

Royal



Gazette

Part II Regulations under the Regulations Act

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In force date of regulations: As of March 4, 2005*, the date a regulation comes into force is determined by subsection 3(6) of the *Regulations Act*. The date a regulation is made, the date a regulation is approved, the date a regulation is filed and any date specified in a regulation are important to determine when the regulation is in force.

*Date that subsections 3(6) and (7) and Sections 11 and 13 of the *Regulations Act* and amendments to the *Regulations Act* made by Chapter 46 of the Acts of 2004 were proclaimed in force.

N.S. Reg. 268/2011

Made: September 1, 2011

Filed: September 1, 2011

Prescribed Petroleum Products Prices

Order dated September 1, 2011
made by the Nova Scotia Utility and Review Board
pursuant to Section 14 of the *Petroleum Products Pricing Act*
and Sections 16 to 19 of the *Petroleum Products Pricing Regulations*

Order**NSUARB-GAS-W-11-37****In the Matter of the *Petroleum Products Pricing Act*****- and -**

**In the Matter of Prescribing Prices for Petroleum Products
pursuant to Section 14 of the *Petroleum Products Pricing Act* and
Sections 16 to 19 of the *Petroleum Products Pricing Regulations***

Before: Peter W. Gurnham, Q.C., Chair**Order**

Whereas the purpose of the *Petroleum Products Pricing Regulations* is to ensure just and reasonable prices for specified petroleum products taking into consideration the objectives of preserving the availability of such products in rural areas, stabilizing prices of such products and minimizing the variances in prices of such products across the Province;

And whereas the Nova Scotia Utility and Review Board (“Board”) considered the manner in which it would proceed to set petroleum prices in its decision, 2006 NSUARB 108, issued on October 16, 2006;

And whereas the average of the average of the daily high and low reported product prices (in Canadian cents) for the week ended August 31, 2011, are:

Grade 1 Regular gasoline	76.9¢ per litre
Ultra-low-sulfur diesel oil	79.3¢ per litre

Now therefore the Board prescribes the benchmark prices for petroleum products to be:

Gasoline:	
Grade 1	76.9¢ per litre
Grade 2	79.9¢ per litre
Grade 3	82.9¢ per litre
Ultra-low-sulfur diesel oil	79.3¢ per litre

And now therefore the Board has determined, based on historical data regarding price changes and to achieve revenue neutrality, it is appropriate to apply, and the Board so orders, forward averaging corrections of:

Gasoline:	plus 0.6¢ per litre
Ultra-low-sulfur diesel oil:	plus 0.4¢ per litre

And now therefore the Board prescribes the prices for petroleum products as set forth in Schedule “A” effective on and after 12:01 a.m., September 2, 2011.

Dated at Halifax, Nova Scotia, this 1st day of September, 2011.

Sgd: *Mora Stevens*
Clerk of the Board

Schedule "A"

**Prices Prescribed for Petroleum Products
under the *Petroleum Products Pricing Act* and the
Petroleum Products Pricing Regulations
effective on and after 12:01 a.m. on September 2, 2011**

Nova Scotia Petroleum Price Schedule								
Petroleum Prices in Cents/Litre					Self-Service Pump Prices		Full-Service Pump Prices	
(Pump Prices includes 15% HST)								
	Base Wholesale Price	Fed. Excise Tax	Prov. Tax	Wholesale Selling Price	Min	Max	Min	Max
Zone 1								
Regular Unleaded	83.8	10.0	15.5	109.3	130.3	132.0	130.3	999.9
Mid-Grade Unleaded	86.8	10.0	15.5	112.3	133.7	135.5	133.7	999.9
Premium Unleaded	89.8	10.0	15.5	115.3	137.2	138.9	137.2	999.9
Ultra-Low-Sulfur Diesel	86.0	4.0	15.4	105.4	125.8	127.5	125.8	999.9
Zone 2								
Regular Unleaded	84.2	10.0	15.5	109.7	130.8	132.5	130.8	999.9
Mid-Grade Unleaded	87.2	10.0	15.5	112.7	134.2	135.9	134.2	999.9
Premium Unleaded	90.2	10.0	15.5	115.7	137.7	139.4	137.7	999.9
Ultra-Low-Sulfur Diesel	86.4	4.0	15.4	105.8	126.3	128.0	126.3	999.9
Zone 3								
Regular Unleaded	84.7	10.0	15.5	110.2	131.3	133.1	131.3	999.9
Mid-Grade Unleaded	87.7	10.0	15.5	113.2	134.8	136.5	134.8	999.9
Premium Unleaded	90.7	10.0	15.5	116.2	138.2	140.0	138.2	999.9
Ultra-Low-Sulfur Diesel	86.9	4.0	15.4	106.3	126.8	128.6	126.8	999.9
Zone 4								
Regular Unleaded	84.7	10.0	15.5	110.2	131.3	133.1	131.3	999.9
Mid-Grade Unleaded	87.7	10.0	15.5	113.2	134.8	136.5	134.8	999.9
Premium Unleaded	90.7	10.0	15.5	116.2	138.2	140.0	138.2	999.9
Ultra-Low-Sulfur Diesel	86.9	4.0	15.4	106.3	126.8	128.6	126.8	999.9
Zone 5								
Regular Unleaded	84.7	10.0	15.5	110.2	131.3	133.1	131.3	999.9
Mid-Grade Unleaded	87.7	10.0	15.5	113.2	134.8	136.5	134.8	999.9
Premium Unleaded	90.7	10.0	15.5	116.2	138.2	140.0	138.2	999.9
Ultra-Low-Sulfur Diesel	86.9	4.0	15.4	106.3	126.8	128.6	126.8	999.9
Zone 6								
Regular Unleaded	85.5	10.0	15.5	111.0	132.3	134.0	132.3	999.9
Mid-Grade Unleaded	88.5	10.0	15.5	114.0	135.7	137.4	135.7	999.9
Premium Unleaded	91.5	10.0	15.5	117.0	139.2	140.9	139.2	999.9
Ultra-Low-Sulfur Diesel	87.7	4.0	15.4	107.1	127.8	129.5	127.8	999.9

N.S. Reg. 269/2011

Made: September 8, 2011

Filed: September 12, 2011

Prescribed Petroleum Products Prices

Order dated September 8, 2011
made by the Nova Scotia Utility and Review Board
pursuant to Section 14 of the *Petroleum Products Pricing Act*
and Sections 16 to 19 of the *Petroleum Products Pricing Regulations*

Order**NSUARB-GAS-W-11-38****In the Matter of the *Petroleum Products Pricing Act*****- and -**

**In the Matter of Prescribing Prices for Petroleum Products
pursuant to Section 14 of the *Petroleum Products Pricing Act* and
Sections 16 to 19 of the *Petroleum Products Pricing Regulations***

Before: Roland A. Deveau, Q.C., Member**Order**

Whereas the purpose of the *Petroleum Products Pricing Regulations* is to ensure just and reasonable prices for specified petroleum products taking into consideration the objectives of preserving the availability of such products in rural areas, stabilizing prices of such products and minimizing the variances in prices of such products across the Province;

And whereas the Nova Scotia Utility and Review Board (“Board”) considered the manner in which it would proceed to set petroleum prices in its decision, 2006 NSUARB 108, issued on October 16, 2006;

And whereas the average of the average of the daily high and low reported product prices (in Canadian cents) for the week ended September 7, 2011, are:

Grade 1 Regular gasoline	77.9¢ per litre
Ultra-low-sulfur diesel oil	80.0¢ per litre

Now therefore the Board prescribes the benchmark prices for petroleum products to be:

Gasoline:	
Grade 1	77.9¢ per litre
Grade 2	80.9¢ per litre
Grade 3	83.9¢ per litre
Ultra-low-sulfur diesel oil	80.0¢ per litre

And now therefore the Board has determined, based on historical data regarding price changes and to achieve revenue neutrality, it is appropriate to apply, and the Board so orders, forward averaging corrections of:

Gasoline:	plus 0.7¢ per litre
Ultra-low-sulfur diesel oil:	plus 0.5¢ per litre

And now therefore the Board prescribes the prices for petroleum products as set forth in Schedule “A” effective on and after 12:01 a.m., September 9, 2011.

Dated at Halifax, Nova Scotia, this 8th day of September, 2011.

Sgd: *Elaine Wagner*
Clerk of the Board

Schedule "A"

**Prices Prescribed for Petroleum Products
under the *Petroleum Products Pricing Act* and the
Petroleum Products Pricing Regulations
effective on and after 12:01 a.m. on September 9, 2011**

Nova Scotia Petroleum Price Schedule								
Petroleum Prices in Cents/Litre					Self-Service Pump Prices		Full-Service Pump Prices	
(Pump Prices includes 15% HST)								
	Base Wholesale Price	Fed. Excise Tax	Prov. Tax	Wholesale Selling Price	Min	Max	Min	Max
Zone 1								
Regular Unleaded	84.9	10.0	15.5	110.4	131.6	133.3	131.6	999.9
Mid-Grade Unleaded	87.9	10.0	15.5	113.4	135.0	136.7	135.0	999.9
Premium Unleaded	90.9	10.0	15.5	116.4	138.5	140.2	138.5	999.9
Ultra-Low-Sulfur Diesel	86.8	4.0	15.4	106.2	126.7	128.5	126.7	999.9
Zone 2								
Regular Unleaded	85.3	10.0	15.5	110.8	132.0	133.7	132.0	999.9
Mid-Grade Unleaded	88.3	10.0	15.5	113.8	135.5	137.2	135.5	999.9
Premium Unleaded	91.3	10.0	15.5	116.8	138.9	140.6	138.9	999.9
Ultra-Low-Sulfur Diesel	87.2	4.0	15.4	106.6	127.2	128.9	127.2	999.9
Zone 3								
Regular Unleaded	85.8	10.0	15.5	111.3	132.6	134.3	132.6	999.9
Mid-Grade Unleaded	88.8	10.0	15.5	114.3	136.0	137.8	136.0	999.9
Premium Unleaded	91.8	10.0	15.5	117.3	139.5	141.2	139.5	999.9
Ultra-Low-Sulfur Diesel	87.7	4.0	15.4	107.1	127.8	129.5	127.8	999.9
Zone 4								
Regular Unleaded	85.8	10.0	15.5	111.3	132.6	134.3	132.6	999.9
Mid-Grade Unleaded	88.8	10.0	15.5	114.3	136.0	137.8	136.0	999.9
Premium Unleaded	91.8	10.0	15.5	117.3	139.5	141.2	139.5	999.9
Ultra-Low-Sulfur Diesel	87.7	4.0	15.4	107.1	127.8	129.5	127.8	999.9
Zone 5								
Regular Unleaded	85.8	10.0	15.5	111.3	132.6	134.3	132.6	999.9
Mid-Grade Unleaded	88.8	10.0	15.5	114.3	136.0	137.8	136.0	999.9
Premium Unleaded	91.8	10.0	15.5	117.3	139.5	141.2	139.5	999.9
Ultra-Low-Sulfur Diesel	87.7	4.0	15.4	107.1	127.8	129.5	127.8	999.9
Zone 6								
Regular Unleaded	86.6	10.0	15.5	112.1	133.5	135.2	133.5	999.9
Mid-Grade Unleaded	89.6	10.0	15.5	115.1	137.0	138.7	137.0	999.9
Premium Unleaded	92.6	10.0	15.5	118.1	140.4	142.1	140.4	999.9
Ultra-Low-Sulfur Diesel	88.5	4.0	15.4	107.9	128.7	130.4	128.7	999.9

N.S. Reg. 270/2011

Made: September 13, 2011

Filed: September 14, 2011

Proclamation, S. 32(7), S.N.S. 2011, c. 8

Order in Council 2011-338 dated September 13, 2011

Proclamation made by the Governor in Council

pursuant to subsection 32(7) of the

Financial Measures (2011) Act

The Governor in Council on the report and recommendation of the Minister of Finance dated August 12, 2011, and pursuant to subsection (7) of Section 32 of Chapter 8 of the Acts of 2011, the *Financial Measures (2011) Act*, and subsection (7) of Section 3 of Chapter 235 of the Revised Statutes, 1989, the *Interpretation Act*, is pleased to order and declare by proclamation that Sections 21 to 25 and subsection (1) of Section 27 of Chapter 8 of the Acts of 2011, the *Financial Measures (2011) Act*, which amend Chapter 17 of the Acts of 1995-96, the *Revenue Act*, do come into force on and not before April 1, 2012.

PROVINCE OF NOVA SCOTIA

sgd: **Mayann E. Francis**

G/S

ELIZABETH THE SECOND, by the Grace of God,
of the United Kingdom, Canada and Her Other
Realms and Territories, Queen, Head of the
Commonwealth, Defender of the Faith.

TO ALL TO WHOM THESE PRESENTS SHALL COME, OR WHOM THE SAME MAY IN ANY WISE
CONCERN,

GREETING:

A PROCLAMATION

WHEREAS in and by subsection (7) of Section 32 of Chapter 8 of the Acts of 2011, the *Financial Measures (2011) Act*, it is enacted as follows:

- 32 (7)** Sections 11 to 16 and 21 to 25 and subsection 27(1) come into force on such day as the Governor in Council orders and declares by proclamation.

AND WHEREAS it is deemed expedient that Sections 21 to 25 and subsection (1) of Section 27 of Chapter 8 of the Acts of 2011, the *Financial Measures (2011) Act*, which amend Chapter 17 of the Acts of 1995-96, the *Revenue Act*, do come into force on and not before April 1, 2012;

NOW KNOW YE THAT WE, by and with the advice of the Executive Council of Nova Scotia, do by this Our Proclamation order and declare that Sections 21 to 25 and subsection (1) of Section 27 of Chapter 8 of the Acts of 2011, the *Financial Measures (2011) Act*, which amend Chapter 17 of the Acts of 1995-96, the *Revenue Act*, do come into force on and not before April 1, 2012, of which all persons concerned are to take notice and govern themselves accordingly.

IN TESTIMONY WHEREOF We have caused these
our Letters to be made Patent and the
Great Seal of Nova Scotia to be
hereunto affixed.

WITNESS, Our Trusty and Well Beloved Her Honour
the Honourable Mayann E. Francis, Lieutenant
Governor of the Province of Nova Scotia.

AT Our Government House in the Halifax Regional Municipality, this 13th day of September in the year of Our Lord two thousand and eleven and in the sixtieth year of Our Reign.

BY COMMAND:

sgd: Ross Landry
Provincial Secretary
Minister of Justice and Attorney General

N.S. Reg. 271/2011

Made: September 13, 2011

Filed: September 14, 2011

Revenue Act Regulations

Order in Council 2011-339 dated September 13, 2011
Amendment to regulations made by the Governor in Council
pursuant to Sections 43 and 92 of the *Revenue Act*

The Governor in Council, on the report and recommendation of the Minister of Finance and the Minister of Service Nova Scotia and Municipal Relations dated August 12, 2011, and pursuant to Sections 43 and 92 of Chapter 17 of the Acts of 1995-96, the *Revenue Act*, as amended by Section 21 of Chapter 8 of the Acts of 2011, the *Financial Measures (2011) Act*, is pleased to amend the *Revenue Act Regulations*, N.S. Reg. 63/96, made by [the] Governor in Council by Order in Council 96-230 dated March 29, 1996, to repeal provisions respecting provincially marked tear tape and provide for provincially marked stamps to identify tobacco products intended for sale in the Province, in the manner set forth in Schedule “A” attached to and forming part of the report and recommendation, effective on and after April 1, 2012.

Schedule “A”

**Amendment to the *Revenue Act Regulations*
made by the Governor in Council under
Section[s] 43 [and 92] of Chapter 17 of the Acts of 1995-1996,
the *Revenue Act***

- 1 Subsection 3B(1) of the *Revenue Act Regulations*, N.S. Reg. 63/96, made by the Governor in Council by Order in Council 96-230 dated March 29, 1996, is amended by
 - (a) striking out the semicolon at the end of clause (n) and substituting a period; and
 - (b) repealing clause (o).
- 2
 - (1) Subsection 76(1) of the regulations is amended by striking out “Sections 76A to 76G and Sections 78 and 79A” and substituting “Section 78”.
 - (2) Subsection 76(1) of the regulations is further amended by adding the following clause immediately after clause (a):

- (aa) “carton stamp” means a stamp that is affixed to a carton of cigarettes intended for sale in the Province to a consumer who is required to pay tax under Part III of the Act;
- (3) Subsection 76(1) is further amended by adding the following clause immediately after clause (b):
 - (ba) “case stamp” means a stamp that is affixed [to] or imprinted on a case of cigarettes or fine-cut tobacco intended for sale in the Province to a consumer who is required to pay tax under Part III of the Act;
- (4) Subsection 76(1) is further amended by adding the following clause immediately after clause (f):
 - (fa) “other tobacco” includes cigars; [and] pipe, snuff, chew and unprocessed tobacco;
- (5) Subsection 76(1) is further amended by repealing clauses (h), (ha), (i) and (j) and substituting the following clauses:
 - (h) “tobacco product” means any product that contains tobacco;
 - (i) “tobacco stamp” means an excise stamp as defined under Section 2 of the *Excise Act, 2001* (Canada) that includes the letters “NS” and a background colour of pantone purple;
 - (j) “unstamped tobacco” means packages of cigarettes or packages of fine-cut tobacco that are not stamped with a tobacco stamp.
- 3 Section 76 of the regulations is further amended by repealing subsections (2) and (3) and substituting the following subsections:
 - (2) Every package of cigarettes or package of fine-cut tobacco that is intended to be sold in the Province to a consumer who is required to pay tax under Part III of the Act shall be stamped with a tobacco stamp.
 - (3) Every carton of cigarettes that is intended to be sold in the Province to a consumer who is required to pay tax under Part III of the Act shall be stamped with a carton stamp.
 - (3A) Every case of cigarettes or fine-cut tobacco that is intended to be sold in the Province to a consumer who is required to pay tax under Part III of the Act shall be stamped with a case stamp.
 - (3B) Only a person who holds a permit to stamp tobacco may stamp
 - (a) a package of cigarettes or a package of fine-cut tobacco with a tobacco stamp;
 - (b) a carton of cigarettes with a carton stamp; and
 - (c) a case of cigarettes or fine-cut tobacco with a case stamp.
- 4 Subsection 76(4) of the regulations is amended by
 - (a) striking out “tobacco that is” and substituting “packages of cigarettes and packages of fine-cut tobacco that are”; and
 - (b) striking out “mark” and substituting “stamp”.
- 5 Subsection 76(5) of the regulations is amended by striking out “mark” and substituting “stamp”.

- 6 Subsection 76(7) of the regulations is repealed.
- 7 Subsection 76(8) of the regulations is amended by striking out “or” at the end of clause (a) and substituting “and”.
- 8 Subsection 76(9) of the regulations is amended by
 - (a) striking out “mark or”; and
 - (b) striking out “marked or” in clause (d).
- 9 Subsection 76(10) of the regulations is repealed.
- 10 Subsection 76(11) of the regulations is amended by striking out “unmarked” wherever it appears and substituting “unstamped”.
- 11 Subsection 76(12) of the regulations is amended by striking out “unmarked” and substituting “unstamped”.
- 12 Subsection 76(13) of the regulations is amended by
 - (a) striking out “is not a person described in clauses (8)(a) or (b)” and substituting “meets the requirements of clauses (8)(a) and (b)”;
 - (b) striking out “unmarked” wherever it appears and substituting “unstamped”; and
 - (c) striking out “External Affairs” and substituting “Foreign Affairs and International Trade” in clause (b).
- 13 Subsection 76(14) of the regulations is amended by striking out “unmarked” and substituting “unstamped”.
- 14 Subsection 76(15) of the regulations is amended by
 - (a) adding “products” immediately after “manufacturer of tobacco”; and
 - (b) striking out “unmarked” wherever it appears and substituting “unstamped”.
- 15 Subsection 76(16) of the regulations is amended by striking out “packages of fine-cut tobacco, packages of cigarettes, cartons or cases that are marked or stamped with an indicium or cigars or other tobacco products” and substituting “tobacco products that are intended for sale to a consumer who is required to pay tax under Part III of the Act”.
- 16 Clause 76(17)(a) of the regulations is amended by
 - (a) striking out “cigars” and substituting “fine-cut tobacco”; and
 - (b) striking out “products”.
- 17 Subsection 76(18) of the regulations is amended by
 - (a) adding “all of the following:” immediately after “that shows”;

- (b) striking out “the amount of marked tobacco with the indicium “NOVA SCOTIA - NOUVELLE-ÉCOSSE”” in clause (a) and substituting “the number of packages of cigarettes and packages of fine-cut tobacco stamped with tobacco stamps and amount of other tobacco”;
 - (c) striking out “marked tobacco with the indicium “NOVA SCOTIA - NOUVELLE-ÉCOSSE”” in clause (b) and substituting “packages of cigarettes and packages of fine-cut tobacco stamped with tobacco stamps and other tobacco”; and
 - (d) striking out “unmarked” and substituting “unstamped” in clause (c).
- 18 Subsections 76(19) and (20) of the regulations are repealed.
- 19 Subsection 76(21) of the regulations is amended by striking out “Every carton that is intended to be sold in the Province to a consumer who is required to pay tax under Part III of the Act shall be marked or stamped with an indicium that meets” and substituting “A carton stamp shall meet all of”.
- 20 Subsection 76(22) of the regulations is repealed.
- 21 Subsection 76(23) of the regulations is amended by
- (a) striking out “indicium” and substituting “carton stamp”; and
 - (b) striking out “subsection (22)” and substituting “subsection (21)”.
- 22 Subsection 76(24) of the regulations is amended by
- (a) striking out “packages of cigarettes and cartons or packages of fine-cut”;
 - (b) striking out “are marked or” and substituting “is”; and
 - (c) striking out “marked or” immediately before “stamped by printing”.
- 23 Section 76(26) of the regulations is amended by
- (a) striking out “marked or”;
 - (b) striking out “with an indicium”; and
 - (c) striking out “subsections (19), (20) and (21)” and substituting “subsections (2), (3) and (21)”.
- 24 Subsection 76(27) of the regulations is amended by
- (a) striking out “has the letters “NS-NÉ” printed on it” and substituting “is stamped”;
 - (b) striking out “subsection (24)” and substituting “subsections (3A), (24) and (25)”.
- 25 Subsection 76(28) of the regulations is amended by
- (a) striking out “mark” and substituting “stamp”;
 - (b) repealing clauses (a) and (b) and substituting the following clauses:

- (a) order all tobacco stamps from the Minister of National Revenue for Canada in accordance with subsection 25.1(1) of the *Excise Act, 2001* (Canada);
 - (b) account for all tobacco stamps received from the producer of tobacco stamps authorized by the Minister of National Revenue for Canada under subsection 25.1(4) of the *Excise Act, 2001* (Canada);
 - (c) striking out “tear tape” in clause (c) and substituting “tobacco stamps”; and
 - (d) repealing clause (d) and substituting the following clause:
 - (d) keep records and books of account that enable tobacco stamps that have been used in stamping packages of cigarettes and packages of fine-cut tobacco that are sold or intended to be sold in the Province to consumers required to pay tax under Part III of this Act to be accurately accounted for; and
- 26 The regulations are further amended by repealing Sections 76A, 76B, 76C, 76D, 76E, 76F and 76G.
- 27 Subsection 77(1) of the regulations is amended by
- (a) adding “cigarettes and fine-cut” immediately after “those brands of”; and
 - (b) striking out “marked” and substituting “stamped”.
- 28 Subsection 77(2) of the regulations is amended by striking out “an indicium” and substituting “a tobacco stamp”.
- 29 Subsection 77(3) of the regulations is amended by striking out “unmarked”.
- 30 Clause 77(5)(d) of the regulations is amended by striking out “unmarked”.
- 31 Subsection 77(6) of the regulations is amended by
- (a) striking out “unmarked”;
 - (b) adding “the imported tobacco” immediately after “stamping”; and
 - (c) striking out “an indicium” and substituting “a tobacco stamp”.
- 32 Subsection 77(7) of the regulations is amended by
- (a) striking out “unmarked” wherever it appears; and
 - (b) adding “unstamped” immediately after “a permit to purchase and sell”.
- 33 Subsection 77(10) of the regulations is repealed.
- 34 Subsection 77(11) of the regulations is amended by
- (a) striking out “an indicium, that meets the following specifications:” and substituting “a tobacco stamp.”; and
 - (b) repealing clauses (a) to (g).

- 35 Subsection 77(12) of the regulations is repealed.
- 36 Subsection 77(13) of the regulations is amended by
- (a) striking out “Commissioner” and substituting “Minister of National Revenue for Canada”;
 - (b) striking out “indicium” and substituting “tobacco stamps”; and
 - (c) striking out “unmarked”.
- 37 Subsection 77(14) of the regulations is amended by
- (a) adding “who is required to pay tax under Part III of the Act” immediately after “consumer”; and
 - (b) striking out “an indicium” and substituting “a tobacco stamp”.
- 38 Subsection 77(15) of the regulations is amended by striking out “the indicium in accordance with” and substituting “a tobacco stamp as required by”.
- 39 The regulations are further amended by repealing Section 79A.
-

N.S. Reg. 272/2011

Made: September 13, 2011

Filed: September 14, 2011

Governor in Council Education Act Regulations

Order in Council 2011-342 dated September 13, 2011
Amendment to regulations made by the Governor in Council
pursuant to Section 146 of the *Education Act*

The Governor in Council on the report and recommendation of the Minister of Education dated August 11, 2011, and pursuant to Section 146 of Chapter 1 of the Acts of 1995-96, the *Education Act*, is pleased to amend the *Governor in Council Education Act Regulations*, N.S. Reg. 74/97, made by the Governor in Council by Order in Council 97-405 dated June 24, 1997, to provide for the availability of tuition support for special needs students, in the manner set forth in Schedule “A” attached to and forming part of the report and recommendation, effective on and after September 13, 2011.

Schedule “A”

**Amendment to the Governor in Council Education Act Regulations
made under Section 146 of Chapter 1 of the Acts of 1995-96,
the Education Act**

The *Governor in Council Education Act Regulations*, N.S. Reg. 74/97, made by the Governor in Council by Order in Council 97-405 dated June 24, 1997, are amended by repealing Sections 67 to 78 and substituting the following Sections:

Definitions

67 In this Section and Sections 68 to 78C,

- (a) “adaptations plan”, in respect of a student, means a documented plan for achieving the curriculum outcomes of the NS public-school program that accommodates the specific learning needs of the student;
- (b) “designated special education private school” means a special education private school designated under Section 68 or continued under Section 69;
- (c) “funded student” means a student for whom a funding unit has been granted under subsection 77C(1);
- (d) “funded student’s school board” means the school board for the school region in which a parent of a funded student resides on September 30 in a school year;
- (e) “funding unit” means an amount of money
 - (i) calculated in accordance with Section 77D, and
 - (ii) payable for tuition fees for a school year at a designated special education private school or a registered special education private school;
- (f) “individualized program plan”, in respect of a student for whom the curriculum outcomes of the NS public-school program are not applicable or attainable, means a documented plan for achieving annual and specific individualized outcomes instead of the curriculum outcomes of the NS public-school program that accommodates the learning strengths and challenges of the student;
- (g) “NS public-school program” means the public-school program of education for the Province prescribed by the *Ministerial Education Act Regulations* made under the Act and defined as “school program” in the Act;
- (h) “extra-Provincial private educational institution” means an educational institution that is located outside of the Province and is not publicly funded;
- (i) “registered special education private school” means a special education private school registered under Section 73;
- (j) “resident” means a person who resides in the Province as a Canadian citizen or permanent resident as defined by the *Immigration and Refugee Protection Act* (Canada);
- (k) “Reviewer” means the Reviewer appointed under Section 77 for the purpose of reviewing applications for funding units or supplements under these regulations;
- (l) “student with special needs” means a student with attention deficit hyperactivity disorder (ADHD), autism spectrum disorder (ASD) or a learning disability (LD), as diagnosed by 1 of the following:
 - (i) a licensed physician, or
 - (ii) a registered psychologist or candidate registered psychologist, with expertise and training in making the diagnosis;

- (m) “special education private school” means a private school or extra-Provincial private educational institution that offers and delivers educational programs and services to meet the needs of students with special needs only, and includes a natural person, an association of natural persons, a partnership or a corporation;
- (n) “supplement” means an amount of money, calculated in accordance with Section 77G, that is payable in addition to a funding unit for tuition fees for a school year at a designated special education private school or a registered special education private school;
- (o) “transition plan”, in respect of a student, means a documented plan for achieving annual and specific individualized outcomes to enable the student to transition from a designated special education private school or a registered special education private school to a public school or post-secondary educational institution, that accommodates the learning needs of the student;
- (p) “Tuition Appeal Board” means the Tuition Appeal Board appointed under subsection 78(1) to hear appeals of decisions in accordance with Section 78A;
- (q) “tuition support funding” means either
 - (i) a funding unit, or
 - (ii) a funding unit and a supplement.

Application for designation as designated special education private school

- 68 (1)** A private school that is a special education private school that has been in operation for at least 1 year may apply to the Minister, in the manner and form required by the Minister, for designation or renewal of its designation as a designated special education private school.
- (2)** The Minister may designate a private school that applies under subsection (1) as a designated special education private school if the Minister is satisfied that the school meets all of the following requirements:
- (a) each individual employed on the school’s teaching staff
 - (i) holds a teacher’s certificate issued by the Minister, and
 - (ii) has demonstrated qualifications or competencies to teach students with special needs;
 - (b) the school follows the NS public-school program;
 - (c) the school has rules and procedures in place for disciplining, suspending and expelling students that incorporate the principles of natural justice and procedural fairness and accord with the policies and procedures made by the Minister;
 - (d) the school is not insolvent, as defined in subsection (3);
 - (e) the school maintains the financial security required by the Minister, including a fidelity bond;
 - (f) the school maintains a general liability insurance policy or other form of indemnification in an amount determined by the Minister and on the terms and conditions determined by the Minister;

- (g) the school has measures in place, similar to those followed by school boards, to ensure the safety of students and protect the students from harm from its employees or other students;
 - (h) the school is not affiliated with a religious faith or denomination, and is either
 - (i) recognized as a non-profit organization under the *Income Tax Act* (Canada), or
 - (ii) registered as a charitable organization under the *Income Tax Act* (Canada).
- (3) In clause (2)(d), “insolvent” means any of the following:
- (a) unable, for any reason, to meet financial obligations as they become due;
 - (b) unable to pay financial liabilities in the course of business as those liabilities become due;
 - (c) unable to meet financial obligations due and accruing because the aggregate of its property
 - (i) is not, at a fair value, sufficient to pay all the financial obligations that are due or accruing, or
 - (ii) if disposed of at a fairly conducted sale, would not be sufficient to pay all the financial obligations that are due and accruing.
- (4) A designation made under this Section is valid for 2 years unless suspended or revoked under Section 71.

Continuation of designations made before August 15, 2011

69 A private school designated as a designated special education private school under these regulations on or before August 15, 2011, is deemed to be designated in accordance with Section 68 and the designation remains valid until the expiry date of the designation unless suspended or revoked under Section 71.

Refusal of designation

70 The Minister may refuse to designate or renew the designation of a private school that applies under clause 68(1) for any of the following reasons:

- (a) the information supplied in the application is incomplete;
- (b) in the Minister’s opinion, the school does not meet the requirements of subsection 68(2).

Suspension or revocation of designation

71 The Minister may suspend or revoke a designation of a designated special education private school if, in the Minister’s opinion, the school fails to meet the requirements of Section 72.

Ongoing obligations and monitoring of designated school

- 72** (1) A private school designated as a designated special education private school must continue to meet the requirements in subsection 68(2) and do all of the following:
- (a) at the request of the Minister, provide proof of the school’s compliance with subsection 68(2);
 - (b) report annually to the Minister on the types of interventions and instructional strategies that the school uses to meet the needs of funded students enrolled at the school;
 - (c) for each funded student enrolled at the school during a school year,

- (i) develop and implement an individualized program plan or an adaptations plan for the school year,
 - (ii) at the end of the school year, provide the Minister with a copy of an annual report for the school year, as set out in subsection (2),
 - (iii) meet with the funded student's school board at least 2 times during the school year to explain and share documented evidence of the funded student's progress and achievements,
 - (iv) conduct provincial assessments and examinations at the request of the Minister;
- (d) develop a transition plan with the funded student's school board for each funded student who intends to
- (i) return to a public school or a publicly funded school the following school year, or
 - (ii) pursue post-secondary studies the following school year.
- (2) The annual report required by clause (1)(c)(ii) must include all of the following for the funded student:
- (a) a record of academic progress for the school year;
 - (b) an attendance record for the school year;
 - (c) an individualized program plan or an adaptations plan for the school year.

Application for registration as registered special education private school

- 73** (1) An extra-Provincial private educational institution that is a special education private school that has been in operation for at least 1 year may apply to the Minister, in the manner and form determined by the Minister, for registration or renewal of its registration as a registered special education private school.
- (2) The Minister may register an extra-Provincial private educational institution that applies under subsection (1) if the Minister is satisfied that the school meets the requirements of clauses 68(2)(a) to (h) and all of the following requirements:
- (a) each individual employed on the school's teaching staff
 - (i) holds a teacher's certificate from the teacher certification authority of the jurisdiction where the extra-Provincial private educational institution is located, and
 - (ii) has demonstrated qualifications or competencies to teach students with special needs.
 - (b) the school follows the equivalent of the NS public-school program;
 - (c) the school offers French-first-language programs and services for students with special needs.
- (3) A registration made under this Section is valid for 2 years unless suspended or revoked under Section 75.

- (4) For an application made under subsection (1) before September 1, 2011, the Minister may waive any of the requirements in subsection (2) if the Minister considers it appropriate in the circumstances.

Refusal of registration

74 The Minister may refuse to register or renew the registration of an extra-Provincial private educational institution that applies under Section 73 for any of the following reasons:

- (a) the information supplied in the application is incomplete;
- (b) in the Minister's opinion, the applicant does not meet the requirements of subsection 73(2).

Suspension or revocation of registration

75 The Minister may suspend or revoke a registration made under Section 73 if, in the opinion of the Minister, the registered school fails to meet the requirements of Section 76.

Ongoing obligations and monitoring of registered school

76 A registered special education private school must continue to meet the requirements in subsection 73(2) and do all of the following:

- (a) at the request of the Minister, provide proof of the school's compliance with subsection 73(2);
- (b) comply with the ongoing requirements for a designated school in subsection 72(1).

Reviewer

- 77** (1) The Minister must appoint a person who has recognized professional qualifications and experience in working with students with special needs to serve as the Reviewer.
- (2) The Reviewer holds office for 2 years and may not be reappointed.
 - (3) The Reviewer may be paid any remuneration and reimbursement of expenses that the Governor in Council determines.
 - (4) The Reviewer must issue an annual report and provide a copy of the report to the Minister.
 - (5) If the person appointed as Reviewer resigns office or retires, or if their term of office expires or is terminated, that person maintains jurisdiction as Reviewer over any application, matter or thing required to be determined by the Reviewer, including the power to complete any unfinished matter and give a decision in that matter as if the Reviewer had not resigned or retired or their term of office had not expired or been terminated.

Eligibility for applying for funding unit

77A (1) A student is eligible to apply for a funding unit for a school year at a designated special education private school if all of the following criteria are met:

- (a) the student is a student with special needs and has received or is offered an individualized program plan for the following school year;
- (b) the student was a student at a publicly funded school during a previous school year;
- (c) the student has secured a placement at the school any time during the school year for which the funding unit is sought;
- (d) on the date of enrolment in the school,

- (i) the student is or will be a resident of the Province, and
 - (ii) a parent of the student is or will be a resident of the Province.
- (2) A student is eligible to apply for a funding unit for a school year at a registered special education private school if all of the following criteria are met:
- (a) the student is a student with special needs and has received or is offered an individualized program plan for the following school year;
 - (b) the student was a student at a publicly supported school in Canada that offered French-first-language programs and services to the student during a previous school year;
 - (c) the student has secured a placement at the school any time during the school year for which the funding unit is sought;
 - (d) on the date the application is made, the student is a resident of the Province;
 - (e) the student is entitled to be provided a French-first-language program of the Conseil acadian under Section 12 of the Act.

Application for funding unit

- 77B (1)** A student who meets the eligibility criteria for a funding unit set out in Section 77A may apply to the Reviewer for a funding unit on a form prescribed by the Minister.
- (2) A completed application for a funding unit must be submitted no later than July 31 of the school year during which the student is enrolled at the designated special education private school or the registered special education private school and for which the funding unit is being sought and must include all of the following:
- (a) documented evidence, in a form satisfactory to the Reviewer, that all the eligibility criteria for a funding unit set out in subsection 77A(1) or (2) are met;
 - (b) an outline of the programs and services being offered to the student by the designated special education private school or registered special education private school;
 - (c) a written rationale prepared by the student explaining how the programs and services referred to in clause (b) will benefit the student's academic and behavioural well-being;
 - (d) for a student who has been diagnosed with a learning disability (LD), a psycho-educational assessment of the student completed by a registered psychologist or a candidate registered psychologist.
- (3) A parent may apply under subsection (1) on behalf of a student under the age of majority.

Review and grant of funding unit

- 77C (1)** On receiving an application for a student under Section 77B, the Reviewer may grant a funding unit for the student.
- (2) If the Reviewer grants a funding unit under subsection (1), the Reviewer must notify all of the following:
- (a) the funded student;

- (b) the designated special education private school or the registered special education private school in which the funded student is enrolled;
 - (c) the funded student's school board;
 - (d) the Minister.
- (3) The Reviewer may refuse to grant a funding unit for any of the following reasons:
- (a) in the Reviewer's opinion, all the applicable eligibility criteria for a funding unit set out in subsection 77A(1) or (2) are not met;
 - (b) the information required by Section 77B is incomplete;
 - (c) the Reviewer does not consider the programs and services outlined under clause 77B(2)(b) to be acceptable;
 - (d) the Reviewer does not consider the rationale prepared under clause 77B(2)(c) to be acceptable.
- (4) If the Reviewer refuses to grant a funding unit under subsection (3), the Reviewer must notify the applicant in writing and include the reasons for the refusal.

Calculation of funding unit

77D A funding unit is calculated as the average per student allocation of combined Provincial and municipal funding to school boards for the school year as of March 31 of the previous fiscal year, as determined by the Minister.

Application for supplement

- 77E** (1) A funded student may apply to the Reviewer for a supplement for the same school year that their funding unit applies to, on a form prescribed by the Minister.
- (2) A completed application for a supplement must be submitted to the Reviewer by no later than July 31 of the school year during which the student is enrolled at the designated special education private school or the registered special education private school and for which the funding unit is being sought and must include sufficient information to satisfy the Reviewer that additional financial assistance is required, taking into account all the financial resources available to the funded student.
- (3) A parent may make an application under subsection (1) on behalf of a student under the age of majority.

Review and grant of supplement

- 77F** (1) On receiving an application for a student under Section 77E, the Reviewer may grant a supplement for the student.
- (2) If the Reviewer grants a supplement, the Reviewer must notify all of the following:
- (a) the funded student;
 - (b) the designated special education private school or the registered special education private school in which the funded student is enrolled;
 - (c) the Minister.

- (3) The Reviewer may refuse to grant a supplement for any of the following reasons:
- (a) the information required by subsection 77E(2) is incomplete;
 - (b) in accordance with guidelines established by the Minister, the Reviewer does not consider that the funded student requires financial assistance in addition to a funding unit.
- (4) If the Reviewer refuse[s] to grant a supplement under subsection (3), the Reviewer must notify the applicant in writing and include the reasons for the refusal.

Calculation of supplement

77G The Reviewer must calculate the amount of a supplement in accordance with guidelines established by the Minister, but a supplement must not exceed the lower of the following amounts:

- (a) the amount of the funding unit granted to the funded student;
- (b) 90% of the tuition fees charged by the designated special education private school or registered special education private school in which the student is enrolled.

Re-applying for tuition support funding

77H For greater certainty, a funded student must re-apply for tuition support funding under these regulations for each year of funding availability under Section 77I.

Maximum tuition support funding availability

77I (1) Except as provided in subsection (2) and Section 77J, tuition support funding is available for a maximum of 3 school years.

- (2) The Reviewer may grant tuition support funding for a student who applies for a 4th year of tuition support funding if all of the following requirements are met:
- (a) the student has been a funded student and meets the requirements for the tuition funding under these regulations;
 - (b) there is a transition plan in place for the student for the following school year developed by the funded student's school board and the designated special education private school or the registered special education private school in which the student is enrolled.

Tuition funding for 2010-11 school year

77J The Reviewer may grant tuition support funding to a student who applies for tuition support funding for the 2010-2011 school year if the student was a funded student for the 2009-2010 school year and continues to meet the requirements for the tuition support funding under these regulations.

Remittance of tuition support funding

77K (1) A designated special education private school or a registered special education private school in which a funded student is enrolled must provide confirmation of the funded student's enrolment and the tuition support funding invoices to both of the following:

- (a) the funded student's school board;
 - (b) the Minister.
- (2) The confirmation and invoices required by subsection (1) must be provided by the following deadlines:

- (a) for a student who is enrolled on or before September 30 of a school year, by September 30 and March 1 of the school year;
 - (b) for a student who is enrolled after September 30 of a school year, no later than 30 days after the date of enrolment.
- (3) On receiving the confirmation and invoices required by subsection (1), the funded student's school board must remit the funding unit for the student to the school as follows:
- (a) for a student who is enrolled in the school on or before September 30 of a school year, in the following 2 instalments:
 - (i) 60% of the funding unit must be remitted no later than October 30 of the school year to which it applies, and
 - (ii) the remaining 40% of the funding unit must be remitted no later than April 1 of the school year to which it applies;
 - (b) for a student who is enrolled in the school after September 30 of a school year, in accordance with the directions of the Minister.
- (4) On receiving the confirmation and invoices required by subsection (1), the Minister must remit the supplement for the student to the school.

Appointments to Tuition Appeal Board

- 78** (1) The Governor in Council must appoint a person who has recognized professional qualifications and experience in working with students with special needs to serve as the single adjudicator of the Tuition Appeal Board to hear appeals under Section 78A.
- (2) A person appointed to the Tuition Appeal Board under subsection (1) holds office for 3 years and may not be reappointed.
- (3) A person appointed to the Tuition Appeal Board may be paid any remuneration and reimbursement of expenses the Governor in Council determines.
- (4) If a person appointed as the single adjudicator of the Tuition Appeal Board resigns office or retires, or if their term of office expires or is terminated, that person maintains jurisdiction as the Tuition Appeal Board over any application, matter or thing required to be determined by the Board, including the power to complete any unfinished matter and give a decision in that matter as if the person had not resigned or retired or their term of office had not expired or been terminated.

Decisions that may be appealed to the Tuition Appeal Board

- 78A** (1) A student may appeal any of the following decisions made by the Reviewer:
- (a) a refusal to grant a funding unit under subsection 77C(3);
 - (b) a refusal to grant a supplement under subsection 77F(3);
 - (c) the amount of a supplement granted under 77E in accordance with Section 77G.
- (2) A special education private school may appeal any of the following decisions made by the Minister:
- (a) a refusal to designate or renew the designation of the school under Section 70;

- (b) a suspension or revocation of the school's designation under Section 71;
- (c) a refusal to register or renew the registration of the school under Section 74;
- (d) a suspension or revocation of the school's registration under Section 75.

Appealing a decision of the Reviewer

- 78B (1)** An appellant must deliver a notice of appeal in writing to the Tuition Appeal Board no later than 30 days after the date of the decision to be appealed.
- (2) The Tuition Appeal Board must hold a hearing that provides the appellant with an opportunity to present evidence, including new information, and make representations.
 - (3) A hearing of an appeal under this Section is not open to the public.
 - (4) The Tuition Appeal Board must observe the confidentiality of all documents and records pertaining to an appeal.
 - (5) The Tuition Appeal Board may do any of the following in deciding an appeal:
 - (a) confirm the decision appealed from;
 - (b) vary the decision appealed from;
 - (c) rescind the decision appealed from.

Decisions of the Tuition Appeal Board

- 78C (1)** A decision of the Tuition Appeal Board must be in writing and must include reasons for the decision.
- (2) A decision of the Tuition Appeal Board is final and binding.
 - (3) The Tuition Appeal Board must notify all of the following of any decision:
 - (a) the appellant;
 - (b) the Reviewer;
 - (c) the Minister;
 - (d) for a student's successful appeal of a decision referred to in clause 78A(1)(a), the funded student's school board.