



# The Office of the Registrar of Regulations

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*An Overview of its Role, Practices  
and Procedures*

Rachel L. Jones  
Registrar of Regulations  
NS Department of Justice

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NS Department of Justice

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More information about the Office of the Registrar of Regulations  
and copies of Nova Scotia's regulations  
are available online at:

[www.novascotia.ca/just/regulations](http://www.novascotia.ca/just/regulations)

# Contents

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Acknowledgements.....	1
Introduction .....	2
Glossary of terms .....	2
The Office’s mandate.....	3
Functions of the office .....	3
Laws should be accessible .....	4
Who we are.....	5
What are regulations? .....	7
Regulations are laws .....	7
What do regulations look like? .....	8
Not “one size fits all” .....	8
What’s in a name? .....	9
How to cite Nova Scotia regulations.....	10
Evidence of law, notice, advertisement, etc.....	11
Overview of regulation-making process .....	12
Repository of regulations.....	13
Provincial Register.....	13
Indexing (reference tables).....	14
Royal Gazette .....	17
Brief history of the Royal Gazette.....	17
Royal Gazette, Part I .....	18
Royal Gazette, Part II .....	19
Publication schedule and deadlines.....	19
Publication of regulations .....	21
Part II of the Royal Gazette.....	21

Consolidated regulations .....	21
Regulations online .....	24
Other resources online .....	25
Revision of regulations.....	26
Review and approval of draft regulations .....	27
Laws in plain English .....	29
Constraints on regulatory drafting .....	31
Time .....	31
Scope of the parent statute .....	31
Legally effective language.....	32
Legal presumptions.....	33
Before and after examples.....	34
Glossary of terms .....	36

# Acknowledgements

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I would like to acknowledge the work of the dedicated and extremely hardworking staff at the Office of the Registrar of Regulations—in particular, my colleague Marie Christ, who has been working here along side me for over twenty years now. When I began working at this Office, there were no guidelines or written processes to follow; we did what had been done before or researched the issue, if possible, and made decisions as we went along. Writing, registering and consolidating the law demands consistency and accuracy, and my staff have excelled at not only achieving and maintaining those standards, but in ensuring that the Office can continue to meet them into the future.

This Office is committed to making the Province’s regulations accessible to Nova Scotians, through electronic access, and through the rigorous application of plain English legal drafting standards established by our Office.

I hope you find this guide informative and useful.

*(Some of the text included in this document has been borrowed or adapted from the Department of Justice’s Style and Procedures Manual: A Guide to Drafting Regulations in Plain Language.)*

Rachel L. Jones  
Registrar of Regulations

Current staff:

Marie Christ, Deputy Registrar of Regulations  
Jane Newton, Regulations Analyst  
Chris Whynot, Publications Officer  
Hope Rudolph, Publications Officer

# Introduction

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This overview of the role, practices and procedures of the Office of the Registrar of Regulations is intended to give new lawyers and other new government employees, as well as interested members of the public, a general idea of the role of the Office in creating, maintaining and making known the subordinate legislation (“regulations”) of the Province.

It is not intended as a comprehensive documentation of the entire regulatory process or the standards for developing, drafting and making regulations in Nova Scotia.

For more information about the regulatory process, consult the policies on the Department of Justice and Executive Council Office websites.

## Glossary of terms

We have tried to use simple language to explain the Office’s functions and its role in the democratic regulation-making processes of the Province, but occasionally you may encounter an unfamiliar term. To assist, we have provided a glossary of terms at the end of this guide that explains some of the terms that may be less familiar to those who do not deal regularly with government or the law. (See “*Glossary of terms*”.)

# The Office's mandate

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## Functions of the office

The Office of the Registrar of Regulations provides high-quality legislative drafting, logistics, editorial and publication services to the government of Nova Scotia. The office plays a vital role in supporting the government and Executive Council Office in carrying out its legislative function through the regulation-making process and in ensuring comprehensive public access to the province's laws. The Office is a public office and serves the public directly as a repository and resource for Nova Scotia's regulations—both current and historical.

The Office has 5 main functions:

- registering, indexing and maintaining a repository of the Province's regulations (regulations that are not registered are of no force and effect)
- publishing the Province's regulations and government notices (gives the public official notice of them)
- creating consolidated versions of the Province's regulations ("point-in-time" documents that incorporate all amending regulations for a specific time period)
- creating revised versions of the Province's regulations (updating regulations to bring them in line with modern standards)
- establishing drafting standards and reviewing draft regulations for form, style and plain English (using legislative drafting and plain English techniques)

The Registrar of Regulations is appointed under Section 14 of the *Regulations Act* to administer the Office and fulfill the duties of the Registrar. The Registrar is also the Regulations Reviser under the *Regulations Act*.

## Laws should be accessible

The main mandate of the Office is to ensure that the Province’s regulations are accessible to the people of Nova Scotia.

This mandate is based on the rule of law principle that the law should be made known to the people affected by it. They should have access to the law and be able to find it and read it. Our mandate in publishing, indexing and consolidating the Province’s regulations and making them available online provides for physical access to the law.

But accessibility is also based on the principles of plain English which require that people affected by the law should be able to:

- **find** what they need to know
- **understand** what they find—what their rights are, what they are required to do, and what they must not do
- **act**—take action, or don’t take action—on what they find
- **understand** what will happen if they obey or do not obey the law.

Law is complex. It has many sources. The laws that apply in Nova Scotia come from many different sources:

- federal legislation and regulations, including the Constitution, the Charter of Rights and Freedoms, and the Criminal Code
- provincial legislation and regulations
- common law (case law, i.e. court decisions), from the UK before confederation and from all Canadian jurisdictions, with varying precedential value (whether court must follow it) depending on the levels of courts involved
- municipal law (bylaws)

How these sources interrelate is also important to determining how the law applies in a specific circumstance. Lawyers often refer to the “body of law”, which is a term used to describe law as a whole. And because law is largely a matter of interpretation, there is often no single clear answer to how the law applies.

The law that applies in any given situation may not be as simple as consulting a single regulation or statute. This is why we have lawyers and judges—experts in the law who can assist in sorting out how the laws apply to us individually and collectively.

No matter how careful the drafter is in expressing the intentions of the regulation-making authority or how simply they state the requirements of the law for the average reader to understand, in the end, the meaning of the law is what the courts determine it to be by



applying the substantial body of legal rules known as the principles of statutory interpretation.

Nevertheless, laws should not be written in a language that only lawyers understand. Laws that are written in plain English, from a human-centred and audience-focused approach, benefit not only the public, but the government and legal community also.

*“Ignorance of the law is no excuse because everyone is presumed to know the law. That presumption would be insupportable if the law were not available and accessible to all. The state also has an interest in the law’s accessibility. It needs the law to be effective, and it cannot be if the public do not know what it is.”*

*Law Commission of New Zealand, Issues Paper: Presentation of New Zealand Statute Law, September 2007, p. 9  
(<http://www.lawcom.govt.nz/our-projects/presentation-new-zealand-statute-law>)*

## Who we are

The Office is part of the Legal Services Division in the Department of Justice. The Office is currently staffed by 3 legislative/regulations analysts—one of whom is the Registrar, and another of whom is the Deputy Registrar—and 2 Publications Officers.

The Registrar manages the Office and staff, and is responsible for setting the standards, policies and procedures for ensuring that the Office’s mandate is fulfilled on time, accurately and in accordance with the law and natural justice principles that underlie the *Regulations Act*.

The Office is located on the 10<sup>th</sup> Floor of the Joseph Howe Building at 1690 Hollis Street, Halifax, Nova Scotia.

We can be contacted by    phone:    (902) 424-6723  
   email:    [regofregs@novascotia.ca](mailto:regofregs@novascotia.ca)  
   [royalgazette@novascotia.ca](mailto:royalgazette@novascotia.ca)



*The Office maintains copies of all of the Province's regulations, but the regulations themselves are administered by various government departments and agencies. Office staff cannot answer questions on the content of the regulations, and are not permitted to interpret any regulatory provisions or give legal advice.*

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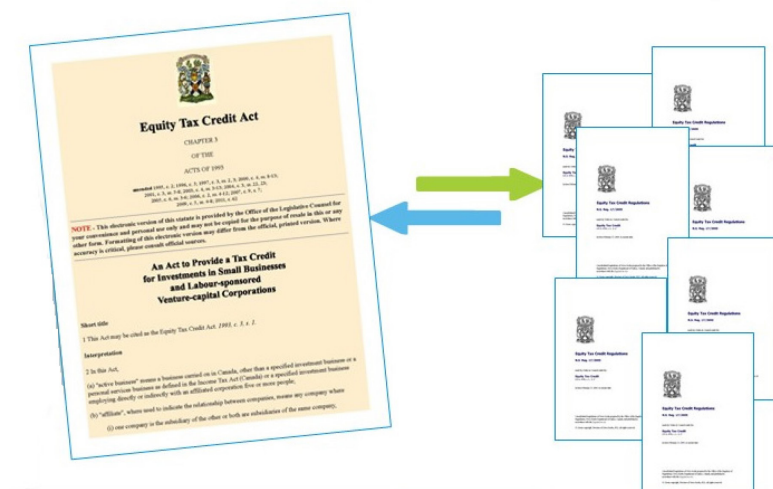
# What are regulations?

## Regulations are laws

Simply put, regulations are laws. They create rules that have legal consequences—usually a fine, the loss of a privilege (such as a licence) or sometimes even jail. To balance the competing interests of members of society and the state, they establish rights and duties and outline prohibited actions.

The power to create regulations flows from the Provincial statutes made by the Legislature. The Legislature may give its law-making function to some other person or body to exercise on its behalf. This “delegated” law is known as regulations. Regulations are therefore a form of legislation that is made by a delegated person or body on behalf of the Legislature, and have the same binding legal effect as statutes made by directly by the Legislature. The statute that contains the words giving this power is known as the ‘parent statute’ for the regulations. Regulations must be made under a parent statute. One statute may have many regulations made under it.

Legislation and Regulations = Parent and Child  
Regulations are made under a "parent statute" (Act).



Regulations contain the details for how the broader objectives laid out in the parent statute are implemented, such as: rules for managing waste products, licensing schemes for drivers or hunters, technical requirements for safety gear worn by workers or prohibitions on specific activities in parks or on beaches.

Regulations must stay within the scope of the parent statute and within the power delegated under the parent statute or risk being ruled *ultra vires* by a court—i.e. beyond the authority granted to the regulation maker.

Regulations must be registered with the Office of the Registrar of Regulations to be in force. Registered regulations are stamped with their assigned Nova Scotia regulations number (N.S. Reg. number) and the date they were registered.

*Note: Regulations should not be confused with policies. Policies do not create new legal requirements or obligations; they are intended to be the government’s instructions on how to apply the rules contained in the legislation or regulations to everyday situations. Government may create policies at any time as this is not considered a legislative function.*

## What do regulations look like?

### Not “one size fits all”

Regulations registered with the Office may create a new law, amend or replace a current law, or simply repeal a law without replacing it.

#### Examples:

- **new law**—one that is in a subject area that has not been regulated before, such as regulations that make rules about a new technology
- **amending law**—one that makes a change to an existing law, such as to update the rules for a government program; an amending law can add, remove or replace anything in the current law
- **replacement law**—one that repeals the current law on a subject and replaces it with a new law (often done if there are a lot of changes and an amending law would be too long or complicated)
- **repealing law**—one that repeals the current law, but does not make any laws to replace it, such as when a government program ends and the regulations are no longer needed

Regulations come in a variety of shapes and sizes. They range from a simple designation of an area of land or a proclamation bringing a statute into force, to complex and sometimes lengthy sets of rules governing subjects like offshore diving or underground mining. They can be 1 page or over 200 pages.

Regulations that create a set of rules generally follow the same organization and structure as statutes. Sentences are organized into Sections or subsections, and follow the same grammatical rules as ordinary sentences. If the sentence is complicated or might be ambiguous if left as one unit, then Sections and subsections are divided into clauses, subclauses, paragraphs or subparagraphs, as follows:

- 1 This is a **Section**.
- 2 (1) This is a **subsection**.
  - (2) A subsection may be further divided into
    - (a) 2 or more **clauses** alone, lettered consecutively with lowercase letters in parentheses and separated by semicolons; or
    - (b) 2 or more **clauses**, followed by,
      - (i) 2 or more **subclauses** alone, numbered consecutively with lowercase roman numerals in parentheses and separated by commas, or
      - (ii) 2 or more **subclauses**, followed by
        - (A) 2 or more **paragraphs** alone, numbered consecutively with uppercase letters in parentheses, separated by commas, or
        - (B) 2 or more **paragraphs**, followed by
          - (I) 2 or more **subparagraphs**, numbered consecutively with roman numerals in parentheses and separated by commas, but which are very rarely used, and
          - (II) more paragraphs, subclauses or clauses, as necessary.

### What's in a name?

Regulations are not always called “regulations” in the parent statute and do not always have “regulations” in the title. This can be quite confusing. Sometimes a statute may give the power to make documents that are given another name—such as bylaws, orders, rules, schedules of fees, or even guidelines—but that have the same legislative effect as

regulations. What is important to remember is that the name of the document does not determine whether or not it is a regulation under the *Regulations Act*; it is the legislative nature of the document, that is, whether it is made in the exercise of the Legislature's delegated legislative power. Whether or not a document meets the test of having a legislative nature is a matter of legal interpretation.

## How to cite Nova Scotia regulations

The basic rule for citing Nova Scotia's regulations is found in the *Regulations Act*. It says to use the "N.S. Reg.", followed by the number thereof, a slash and the four figures of the calendar year in which the regulation was filed, for example: N.S. Reg. 45/2016.

A short citation is usually just the title of the regulations and the N.S. Reg. number of the original base regulation, as amended.

A full citation consists of the short citation plus information on who made the regulation, the date it was made and the Section(s) of the parent statute that give the authority to make it.

### Example of short citation and long citation—

*Moose Hunting Regulations, N.S. Reg. 90/1988, as amended:*

**Short citation:** *Moose Hunting Regulations, N.S. Reg. 90/1988*

**Long citation:** *Moose Hunting Regulations, N.S. Reg. 90/1988, made by the Governor in Council by Order in Council 88-405 dated April 20, 1988.*

In this example, the citation tells us that the title of the regulations is the "Moose Hunting Regulations", it was the 90<sup>th</sup> regulation registered with the office in 1988 and it was made by the Governor in Council on April 20 of that year.

The *Regulations Act* also provides that when a regulation is cited in legislation, the reference is taken to be a reference to the regulation as amended. Therefore, there is no need to list the N.S. Reg. numbers of all of the amending regulations after the original base regulation number.

The term "regulations" is not capitalized unless it is part of a title.

Note that before the year 2000, N.S. Reg. numbers used only the last 2 digits of the calendar year, so you may still see older regulations registered before then that use this method. For example, the *Moose Hunting Regulations* were registered as N.S. Reg. 90/88, not N.S. Reg. 90/1988, but are now cited as N.S. Reg. 90/1988.

## Evidence of law, notice, advertisement, etc.

The *Royal Gazette* serves as *prima facie* evidence of the text of a law, notice advertisement or other document printed in it, and under the *Evidence Act*, a regulation published in the *Royal Gazette* receives judicial notice. This means that the Gazette itself is sufficient evidence of the law and the regulation does not have to be proven in court. Copies of regulations as published in the *Royal Gazette* may therefore be used as evidence of the text of the law.

Under current law, only the printed (hard copy) version of the *Royal Gazette* is official. The only other official version of a regulation is the actual document registered with the office, copies of which can be certified by our Office for use in court proceedings. Consolidated regulations prepared by our Office are not official.

Making the online versions of the *Royal Gazette* and consolidated regulations official is something the Office would like to see in the near future, but will require amendments to the *Regulations Act* and other legislation.

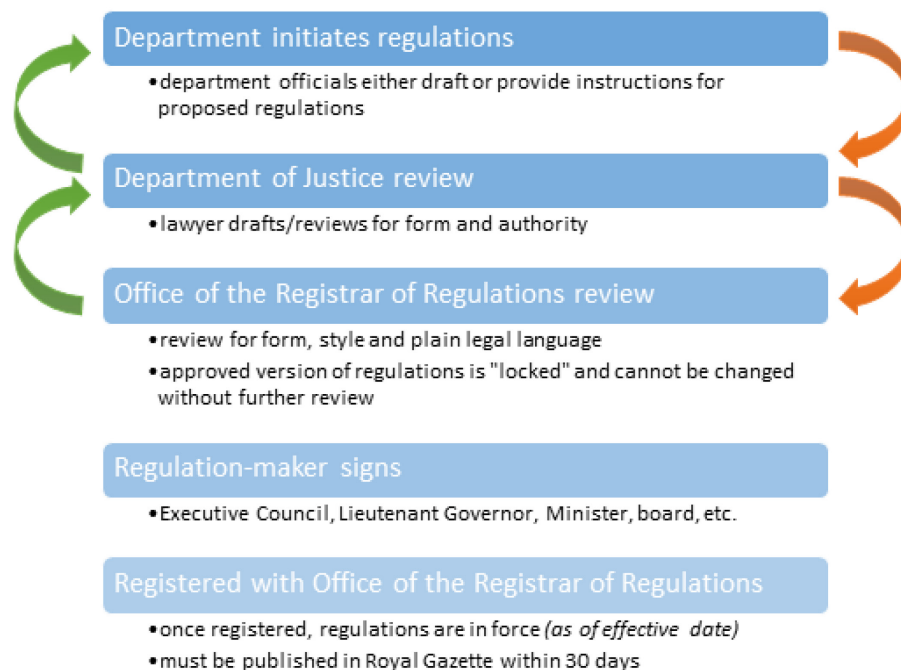
# Overview of regulation-making process

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The regulation-making process begins with identifying the need for a regulatory change to address a particular issue, implement a program, provide for a benefit, clarify a requirement, etc. Usually this is done by the government department responsible for administering the regulations.

The proposed regulations are then reviewed by a Department of Justice lawyer and by our Office to ensure that they are authorized by the parent statute, and that they are in accordance with drafting standards. The review also ensures that the regulations are written as simply as possible while still remaining legally effective and consistent with the parent statute.

A simple illustration of the process is as follows:





# Repository of regulations

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Before it is registered, each regulation filed with the Office must be assessed to ensure that it is complete and that all required documentation has been provided. It is then assigned a regulation number and stamped with that number and the date that it is registered, as proof of its registration in accordance with the *Regulations Act*.

The Office maintains a repository of the originals of all regulations that are currently in force, and all regulations, whether in force or repealed, from 1972 to the present. Regulations made before 1972 are available at the Public Archives.

The Office is a public office—the *Regulations Act* states that members of the public have the right to personally inspect any of Nova Scotia’s regulations, or to order copies of them.

There are currently approximately 1500 sets of regulations in force and over 5000 regulations registered with the Office, dating back to the 1940s.

Between 250 to 450 regulations are registered each year.

Laws are part of the history of the governments of the Province, and may be therefore be of interest to historians, academics and other researchers. A regulation that is repealed no longer has the force of law, but may still be of use. Repealed regulations are often used by lawyers and judges. A repealed regulation may still be legally relevant because of events that took place while the regulations were in force, or because of a right acquired under the repealed regulations. Courts may also look to repealed regulations and compare them with the current law, to better understand the current law and its origins.

## Provincial Register

Each regulation that is registered with the office is recorded in the Provincial Register, together with key information about the regulation, such as:

- the NS regulations number assigned to the regulation
- the title of the regulation

- the title of the parent statute
- the date it was registered
- the date it was published
- the date it was made
- the name of the regulation-maker
- the effective date of the regulation
- whether it is a new regulation or replaces, amends or repeals other regulations
- the N.S. regulation number of any regulation replaced, amended or repealed by the regulation
- the regulation’s legal status (in force, repealed, superseded)

When the regulation is repealed or replaced, the Register is updated to reflect the current legal status of the regulation and the effective date of the change. Usually a regulation is repealed by another regulation, but often the Office must look to other legislation to determine when regulations are effectively repealed, for example:

- when the parent statute—or the part of the parent statute that gives the authority to make the regulations—is repealed, leaving the regulations without legal authority (“orphaned”)
- when the regulations are replaced (superseded) by other regulations on the same subject matter under the same enabling provision.

Regulations are not considered repealed if they are simply not being administered or enforced.

The Provincial Register is a valuable resource for searching through the history of Nova Scotia’s regulations. This resource has been compiled over many years of meticulously identifying, entering and correcting information previously available only in paper format. Currently only accessible at the Office, it is hoped that this resource will be made available online, in searchable format, at some future date.

## Indexing (reference tables)

Indexing is a highly specialized task, and legal indexing is more specialized again. Indexing legislation and regulations is not something easily computer automated. It often requiring significant human input, and considerable experience and expertise.

The Office prepares reference tables for each consolidated regulation that show:

- the legislative history of each consolidated regulation by citing each regulation that amends or repeals the consolidated regulation (*“source law”*)
- the legislative history of the regulations, broken down by provision (*will replace the inline historical notations used in current consolidations*)
- information about any corrections or updates made to the text of the regulation under the Registrar’s consolidation powers, the date of the change and any legislative source for the change, such as an order in council or statute
- information about when an original or amending regulation comes into force and how that is determined

Including these reference tables in consolidated regulations ensures that all of the information about the regulation, as amended, is readily available in one place together with the text of the law.

#### Example of excerpts from reference tables—

*Moose Hunting Regulations, N.S. Reg. 90/1988, as amended:*

Moose Hunting Regulations  
Wildlife Act

N.S. Reg. 90/1988

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*Note: The information on this page does not form part of the regulations and is compiled by the Office of the Registrar of Regulations for reference only.*

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### Source Law

The current consolidation of the *Moose Hunting Regulations* made under the *Wildlife Act* includes all of the following regulations:

<b>N.S. Regulation</b>	<b>In force date*</b>	<b>How in force</b>	<b>Royal Gazette Part II Issue</b>
90/1988	May 1, 1988	date specified	May 19, 1988
79/1989	Jul 1, 1989	date specified	Jun 29, 1989
151/1990	Jun 5, 1990	date specified	Jun 29, 1990
70/1991	Apr 1, 1991	date specified	May 3, 1991
137/1991	Jun 15, 1991	date specified	Jun 28, 1991
143/1992	Jul 15, 1992	date specified	Aug 7, 1992
85/1993	Apr 30, 1993	date specified	Jul 9, 1993
123/1996	Jul 1, 1996	date specified	Aug 2, 1996
94/1997	Jul 1, 1997	date specified	Aug 15, 1997
60/1999	Jul 15, 1999	date specified	Jun 18, 1999
77/1999	Jul 8, 1999	date made	Jul 30, 1999

## Amendments by Provision

ad. = added  
am. = amended

fc. = fee change  
ra. = reassigned as

rep.=repealed  
rs. = repealed and substituted

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<b>Provision affected</b>	<b>How affected</b>
2(a).....	am. 143/92
2(aa).....	ad. 77/99, am. 109/2012
2(ab).....	ad. 77/99, ra. (ac) 109/2012
2(ab).....	ad. 109/2012
2(ac).....	(ab) ra. (ac) 109/2012
2(b).....	am. 143/92

# Royal Gazette

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## Brief history of the *Royal Gazette*

The purpose of the *Royal Gazette* is to provide Nova Scotians with notice of laws, proclamations and important governmental and legal information that governs their daily lives. It is the official ‘newspaper’ of the Government of Nova Scotia. Each province and territory, as well as the federal government, publishes its own gazette.

First published as the Halifax Gazette in 1752 by printer John Bushell from Boston who set up his new business on Grafton Street in Halifax, the Gazette has the distinction of being Canada’s first newspaper and the 3<sup>rd</sup> oldest in North America. Today’s *Royal Gazette* claims direct lineage from the original Halifax Gazette printed over 260 years ago.

The Halifax Gazette went through several printers and name changes before being officially sanctioned as the government’s newspaper. The Gazette was originally a newspaper of general interest, in which the government contracted to post notices and advertisements. Though not officially appointed, Bushell also printed proclamations and laws for the government. Bushell was succeeded by his partner, Anthony Henry, who immediately improved the equipment and expanded the business. Under Henry’s stewardship the newspaper disappeared from circulation for a brief period in 1766, after printing apprentice Isaiah Thomas published a short paragraph expressing opposition to the unpopular *Stamp Act*—a British statute that imposed a direct tax on colonists, requiring many printed materials in the colonies be produced on stamped paper produced in London. The *Nova-Scotia Gazette* was founded in 1766 to replace the Halifax Gazette, but was eventually absorbed by the more popular *Weekly Chronicle* to become the *Nova-Scotia Gazette* and the *Weekly Chronicle* in 1770—a paper published by former government printer Anthony Henry.

Henry was eventually appointed as the “King’s Printer” in 1788—the first person in Nova Scotia to receive this appointment. The first newspaper to receive official sanction as the government’s newspaper was the *Nova Scotia Royal Gazette* in 1801, published by Henry’s successor as King’s Printer, John Howe (father to Joseph), which became simply the “*Royal Gazette*” in February, 1843. A numbering error in 1871, when the volumes

jumped from 69 (LXIX) to 80 (LXXX), means that there are actually 10 fewer issues than the volume numbers indicate.

Throughout its illustrious history, the gazette counts among its editors at least one Premier and Prime Minister.

The *Communications and Information Act* provides the statutory authority for the publication of the *Royal Gazette* and to this day still provides for the newspaper to be published under the authority of the Queen's Printer. Section 17 of the Act provides that any advertisements, notices or publications that are required to be published by law are to be published in the *Royal Gazette*, unless the law provides for another mode of publication.

The Gazette is currently published by the Office in 2 parts: Part I includes all notices required to be published under provincial laws, and Part II (created in 1977) contains the text of all regulations registered with the Office.

Annual Indexes to both gazettes are also prepared and published online.

## *Royal Gazette, Part I*

Since the division of the Gazette into 2 parts in 1977, Part I of the Gazette contains public notices and official appointments from the government, as well as miscellaneous notices from the private sector that are required to be published by provincial statute or regulations.

Part I is typically divided into the following types of notices:

- appointments under various statutes, such as under the *Criminal Code* of Canada
- private sector notices which are required by statute to be published to inform the public, such as estate notices under the *Probate Act*

### Examples of notices published in Part 1:

Canada-Nova Scotia Offshore Petroleum Board: various notices

*Change of Name Act*: notification of change of name, as approved by the Deputy Registrar-General of Vital Statistics.

*Companies Act*: notice of change of name; notice of application to surrender Certificate of Incorporation or Certificate of Amalgamation; notice of striking off register and dissolution of company

*Elections Act*: summary of recognized parties' election expenses

*Fisheries and Coastal Resources Act*: notice of application for sea plants harvesting lease, notice of application for aquaculture licence or lease, notice of issued option to lease, notice of the adjudicative hearing

*Judicature Act*: amendment to Civil Procedure Rules

*Justices of the Peace Act*: notices of justice of the peace appointments

*Labour Standards Code*: notice of minimum wage adjustments

*Motor Carrier Act*: notice of application for issue, transfer or amendment of motor carrier licence

*Public Highways Act*: designation of controlled access highway

*Probate Act*: notice of application to court to have will proved in solemn form; notice of date of grant, name and address of executor or administrator and solicitor

*Securities Act*: orders, notices and rules of the Nova Scotia Securities Commission

To ensure that all of the necessary information is included, many of these notices are published in a similar standard format. The Office has templates for the format of some of these notices available for use. More information about forms and fees for advertisements and notices can be found on our website.

## Royal Gazette, Part II

Part II of the Gazette was established by statute in 1977 and contains only provincial regulations. See the "*Publication of regulations*" section of this Guide.

## Publication schedule and deadlines

Part I of the Gazette is published every Wednesday, and contains all government notices and public notices received in the week before publication, as well as any notices required to be published for multiple issues. The deadline for submissions is Tuesday at 4 pm.

Part II of the Gazette is published every 2 weeks, on Friday, and contains the text of all regulations registered with the office since the previous issue and before the issue cut-off date. The cut-off date is 4pm on the Tuesday of the week before publication.

The Office is in the process of trying to make more issues of the Gazette available on our website. Currently Annual Indexes and copies of issues are available beginning with 2006 for Part I and beginning with 2002 for Part II:

Part I: <http://www.novascotia.ca/just/regulations/rg1/>

Part II: <http://www.novascotia.ca/just/regulations/rg2/>



# Publication of regulations

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## Part II of the *Royal Gazette*

Now past its 40<sup>th</sup> year of publication, Part II of the Gazette is where you will find the text of Nova Scotia’s regulations. Each regulation published contains the text of the original regulation—which could be new law or instructions to amend current law—as passed by the regulation maker, including information about who made the regulation and when.

The *Regulations Act* requires that each regulation registered with the Office be published in the *Royal Gazette*. A regulation must be published within 30 days of registration, unless publication is dispensed with by the Governor in Council. If a regulation that is registered is not published, then the *Regulations Act* also provides that no one can be adversely affected by the regulation unless notice has been given in some other way.

Part II of the Gazette provides official notice of the existence or contents of a regulation, and production of a copy of the Gazette purporting to contain the text of the regulation may be used as evidence of this. (See *Evidence of law, notice, advertisement, etc.*)

## Consolidated regulations

A consolidated law enables a person to read the law, as amended. Unlike the Gazette, which publishes the original regulation only, consolidated regulations prepared by the Office include the original “base regulation” together with all of the amendments made to it, up to a specific date. Consolidations therefore provide a complete record of the law at any given point in time.

A person or body that is authorized by a statute to make regulations is also authorized to amend those regulations. It is important to note that, just as a statute cannot be changed except by way of another law passed by the Legislature, a regulation cannot be changed except by way of a regulatory amendment—made by the authorized regulation maker in accordance with the requirements in the parent statute, and registered with the Office.

An amendment to regulations consists of instructions on how to change the text of the original regulation. A base regulation may be amended many times before it is repealed or replaced, so it can be very challenging to understand what the law says by reading all of those individual amendments.

Each time a base regulation is amended, the Office staff follow the instructions set out in the amendment and update the text of the regulation so that it reflects the law, as amended. A new consolidated version of the regulations is prepared which replaces the previous version as of the effective date of the amendment.

Example of consolidation—

*Moose Hunting Regulations, N.S. Reg. 90/1988, as amended:*

Amendment	Consolidation
(N.S. Reg. 109/2012)	
<p>1 Section 2 of the <i>Moose Hunting Regulations</i>, N.S. Reg. 90/88, made by the Governor in Council by Order in Council 88-405 dated April 20, 1988, is amended by</p> <p>(a) striking out “stamp” in clause (aa) and substituting “licence”;</p> <p>(b) re-lettering clause (ab) as clause (ac) and adding the following clause immediately after clause (aa):</p> <p>(ab) “companion moose hunting licence” means a valid base licence which has affixed to it a valid companion moose hunting stamp;</p>	<p><b>Definitions</b></p> <p>2 In these regulations</p> <p>(a) “Act” means the <i>Wildlife Act</i>;            Clause 2(a) amended: O.I.C. 92-702, N.S. Reg. 143/92.</p> <p>(aa) “companion licensee” means the holder of a valid companion moose hunting licence;            Clause 2(aa) added: O.I.C. 1999-366, N.S. Reg. 77/99; amended: O.I.C. 2012-176, N.S. Reg. 109/2012.</p> <p>(ab) “companion moose hunting licence” means a valid base licence which has affixed to it a valid companion moose hunting stamp;            Clause 2(ab) added: O.I.C. 2012-176, N.S. Reg. 109/2012.</p> <p>(ac) “companion moose hunting stamp” means a stamp issued by the Department that, when affixed to a valid base licence, confers on the holder the privilege of assisting the holder of a valid moose hunting licence, who nominated him or her, in hunting moose in accordance with the Act and regulations;            Clause 2(ab) added: O.I.C. 1999-366, N.S. Reg. 77/99; relettered (ac): O.I.C. 2012-176, N.S. Reg. 109/2012.</p>

Indexes of all of the amendments that have been made to base regulations are also maintained by the Office in reference tables. One type of reference table shows the amendments by provision, which means that all of the changes made by an amending regulation is broken down by Section. As you can see from the side-by-side comparison above, the amending regulation that was registered as N.S. Reg. 109/2012 changed many different parts of the original text. The reference table lets you see at a glance which parts of the regulation have been amended and tells you the N.S. Reg. numbers of the amending regulation that made the change. (See also *Indexing (reference tables)*.)

Here is an example of this type of reference table for the *Moose Hunting Regulations*, N.S. Reg. 90/1988, highlighting the changes made by the same amending regulation (N.S. Reg. 109/2012).

Example of reference table (amendments by provision)—  
*Moose Hunting Regulations*, N.S. Reg. 90/1988, as amended:

Moose Hunting Regulations N.S. Reg. 90/1988  
 Wildlife Act

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*Note: The information on this page does not form part of the regulations and is compiled by the Office of the Registrar of Regulations for reference only.*

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\*See subsection 3(6) of the *Regulations Act* for rules about in force dates of regulations.

### Amendments by Provision

ad. = added fc. = fee change rep.=repealed  
 am. = amended ra. = reassigned as rs. = repealed and substituted

Provision affected	How affected
2(a).....	am. 143/92
2(aa).....	<b>ad. 77/99</b> <b>am. 109/2012</b>
2(ab).....	<b>ad. 77/99</b> <b>ra. 2(ac) 109/2012</b>
2(ab).....	<b>ad. 109/2012</b>
2(ac).....	<b>ra. from 2(ab) 109/2012</b>
2(b).....	am. 143/92

Regulations are consolidated by the Office only after they have been published in the *Royal Gazette*. Consolidated regulations are therefore typically available 2 weeks after the publication date of the issue of the *Royal Gazette* in which they were published.

The Registrar may make minor changes to the regulations when consolidating them, such as to:

- correct clerical, typographical or printing errors
- change the numbering and order of provisions
- combine regulations or subdivide the regulation into two or more regulations
- add or change the title of the regulation
- change the language to make it consistent with standard drafting practices
- make changes to reconcile other inconsistencies
- remove any repealed or expired portions

The *Regulations Act* does not authorize the Registrar of Regulations to make substantive changes to the law. The Registrar must be certain when making changes that the changes do not affect the substance of the law. No changes are made to the text of the law in the Office's consolidations unless authorized by law. All changes are made obvious on the face of the text or are documented in legislative history notes.

The Office's consolidations are not currently official. (See *Evidence of law, notice, advertisement etc.*) However, consolidated versions of regulations produced by the Office are relied on as an accurate statement of the Province's law by Department of Justice lawyers, Crown counsel, the judiciary and other members of the legal community, as well as government department administrators and the public at large.

## Regulations online

The Office's website serves as the government's central access point for Nova Scotia regulations. Government departments must link to this central access point, rather than posting regulations on their own websites. Reliance on this single source for Nova Scotia's regulations means that

- outdated versions of the law are not mistaken for the current law
- versions of the law provided online to the public are developed by experienced and skilled staff who specialize in legislative publication
- overlap and duplication of effort between departments is avoided.

Notice of new regulations is posted on the website within 24 hours of the regulation being registered with the Office, and the current online consolidated version of regulations being amended is marked with a notice of the pending amendment.

Copies of the *Royal Gazette*, as well as consolidated versions of current regulations produced by the Office are available on the Office's website. The regulations were first published online in 1999 to improve public accessibility and remain free of charge online. The Office hopes to provide access in the future to previous versions of consolidations also.

Nova Scotia's regulations are also available for free at CanLii.org as part of CanLII's collection of Canadian law. CanLII is a non-profit organization managed by the Federation of Law Societies of Canada.

## Other resources online

Other resources currently available on the Office's website include:

- *Style and Procedures Manual*
- Checklist for Plain Language NS Regulations
- Guide to Formatting Nova Scotia Regulations
- the Department of Justice's *Summary Offence Tickets Booklet*

# Revision of regulations

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The Registrar of Regulations is also the official Reviser of Regulations under the *Regulations Act*. Under Section 22, the Reviser has the power to re-issue regulations in an updated format. This enables the Reviser to make minor changes to the regulations when revising them, such as to:

- correct clerical, typographical or printing errors
- change the numbering and order of provisions
- combine regulations or subdivide the regulation into two or more regulations
- add or change the title of the regulation
- change the language to make it consistent with standard drafting practices
- make changes to reconcile other inconsistencies
- remove any repealed or expired portions

As stated earlier, the *Regulations Act* does not authorize the Registrar to make substantive changes to the law. A careful revision clarifies the law and improves its presentation; revising the law improves access to the law and the understanding of it by improving the language, structure and organization of the original text. As with consolidation, the Registrar must exercise these powers judiciously to ensure that any changes made do not affect the substance of the law. A revision cannot resolve ambiguous wording when the choice between alternative meanings is not obvious, nor can it resolve provisions that are legally effective but for administrative reasons no longer function.

No revisions of regulations are currently being done because the *Regulations Act* contemplates a revision of **all** of Nova Scotia's regulations at once—a daunting undertaking. However, future legislative amendments could enable revisions to be accomplished one regulation at a time, as is done in other Canadian jurisdictions.

# Review and approval of draft regulations

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*“Legislation deals with legal rights, liabilities, duties and powers - that is, with legal relationships between various classes of persons in the community and between the State and the members of the community. Drafting is about expressing these relationships in a text that is suitable to be made into a form of written law or “legislation”... through a formal procedure. This text must also communicate its substance so that those affected can conduct their activities with legal certainty.”*

*Commonwealth of Learning, Course Materials on Legislative Drafting (Module 1, S. 1, p. 4), as revised 2013 (accessed from: <http://oasis.col.org/handle/11599/459>)*

One of the Office’s most significant contributions to Nova Scotia’s laws is its review and approval of draft regulations for form, style and plain legal language. As case law repeatedly shows us, even the smallest formatting or punctuation error can result in disputes over the meaning and legal effect of a provision. The Office’s review is vital to ensuring that the law is correct and can be applied and enforced consistently without resorting to volumes of supplemental guides or court decisions for interpretation.

Proposed regulations are submitted by all government departments and reviewed in the order in which they are received, unless the submission is identified at the Deputy Minister level or higher as being a priority submission. (*See the Style and Procedures Manual for the procedure for rush priorities.*)

The Office’s analysts review an average of 100 to 150 proposed regulations annually. Some may be simple amendments to an amount or a fee, while others may be a comprehensive and complex scheme to regulate an entire subject area of law that requires months of editing, consultation and revision before it is ready to become law. Not only are these analysts required to have expert linguistic skills—the ability to write clearly, economically, accurately and grammatically correctly—but also the ability to analyze the syntax, style and content of the law to expose gaps and ambiguities and improve the consistency and clarity of the writing.

When draft regulations are submitted for approval, the analysts undertake a thorough review and analysis of the proposed draft regulations and provide advice on how best to write, structure and organize the regulations in plain English without altering the legal effect and intended policy objectives. Legislation and regulations transform policy into formal written rules.

The analysis may raise issues of policy, law, logic or linguistic expression. A review often raises questions such as: What happens if X happens/doesn't happen? What are the desired consequences? Are there components missing? Does this apply to all or a limited class? Is this also intended to affect Y? The comments and questions provided by the analyst may result in the lawyer seeking clarification of policy from the department or (re)considering legal aspects of the draft. When rewriting drafts, the analyst must take care to explain the reasons for their changes and any assumptions they have made, and be ever mindful that changes they make could affect the intended meaning and legal effectiveness of the provisions.

Regulations must be consistent with the scope and language of their parent statute and with the existing body of law. They must be drafted in clear and unambiguous language that ensures that the regulations are enforceable as substantive legal rules. They must be complete and fully realize the policy and program decisions that they are intended to implement. They must clearly communicate the law so that those affected know the legal consequences of their actions. Most importantly, the people who are required to use regulations must be able to understand them, whether those people are lawyers, administrators, judges, business owners or members of the general public. To ensure this, all of the following types of issues must be addressed:

- the text is grammatically correct
- the text is in the correct legislative form and structure
- the proper citation is used for legislation, regulations and other documents cited within the text
- all references and cross-references within the text are correct
- the regulatory scheme is complete and contains all information necessary to administer and enforce it
- the regulations are logically organized, and use headings that show the structure of the document and help users quickly find what they need
- sentences and Sections are short and express only 1 idea or subject
- the structure of each provision is logical, parallel and forms a complete legislative sentence
- the text does not contain any syntactic, lexical or semantic ambiguities
- definitions are appropriate and sufficient



- the language is consistent with the parent statute, particularly for defined terms, and with the applicable industry/profession and body of law
- the terminology used is consistent throughout the regulations
- the requirements are not contrary to or inconsistent with parent statute or any legal presumptions
- the regulations do not repeat provisions from the parent statute, in particular the legal authorizations or requirements created by statute
- the text is in plain English—e.g. uses natural word order, active voice, simple terms, no jargon, etc. and complies with the Office’s drafting style and standards
- any necessary consequential amendments to other regulations are identified

Lawyers in the Department of Justice rely on the analysts’ expertise in plain legal drafting of regulations—they assist solicitors in choosing the most appropriate expressions to ensure that the substantive legal rules created by regulations are as easy to read as possible, taking into account the rule of law, the principles of statutory interpretation and natural justice, the legal presumptions that apply to legislation and subordinate legislation and the standards for legislative drafting. Often times this means a fine balance of many competing factors and some creative thinking. Our analysts are expert at reading legislation, so the golden rule of the Office is that if our analysts cannot read or make sense of a proposed regulation, then it isn’t clear enough to be approved for the average reader.

The analysts are also called upon to provide drafting assistance with language that is difficult to formulate because of the complexity of the subject matter or the particular constraints of the regulation’s parent statute. The analysts act as consultants for approaches to unusual problems and are heavily relied on to provide clear language solutions that will accomplish the desired legislative effect.

The Office also assists in training new Department of Justice lawyers in the art of crafting proper legislative sentences, in the mechanics of drafting and various techniques for resolving some of the issues that can arise when drafting regulations in plain legal language.

## Laws in plain English

The Office of the Registrar of Regulations establishes the standards for drafting Nova Scotia’s regulations in plain English. It publishes the *Style and Procedures Manual: A Guide to Drafting Regulations in Plain Language*, as well as a *Checklist for Plain Language Regulations*. Both of these resources are available online on the Office’s website.

Analysts in the Office use plain language techniques to improve the readability of regulations and to ensure that the legal statements made are clear and unambiguous. Some of the techniques outlined in the manual include using the following:

- simplest words possible
- natural word order
- shorter sentences and provisions
- sentence structures that make elements of the legal statement more easily identifiable
- logical organization
- informative headings as navigational aids

Regulations that are written in clear, simple language are

- easier to read
  - fewer questions from the public about the regulations
  - better compliance
  - less time and resources spent on explaining regulations (to administrators and public being regulated)
- easier to administer and enforce
  - legal and administrative effects of non-compliance clear
  - everyone understands the consequences
  - decision makers understand their roles
  - clear language establishes trust
- less ambiguous
  - less likely to end up in court
  - less likely to be interpreted by a court to mean something other than what was intended
  - lawyers can give more consistent legal advice

In many instances the process of reviewing regulations for plain English also means deconstructing complex legislative structures and language, and rewriting them to eliminate anything that is unclear or ambiguous. The resulting language is more precise, and ensures a more consistent and predictable interpretation and application of the law.

Unfortunately, sometimes laws are still complex. How difficult legislation is to read and understand will always be related to some extent to the complexity of the concepts and rules that are being communicated. The office strives to give the readers the best possible chance of understanding these concepts and rules using the simplest possible expressions and an organized and clear presentation. Using plain English ensures that these complex rules are communicated as simply and clearly as possible.

Simpler doesn't necessarily mean shorter, however. Often it takes more words to express a concept or explain a rule more simply. Take a look at some of our before and after examples at the end of this guide.

## Constraints on regulatory drafting

What you can put in regulations is limited by several constraining factors—some practical, some legal. The constraints on regulatory drafting are complex and something that we intend to cover in more depth in the next edition of the Style and Procedures Manual, but we have listed some of the key issues here.

### Time

Simpler laws take longer to draft. Sometimes there just isn't enough time to ensure that regulations are written simply while still ensuring that they do what they need to do and are technically and grammatically correct. Since the law must be legally effective and correct, these objectives must take priority.

### Scope of the parent statute

The parts of a parent statute that create the authority for making regulations are called enabling provisions. To be considered authorized, the regulations made under a parent statute must be consistent with what those enabling provisions state can be done.

Not only must regulations be authorized by the parent statute, they must also be consistent in style and content with the parent statute. For example, when interpreting legislation, different words are presumed to have different meanings, so words and expressions used in the Act must also be used in the regulations if they are intended to mean the same thing.

There is also an assumption that every word of an enactment is intended to have legal effect, so regulations should also not repeat legal rules that have already been stated in the parent statute. Because the legislature has already created the rule, the regulations have no authority to create the same rule (sometimes expressed as “the legislature has already spoken”). Not only does repeating the rules violate this principle, but it also creates confusion about where the law originates (is it from the statute or the regulations?), and the risk that later amendments to the rule as repeated in the regulations will result in the regulations being inconsistent with the parent statute.

This may mean that rules about certain topics end up divided between the parent statute and the regulations, or that the regulations end up worded somewhat awkwardly to fit

with what the parent statute has already stated and what is left to be stated in the regulations.

**Examples:**

Parent Statute	Regulations
<p><b>8</b> An application must include the name of the applicant and any other information prescribed by the regulations.</p>	<p><u>Repeated:</u> An application must include all of the following information: (a) name; (b) mailing address; (c) telephone number; (d) etc.</p>
	<p><u>Not repeated:</u> In addition to the name of the applicant, as required by Section 8 of the Act, an application must include all of the following information: (a) mailing address; (b) telephone number; (c) etc.</p>

Parent Statute	Regulations
<p><b>22</b> A company must file a copy of its audit report with the Registrar within the prescribed period.</p>	<p><u>Repeated:</u> A company must file a copy of its audit report with the Registrar within 90 days of the company’s annual general meeting.</p>
	<p><u>Not repeated:</u> The prescribed period for filing an audit report with the Registrar under Section 22 of the Act is the 90 days immediately after the company’s annual general meeting.</p>

Regulations that do not fit within the scope of the parent statute or that are inconsistent with it may be judged in court to be *ultra vires*, meaning that they have tried to create rules that are beyond what is permitted by the parent statute.

**Legally effective language**

Wherever we can, we try to use the simplest words to express the law. There must be a consistency of language between the parent statute and its regulations, in the language used throughout a body of law and in the language used to express concepts familiar to any one particular profession or industry. It is often difficult to simplify complex concepts, and sometimes impossible to avoid using complex language in laws that are intended to operate together with other laws that use that same language. The simplest

words may not always provide the most certainty and consistency. They may not provide for the most accurate or precise expression of the law, or result in the most clear and unambiguous expression of the law. Because the law must provide complete and exact directions on who is affected by the rules expressed in the text, when and under what circumstances these rules apply and how they apply, the texts necessarily become detailed and complicated.

The primary objective of drafting law is to be certain and unambiguous. The principles of plain language are always balanced against the most accurate expression of the legal rule.

## Legal presumptions

The regulations drafter must also consider the legal principles of statutory interpretation that will be applied by the courts in interpreting and applying the regulations. Some of the legal principles that are fundamental to regulatory drafting are called legal presumptions.

A legal presumption is one that the courts will presume to be true, but may be disproved by evidence to the contrary. Probably the best known example of this is the presumption of innocence: a person is presumed to be innocent until proven guilty. For regulatory drafting, these presumptions are based on the notion that if the legislature had intended to give the regulation-maker the ability to override a fundamental right, principle of natural justice or the legislature's words, they would have explicitly stated that in the parent statute. Therefore, to create regulations that go against any of these presumptions, there must be clear and specific authority in the parent statute, i.e. the parent statute must clearly state that it can be done.

Some of the legal presumptions that must be considered when drafting or reviewing regulations are:

- against interference with fundamental rights/vested rights
- against delegation of legislative powers
- against sub-delegation of powers, particularly legislative powers
- against retroactivity
- against interference with personal liberty (penal provisions to be strictly construed)
- application of statute and regulations (no exceptions/exemptions from the law unless explicitly authorized by statute)

## Before and after examples

Here are some examples of the types of texts that have been reviewed and re-written by analysts in our Office.

Before	After
Where the Board determines that a registered facility has failed to meet the requirements imposed by these regulations, the Board may recommend to the Minister suspension or revocation of the designation as a facility or small production facility.	If the Board determines that a registered facility has failed to meet the requirements of these regulations, the Board may recommend to the Minister that the facility's registration be suspended or revoked.

Before	After
If a surety bond is cancelled or an operator's registration has been terminated and the surety bond has not been forfeited, the Director may, 1 year following the termination of the registration to which the surety bond relates or 1 year after the cancellation of the surety bond, as the case may be, deliver the surety bond to the person bound by it.	The Director may deliver a surety bond to the person bound by it if either of the following occurs, 1 year after it occurs: <ul style="list-style-type: none"> <li>(a) the surety bond is cancelled;</li> <li>(b) an operator's certificate of registration is revoked and the surety bond has not been forfeited.</li> </ul>

Before	After						
<p>(1) An employer at a mine that has 10 or fewer mine workers employed must ensure that the mine has</p> <ul style="list-style-type: none"> <li>(a) at least 2 designated mine rescue workers from among the mine workers employed at the mine; and</li> <li>(b) one set of mine rescue equipment, except that despite clause 139(l), the mine is only required to have 4 self-contained breathing apparatuses.</li> </ul> <p>(2) An employer at a mine that has more than 10 but fewer than 50 mine workers employed must ensure that the mine has</p> <ul style="list-style-type: none"> <li>(a) at least 1 mine rescue team made up of mine workers employed at the mine; and</li> <li>(b) 1 set of mine rescue equipment for each mine rescue team.</li> </ul>	<p>A mine must have the minimum number of mine rescue workers and sets of mine rescue equipment set out in the following table for the number of mine workers employed at the mine:</p> <table border="1"> <thead> <tr> <th>Number of Mine Workers Employed at Mine</th> <th>Minimum Number of Mine Rescue Workers Required</th> <th>Minimum Sets of Mine Rescue Equipment Required</th> </tr> </thead> <tbody> <tr> <td>10 or fewer</td> <td>2 designated mine rescue workers</td> <td>1, with a minimum of 4 self-contained breathing apparatuses, all of which have full face pieces and a minimum</td> </tr> </tbody> </table>	Number of Mine Workers Employed at Mine	Minimum Number of Mine Rescue Workers Required	Minimum Sets of Mine Rescue Equipment Required	10 or fewer	2 designated mine rescue workers	1, with a minimum of 4 self-contained breathing apparatuses, all of which have full face pieces and a minimum
Number of Mine Workers Employed at Mine	Minimum Number of Mine Rescue Workers Required	Minimum Sets of Mine Rescue Equipment Required					
10 or fewer	2 designated mine rescue workers	1, with a minimum of 4 self-contained breathing apparatuses, all of which have full face pieces and a minimum					

<p><b>(3)</b> An employer at a mine that has 50 or more than 50 but fewer than 100 mine workers employed must ensure that the mine has</p> <p>(a) at least 2 mine rescue teams made up of mine workers employed at the mine; and</p> <p>(b) 1 set of mine rescue equipment for each mine rescue team.</p> <p><b>(4)</b> An employer at a mine that has 100 or more than 100 but fewer than 150 mine workers employed must ensure the mine has</p> <p>(a) at least 3 mine rescue teams made up of mine workers employed at the mine; and</p> <p>(b) 1 set of mine rescue equipment for each mine rescue team.</p> <p><b>(5)</b> An employer at a mine that has 150 or more mine workers employed must ensure the mine has,</p> <p>(a) at least 4 mine rescue teams made up of mine workers employed at the mine; and</p> <p>(b) 1 set of mine rescue equipment for each mine rescue team.</p>			utilization time of 4 hours
	11 to 49	1 mine rescue team	1 for each mine rescue team
	50 to 99	2 mine rescue teams	1 for each mine rescue team
	100 to 149	3 mine rescue teams	1 for each mine rescue team
	150 or more	4 mine rescue teams	1 for each mine rescue team

Before	After
<p>The Trustee may make, enter into and carry out an agreement with a public authority respecting</p> <p>(a) the transfer of service of employees to a public authority, and;</p> <p>(b) the transfer from a public authority of service of persons who are employed by such authority,</p> <p>and which agreement may include terms and conditions, including in respect of financial aspects, as are determined by the Trustee in its discretion.</p>	<p><b>(1)</b> The Trustee may enter into an agreement with a public authority respecting any of the following:</p> <p>(a) transferring employees' service from the Pension Plan to a public authority's pension plan;</p> <p>(b) transferring the service of persons who are employed by a public authority from the authority's pension plan to the Pension Plan.</p> <p><b>(2)</b> An agreement with a public authority under subsection (1) may include any terms and conditions the Trustee considers necessary.</p>

# Glossary of terms

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Not everyone is familiar with legal terminology or with the specific terminology used in the regulation-making and legislative publication process, so we have defined some terms for your convenience. Many of these terms are used throughout this document, but others you may encounter when consulting statutes or reading about the Legislature and the legislative process, or familiarizing yourself with the specifics of the regulatory process as outlined in the *Style and Procedures Manual*.

## Act (statute)

see also “*statute (Act)*”

In legislation and regulations, this term is capitalized to distinguish a document that contains a law from an ordinary “act” or “action”. Usually the title of an Act contains the word “Act”, as in the *Motor Vehicle Act*.

## amendment

An amendment is an official change to a law. An amendment is usually made the same way that the original law was made, unless the law provides for it to be made by some other process. A law can be amended many times. An amendment makes changes to the current law by deleting or adding words or provisions. This is done by creating a new piece of legislation that sets out the instructions for the amendments to be made. When the new legislation comes into force, the changes are made according to the amending instructions and the amended version becomes the law from then on (see *consolidation (consolidated law)*).

## base regulation

The first regulation registered becomes the base regulation of a set of regulations. Most base regulations will be set out in a similar format to the parent statute, with a title provision, definitions and then the substantive provisions. The N.S. Reg. number of the base regulation is the one that is cited for the set of regulations. The base regulation may be amended by other regulations that become part of the legislative history for that set of regulations.

## case law

see “*common law*”



## clause

A clause is a provision of legislation. A clause is lettered using lowercase letters: (a), (b), (c), etc. A clause is below a Section or subsection and above a subclause in the legislative scheme.

*(Numbering structures and naming conventions for legislative provisions differ between jurisdictions. What may be called a paragraph in one province could be called a clause in another. This definition refers to the Nova Scotia legislative scheme.)*

## coming into force

A law comes into force at a specific time, which must be identifiable so that persons can govern themselves in accordance with the law, and so that the law is applied as of that point in time. This is also expressed as the law's "effective date". Legislation may be made, but not come into force until a later date. In certain circumstances, legislation may also come into force before the date it is made (see "*retroactive*"). A statute comes into force on royal assent, on a date specified in the legislation, or on proclamation. The rules for determining the effective dates for regulations are set out in subsection 3(7) of the *Regulations Act*.

## common law

The "common law" is the body of law made by the courts through the decisions they make in the cases put before the courts. This is also referred to as "case law". Common law for Nova Scotia includes case law from the United Kingdom before confederation. Decisions made by courts hold varying precedential value or weight depending on the jurisdiction and the level of court.

## consolidation (consolidated law)

A consolidated law is a document that incorporates all of the amendments that have been made to the original law up to a certain date. A consolidated law shows the reader the text of the law, as amended. Most legislation governing statutes and regulations allows for an official consolidation of the laws. The consolidation powers granted are usually fairly restrictive and are set out in legislation or regulations. This ensures that no changes are made to the substance of the law as made by the original regulation-making authority.

Consolidated regulations prepared by the Office include the original base regulation together with all of the amendments made to it, up to a specific date, and therefore provide a complete record of the law at any given point in time. (See also "*reference tables*".)

## delegated legislation

see "*regulation*"

## effective date

A law's effective date refers to the date that it comes into force (see also "*coming into force*").

## enabling Act

see "*parent statute (parent Act)*"

## enabling provision (enabling authority)

Refers to the provision in a parent statute that gives a person or body the authority to make regulations on behalf of parliament or the legislature (i.e. it *enables* or *empowers* them to make regulations). A person or body making regulations must not exceed the powers they are given. If they do, the regulation will not be valid and may be struck down by a court (see "*ultra vires*"). Sometimes also referred to as the "enabling authority", the "regulation-enabling authority" or the "regulation-making authority".

## Executive Council

The executive branch of government, i.e. cabinet.

## Executive Council Office

The administrative office that serves the Executive Council.

## executive order

An order issued and signed by a regulation-making authority stating by whom and when the regulation was made. Most orders also include a citation of the authority to make the regulations and may also include an effective date.

## Gazette

see "*Royal Gazette*"

## Governor in Council

Executive Council and the Lieutenant Governor acting together.

## House of Assembly

The House of Assembly is composed of all of the elected members of the legislature. See also "*legislature*".

The Nova Scotia House of Assembly is the oldest in Canada, having first sat in 1758, and in 1848 was the site of the first responsible government in the British Empire. The assembly meets in Province House, the original home of the Supreme Court of Nova Scotia.

## legal presumption

Something that is presumed to be true in law in the absence of evidence to the contrary. The most well-known example of this is probably the presumption of innocence. A legal presumption may be rebutted or disproved by evidence to the contrary.

## legislation

Legislation consists of laws made by a parliament or legislature, or by a person or body who is given power to make laws, such as a minister or the Governor in Council. Broadly, there are two kinds of legislation: statutes and subordinate legislation (regulations and municipal bylaws).

## Legislative Counsel, Office of the

The office charged with responsibility for drafting and consolidating Nova Scotia's statutes, and for providing legal advice to the House of Assembly. The office reports to the House of Assembly and is overseen by the Chief Legislative Counsel.

*(In many jurisdictions this office is part of the Department of Justice and is also responsible for subordinate legislation.)*

## legislature

The legislative branch of government, composed of all elected members of the legislative assembly (MLAs) and the Crown, as represented by the Lieutenant Governor. The members of the legislature traditionally belong to political parties who elect a leader to be their official spokesperson in the House of Assembly.

## Lieutenant Governor

The Lieutenant Governor is the representative of the Head of State (the Queen) in Nova Scotia. Among other duties, the Lieutenant Governor delivers the speech from the throne, gives assent to legislation on behalf of the ruling monarch (see "*royal assent*"), and together with the Executive Council executes the delegated powers of the Governor in Council (see "*Governor in Council*").

## N.S. Reg.

Short for Nova Scotia Regulation. Regulations are registered and assigned a number according to the order in which they are filed, with a new series started each calendar year. "N.S. Reg." is used in the citation of Nova Scotia's regulations, followed by the number assigned, a forward slash and year the regulation was registered, for example: N.S. Reg. 4/2016, which is the 4<sup>th</sup> regulation registered for the year 2016.

## ORR

Abbreviation for the Office of the Registrar of Regulations. (See “*Registrar of Regulations, Office of the*”.)

## paragraph

A paragraph is a provision of legislation. A paragraph is lettered using uppercase letters: (A), (B), (C), etc. A paragraph is below a subclause and above a subparagraph in the legislative scheme.

*(Numbering structures and naming conventions for legislative provisions differ between jurisdictions. What may be called a paragraph in one province could be called a clause in another. This definition refers to the Nova Scotia legislative scheme.)*

## parent statute (parent Act)

Refers to the statute that gives authority for subordinate legislation (regulations) made under it. A regulation derives its purpose, scope and authority from its parent statute and can be struck down by a court if it is ruled to be inconsistent with the parent statute (see “*ultra vires*”). Sometimes also referred to as the “enabling Act”.

## plain English (plain language)

Through techniques such as choosing simple words, using natural word order, breaking up complex sentences, plain English seeks to ensure that public information is as easy to read as possible.

## *prima facie*

Literally “at first sight” or “on its face”. When something is described as *prima facie*, it means that it constitutes sufficient proof to establish a fact or raise a legal presumption.

## provision

A provision is a segment of a piece of legislation identified by a unique letter or number. Nova Scotia’s legislation can be divided into Parts, Divisions (rare), Sections, subsections, clauses, subclauses, paragraphs, and subparagraphs (rare).

## Queen’s Printer

Historically a professional printer was appointed to be the monarch’s official printer (“King’s Printer” or “Queen’s Printer”). Today, the branch of government tasked with printing legislation is the Queen’s Printer. All legislation printed by the Queen’s Printer is evidence of the law under the *Evidence Act*. In many jurisdictions in Canada, the Queen’s printer is also responsible for consolidation and online publication of statutes and regulations.

## reference tables

These tables are prepared by the Office of the Registrar of Regulations to compile important information about the legislative history of a regulation, including which regulations form part of a specific consolidation, when they came into force, and when they were published, as well as detailing all amendments, revisions or corrections made to the original text of the regulations.

*(This information was also previously collected in the Sectional Index and can be found in inline historical notations used in consolidated regulations.)*

## Registrar of Regulations

The officer charged with administering the *Regulations Act*, and responsible for registering, indexing, consolidating, revising and publishing Nova Scotia’s regulations.

In many Canadian jurisdictions this role is performed by the Chief Legislative Counsel or another Legislative Counsel.

## Registrar of Regulations, Office of the

The Office of the Registrar of Regulations (“the Office”) is established by statute under the *Regulations Act*, and is part of the Legal Services Division of the Department of Justice. It is also informally known as the “Registry of Regulations” in reference to its function as a Provincial repository of registered regulations. The Office is responsible for providing public access to Nova Scotia’s regulations by registering, indexing, consolidating, revising and publishing the regulations. The Office also establishes plain language standards for the Province’s regulations and reviews all proposed regulations to ensure they are drafted in accordance with these standards and Nova Scotia’s legislative style.

## Registry of Regulations

An informal reference to the Office of the Registrar of Regulations. (See “*Registrar of Regulations, Office of the*”.)

## regulation

These are laws made by a person or body using powers that a parliament or legislature has given them. Sometimes these are also referred to as “subordinate legislation”, “secondary legislation” or “delegated legislation”.

The term “regulations” is defined broadly in Nova Scotia’s *Interpretation Act*, but for the purposes of the regulation-making process, the definition in the *Regulations Act* is the one that determines whether or not a document is required to be registered as a regulation and published with the Office. To be in force, a Nova Scotia regulation must be registered with the Office—i.e. it must have a N.S. Reg. number.

Only a statute can authorize a person or body to make regulations. Statutes that give the power to make regulations will state who can make them and outline which subjects the regulations may address. (See “*parent statute (parent Act)*” and “*enabling provision (enabling authority)*”)

### regulation-enabling authority

see “*enabling provision (enabling authority)*”

### regulation-making authority

This term can be somewhat confusing as it can be used to mean 2 different things. It can refer to

- 1) the person or body who has the statutory authority to make regulations (the “regulation maker”), or
- 2) the provision in the statute that gives the person or body the authority to make regulations. (See “*enabling provision (enabling authority)*”.)

### repeal

In law, a repeal discontinues the operation of the specified law so that it no longer has any force or effect. Like an amendment, a repeal is usually enacted the same way that the original law was made, unless the law provides for it to be done by some other process. A repeal can delete part or all of an existing law.

### retroactive

A law is said to be retroactive if it comes into effect on a date that is before the date it was made, or if it reaches back in time and has a legal effect on things that happened in the past.

### revised law

Most legislation governing statutes and regulations allows for some form of revision by the officer who is in control of drafting, publishing and consolidating the laws. The revision powers granted are usually fairly restrictive and are set out in legislation or regulations. This ensures that no changes are made to the substance of the law as made by the original regulation-making authority.

### royal assent

In a constitutional monarchy, statutes require the monarch to assent to them to become law. This is royal assent. In Nova Scotia, statutes must be signed into law by the Lieutenant Governor or by someone acting in the Lieutenant Governor’s place. All statutes in Nova Scotia come into force on royal assent, unless some other date or mechanism is provided for in the statute. (See also “*coming into force*”.)

## Royal Gazette

The *Royal Gazette* is the official legal publication of the Government of Nova Scotia. The *Royal Gazette* is divided into 2 parts: Part I publishes all government notices and other notices required to be published by statute; Part II publishes Nova Scotia's regulations. Nova Scotia's *Royal Gazette* has a history dating back over 250 years and is considered to be Canada's oldest newspaper.

Publication in the *Royal Gazette* is prima facie proof of the documents contained in it and the *Royal Gazette* may be produced as evidence of the law or other published materials in court. (See "*prima facie*".)

## scope

The scope of a statute determines where, to whom, and how and in what circumstances it applies. A regulation must not exceed the scope of its parent statute. The objects and purpose of a statute may be specified in a statute, but ultimately the scope is determined through the application of statutory interpretation principles.

## Section

A Section is a provision of legislation. A Section is numbered using Arabic numerals: 1, 2, 3, etc. A Section usually has a heading, but the heading is not considered part of the law. A Section may be divided into two or more subsections or may have no subsections at all. A Section without subsections consists of one sentence. "Section" is capitalized in accordance with the *Style and Procedures Manual*.

*(Numbering structures and naming conventions for legislative provisions differ between jurisdictions. What may be called a paragraph in one province could be called a clause in another. This definition refers to the Nova Scotia legislative scheme.)*

## Sectional Index

An index that was prepared and published in print and online by the Office of the Registrar of Regulations. It listed amendments, by provision, for all regulations that were currently in force. The Sectional Index was last published in July 2013. (See "*reference tables*".)

## statute (Act)

A statute is a law that is created by a legislature or parliament. In Nova Scotia, statutes are voted on by the legislature and then assented to by the Lieutenant Governor (see "*royal assent*"). Statutes are also called "Acts", "legislation" or "primary legislation".

## *Style and Procedures Manual*

The *Style and Procedures Manual: A Guide to Drafting Regulations in Plain Language*, published by the Department of Justice. The current edition was produced in 2005 and is available online here: <http://www.novascotia.ca/just/regulations/styleman/>

### subclause

A subclause is a provision of legislation. A subclause is numbered using Roman numerals (i), (ii), (iii) etc. A subclause is below a clause and above a paragraph in the legislative scheme.

*(Numbering structures and naming conventions for legislative provisions differ between jurisdictions. What may be called a paragraph in one province could be called a clause in another. This definition refers to the Nova Scotia legislative scheme.)*

### subordinate legislation

see “regulation”

### *ultra vires*

Latin for “beyond the power”. When something is *ultra vires*, it is beyond one’s legal power or authority. A court may decide that legislation is *ultra vires* if it determines that the legislature, regulation-maker or municipal council has no authority to make the law. For example, a regulation-maker that is authorized to make regulations about motor vehicles might not be authorized to make regulations about transporting dangerous goods.

A provincial legislature would also be acting *ultra vires* if they tried to make criminal law, which is the exclusive jurisdiction of the federal government under Canada’s Constitution.

*(May also be called “unconstitutional” if it is not authorized by the Constitution. The Constitution of Canada includes the Constitution Act, 1867, and the Constitution Act, 1982 (which includes the Canadian Charter of Rights and Freedoms). It is the supreme law of Canada. It reaffirms Canada’s dual legal system and also includes Aboriginal rights and treaty rights.)*





NS Department of Justice

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More information about the Office of the Registrar of Regulations  
and copies of Nova Scotia's regulations  
are available online at:

[www.novascotia.ca/just/regulations](http://www.novascotia.ca/just/regulations)