of the available data for this cumulative PM experience, confirms a favorable benefit: risk balance for BNT162b2.

Pfizer will continue routine pharmacovigilance activities on behalf of BioNTech according to the Pharmacovigilance Agreement in place, in order to assure patient safety and will inform the Agency if an evaluation of the safety data yields significant new information for BNT162b2.

APPENDIX 1. LIST OF ADVERSE EVENTS OF SPECIAL INTEREST

1p36 deletion syndrome;2-Hydroxyglutaric aciduria;5'nucleotidase increased;Acoustic neuritis;Acquired C1 inhibitor deficiency;Acquired epidermolysis bullosa;Acquired epileptic aphasia;Acute cutaneous lupus erythematosus;Acute disseminated encephalomyelitis;Acute encephalitis with refractory, repetitive partial seizures;Acute febrile neutrophilic dermatosis;Acute flaccid myelitis;Acute haemorrhagic leukoencephalitis;Acute haemorrhagic oedema of infancy;Acute kidney injury;Acute macular outer retinopathy;Acute motor axonal neuropathy;Acute motor-sensory axonal neuropathy;Acute myocardial infarction;Acute respiratory distress syndrome;Acute respiratory failure;Addison's disease;Administration site thrombosis;Administration site vasculitis;Adrenal thrombosis;Adverse event following immunisation;Ageusia;Agranulocytosis;Air embolism;Alanine aminotransferase abnormal;Alanine aminotransferase increased;Alcoholic seizure;Allergic bronchopulmonary mycosis;Allergic oedema;Alloimmune hepatitis;Alopecia areata;Alpers disease;Alveolar proteinosis;Ammonia abnormal;Ammonia increased;Amniotic cavity infection;Amygdalohippocampectomy;Amyloid arthropathy;Amyloidosis;Amyloidosis senile;Anaphylactic reaction;Anaphylactic shock;Anaphylactic transfusion reaction;Anaphylactoid reaction;Anaphylactoid shock;Anaphylactoid syndrome of pregnancy;Angioedema;Angiopathic neuropathy;Ankylosing spondylitis;Anosmia;Antiacetylcholine receptor antibody positive;Anti-actin antibody positive;Anti-aquaporin-4 antibody positive;Anti-basal ganglia antibody positive;Anti-cyclic citrullinated peptide antibody positive;Anti-epithelial antibody positive;Anti-erythrocyte antibody positive;Anti-exosome complex antibody positive;Anti-GAD antibody negative;Anti-GAD antibody positive;Anti-ganglioside antibody positive;Antigliadin antibody positive;Anti-glomerular basement membrane antibody positive;Anti-glomerular basement membrane disease;Anti-glycyl-tRNA synthetase antibody positive;Anti-HLA antibody test positive;Anti-IA2 antibody positive;Anti-insulin antibody increased;Anti-insulin antibody positive;Anti-insulin receptor antibody increased;Anti-insulin receptor antibody positive;Anti-interferon antibody negative;Anti-interferon antibody positive;Anti-islet cell antibody positive;Antimitochondrial antibody positive;Anti-muscle specific kinase antibody positive;Anti-myelin-associated glycoprotein antibodies positive;Anti-myelin-associated glycoprotein associated polyneuropathy;Antimyocardial antibody positive;Anti-neuronal antibody positive;Antineutrophil cytoplasmic antibody increased;Antineutrophil cytoplasmic antibody positive;Anti-neutrophil cytoplasmic antibody positive vasculitis;Anti-NMDA antibody positive;Antinuclear antibody increased;Antinuclear antibody positive;Antiphospholipid antibodies positive;Antiphospholipid syndrome;Anti-platelet antibody positive;Anti-prothrombin antibody positive;Antiribosomal P antibody positive;Anti-RNA polymerase III antibody positive;Anti-saccharomyces cerevisiae antibody test positive;Anti-sperm antibody positive;Anti-SRP antibody positive;Antisynthetase syndrome;Anti-thyroid antibody positive;Anti-transglutaminase antibody increased;Anti-VGCC antibody positive;Anti-VGKC antibody positive;Anti-vimentin antibody positive;Antiviral prophylaxis;Antiviral treatment;Anti-zinc transporter 8 antibody positive;Aortic embolus;Aortic thrombosis;Aortitis;Aplasia pure red cell;Aplastic anaemia;Application site thrombosis;Application site vasculitis;Arrhythmia;Arterial bypass occlusion;Arterial bypass thrombosis;Arterial thrombosis;Arteriovenous fistula thrombosis;Arteriovenous graft site stenosis;Arteriovenous graft thrombosis;Arteritis;Arteritis

coronary;Arthralgia;Arthritis;Arthritis enteropathic;Ascites;Aseptic cavernous sinus thrombosis;Aspartate aminotransferase abnormal;Aspartate aminotransferase increased;Aspartate-glutamate-transporter deficiency;AST to platelet ratio index increased;AST/ALT ratio abnormal;Asthma;Asymptomatic COVID-19;Ataxia;Atheroembolism;Atonic seizures;Atrial thrombosis;Atrophic thyroiditis;Atypical benign partial epilepsy;Atypical pneumonia;Aura;Autoantibody positive;Autoimmune anaemia;Autoimmune aplastic anaemia;Autoimmune arthritis;Autoimmune blistering disease;Autoimmune cholangitis;Autoimmune colitis;Autoimmune demyelinating disease;Autoimmune dermatitis;Autoimmune disorder;Autoimmune encephalopathy;Autoimmune endocrine disorder;Autoimmune enteropathy;Autoimmune eye disorder;Autoimmune haemolytic anaemia;Autoimmune heparin-induced thrombocytopenia;Autoimmune hepatitis;Autoimmune hyperlipidaemia;Autoimmune hypothyroidism;Autoimmune inner ear disease;Autoimmune lung disease;Autoimmune lymphoproliferative syndrome;Autoimmune myocarditis;Autoimmune myositis;Autoimmune nephritis;Autoimmune neuropathy;Autoimmune neutropenia;Autoimmune pancreatitis;Autoimmune pancytopenia;Autoimmune pericarditis;Autoimmune retinopathy;Autoimmune thyroid disorder;Autoimmune thyroiditis;Autoimmune uveitis;Autoinflammation with infantile enterocolitis;Autoinflammatory disease;Automatism epileptic;Autonomic nervous system imbalance;Autonomic seizure;Axial spondyloarthritis;Axillary vein thrombosis;Axonal and demyelinating polyneuropathy;Axonal neuropathy;Bacterascites;Baltic myoclonic epilepsy;Band sensation;Basedow's disease;Basilar artery thrombosis;Basophilopenia;B-cell aplasia;Behcet's syndrome;Benign ethnic neutropenia;Benign familial neonatal convulsions;Benign familial pemphigus;Benign rolandic epilepsy;Beta-2 glycoprotein antibody positive;Bickerstaff's encephalitis;Bile output abnormal;Bile output decreased;Biliary ascites;Bilirubin conjugated abnormal;Bilirubin conjugated increased;Bilirubin urine present;Biopsy liver abnormal;Biotinidase deficiency;Birdshot chorioretinopathy;Blood alkaline phosphatase abnormal;Blood alkaline phosphatase increased;Blood bilirubin abnormal;Blood bilirubin increased;Blood bilirubin unconjugated increased;Blood cholinesterase abnormal;Blood cholinesterase decreased;Blood pressure decreased;Blood pressure diastolic decreased;Blood pressure systolic decreased;Blue toe syndrome;Brachiocephalic vein thrombosis;Brain stem embolism;Brain stem thrombosis;Bromosulphthalein test abnormal;Bronchial oedema;Bronchitis;Bronchitis mycoplasmal;Bronchitis viral;Bronchopulmonary aspergillosis allergic;Bronchospasm;Budd-Chiari syndrome;Bulbar palsy;Butterfly rash;C1q nephropathy;Caesarean section;Calcium embolism;Capillaritis;Caplan's syndrome;Cardiac amyloidosis;Cardiac arrest;Cardiac failure;Cardiac failure acute;Cardiac sarcoidosis;Cardiac ventricular thrombosis;Cardiogenic shock;Cardiolipin antibody positive;Cardiopulmonary failure;Cardio-respiratory arrest;Cardio-respiratory distress;Cardiovascular insufficiency;Carotid arterial embolus;Carotid artery thrombosis;Cataplexy;Catheter site thrombosis;Catheter site vasculitis;Cavernous sinus thrombosis;CDKL5 deficiency disorder;CEC syndrome;Cement embolism;Central nervous system lupus;Central nervous system vasculitis;Cerebellar artery thrombosis;Cerebellar embolism;Cerebral amyloid angiopathy;Cerebral arteritis;Cerebral artery embolism;Cerebral artery thrombosis;Cerebral gas embolism;Cerebral microembolism;Cerebral septic infarct;Cerebral thrombosis;Cerebral venous sinus thrombosis;Cerebral venous thrombosis;Cerebrospinal thrombotic

tamponade;Cerebrovascular accident;Change in seizure presentation;Chest discomfort;Child-Pugh-Turcotte score abnormal;Child-Pugh-Turcotte score increased;Chillblains;Choking;Choking sensation;Cholangitis sclerosing;Chronic autoimmune glomerulonephritis;Chronic cutaneous lupus erythematosus;Chronic fatigue syndrome;Chronic gastritis;Chronic inflammatory demyelinating polyradiculoneuropathy;Chronic lymphocytic inflammation with pontine perivascular enhancement responsive to steroids;Chronic recurrent multifocal osteomyelitis;Chronic respiratory failure;Chronic spontaneous urticaria;Circulatory collapse;Circumoral oedema;Circumoral swelling;Clinically isolated syndrome;Clonic convulsion;Coeliac disease;Cogan's syndrome;Cold agglutinins positive;Cold type haemolytic anaemia;Colitis;Colitis erosive;Colitis herpes;Colitis microscopic;Colitis ulcerative;Collagen disorder;Collagen-vascular disease;Complement factor abnormal;Complement factor C1 decreased;Complement factor C2 decreased;Complement factor C3 decreased;Complement factor C4 decreased;Complement factor decreased;Computerised tomogram liver abnormal;Concentric sclerosis;Congenital anomaly;Congenital bilateral perisylvian syndrome;Congenital herpes simplex infection;Congenital myasthenic syndrome;Congenital varicella infection;Congestive hepatopathy;Convulsion in childhood;Convulsions local;Convulsive threshold lowered;Coombs positive haemolytic anaemia;Coronary artery disease;Coronary artery embolism;Coronary artery thrombosis;Coronary bypass thrombosis;Coronavirus infection;Coronavirus test;Coronavirus test negative;Coronavirus test positive;Corpus callosotomy;Cough;Cough variant asthma;COVID-19;COVID-19 immunisation;COVID-19 pneumonia;COVID-19 prophylaxis;COVID-19 treatment;Cranial nerve disorder;Cranial nerve palsies multiple;Cranial nerve paralysis;CREST syndrome;Crohn's disease;Cryofibrinogenaemia;Cryoglobulinaemia;CSF oligoclonal band present;CSWS syndrome;Cutaneous amyloidosis;Cutaneous lupus erythematosus;Cutaneous sarcoidosis;Cutaneous vasculitis;Cyanosis;Cyclic neutropenia;Cystitis interstitial;Cytokine release syndrome;Cytokine storm;De novo purine synthesis inhibitors associated acute inflammatory syndrome;Death neonatal;Deep vein thrombosis;Deep vein thrombosis postoperative;Deficiency of bile secretion;Deja vu;Demyelinating polyneuropathy;Demyelination;Dermatitis;Dermatitis bullous;Dermatitis herpetiformis;Dermatomyositis;Device embolisation;Device related thrombosis;Diabetes mellitus;Diabetic ketoacidosis;Diabetic mastopathy;Dialysis amyloidosis;Dialysis membrane reaction;Diastolic hypotension;Diffuse vasculitis;Digital pitting scar;Disseminated intravascular coagulation;Disseminated intravascular coagulation in newborn;Disseminated neonatal herpes simplex;Disseminated varicella;Disseminated varicella zoster vaccine virus infection;Disseminated varicella zoster virus infection;DNA antibody positive;Double cortex syndrome;Double stranded DNA antibody positive;Dreamy state;Dressler's syndrome;Drop attacks;Drug withdrawal convulsions;Dyspnoea;Early infantile epileptic encephalopathy with burst-suppression;Eclampsia;Eczema herpeticum;Embolia cutis medicamentosa;Embolic cerebellar infarction;Embolic cerebral infarction;Embolic pneumonia;Embolic stroke;Embolism;Embolism arterial;Embolism venous;Encephalitis;Encephalitis allergic;Encephalitis autoimmune;Encephalitis brain stem;Encephalitis haemorrhagic;Encephalitis periaxialis diffusa;Encephalitis post immunisation;Encephalomyelitis;Encephalopathy;Endocrine disorder;Endocrine ophthalmopathy;Endotracheal intubation;Enteritis;Enteritis leukopenic;Enterobacter pneumonia;Enterocolitis;Enteropathic spondylitis;Eosinopenia;Eosinophilic

fasciitis;Eosinophilic granulomatosis with polyangiitis;Eosinophilic oesophagitis;Epidermolysis;Epilepsy;Epilepsy surgery;Epilepsy with myoclonic-atonic seizures;Epileptic aura;Epileptic psychosis;Erythema;Erythema induratum;Erythema multiforme;Erythema nodosum;Evans syndrome;Exanthema subitum;Expanded disability status scale score decreased;Expanded disability status scale score increased;Exposure to communicable disease;Exposure to SARS-CoV-2;Eye oedema;Eye pruritus;Eye swelling;Eyelid oedema;Face oedema;Facial paralysis;Facial paresis;Faciobrachial dystonic seizure;Fat embolism;Febrile convulsion;Febrile infection-related epilepsy syndrome;Febrile neutropenia;Felty's syndrome;Femoral artery embolism;Fibrillary glomerulonephritis;Fibromyalgia;Flushing;Foaming at mouth;Focal cortical resection;Focal dyscognitive seizures;Foetal distress syndrome;Foetal placental thrombosis;Foetor hepaticus;Foreign body embolism;Frontal lobe epilepsy;Fulminant type 1 diabetes mellitus;Galactose elimination capacity test abnormal;Galactose elimination capacity test decreased;Gamma-glutamyltransferase abnormal;Gamma-glutamyltransferase increased;Gastritis herpes;Gastrointestinal amyloidosis;Gelastic seizure;Generalised onset non-motor seizure;Generalised tonic-clonic seizure;Genital herpes;Genital herpes simplex;Genital herpes zoster;Giant cell arteritis;Glomerulonephritis;Glomerulonephritis membranoproliferative;Glomerulonephritis membranous;Glomerulonephritis rapidly progressive;Glossopharyngeal nerve paralysis;Glucose transporter type 1 deficiency syndrome;Glutamate dehydrogenase increased;Glycocholic acid increased;GM2 gangliosidosis;Goodpasture's syndrome;Graft thrombosis;Granulocytopenia;Granulocytopenia neonatal;Granulomatosis with polyangiitis;Granulomatous dermatitis;Grey matter heterotopia;Guanase increased;Guillain-Barre syndrome;Haemolytic anaemia;Haemophagocytic lymphohistiocytosis;Haemorrhage;Haemorrhagic ascites;Haemorrhagic disorder;Haemorrhagic pneumonia;Haemorrhagic varicella syndrome;Haemorrhagic vasculitis;Hantavirus pulmonary infection;Hashimoto's encephalopathy;Hashitoxicosis;Hemimegalencephaly;Henoch-Schonlein purpura;Henoch-Schonlein purpura nephritis;Hepaplastin abnormal;Hepaplastin decreased;Heparin-induced thrombocytopenia;Hepatic amyloidosis;Hepatic artery embolism;Hepatic artery flow decreased;Hepatic artery thrombosis;Hepatic enzyme abnormal;Hepatic enzyme decreased;Hepatic enzyme increased;Hepatic fibrosis marker abnormal;Hepatic fibrosis marker increased;Hepatic function abnormal;Hepatic hydrothorax;Hepatic hypertrophy;Hepatic hypoperfusion;Hepatic lymphocytic infiltration;Hepatic mass;Hepatic pain;Hepatic sequestration;Hepatic vascular resistance increased;Hepatic vascular thrombosis;Hepatic vein embolism;Hepatic vein thrombosis;Hepatic venous pressure gradient abnormal;Hepatic venous pressure gradient increased;Hepatitis;Hepatobiliary scan abnormal;Hepatomegaly;Hepatosplenomegaly;Hereditary angioedema with C1 esterase inhibitor deficiency;Herpes dermatitis;Herpes gestationis;Herpes oesophagitis;Herpes ophthalmic;Herpes pharyngitis;Herpes sepsis;Herpes simplex;Herpes simplex cervicitis;Herpes simplex colitis;Herpes simplex encephalitis;Herpes simplex gastritis;Herpes simplex hepatitis;Herpes simplex meningitis;Herpes simplex meningoencephalitis;Herpes simplex meningomyelitis;Herpes simplex necrotising retinopathy;Herpes simplex oesophagitis;Herpes simplex otitis externa;Herpes simplex pharyngitis;Herpes simplex pneumonia;Herpes simplex reactivation;Herpes simplex sepsis;Herpes simplex viraemia;Herpes simplex virus conjunctivitis neonatal;Herpes simplex visceral;Herpes virus

infection;Herpes zoster;Herpes zoster cutaneous disseminated;Herpes zoster infection neurological;Herpes zoster meningitis;Herpes zoster meningoencephalitis;Herpes zoster meningomyelitis;Herpes zoster meningoradiculitis;Herpes zoster necrotising retinopathy;Herpes zoster oticus;Herpes zoster pharyngitis;Herpes zoster reactivation;Herpetic radiculopathy;Histone antibody positive;Hoigne's syndrome;Human herpesvirus 6 encephalitis;Human herpesvirus 6 infection;Human herpesvirus 6 infection reactivation;Human herpesvirus 7 infection;Human herpesvirus 8 infection;Hyperammonaemia;Hyperbilirubinaemia;Hypercholia;Hypergammaglobulinaemia benign monoclonal;Hyperglycaemic seizure;Hypersensitivity;Hypersensitivity vasculitis;Hyperthyroidism;Hypertransaminasaemia;Hyperventilation;Hypoalbuminaemia;Hypocalcaemic seizure;Hypogammaglobulinaemia;Hypoglossal nerve paralysis;Hypoglossal nerve paresis;Hypoglycaemic seizure;Hyponatraemic seizure;Hypotension;Hypotensive crisis;Hypothenar hammer syndrome;Hypothyroidism;Hypoxia;Idiopathic CD4 lymphocytopenia;Idiopathic generalised epilepsy;Idiopathic interstitial pneumonia;Idiopathic neutropenia;Idiopathic pulmonary fibrosis;IgA nephropathy;IgM nephropathy;IIIrd nerve paralysis;IIIrd nerve paresis;Iliac artery embolism;Immune thrombocytopenia;Immune-mediated adverse reaction;Immune-mediated cholangitis;Immune-mediated cholestasis;Immune-mediated cytopenia;Immune-mediated encephalitis;Immune-mediated encephalopathy;Immune-mediated endocrinopathy;Immune-mediated enterocolitis;Immune-mediated gastritis;Immune-mediated hepatic disorder;Immune-mediated hepatitis;Immune-mediated hyperthyroidism;Immune-mediated hypothyroidism;Immune-mediated myocarditis;Immune-mediated myositis;Immune-mediated nephritis;Immune-mediated neuropathy;Immune-mediated pancreatitis;Immune-mediated pneumonitis;Immune-mediated renal disorder;Immune-mediated thyroiditis;Immune-mediated uveitis;Immunoglobulin G4 related disease;Immunoglobulins abnormal;Implant site thrombosis;Inclusion body myositis;Infantile genetic agranulocytosis;Infantile spasms;Infected vasculitis;Infective thrombosis;Inflammation;Inflammatory bowel disease;Infusion site thrombosis;Infusion site vasculitis;Injection site thrombosis;Injection site urticaria;Injection site vasculitis;Instillation site thrombosis;Insulin autoimmune syndrome;Interstitial granulomatous dermatitis;Interstitial lung disease;Intracardiac mass;Intracardiac thrombus;Intracranial pressure increased;Intrapericardial thrombosis;Intrinsic factor antibody abnormal;Intrinsic factor antibody positive;IPEX syndrome;Irregular breathing;IRVAN syndrome;IVth nerve paralysis;IVth nerve paresis;JC polyomavirus test positive;JC virus CSF test positive;Jeavons syndrome;Jugular vein embolism;Jugular vein thrombosis;Juvenile idiopathic arthritis;Juvenile myoclonic epilepsy;Juvenile polymyositis;Juvenile psoriatic arthritis;Juvenile spondyloarthritis;Kaposi sarcoma inflammatory cytokine syndrome;Kawasaki's disease;Kayser-Fleischer ring;Keratoderma blenorrhagica;Ketosis-prone diabetes mellitus;Kounis syndrome;Lafora's myoclonic epilepsy;Lambl's excrescences;Laryngeal dyspnoea;Laryngeal oedema;Laryngeal rheumatoid arthritis;Laryngospasm;Laryngotracheal oedema;Latent autoimmune diabetes in adults;LE cells present;Lemierre syndrome;Lennox-Gastaut syndrome;Leucine aminopeptidase increased;Leukoencephalomyelitis;Leukoencephalopathy;Leukopenia;Leukopenia neonatal;Lewis-Sumner syndrome;Lhermitte's sign;Lichen planopilaris;Lichen planus;Lichen sclerosus;Limbic encephalitis;Linear IgA disease;Lip oedema;Lip swelling;Liver function test abnormal;Liver function test decreased;Liver function test increased;Liver induration;Liver injury;Liver iron concentration abnormal;Liver iron concentration

increased;Liver opacity;Liver palpable;Liver sarcoidosis;Liver scan abnormal;Liver tenderness;Low birth weight baby;Lower respiratory tract herpes infection;Lower respiratory tract infection;Lower respiratory tract infection viral;Lung abscess;Lupoid hepatic cirrhosis;Lupus cystitis;Lupus encephalitis;Lupus endocarditis;Lupus enteritis;Lupus hepatitis;Lupus myocarditis;Lupus myositis;Lupus nephritis;Lupus pancreatitis;Lupus pleurisy;Lupus pneumonitis;Lupus vasculitis;Lupus-like syndrome;Lymphocytic hypophysitis;Lymphocytopenia neonatal;Lymphopenia;MAGIC syndrome;Magnetic resonance imaging liver abnormal;Magnetic resonance proton density fat fraction measurement;Mahler sign;Manufacturing laboratory analytical testing issue;Manufacturing materials issue;Manufacturing production issue;Marburg's variant multiple sclerosis;Marchiafava-Bignami disease;Marine Lenhart syndrome;Mastocytic enterocolitis;Maternal exposure during pregnancy;Medical device site thrombosis;Medical device site vasculitis;MELAS syndrome;Meningitis;Meningitis aseptic;Meningitis herpes;Meningoencephalitis herpes simplex neonatal;Meningoencephalitis herpetic;Meningomyelitis herpes;MERS-CoV test;MERS-CoV test negative;MERS-CoV test positive;Mesangioproliferative glomerulonephritis;Mesenteric artery embolism;Mesenteric artery thrombosis;Mesenteric vein thrombosis;Metapneumovirus infection;Metastatic cutaneous Crohn's disease;Metastatic pulmonary embolism;Microangiopathy;Microembolism;Microscopic polyangiitis;Middle East respiratory syndrome;Migraine-triggered seizure;Miliary pneumonia;Miller Fisher syndrome;Mitochondrial aspartate aminotransferase increased;Mixed connective tissue disease;Model for end stage liver disease score abnormal;Model for end stage liver disease score increased;Molar ratio of total branched-chain amino acid to tyrosine;Molybdenum cofactor deficiency;Monocytopenia;Mononeuritis;Mononeuropathy multiplex;Morphoea;Morvan syndrome;Mouth swelling;Moyamoya disease;Multifocal motor neuropathy;Multiple organ dysfunction syndrome;Multiple sclerosis;Multiple sclerosis relapse;Multiple sclerosis relapse prophylaxis;Multiple subpial transection;Multisystem inflammatory syndrome in children;Muscular sarcoidosis;Myasthenia gravis;Myasthenia gravis crisis;Myasthenia gravis neonatal;Myasthenic syndrome;Myelitis;Myelitis transverse;Myocardial infarction;Myocarditis;Myocarditis post infection;Myoclonic epilepsy;Myoclonic epilepsy and ragged-red fibres;Myokymia;Myositis;Narcolepsy;Nasal herpes;Nasal obstruction;Necrotising herpetic retinopathy;Neonatal Crohn's disease;Neonatal epileptic seizure;Neonatal lupus erythematosus;Neonatal mucocutaneous herpes simplex;Neonatal pneumonia;Neonatal seizure;Nephritis;Nephrogenic systemic fibrosis;Neuralgic amyotrophy;Neuritis;Neuritis cranial;Neuromyelitis optica pseudo relapse;Neuromyelitis optica spectrum disorder;Neuromyotonia;Neuronal neuropathy;Neuropathy peripheral;Neuropathy, ataxia, retinitis pigmentosa syndrome;Neuropsychiatric lupus;Neurosarcoidosis;Neutropenia;Neutropenia neonatal;Neutropenic colitis;Neutropenic infection;Neutropenic sepsis;Nodular rash;Nodular vasculitis;Noninfectious myelitis;Noninfective encephalitis;Noninfective encephalomyelitis;Noninfective oophoritis;Obstetrical pulmonary embolism;Occupational exposure to communicable disease;Occupational exposure to SARS-CoV-2;Ocular hyperaemia;Ocular myasthenia;Ocular pemphigoid;Ocular sarcoidosis;Ocular vasculitis;Oculofacial paralysis;Oedema;Oedema blister;Oedema due to hepatic disease;Oedema mouth;Oesophageal achalasia;Ophthalmic artery thrombosis;Ophthalmic herpes simplex;Ophthalmic herpes zoster;Ophthalmic vein thrombosis;Optic neuritis;Optic

neuropathy;Optic perineuritis;Oral herpes;Oral lichen planus;Oropharyngeal oedema;Oropharyngeal spasm;Oropharyngeal swelling;Osmotic demyelination syndrome;Ovarian vein thrombosis;Overlap syndrome;Paediatric autoimmune neuropsychiatric disorders associated with streptococcal infection;Paget-Schroetter syndrome;Palindromic rheumatism;Palisaded neutrophilic granulomatous dermatitis;Palmoplantar keratoderma;Palpable purpura;Pancreatitis;Panencephalitis;Papillophlebitis;Paracancerous pneumonia;Paradoxical embolism;Parainfluenzae viral laryngotracheobronchitis;Paraneoplastic dermatomyositis;Paraneoplastic pemphigus;Paraneoplastic thrombosis;Paresis cranial nerve;Parietal cell antibody positive;Paroxysmal nocturnal haemoglobinuria;Partial seizures;Partial seizures with secondary generalisation;Patient isolation;Pelvic venous thrombosis;Pemphigoid;Pemphigus;Penile vein thrombosis;Pericarditis;Pericarditis lupus;Perihepatic discomfort;Periorbital oedema;Periorbital swelling;Peripheral artery thrombosis;Peripheral embolism;Peripheral ischaemia;Peripheral vein thrombus extension;Periportal oedema;Peritoneal fluid protein abnormal;Peritoneal fluid protein decreased;Peritoneal fluid protein increased;Peritonitis lupus;Pernicious anaemia;Petit mal epilepsy;Pharyngeal oedema;Pharyngeal swelling;Pityriasis lichenoides et varioliformis acuta;Placenta praevia;Pleuroparenchymal fibroelastosis;Pneumobilia;Pneumonia;Pneumonia adenoviral;Pneumonia cytomegaloviral;Pneumonia herpes viral;Pneumonia influenzal;Pneumonia measles;Pneumonia mycoplasmal;Pneumonia necrotising;Pneumonia parainfluenzae viral;Pneumonia respiratory syncytial viral;Pneumonia viral;POEMS syndrome;Polyarteritis nodosa;Polyarthritis;Polychondritis;Polyglandular autoimmune syndrome type I;Polyglandular autoimmune syndrome type II;Polyglandular autoimmune syndrome type III;Polyglandular disorder;Polymicrogyria;Polymyalgia rheumatica;Polymyositis;Polyneuropathy;Polyneuropathy idiopathic progressive;Portal pyaemia;Portal vein embolism;Portal vein flow decreased;Portal vein pressure increased;Portal vein thrombosis;Portosplenomesenteric venous thrombosis;Post procedural hypotension;Post procedural pneumonia;Post procedural pulmonary embolism;Post stroke epilepsy;Post stroke seizure;Post thrombotic retinopathy;Post thrombotic syndrome;Post viral fatigue syndrome;Postictal headache;Postictal paralysis;Postictal psychosis;Postictal state;Postoperative respiratory distress;Postoperative respiratory failure;Postoperative thrombosis;Postpartum thrombosis;Postpartum venous thrombosis;Postpericardiotomy syndrome;Post-traumatic epilepsy;Postural orthostatic tachycardia syndrome;Precerebral artery thrombosis;Pre-eclampsia;Preictal state;Premature labour;Premature menopause;Primary amyloidosis;Primary biliary cholangitis;Primary progressive multiple sclerosis;Procedural shock;Proctitis herpes;Proctitis ulcerative;Product availability issue;Product distribution issue;Product supply issue;Progressive facial hemiatrophy;Progressive multifocal leukoencephalopathy;Progressive multiple sclerosis;Progressive relapsing multiple sclerosis;Prosthetic cardiac valve thrombosis;Pruritus;Pruritus allergic;Pseudovasculitis;Psoriasis;Psoriatic arthropathy;Pulmonary amyloidosis;Pulmonary artery thrombosis;Pulmonary embolism;Pulmonary fibrosis;Pulmonary haemorrhage;Pulmonary microemboli;Pulmonary oil microembolism;Pulmonary renal syndrome;Pulmonary sarcoidosis;Pulmonary sepsis;Pulmonary thrombosis;Pulmonary tumour thrombotic microangiopathy;Pulmonary vasculitis;Pulmonary veno-occlusive disease;Pulmonary venous thrombosis;Pyoderma gangrenosum;Pyostomatitis vegetans;Pyrexia;Quarantine;Radiation leukopenia;Radiculitis

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Tab 11

Public Highways Act

CHAPTER 371 OF THE REVISED STATUTES, 1989

as amended by

1990, c. 44; 1994-95, c. 7, ss. 93-96; 1994-95, c. 16;
1995-96, c. 17, s. 96; 1998, c. 18, s. 573; 1999, c. 4, s. 30;
2001, c. 12, ss. 22-24; 2001, c. 44, s. 11; 2006, c. 16, s. 9; 2011, c. 3;
2019, c. 37, ss. 1-9, 12(4), 13, 15(2), (3), 16(1), (3), 17-22, 23(1),
24(1)(a), (2)-(5), 26(1)(a), (b), (2), (3), 28(1), (2)(a), 29,
30(1), (2), 31(2), 32(3)(a), (4)

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amended 1990, c. 44; 1994-95, c. 7, ss. 93-96; 1994-95, c. 16; 1995-96, c. 17, s. 96; 1998, c. 18, s. 573; 1999, c. 4, s. 30; 2001, c. 12, ss. 22-24; 2001, c. 44, s. 11; 2006, c. 16, s. 9; 2011, c. 3; 2019, c. 37, ss. 1-9, 12(4), 13, 15(2), (3), 16(1), (3), 17-22, 23(1), 24(1)(a), (2)-(5), 26(1)(a), (b), (2), (3), 28(1), (2)(a), 29, 30(1), (2), 31(2), 32(3)(a), (4)

An Act Respecting Public Highways

Table of Contents

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

Short title

1 This Act may be cited as the *Public Highways Act*. R.S., c. 371, s. 1.

INTERPRETATION

Interpretation

2 In this Act,

(a) *repealed 1994-95, c. 16, s. 1.*

(aa) "city or town" includes the area of a regional municipality that was a city or town immediately prior to the incorporation of the regional municipality;

(b) "construction" includes the original work of constructing, opening or making a public highway;

(c) "council" means a municipal council;

(d) "Deputy Minister" means the Deputy Minister of Transportation and Infrastructure Renewal;

(e) *repealed 1994-95, c. 16, s. 1.*

(f) "highway" means a public highway or public road and includes the bridges thereon;

(g) "maintenance" means the preservation and keeping in repair of a public highway, and includes the removal of snow and the doing of any work and the supplying of any materials in connection therewith;

(h) "Minister" means the Minister of Transportation and Infrastructure Renewal;

(i) "municipality" means the county or district under the jurisdiction of a municipal council and includes a regional municipality;

(j) *repealed 1994-95, c. 16, s. 1.*

R.S., c. 371, s. 2; 1994-95, c. 16, s. 1; 1994-95, c. 7, s. 93; 1998, c. 18, s. 573; 2019, c. 37, s. 1.

ADMINISTRATION

Application of Act

3 This Act applies to all highways within the Province not included within the boundaries of a city or town or owned by a municipality, and does not, except where expressly provided, apply to highways within the boundaries of cities or towns or owned by a municipality. R.S., c. 371, s. 3; 1994-95, c. 7, s. 94.

Management and control of highways

4 The Minister has the supervision, management and control of the highways and of all matters relating thereto. R.S., c. 371, s. 4.

Construction or maintenance by Minister

5 The Minister may construct or maintain any highway, or may on behalf of Her Majesty in right of the Province enter into contracts or agreements for such construction or maintenance, but nothing in this Act compels or obliges the Minister to construct or maintain any highway or to expend money on any highway. R.S., c. 371, s. 5.

6 to **8** *repealed 1994-95, c. 16, s. 1.*

Provincial Highway Fund

9 **(1)** There shall be established and maintained in the Consolidated Fund of the Province an account to be known as the Provincial Highway Fund.

(2) There shall be credited to the Provincial Highway Fund

(a) such sums as may be determined from time to time by the Governor in Council, not exceeding the amount voted by the Legislature for the purpose;

(b) all fees and fines paid to the Minister or the Department of Transportation and Infrastructure Renewal under the *Motor Vehicle Act*;

(c) all sums paid as taxes under the *Revenue Act*;

(d) all sums contributed by the Government or Parliament of Canada to encourage and assist the improvement of highways;

(e) all sums voluntarily contributed by any municipality, city, town, person, corporation or association for any improvements or repairs to any highway.

(3) There shall be charged against the Provincial Highway Fund

(a) all expenditures made under this Act; and

(b) all amounts required for the repayment of moneys borrowed for the performance of works authorized by this Act, and amounts required for the payment of interest on any such moneys. R.S., c. 371, s. 9; 1995-96, c. 17, s. 96; 2019, c. 37, s. 2.

EQUIPMENT

Disposal of equipment

10 (1) The Minister may sell, lease or dispose of, for such consideration and on such terms and conditions as the Minister deems advisable, any of the following equipment, namely: road graders, road rollers, tractors, motor trucks, motor cars, electric motors, rock crushing machinery, elevators, loading bins, air compressor drills, derricks, excavating and loading machines, horses, vehicles, plows, drags, scrapers, scarifiers and such other machines or implements as are used in connection with the construction or maintenance of the highways.

(2) All sums of money received from any such sale or disposal shall be paid to the Minister, and shall be credited to "The Machinery Replacement Reserve Account", which account may from time to time be used by the Minister for the purchase and maintenance of other equipment.

(3) Such sums as the Minister may determine as reasonable shall be charged to any work on which such equipment is used and such sums shall be credited to "The Machinery Replacement Reserve Account". R.S., c. 371, s. 10; 2019, c. 37, s. 3.

HIGHWAY BOUNDARIES AND TITLE

Common and public highways and local highways

11 (1) Except in so far as they have been closed according to law,

(a) all allowances for highways made by surveyors for the Crown;

(b) all highways laid out or established under the authority of any statute;

(c) all roads on which public money has been expended for opening, or on which statute labour has been performed prior to the twenty-first day of March, 1953;

(d) all roads passing through Indian lands;

(e) all roads dedicated by the owners of the land to public use;

(f) every road now open and used as a public road or highway; and

(g) all alterations and deviations of, and all bridges on or along any road or highway,

shall be deemed to be common and public highway until the contrary is shown.

(2) Every common and public highway, together with the land within the highway's boundaries, is vested in Her Majesty in right of the Province.

(3) The Minister may vest any local highway in a municipality.

(4) The approval of the Governor in Council is not required for a conveyance pursuant to subsection (3). R.S., c. 371, s. 11; 1994-95, c. 7, s. 95.

Reservation of land for highway

12 When the Minister is of the opinion

(a) that certain lands will, in future, be required for the construction of a public highway;

(b) that the land will not be immediately required for that purpose;

(c) that it is desirable, in the interest of economy and certainty, to reserve the lands for highway purposes,

the Minister may, in the manner hereinafter set out, reserve the said lands for highway purposes for such period, not exceeding five years, as the Minister considers desirable. R.S., c. 371, s. 12; 2019, c. 37, s. 4.

Filing of documents, notice to owner and appeal

13 (1) When the Minister has reserved lands pursuant to Section 12, the Minister shall file or cause to be filed in the registry of deeds of the district in which the lands are situated or, where the lands are registered pursuant to the *Land Registration Act*, in the land registration office in the parcel register for the lands, a declaration that the Minister so reserves the lands and the period of the reservation together with a plan and description of the lands to be reserved.

(2) Within ten days after the filing of a declaration under subsection (1), the Minister shall notify the owner of any lands affected by the reservation,

(a) if the owner and the owner's residence are known to the Minister, by serving upon the owner or by mailing by registered letter addressed to the owner at the owner's last known place of residence; or

(b) if the owner or the owner's residence are unknown to the Minister, by posting in a conspicuous place on such lands,

a notice stating that the declaration has been filed and the date and place of filing and containing a copy of this Section.

(3) The owner of land within or abutting upon a reservation described in a plan and description filed under subsection (1) may, within thirty days after filing of the plan and description, apply to the Minister to rescind, vary or modify the period or area of the reservation, and the Minister on such application may confirm, rescind, vary or modify the reservation and shall forthwith give notice of the Minister's decision to the applicant.

(4) A person who has applied to the Minister under subsection (3) and received the Minister's decision may, in accordance with the *Nova Scotia Civil Procedure Rules,* make an application to the Supreme Court of Nova Scotia for judicial review of the Minister's decision.

(5) *repealed 2019, c. 37, s. 5.*

(6) Where thirty days have elapsed after the filing of a plan and description under subsection (1) and no person has applied to the Minister under subsection (3), the Minister may file in the registry of deeds or in the land registration office, a certificate that no such application has been made to the Minister and thereupon the lands described in the plan and description shall be reserved for highway purposes in accordance with the terms of the declaration.

(7) Upon making a decision to rescind, vary or modify pursuant to subsection (3), the Minister may file in the registry of deeds or in the land registration office, a certificate setting out the Minister's decision.

(8) The Minister, by a declaration filed in the registry of deeds, may terminate or reduce the period or vary the area of any reservation created under this Section. R.S., c. 371, s. 13; 2019, c. 37, s. 5.

Compensation respecting reservation

14 Where a person erects upon land, in respect of which a reservation under Section 13 is in effect, any building, wall, fence, wharf, breakwater or other structure of a permanent nature, or makes on it any improvements of any sort, or otherwise enhances the value of the land by obtaining permits, approvals or other rights appurtenant to or that benefit the land, and the land is subsequently acquired by the Minister for highway purposes, the Minister, notwithstanding the *Expropriation Act*, shall not be liable to pay compensation to the owner in respect of the building, wall, fence, wharf, breakwater, structure or improvement that was erected or made or permit, approval or right that was obtained while the reservation was in effect, provided, however, that this Section shall not apply to any extension, renovation, repair or improvement of any dwelling house of one or more housing units on any land reserved as aforesaid done in good faith and not for the purpose of increas-

ing the value thereof whereby the dwelling house is not converted into an increased number of dwelling units. R.S., c. 371, s. 14; 2019, c. 37, s. 6.

Width and boundaries of highway

15 (1) Every common and public highway shall, until the contrary is shown, be deemed to be at least 20.1168 metres in width.

(2) In the event of a dispute as to the boundaries of a highway or road, the boundaries shall be fixed by the Minister.

(3) Any person aggrieved by a decision of the Minister under subsection (2) may, within one month of the date of the decision, appeal therefrom to the judge of the Supreme Court for the judicial district within which the highway lies, who shall hear and determine the appeal in a summary manner and who shall confirm, vary or reverse the decision of the Minister. R.S., c. 371, s. 15; 2019, c. 37, s. 7.

Width of new or altered highway and acceptance of road or allowance

16 (1) Any new highway or any alteration of an existing highway shall be at least twenty metres in width, but may be laid out less in width than twenty metres if the Minister deems a lesser width sufficient for the public convenience.

(2) No road or allowance for a road laid out, made or set aside by any person other than the Minister or some person acting on the Minister's behalf after the twenty-first day of March, 1953, becomes a public highway for the purposes of this Act until the Minister indicates formally that the Minister accepts the road or allowance as a public highway for the purposes of this Act. R.S., c. 371, s. 16; 2019, c. 37, s. 8.

Possession or user or occupation gives no title

17 Possession, occupation, user or obstruction of a highway or any part thereof by any person for any time whatever, whether before, on or after the twenty-first day of March, 1953, shall not be deemed to have given or to give to any person any estate, right, title or interest therein, or thereto, or in respect thereof, but the highway or part thereof shall, notwithstanding such possession, occupation, user or obstruction be and remain a common and public highway. R.S., c. 371, s. 17.

Power to extinguish public right to use highway

18 (1) The Governor in Council may extinguish the right of the public to use any highway or any part thereof.

(1A) The Governor in Council may make regulations authorizing the Minister to extinguish the right of the public to use any highway or any part thereof subject to such conditions as the regulations may provide.

(1B) Where authorized by the regulations, the Minister may, by order, extinguish the right of the public to use any highway or any part thereof.

(2) A true copy of an order in council or an order of the Minister extinguishing the right of the public to use a highway or any part thereof and setting forth a description of such highway or part thereof shall be filed in the office of the registrar of deeds for the registration district or in the land registry office in which the highway or part thereof is situate.

(3) *repealed 2006, c. 16, s. 9.*

R.S., c. 371, s. 18; 2006, c. 16, s. 9; 2019, c. 37, s. 9.

USE OF HIGHWAY

Regulations for use and protection of highway

19 (1) The Governor in Council may make regulations for the use and protection of the highways or any portion thereof, and in particular but without limiting the generality of the foregoing, respecting

(a) traffic on highways;

(b) the weight of vehicles and the contents thereof upon the highways;

(c) the width of tires on the wheels of vehicles;

(d) the conveyance of articles of burden, goods, wares, merchandise and buildings on the highways;

(e) the use of chained or armoured tires on motor vehicles.

(2) The Governor in Council may prescribe penalties for the violation of such regulations. R.S., c. 371, s. 19.

Closure of highway

20 (1) The Minister or a person designated by the Minister may close any highway or any part of any highway to all traffic or to any class or classes of traffic for such time and from time to time as the Minister or the person designated by the Minister deems expedient, or from time to time may prescribe the terms and conditions on which all traffic or any class or classes of traffic will be permitted on any highway or on any part of any highway.

(1A) An order made under subsection (1) or terms or conditions prescribed under subsection (1) shall be published in a newspaper of general circulation in the area affected by the order or the terms or conditions and, notwithstanding the *Regulations Act*, the order or terms or conditions are effective upon such publication.

(2) Any person who uses a highway or part of a highway in violation of an order made under subsection (1) or contrary to any terms or conditions prescribed under subsection (1) is liable to a penalty not exceeding one hundred dollars, and in default of payment thereof to imprisonment for not more than thirty days.

(3) Any person, who violates or fails to comply with any order made under this Section that limits the weights or axle weights of vehicles or prescribes the maximum weight or axle weight of vehicles that may be operated on a highway or part of a highway, is liable, in addition to any other penalty prescribed by this Act, to a further penalty of

(a) one dollar and twenty-five cents for each 50 kilograms by which the weight or axle weight of the vehicle exceeds the weight limit or the maximum weight prescribed or fixed by the Minister by not more than 2,500 kilograms;

(b) two dollars and fifty cents for each 50 kilograms by which the weight or the axle weight of the vehicle exceeds the said weight limit or maximum weight by more than 2,500 kilograms but by not more than 5,000 kilograms;

(c) three dollars and seventy-five cents for each 50 kilograms by which the weight, or the axle weight of the vehicle exceeds the said weight limit or maximum weight by more than 5,000 kilograms but by not more than 7,500 kilograms; and

(d) ten dollars for each 50 kilograms by which the weight or the axle weight of the vehicle exceeds the said weight limit by more than 7,500 kilograms,

(e) *repealed 1990, c. 44, s. 1.*

and, in default of payment of the said penalty, to imprisonment for not more than six months.

(4) For the purposes of calculating a penalty under subsection (3), a fraction of 50 kilograms that is greater than one half shall be counted as 50 kilograms.

(5) Where urgent action is necessary for the protection of the public or the maintenance of a highway, a person designated by the Minister may close any highway or any part of any highway to all traffic or to any class or classes of traffic for a temporary period or may prescribe the terms and conditions on which all traffic or any class or classes of traffic will be permitted on any highway or on any part of any highway for a temporary period.

(6) Where an order is made under subsection (5), signs may be posted restricting the use of the highway in accordance with the order and any person who does not comply with the direction on such a sign shall be guilty of an offence. R.S., c. 371, s. 20; 1990, c. 44, s. 1; 1994-95, c. 16, s. 2; 1999, c. 4, s. 30; 2001, c. 44, s. 11; 2019, c. 37, s. 12.

CONTROLLED ACCESS HIGHWAYS
AND PARKWAY AREAS

Designation of controlled access highway

21 **(1)** The Governor in Council may designate as a controlled access highway

(a) any highway or part thereof in a municipality or any highway or part thereof in a city or town, towards the construction or maintenance of which the Province has contributed or contributes;

(b) any land owned by Her Majesty in right of the Province in a municipality upon which it is planned to construct a highway under this Act, or any land owned by Her Majesty in right of the Province in a city or town upon which it is planned that there be constructed a highway towards the construction or maintenance of which the Province will contribute;

(c) any lands reserved for highway purposes under Section 12.

(2) A copy of the order of the Governor in Council designating a highway or part thereof or any land as a controlled access highway shall be published in not less than two issues of the Royal Gazette and shall be filed in the registry of deeds or in the land registration office for the registration district in which the highway or part thereof or the land is situate, and notice thereof shall be posted by registered letter to the landowner or landowners concerned and displayed in a conspicuous place on the lands affected.

(3) Notwithstanding subsection (2), where the Governor in Council has designated, as a controlled access highway, a new highway or land upon which it is planned to construct a highway, it shall not be necessary to give notice of the designation by registered mail to the landowner or landowners concerned. R.S., c. 371, s. 21; 2019, c. 37, s. 13.

Prohibited activity

22 **(1)** Where a highway or portion thereof or any land has been designated as a controlled access highway, no person shall, without a written permit from the Minister,

(a) construct, use or allow the use of, any private road, entrance-way or gate which or part of which is connected with or opens upon the controlled access highway;

(b) sell, or offer or expose for sale, any vegetables, fruit, meat, fish or other produce, or any goods, wares or merchandise upon or within forty-five metres of the limit of the controlled access highway; or

(c) erect, construct or place or cause to be erected, constructed or placed, any building or other structure, or part thereof, or

extension or addition thereto upon or within sixty metres of the limit of the controlled access highway.

(2) Any person who violates this Section is liable to a penalty of not more than one hundred dollars and in default of payment to imprisonment for not more than one month.

(3) The Minister or any person acting by or under the Minister's authority may at any time close up any private road, entrance-way or gate constructed, opened or used in violation of this Section and, for that purpose, the Minister, the Minister's servants and agents, may enter, by force, if necessary, into and upon any land or part thereof.

(4) The Minister or any person acting by or under the Minister's authority may remove or demolish any building or other structure, or part thereof, or extension or addition thereto, erected, constructed or placed in violation of this Section and, for that purpose, ~~and~~ the Minister, the Minister's servants and agents, may enter[,] by force, if necessary, into and upon the land or part thereof.

(5) For the purposes of this Section, the expression "private road" includes a street, road or highway in a city, town or municipality other than a highway to which this Act applies. R.S., c. 371, s. 22; 2019, c. 39, s. 15.

Parkway area

23 **(1)** The Governor in Council may by regulation declare any area adjoining any highway outside the limits of a city or town to be a parkway area and may by such regulation define the limits of such area.

(2) No regulation made under subsection (1) shall be effective until a copy thereof certified by the Minister to be a true copy has been filed in the office of the registrar of deeds or the land registration office for the registration district in which the land or part thereof is situate.

(3) The Minister shall cause notice of any regulation made under subsection (1) to be given by registered prepaid post to the owner of land within the parkway area or, if the owner is not known to the Minister, by posting such notice in a conspicuous place on the land.

(4) No person shall, within any such parkway area, without written consent of the Minister,

(a) erect, construct, alter or reconstruct any building;

(b) fell or remove any tree, shrub or bush;

(c) erect any fence, railing, wall or hedge.

(5) The Governor in Council may make regulations

(a) designating the height, ground area and bulk of buildings erected, constructed, altered or reconstructed in any parkway area;

(b) prescribing building lines and the depth, size or area of yards, courts or other open spaces to be maintained in any parkway area;

(c) prescribing the maximum density of population permissible within any parkway area;

(d) prescribing or controlling the architectural design, character and appearance of any or all buildings proposed to be erected in any parkway area and prohibiting the erection of any building in contravention of such regulation.

(6) Every person who violates any of the provisions of this Section or any of the regulations made under this Section is liable to a penalty of not more than five hundred dollars and in default of payment to imprisonment for a period of not more than one hundred and twenty-five days.

(7) The Minister or any person acting by or under the Minister's authority may at any time remove or demolish, or cause to be removed or demolished, any building, structure, fence, railing, wall or hedge constructed or erected in violation of this Section or of any regulations made thereunder and the Minister, the Minister's servants or agents shall, for that purpose, have full power and authority to enter, by force if necessary, into and upon any land, building or other structure, or any part thereof. R.S., c. 371, s. 23; 2019, c. 37, s. 16.

Compensation for injurious affection

24 (1) Where, pursuant to Section 21 or Section 23 or any regulations made thereunder, property is injuriously affected, the owner thereof, in respect of any matter or thing that has not been the subject of compensation, shall be entitled to compensation for such injury.

(2) Any question as to whether any property is injuriously affected as aforesaid and as to the amount of payment and compensation shall be determined by arbitration and the provisions of the *Arbitration Act* shall apply.

(3) Notwithstanding subsection (1), where pursuant to Section 21 the Governor in Council designates as a controlled access highway

(a) a new highway or a new portion of a highway;

(b) any land reserved for highway purposes under Section 12; or

(c) any land referred to in clause (b) of subsection (1) of Section 21,

the owner of property that adjoins such new highway, new portion of a highway or land shall not be entitled to compensation for injurious affection to that property resulting from the designation. R.S., c. 371, s. 24.

HIGHWAY CONSTRUCTION

Federal-provincial highway agreement

25 (1) With the approval of the Governor in Council, the Minister may enter into and carry out an agreement with the Government of Canada or a minister thereof for the construction within the Province of highways or portions thereof as part of a trans-Canada highway or of any other highway at the joint expense of Canada and of the Province and upon such terms and conditions as may be agreed upon.

(2) The Governor in Council may designate any highway or portion thereof to be and to form a part of a trans-Canada highway. R.S., c. 371, s. 25.

Agreement between Province and city or town

26 (1) The Minister, with the approval of the Governor in Council, and any city or town are authorized to make, enter into and carry out an agreement to co-operate in such manner as may be agreed on in the construction, reconstruction or maintenance of any highway or any part thereof in the city or town if, in the opinion of the Minister, the highway forms a connecting link in a main trunk highway of the Province, or is a main highway leading into or through the city or town, and are authorized to make all necessary expenditures in connection therewith, provided always that such agreement does not require the Minister to undertake more than fifty per cent of the cost of construction, reconstruction or maintenance of any portion of any such highway.

(2) Notwithstanding subsection (1), an agreement for the purposes mentioned in subsection (1) may require the Minister to undertake to bear

(a) a percentage of the cost of construction, reconstruction or maintenance of a highway or portion thereof in a city or town equal to the provincial proportion of the cost of the foundation program of education in the city or town as determined from time to time under the *Education Act* and not less than fifty per cent of the cost of the construction, reconstruction or maintenance; and

(b) more than fifty per cent of the cost of construction, reconstruction or maintenance of a bridge on any portion of any such highway if the bridge exceeds three metres in shortest length between the front faces of its end supports.

(3) Where a highway in a city or town is being constructed, reconstructed or repaired, under an agreement under this Section and where any pole, wire, conduit, pipe, fence or other object has been or is hereafter erected or placed in, upon, along, under or across such highway, whether or not it was or is hereafter so erected or placed by or under the authority of any special or general Act, the Minister or any person acting by or with the Minister's authority may notify either the person or corporation owning, or the person or corporation using the same, to remove it.

(4) If the requirements of such notice are not complied with within seven days from the giving of the notice, any person acting by or with the authority of the Minister may remove such pole, wire, conduit, pipe, fence or other object at the cost, charge and expense of the person or corporation so notified, and the amount of those costs, charges and expenses may be recovered with costs from such person or corporation in any court of competent jurisdiction in an action brought by and in the name of the Minister. R.S., c. 371, s. 26; 2019, c. 37, s. 17.

Power of Minister respecting highway in city or town

27 (1) Notwithstanding any other provisions of this Act, the Minister, for the purpose of providing a more direct or more expeditious route for traffic through a city or town, may construct and maintain a highway or a portion of a highway within the boundaries of a city or town.

(2) A city or town, within which a highway or a portion of a highway is being or is proposed to be constructed or maintained pursuant to this Section, may co-operate or participate with the Minister in the construction and maintenance of the highway in such manner and to such extent as may be agreed upon by the city or town and the Minister, and may make all necessary expenditures in connection therewith.

(3) Sections 11 to 22, 24, 25, 32, and 39 to 49 apply to a highway or a portion of a highway constructed pursuant to this Section. R.S., c. 371, s. 27.

Improvement of highway by municipality

28 (1) A municipality shall not effect improvements of a permanent character on any highway, unless it

(a) submits to the Minister plans, specifications, estimates and other particulars respecting the proposed improvements;

(b) satisfies the Minister that suitable provision will be made for the future maintenance of such highway after it has been so improved; and

(c) obtains the Minister's written consent.

(2) The municipality may, after compliance with the conditions set out in subsection (1), enter into an agreement with the Minister for the carrying out of such improvement by the municipality, the Minister or some other person upon such terms and subject to such conditions as the Minister prescribes and the Governor in Council approves.

(3) The costs of any such improvements shall be apportioned between the municipality and the Province in the manner agreed upon by them.

(4) Any sum payable by the Province shall not exceed one half of the whole cost of the improvement. R.S., c. 371, s. 28; 2019, c. 37, s. 18.

Borrowing powers of municipality

29 **(1)** The council of a municipality that enters into an agreement pursuant to Section 28 may borrow from time to time on the credit of the municipality such sums as are necessary to carry out the objects of the agreement, and, for the purpose of effecting such loans, may make and issue, subject to the *Municipal Government Act* debentures of the municipality in such sums and bearing such rate of interest and redeemable within such period as the council determines.

(2) Such debentures shall be a charge upon the property and revenues of the municipality. R.S., c. 371, s. 29; 2019, c. 37, s. 19.

Retirement of debenture

30 The council of a municipality that issues debentures under this Act shall annually add to the amount to be assessed and levied upon the real and personal property of the municipality a sum sufficient to pay the interest on the debentures and the expense of collecting and disbursing the same, and shall also provide an adequate sinking fund for the payment of the debentures at maturity. R.S., c. 371, s. 30.

31 *repealed 1994-95, c. 7, s. 96.*

Authorization by Minister to make improvement

32 The Minister may, on such terms and conditions as the Minister deems expedient,

(a) authorize any person to make improvements on any highway or any part thereof; or

(b) enter into and carry out an agreement with any person to cooperate in the making of such improvements or any part thereof. R.S., c. 371, s. 32; 2019, c. 37, s. 20.

SNOW REMOVAL

33 to **36** *repealed 2019, c. 37, s. 21.*

Provincial-municipal snow removal agreement

37 **(1)** The Minister, with the approval of the Governor in Council, may make, enter into and carry out an agreement with any municipality to cooperate in such manner as may be agreed upon in the removal of snow from any highway in the municipality and the Minister may make all necessary expenditures in connection therewith.

(2) Every municipality is authorized to receive and accept any grant or other assistance from any person, firm or corporation to defray or assist in defraying the cost of carrying out any such agreement. R.S., c. 371, s. 37.

Special tax for snow removal

38 (1) Notwithstanding any other provisions of this Act, the council of a municipality may by by-law provide for all or any portion of any expense of the removal of snow on any highway by the imposition of a special tax.

(2) Such special tax may, in the discretion of the council, be imposed in respect of all or any class or classes of persons or property within the municipality.

(3) The council may impose and collect such special tax in respect of any district or districts of the municipality whether or not such expense is incurred in respect of a road within any such districts, sections or divisions, and the council may impose a different rate of tax in different districts, sections or divisions.

(4) Such tax may be imposed notwithstanding that the council votes, rates, collects, receives, appropriates and pays any sum of money for the expense of removing snow from any highway or road or for making any highway or road passable in winter.

(5) All sums of money voted, rated, levied or imposed and all sums of money received by way of grant or other assistance or of any agreement shall be kept in a separate account to be known as the Snow Removal Fund and shall be used only towards the expense of the removal of snow from highways or for making roads passable in winter including the acquiring or purchasing of materials, machinery, implements and plant deemed requisite or advisable therefor. R.S., c. 371, s. 38; 2019, c. 37, s. 22.

Erection of snow fence and removal of obstruction

39 (1) The Minister, or any person acting by or under the Minister's authority, may, on or after the first day of November in each year, enter into and upon the land of any person which adjoins the highway and erect and maintain snow fences upon such land or take down, alter or remove any fence or other obstruction of whatsoever kind which causes drifts or an accumulation of snow so as to impede or obstruct traffic.

(2) Every snow fence so erected shall be removed and every fence or other obstruction so taken down, altered or removed shall be replaced or restored on or before the fifteenth day of May then next following.

(3) A person who obstructs any person acting under the authority of the Minister in carrying out any work referred to in subsections (1) and (2) is liable to a penalty of not more than fifty dollars, and in default of payment thereof to imprisonment for not more than fifteen days. R.S., c. 371, s. 39; 2019, c. 37, s. 23.

OBSTRUCTIONS ON OR NEAR HIGHWAY

Obstructing highway, drain, gutter, sluice or watercourse

40 (1) Any person who

(a) places an obstruction on a highway;

(b) places an obstruction in a drain, gutter, sluice or watercourse on a highway;

(c) prevents by a dam or obstruction water flowing from the highway on to the adjoining land whether or not the person is the owner or occupant of such land; or

(d) causes water to flow over the highway,

is liable to a penalty of not more than fifty dollars and in default of payment thereof to imprisonment for not more than fifteen days.

(2) The cost of removing any such obstruction or dam and of repairing any damage caused by it or by water may be recovered from such person by, and in the name of, the Minister as in an action of debt.

(3) Where an obstruction or dam is on land adjacent to a highway, the Minister, or any person acting under the Minister's instructions, may enter the land and remove the dam or obstruction or demolish or destroy it.

(4) Where any obstruction is a structure of any kind the Minister, the Deputy Minister or a person employed in the public service of the Province in the Department of Transportation and Infrastructure Renewal designated by the Minister may notify the owner thereof to remove the structure from the highway within such time as the Minister, the Deputy Minister or the person employed in the public service of the Province in the Department of Transportation and Infrastructure Renewal designated by the Minister specifies and at the owner's expense.

(5) Such notice may be served by any literate person upon the person to whom it is directed either personally, or, if such person cannot conveniently be met with, by leaving it for the person at the person's last or most usual place of abode, with some inmate thereof, apparently not under sixteen years of age.

(6) There shall be attached to every such notice a copy of this Section headed "Extract from the *Public Highways Act*".

(7) Where the Minister or Deputy Minister or a person employed in the public service of the Province in the Department of Transportation and Infrastructure Renewal designated by the Minister gives any such notice and such structure is not removed within the time specified, the Minister or Deputy Minister or the person employed in the public service of the Province in the Department of Transportation and Infrastructure Renewal designated by the Minister may remove, demolish or destroy, or cause to be removed, demolished or destroyed, such structure in such manner as the ~~Minister's~~ [Minister] deems expedient.

(8) All persons who so erect, construct or place or cause to be erected, constructed or placed any such building, structure, fence, railing, wall, tree or hedge or part thereof are jointly and severally liable for the expense of such removal or demolition and the expense may be recovered with costs from any such

person or persons in any court of competent jurisdiction by action on behalf of Her Majesty in right of the Province. R.S., c. 371, s. 40; 1994-95, c. 16, s. 3; revision corrected 1999; 2019, c. 37, s. 24.

Stopping or clogging drain or watercourse on highway

41 Any owner or occupant of land adjoining a highway, who permits any drain, gutter, sluice or watercourse on the highway and bordering on such land to be stopped or clogged for any purpose whatever, is liable to a penalty of not more than fifty dollars and in default of payment to imprisonment for not more than fifteen days. R.S., c. 371, s. 41.

No structure within 100 metres of fence, hedge, etc. on highway

42 **(1)** Subject to subsection (1) of Section 22 and unless the consent in writing of the Minister has been first obtained, no person shall erect, construct or place or cause to be erected, constructed or placed, any building or other structure, or part thereof, or extension or addition thereto, upon any highway or within one hundred metres from the centre line of the travelled portion of any highway.

(2) No person shall erect, construct or place or cause to be erected, constructed or placed any fence, railing, wall, tree or hedge or part thereof upon any highway.

(3) Any person who, in contravention of this Section,

(a) having erected, constructed or placed or caused to be erected, constructed or placed any such building or other structure or part thereof or extension or addition thereto; or

(b) having erected, constructed, or placed or caused to be erected, constructed or placed any such fence, railing, wall, tree or hedge or part thereof,

fails to remove the same, within ten days after service upon the person of a notice from the Minister, Deputy Minister or a person employed in the public service of the Province in the Department of Transportation and Infrastructure Renewal designated by the Minister so to do, is liable to a penalty of not more than twenty dollars and in default of payment to imprisonment for not more than five days, and every day that such failure continues constitutes a separate offence.

(4) Such notice may be served by any literate person upon the person to whom it is directed either personally, or, if the person cannot conveniently be met with, by leaving it for the person at the person's last or most usual place of abode, with some inmate thereof, apparently not under sixteen years of age.

(5) There shall be attached to every such notice a copy of this Section headed "Extract from the *Public Highways Act*".

(6) The Minister, or any person acting by or under the Minister's authority, may at any time after ten days from the service of such notice, remove or

demolish or cause to be removed or demolished any such building, structure, fence, railing, wall, tree or hedge or part thereof in such manner as he deems expedient.

(7) All persons who so erect, construct or place or cause to be erected, constructed or placed any such building, structure, fence, railing, wall, tree or hedge or part thereof are jointly and severally liable for the expense of such removal or demolition and the expense may be recovered with costs from any such person or persons in any court of competent jurisdiction by action on behalf of Her Majesty in right of the Province. R.S., c. 371, s. 42; 1994-95, c. 16, s. 4; 2019, c. 37, s. 26.

No garbage on highway or in drain, gutter, sluice or watercourse

43 **(1)** No person shall

(a) deposit any sewage, refuse, garbage, rubbish or other matter on any highway or in any drain, gutter, sluice or watercourse on any highway; or

(b) cause, suffer or permit any sewage, refuse, garbage, rubbish or other matter to discharge or flow upon any highway or into any drain, gutter, sluice or watercourse on any highway.

(2) Every person who violates this Section is liable to a penalty of not less than two hundred and fifty dollars and in default of payment to imprisonment for a term not exceeding fifteen days, and in addition to such penalty is liable for the expense of removing such sewage, refuse or other matter or of preventing such discharge or flow.

(3) The Minister may sue for and recover all such expenses in any court of competent jurisdiction. R.S., c. 371, s. 43.

Construction of drain or watercourse

44 **(1)** The Minister, or any person acting on the Minister's instructions, may at any time and from time to time construct, open, maintain or repair any drain, gutter, sluice or watercourse upon any land adjoining a highway and for such purpose may at any time and from time to time enter into and upon any such land.

(2) Any person who hinders or obstructs the Minister, or any person acting on the Minister's instructions, in the exercise of any power or authority conferred by this Section is liable to a penalty of not more than one hundred dollars and in default of payment to imprisonment for a term of not more than thirty days. R.S., c. 371, s. 44; 2019, c. 37, s. 28.

Damage from water collected on land

45 **(1)** Any owner or occupant of land, who collects water upon that person's land, and turns or allows such water to flow upon the highway, is liable for all damage to the highway, gutters or drains occasioned thereby.

(2) The Minister may sue for and recover in any court of competent jurisdiction the damages occasioned as aforesaid by such water.

(3) If by reason of the collection of such water the flow requires, in the opinion of the Minister, the construction of a larger drain, sluice or culvert on the highway, or makes necessary any alteration in the highway, or the building of new drains, sluices or culverts, such person is liable to pay the expenses of any such alteration or construction. R.S., c. 371, s. 45; 2019, c. 37, s. 29.

Pole or wire on highway

46 (1) Notwithstanding any special or general Act authorizing, permitting or sanctioning the constructing, erecting, placing, setting, maintaining, or keeping on, or over or under any highway of any telegraph, telephone, electric light, power, or other pole, or of any wires, fixtures or attachments, or the constructing, erecting, placing, setting, maintaining, or keeping on, or over, or under any highway of any object or thing whatsoever, whether or not of the kind hereinbefore enumerated, all such poles, wires, fixtures, attachments, and all such objects and things that on the eighteenth day of May, 1920, are lawfully on or over or under any highway in any municipality shall be held to be there solely by the leave and license and during the pleasure of the Minister, and on such terms and conditions as from time to time the Minister thinks fit to impose.

(2) Any person or corporation with the consent of the Minister and until such consent is revoked and upon such terms and conditions as from time to time the Minister thinks fit, either generally or in any particular case, to impose, may, in any municipality, erect, place, set and maintain on any highway any such poles, wires, fixtures and attachments and construct, erect, place and maintain and keep thereon, or thereover, or thereunder any such object or thing and break up the soil of any such highway, and where any such poles, wires, fixtures, attachments, objects or things have without proper authority been constructed, erected, placed or set on, under or over any such highway before the eighteenth day of May, 1920, to keep the same erected, set or placed and to maintain the same.

(3) All provisions of any special or general Act vesting in any municipality or any public body, powers vested in the Minister by this Section or similar powers with respect to the matters referred to in this Section are repealed.

(4) Notwithstanding any special or general Act, no person or corporation shall, except as in this Act provided, erect, place, set or maintain any such telegraph, telephone, electric light, or power pole or wire, fixture, or attachment or construct, erect, place, maintain or keep thereon or thereover, or thereunder any such object or thing on any highway in any municipality other than a city or town or break up the soil of any such highway. R.S., c. 371, s. 46.

Application to break up soil of highway

47 (1) No person shall break up the soil of a highway without first making application in writing to a person employed in the public service of the Province in the Department of Transportation and Infrastructure Renewal designated by the Minister, specifying the purpose for which it is required to so break up the soil, and obtaining the person employed by the Minister's permission therefor in writing.

(2) The person designated by the Minister pursuant to subsection (1) may impose such terms upon the person applying as the person considers necessary for the protection of persons using the highway and for the prevention of damage to the highway or to other property.

(3) Any person who breaks up the soil of a highway without such permission, or in contravention of the terms imposed, is liable to a penalty of not more than one hundred dollars, and in default of payment to imprisonment for not more than thirty days. R.S., c. 371, s. 47; 1994-95, c. 16, s. 5; 2019, c. 37, s. 30.

ADVERTISING SIGNS

Penalty for dangerous advertising sign

48 (1) The owner or occupant of land adjoining a highway who erects or maintains, or permits the erecting or maintaining on that land, of any advertising sign or bill-board that, in the opinion of the Minister, is a menace or source of danger to traffic on the highway and who fails to remove such advertising sign or bill-board within ten days after the receipt of notice from the Minister to remove the same is liable to a penalty of not more than one thousand dollars, and in default of payment to imprisonment for not more than five days, for each day such failure continues after the receipt of the said notice.

(2) The notice may be served personally or by letter mailed at Halifax, postage prepaid and registered, addressed to the owner or occupant at that person's nearest post office and shall be deemed to be received at the time of service or mailing. R.S., c. 371, s. 48; 2001, c. 12, s. 22; 2019, c. 37, s. 31.

Regulations respecting advertisement

49 (1) The Minister, with the approval of the Governor in Council, may make regulations

(a) prohibiting or regulating the erecting, maintaining, pasting, painting or exposing of advertisements upon or within one thousand metres from the centre line of the travelled portion of any highway or class of highway vested in Her Majesty in right of the Province, whether or not the highway is within a city or town;

(b) *repealed 2001, c. 12, s. 23.*

(c) providing for licenses for erecting or maintaining or pasting or painting or exposing any such advertisements, and prescribing the terms, fees and conditions under which licenses may be issued and that the issuing of any license shall be absolutely discretionary, provided that where a license is so granted, nothing in this Section shall interfere with the right of any city, town or municipality to impose a license fee in respect of any such advertisement.

(2) A person who, contrary to any such regulation, erects, maintains, pastes, paints or exposes an advertisement or permits an advertisement to be

erected, maintained, pasted, painted or exposed, is liable on summary conviction to a penalty of not more than one thousand dollars and, in default of payment, to imprisonment for not more than thirty days.

(3) Any person who destroys or defaces any advertisement, either lawfully authorized under this Section or the property of Her Majesty in right of the Province, is liable to a penalty of not more than one thousand dollars in addition to the value of the property defaced or destroyed, and, in default of payment, to imprisonment for not more than thirty days.

(4) The owner or occupant of land upon which an advertisement is erected, maintained, pasted, painted or exposed contrary to such regulations, who fails to remove the advertisement within ten days after notice from the Minister requiring the owner or occupant to do so, is liable on summary conviction to a penalty of not more than one thousand dollars and, in default of payment, to imprisonment for not more than ten days.

(5) The notice referred to in subsection (4) may be served personally or by letter mailed at Halifax, postage prepaid and registered, addressed to the owner or occupant at that person's nearest post office, and shall be deemed to be received at the time of service or mailing.

(6) Any advertisement erected, maintained, pasted, painted or exposed contrary to any of the provisions of any such regulation, may with or without notice to any person interested therein, be removed by any officer, agent or servant of the Minister and such officer, agent or servant shall for that purpose have full power and authority to enter into and upon any land or building with or without the consent of any person interested therein, and such advertisement shall be disposed of as the Minister deems expedient.

(7) In this Section the expression "advertisement" includes any sign, placard, boarding, bill-board or any other form or means or device whatsoever of public notice or announcement whether erected, pasted or painted, and also includes any sign, placard, boarding or bill-board or other device or medium intended or suitable or adapted as a form or means of public notice or announcement whether or not the same is at the time actually used for such purpose, but does not include a campaign sign during an election or plebiscite in the area in which the sign is located if the sign complies with the laws governing the election or plebiscite. R.S., c. 371, s. 49; 2001, c. 12, s. 23; 2019, c. 37, s. 32.

Non-controlled access highways

49A (1) In this Section,

(a) "by-law" means a by-law made pursuant to this Section;

(b) "highway" means a highway vested in Her Majesty in right of the Province.

(2) Subject to subsections (3), (4) and (6), the council of a municipality may make a by-law prohibiting or regulating the erecting, maintaining, pasting, painting or exposing of advertisements upon any part of a highway located within the municipality and designated in the by-law.

(3) The Minister may

(a) approve all or part of the by-law and from time to time approve other parts or the remainder of the by-law;

(b) attach any condition to the approval of the by-law;

(c) approve the by-law with amendments;

(d) revoke or from time to time vary the approval or any condition, either in whole or in part.

(4) A by-law, or an amendment to a by-law, is effective upon and subject to approval pursuant to subsection (3) and ceases to have effect upon the revocation of that approval or repeal of the by-law with the approval of the Minister.

(5) Where any part of a highway becomes subject to a by-law, no regulation made under Section 49 applies to it and any licences issued under any such regulation cease to have any force or effect.

(6) Subsection (2) does not apply to any part of a highway that has been designated as a controlled access highway by the Governor in Council pursuant to Section 21 and, where any part of a highway that is subject to a by-law is designated as a controlled access highway pursuant to that Section, the by-law ceases to apply to that part.

(7) For greater certainty,

(a) a municipality that makes a by-law is not an agent of Her Majesty in right of the Province;

(b) a person employed or engaged by a municipality is not an officer, servant or agent of Her Majesty in right of the Province; and

(c) Her Majesty in right of the Province is not liable for any act or omission of a municipality. 2011, c. 3, s. 2.

Sign displaying name or logo

50 (1) Upon application and payment of such fee as the Minister may determine, the Minister may permit the placement on a highway, adjacent to the travelled portion of the highway, of a sign displaying a name or logo advertising fuel, food, accommodation or farm-market services or such services as the Governor in Council may designate by regulation, subject to such conditions as the Minister may determine.

(2) The Governor in Council may make regulations designating services for the purpose of subsection (1). 2001, c. 12, s. 50.

No-sign zone for protection of scenic view

51 (1) Upon the recommendation of the council of a municipality or a village commission, the Minister may, for the protection of a scenic view, designate a highway or portion of a highway within the municipality or village as a no-sign zone.

(2) Upon designation of a highway or portion of a highway pursuant to subsection (1), no advertising sign may be erected, maintained, pasted, painted or exposed upon or within one thousand metres from the centre line of the travelled portion of the highway or portion of a highway, as the case may be. 2001, c. 12, s. 51.