

Royal Gazette

Part II Regulations under the Regulations Act

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Contents

Act	Reg. No.	Page
Education Act		
Governor in Council Education Act Regulations – amendment	186/2004	321
Ministerial Education Act Regulations – amendment	183/2004	315
– amendment	184/2004	314
Financial Measures (2004) Act		
Proclamation, S. 50(8), S.N.S. 2004, c. 3 – S. 19	185/2004	320
Municipal Elections Act		
Municipal Elections Act Forms – amendment	182/2004	302
Workers' Compensation Act		
Chronic Pain Regulations	187/2004	329

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N.S. Reg. 182/2004

Made: July 7, 2004

Filed: July 19, 2004

Municipal Elections Act Forms

Order dated July 7, 2004

Amendment to regulations made by the Minister of Service Nova Scotia and Municipal Relations pursuant to subsection 167(1) of the *Municipal Elections Act*

**Regulations Amending the Forms Prescribed
Pursuant to Subsection 167(1) of the
*Municipal Elections Act***

The regulations prescribing forms pursuant to subsection 167(1) of the *Municipal Elections Act* are amended as follows:

- 1 Form 1 is amended by adding “, 33” after “8” in the second line.
- 2 Form 2 is amended by striking out “Election Officer” and substituting “Deputy Returning Officer/Poll Clerk”.
- 3 Form 3 is repealed and replaced with Form 3 in Schedule “A” attached.
- 4 Form 4 is amended by
 - (a) striking out “and” in the sixth line and substituting “,;” and
 - (b) adding “, and will protect the confidentiality of elector information” after “enumeration”.
- 5 Form 5 is amended by adding “I will protect the confidentiality of elector information that is provided to me.” after “qualified.”.
- 6 Form 6 is repealed and replaced with Form 6 in Schedule “A” attached.
- 7 Form 6A is repealed and replaced with Form 6A in Schedule “A” attached.
- 8 Form 8 is repealed and replaced with Form 8 in Schedule “A” attached.
- 9 Form 9 is amended by striking out “Section” and substituting “Sections 35,” in the second line.
- 10 Form 10A is repealed and replaced with Form 10A in Schedule “A” attached.
- 11 Form 11 is amended by:
 - (a) adding “civic” before “address” in the eighth line; and
 - (b) striking out “SIGNED:” in the eleventh line.
- 12 Form 11A is amended by:
 - (a) adding “District No.” after “Board” in the fifth line;

- (b) adding “civic” before “address” in the ninth line; and
 - (c) striking out “SIGNED:” in the thirteenth line.
- 13 Form 11B is amended by:
- (a) adding “District _____” after “Provincial”;
(name)
 - (b) adding “civic” before “address” in the ninth line; and
 - (c) striking out “SIGNED:” in the thirteenth line.
- 14 Form 11C is amended by:
- (a) adding “civic” before “address” in the tenth line; and
 - (b) striking out “SIGNED:” in the sixteenth line.
- 15 Form 12 is amended by adding “(To be filed within 7 days after election day.)” after the last line.
- 16 Form 12A is prescribed in the form in Schedule “A” attached.
- 17 Form 14 is repealed and replaced with Form 14 in Schedule “A” attached.
- 18 Form 17 is repealed and replaced with Form 17 in Schedule “A” attached.
- 19 Form 21 is amended by:
- (a) adding “PLEASE READ THE FOLLOWING IMPORTANT NOTICES:” after “Signature of Proxy Voter”;
 - (b) striking out “NOTE:” and substituting “1.”;
 - (c) striking out “NOTICE” and substituting “2.”; and
 - (d) striking out “CAUTION:” and substituting “3.”.
- 20 Form 23 is amended by adding ‘ “T ” ’ after “mark” in the fifth line.
- 21 Form 31 is repealed and replaced with Form 31 in Schedule “A” attached.
- 22 Form 31A is repealed and replaced with Form 31A in Schedule “A” attached.
- 23 Form 31B is repealed and replaced with Form 31B in Schedule “A” attached.
- 24 Form 34A is amended by striking out the sixth line.
- 25 Form 40 is amended by striking out “April 1, 1999 or since the most recent election, whichever is the shorter period” and substituting “the most recent election”.
- 26 Form 41 is amended by striking out “April 1, 1999 or since the most recent election, whichever is the shorter period” and substituting “the most recent election”.

27 Form 46 is prescribed in the form in Schedule "A" attached.

Sgd: *Barry Barnet*
 Barry Barnet
 Minister of Service Nova Scotia and Municipal Relations

July 7, 2004

Schedule "A"

Form 3

Sections 17, 44, 45

**CERTIFICATE IN RESPECT TO
 CHARGES THAT ARE LIENS/TAXES**

I certify that as of the _____ day of _____, _____,
 (nomination day)

_____ has fully paid all the charges that are liens on property that are due
 (name of candidate)

and all the taxes that are due to the Town/Municipality/Regional Municipality of _____
 from him/her.

 Clerk, Treasurer, Collector or other official
 having knowledge of the facts

Form 6

Section 25

**INDEX SHEET
 (Alphabetical)**

* Polling Division (Number, Name or Description) _____

<u>Consecutive Number</u>	<u>Name</u> (surname, first name and middle name or initial)	<u>Address</u> Civic Address (number, street, community)	<u>Mailing Address</u> (if different than civic - include postal code) (if necessary)	<u>Date of birth</u> (to be removed from final list of electors)

* Returning Officer to indicate how poll is to be identified

Form 6A
Section 25
INDEX SHEET
(Geographic)

* Polling Division (Number, Name or Description) _____

<u>Consecutive Number</u>	<u>Civic Number</u>	<u>Name</u> (surname, given name and middle name or initial)	<u>Mailing Address</u> (if different from civic - include postal code) (if necessary)	<u>Date of birth</u> (to be removed from final list of electors)
(NAME OF STREET/AVENUE/ROAD/HIGHWAY AND COMMUNITY):				
(NAME OF STREET/AVENUE/ROAD/HIGHWAY AND COMMUNITY):				

* Returning Officer to indicate how the poll is to be identified

Form 8

Section 36

**OATH OR AFFIRMATION OF ELECTOR
APPLYING TO BE ADDED TO THE LIST OF ELECTORS AT REVISION**

I swear (or solemnly affirm) that:

1. On this date I actually reside in Polling Division Number _____ of Polling District Number _____ of the Town/Municipality/Regional Municipality of _____.
2. I have been ordinarily resident in the municipality for a period of three months immediately preceding ordinary polling day in this election and continue to so reside.
3. I am a Canadian citizen and am of the full age of eighteen years, or will be on ordinary polling day.
4. I am not the returning officer, a person serving a sentence in a penal or reform institution, or a person convicted of bribery under the *Municipal Elections Act* in the six years preceding ordinary polling day.

Name of Elector PLEASE PRINT	Civic Address of Elector (and mailing address, if necessary)	Date of Birth	Signature of Elector
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Sworn (or affirmed) at _____
in the County of _____
this ____ day of _____,
_____, before me

Revising Officer

The Voters List may be used in future municipal, provincial or federal elections.
(Date of birth will be removed from the final list of electors.)

Form 10A

Section 41A

**OATH OR AFFIRMATION OF ELECTOR
APPLYING FOR CERTIFICATE OF ELIGIBILITY**

I swear (or solemnly affirm) that:

1. On this date I actually reside in Polling Division Number _____ of Polling District Number _____ of the Town/Municipality/Regional Municipality of _____.
2. I have been ordinarily resident in the municipality for a period of three months immediately preceding ordinary polling day in this election and continue to so reside.
3. I am a Canadian citizen and am of the full age of eighteen years, or will be on ordinary polling day.

4. I am not the returning officer, a person serving a sentence in a penal or reform institution, or a person convicted of bribery under the *Municipal Elections Act* in the 6 years preceding ordinary polling day.

Name of Elector (Please Print)	Address of Elector	Signature of Elector	Consents to Name being added to Voters List*

(* write yes or no)

Sworn (or affirmed) at _____
 in the County of _____
 this ____ day of _____,
 _____, before me

 (See Section 146)

The Voters List may be used in future municipal, provincial or federal elections.

Form 12A

Section 53

**DECLARATION OF CANDIDATE
 WITHDRAWING FROM NOMINATION**

To: Returning Officer,
 Town/Municipality/Regional Municipality of _____

I, _____, officially nominated as a candidate
 (*Candidate's name*)
 at the election now pending, withdraw as a candidate.

Dated at _____,
 this ____ day of _____.

 Candidate/Official agent on behalf of Candidate

Form 14

Section 68

FORMAT OF POLL BOOK

1. The cover of the poll book shall bear the subject of the election, the polling district number, and the date of ordinary polling day.
2. The first page of the poll book shall contain Form 2.

3. The second page of the poll book shall contain Form 16.
4. Form 24 shall be on the third page, then Forms 25, 26, 26A, 27, 28, and 29 shall follow.
5. Then shall follow twelve pages of Form 30.
6. Then shall follow three pages of Form 31.
7. Then shall follow two pages of Form 31A.
8. Then shall follow two pages of Form 31B.
9. Then shall follow three pages of Form 32.
10. Then shall follow eight pages of Form 33 or 34 for each matter for which a poll was granted.
11. Then shall follow one page of Form 34A for each school board office to be elected.
12. Then shall follow one page of Form 34B (Sunday Shopping Plebiscite).
13. Then shall follow eight pages of Form 35 for each matter for which a poll was granted.
14. Then shall follow one page of Form 36 (Sunday Shopping Plebiscite).
15. Then shall follow two pages of Form 46, and the back cover.

This format may be varied by altering the number of copies of forms required to be included to suit the circumstances of the election. Additional or loose copies of some forms also may be used; these should be added to the poll book at the end of voting.

Form 17

Section 70

APPOINTMENT OF OFFICIAL AGENT

I, the undersigned, a candidate for the office of _____,

(place a check mark next to the applicable statement)

_____ appoint _____ of _____ as my official agent with
(name) (address)
 authority to represent me in the manner provided by the *Municipal Elections Act* at
 the election being held on _____, _____.

OR

_____ declare that I will act personally as official agent in the manner provided by the
Municipal Elections Act at the election being held on _____, _____.

 Signature of Candidate

(A translation of this form is available in French.)

Form 31

Section 98

**OATH OR AFFIRMATION OF ELECTOR
NOT ON LIST OF ELECTORS**

I swear (or solemnly affirm) that:

1. On this date I actually reside in Polling Division Number _____ of the Town/Municipality/Regional Municipality of _____.
2. I have been ordinarily resident in the Town/Municipality/Regional Municipality of _____ (or in an area annexed to the Town/Municipality/Regional Municipality of _____) for a period of three months immediately preceding ordinary polling day in this election.
3. I have not voted before in this election at any other polling place and will not do so or attempt to do so.
4. I am a Canadian citizen and of the full age of eighteen years, or will be on ordinary polling day.
5. I am not the returning officer, a person serving a sentence in a penal or reform institution, or a person convicted of bribery under the *Municipal Elections Act* in the six years preceding ordinary polling day.

Address of Elector	Elector's Date of Birth	Signature of Elector	Consents to Name being added to Voters List*
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(* write yes or no)

Sworn (or affirmed) at _____
in the County of _____
this ____ day of _____, _____, before me

Deputy Returning Officer

The Voters List may be used in future municipal, provincial or federal elections.
(Date of Birth will be removed from final list of electors.)

Form 31A

Section 98

OATH OR AFFIRMATION OF ELECTOR NOT ON LIST OF ELECTORS
FOR USE WHEN ELECTOR CAN VOTE ONLY FOR
REGIONAL/DISTRICT SCHOOL BOARD

I swear (or solemnly affirm) that:

- 1. On this date I actually reside in Polling Division Number ... of the Town/Municipality/Regional Municipality of ...
2. I have been ordinarily resident in the school region/district in which my polling division is located for a period of three months immediately preceding ordinary polling day in this election.
3. I have not voted before in this election at any other polling place and will not do so or attempt to do so.
4. I am a Canadian citizen and of the full age of eighteen years, or will be on ordinary polling day.
5. I am not the returning officer, a person serving a sentence in a penal or reform institution, or a person convicted of bribery under the Municipal Elections Act in the six years preceding ordinary polling day.

Table with 4 columns: Address of Elector, Elector's Date of Birth, Signature of Elector, Consents to Name being added to Voters List*. Contains 7 rows of blank lines for data entry.

(* write yes or no)

Sworn (or affirmed) at ...
in the County of ...
this ___ day of ..., before me

Deputy Returning Officer

The Voters List may be used in future municipal, provincial or federal elections.
(Date of Birth will be removed from final list of electors.)

Form 31B

Section 98

**OATH OR AFFIRMATION OF ELECTOR NOT ON LIST OF ELECTORS
FOR USE WHEN ELECTOR CAN VOTE ONLY FOR
CONSEIL SCOLAIRE ACADIEN PROVINCIAL
or
PROVINCIAL SUNDAY SHOPPING PLEBISCITE (2004)**

I swear (or solemnly affirm) that:

1. On this date I actually reside in Polling Division Number _____ of the Town/Municipality/Regional Municipality of _____.
2. I have been ordinarily resident in the province of Nova Scotia for a period of three months immediately preceding ordinary polling day in this election.
3. I have not voted before in this election at any other polling place and will not do so or attempt to do so.
4. I am a Canadian citizen and of the full age of eighteen years, or will be on ordinary polling day.
5. I am not the returning officer, a person serving a sentence in a penal or reform institution, or a person convicted of bribery under the *Municipal Elections Act* in the six years preceding ordinary polling day.

Address of Elector	Elector's Date of Birth	Signature of Elector	Consents to Name being added to Voters List*
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(* write yes or no)

Sworn (or affirmed) at _____
in the County of _____
this ____ day of _____, _____, before me

Deputy Returning Officer

(A translation of this form is available in French.)

The Voters List may be used in future municipal, provincial, or federal elections.
(Date of Birth will be removed from the final list of electors.)

Form 46

Section 109

RECORD OF OBJECTIONS

No.	Objections Made By	On Behalf of (Name of Candidate)	Nature of Objection	How Decided

N.S. Reg. 183/2004

Made: July 22, 2004

Filed: July 22, 2004

Ministerial Education Act Regulations

Order dated July 22, 2004

Amendment to regulations made by the Minister of Education
pursuant to Section 145 of the *Education Act***In the matter of Section 145 of Chapter 1 of the Acts of 1995-96,
the *Education Act*****- and -****In the matter of the *Ministerial Education Act Regulations*
made by the Minister of Education pursuant to
Section 145 of the *Education Act*****Order**

I, Jamie Muir, Minister of Education for the Province of Nova Scotia, pursuant to Section 145 of Chapter 1 of the Acts of 1995-96, the *Education Act*, hereby amend, effective on and after August 1, 2004, the *Ministerial Education Act Regulations*, N.S. 80/97, made by the Minister of Education on June 24, 1997, in the manner set forth below:

1 Section 63 of the *Ministerial Education Act Regulations* is amended by striking out “Southwest Regional School Board and the Strait Regional School Board,” and substituting “South Shore Regional School Board and the Tri-County Regional School Board”.

2 Section 64 of the regulations is repealed and the following Section is substituted:

Definition of senior staff of South Shore Regional School Board and Tri-County Regional School Board

64 (1) For the purpose of subsection 64(3B) of the Act, “senior staff” of the South Shore Regional School Board means the senior staff prescribed in clauses 63(a) to (d).

(2) For the purpose of subsection 64(3B) of the Act, “senior staff” of the Tri-County Regional School Board means the senior staff prescribed in clauses 63(a) to (c) and (e).

3 Section 65 of the regulations is repealed.

4 Subsection 66(2) of the regulations is amended by striking out “Southwest Regional School Board and the Strait Regional School Board” and substituting “South Shore Regional School Board and the Tri-County Regional School Board”.

5 Subsection 66(3) of the regulations is repealed and the following subsections are substituted:

(3) The administrative structure of the South Shore Regional School Board shall be composed only of

(a) the departments specified in clauses 67(a) to (c) and the directors of those departments; and

(b) the office of superintendent and the superintendent who holds office, who shall have, for the purpose of carrying out the duties of a superintendent under the Act, only the responsibilities of a superintendent respecting the administrative structure specified in clause 66(2)(b), except that the reference to Section 67 shall be read as clauses 67(a) to (c).

(3A) The administrative structure of the Tri-County Regional School Board shall be composed only of

(a) the departments specified in clauses 67(a), (b) and (d), and the directors of those departments; and

(b) the office of superintendent and the superintendent who holds office, who shall have, for the purpose of carrying out the duties of a superintendent under the Act, only the responsibilities of a superintendent respecting the administrative structure specified in clause 66(2)(b), except that the reference to Section 67 shall be read as clauses 67(a), (b) and (d).

6 Subsections 66(4) and (6) of the regulations are repealed.

7 Section 67 of the regulations is amended by striking out “(4)” and substituting “(3A)”.

8 The regulations are further amended by renumbering Section 68 as subsection 68(1) and adding the following subsection immediately after subsection (1):

(2) Despite subsection (1), the South Shore Regional School Board and the Tri-County Regional School Board shall implement their administrative structure in accordance with all the applicable requirements of Sections 63 to 67, effective August 1, 2004.

- 9 Subsection 69(4) of the regulations is amended by
- (a) striking out “, other than the Southwest Regional School Board and the Strait Regional School Board,” in clause (a); and
 - (b) repealing clauses (b) and (c).

Dated and made at Halifax, Nova Scotia, July 22, 2004.

Sgd: *J. Muir*
Honourable Jamie Muir
Minister of Education

N.S. Reg. 184/2004

Made: July 22, 2004

Filed: July 22, 2004

Ministerial Education Act Regulations

Order dated July 22, 2004
Amendment to regulations made by the Minister of Education
pursuant to Section 145 of the *Education Act*

**In the matter of Section 145 of Chapter 1 of the Acts of 1995-96,
the *Education Act***

- and -

**In the matter of amendments to the *Ministerial Education Act Regulations*
made by the Minister of Education pursuant to
Section 145 of the *Education Act***

Order

I, Jamie Muir, Minister of Education for the Province of Nova Scotia, pursuant to Section 145 of Chapter 1 of the Acts of 1995-96, the *Education Act*, hereby amend, effective on and after August 1, 2004, the *Ministerial Education Act Regulations*, N.S. Reg. 80/97, made by the Minister of Education on June 24, 1997, by

- (a) adding the following Sections immediately after Section 69:

Definitions for compensation framework

69A (1) For the purpose of subsection 64(3C) of the Act, the “compensation framework” established by the Minister for senior staff of a school board is as set out in Sections 69A to 69J and Schedules A and B.

- (2) For the purpose of subsection 64(3C) of the Act, this Section and Sections 69B to 69J, “senior staff” is as defined in Sections 63 and 64 for the applicable school board.

- (3) In this Section and Sections 69B to 69J,
- (a) “compa-ratio” means a compa-ratio, expressed as a percentage, in the pay for performance guide chart and the compensation grids;
 - (b) “compensation amount” means a compensation amount, expressed as a dollar amount, specified for a compa-ratio in the compensation grids, and includes any administrative allowance;
 - (c) “compensation grid” means a compensation grid in Schedule B that sets out the compa-ratios and corresponding compensation amounts for directors and superintendents;
 - (d) “member” means a member of a senior staff;
 - (e) “pay for performance guide chart” means the chart set out in Schedule A that is used to determine pay for performance;
 - (f) “salary” means salary, including any administrative allowance; and
 - (g) “Teachers’ Professional Agreement” means a professional agreement between the Minister and the Nova Scotia Teachers’ Union.

Compensation amount paid to members under the compensation framework

69B The compensation amount to be paid to a member under the compensation framework is the compensation amount that corresponds to the compa-ratio applicable to the member in accordance with the applicable compensation grid and the pay for performance guide chart.

Compa-ratios for members employed on July 31, 2004

69C The compa-ratio for a member employed by a school board on July 31, 2004, is the compa-ratio shown in the applicable compensation grid

- (a) for a compensation amount that is equal to the member’s salary on August 1, 2004; or
- (b) for the compensation amount that is immediately higher than the member’s salary on August 1, 2004, if no compensation amount is applicable under clause (a).

Compa-ratios for employees appointed as senior staff on or after August 1, 2004

69D (1) The compa-ratio for a person who

- (a) is appointed as senior staff by a school board on or after August 1, 2004;
- (b) holds a teacher’s certificate at the time of their appointment; and
- (c) is employed by the appointing school board immediately before their appointment,

is determined under subsection (2).

(2) The compa-ratio for the purpose of subsection (1) is the compa-ratio, shown on the applicable compensation grid, that is

- (a) 3% higher than the compa-ratio for the compensation amount closest to the person’s salary immediately before the appointment; or

- (b) between 80% and 85%, as selected by the school board,
whichever is higher.
- (3) The compa-ratio for a person who
- (a) is appointed as senior staff by a school board on or after August 1, 2004;
- (b) does not hold a teacher's certificate at the time of their appointment; and
- (c) is employed by the appointing school board immediately prior to their appointment,
is determined under subsection (4).
- (4) The compa-ratio for the purposes of subsection (3) is the compa-ratio, shown on the applicable compensation grid, that is
- (a) 3% higher than the compa-ratio for the compensation amount closest to the employee's salary immediately before applying for the appointment; or
- (b) between 80% and 85%, as selected by the school board,
whichever is higher.

Compa-ratios for non-employees appointed as senior staff on or after August 1, 2004

- 69E (1)** The compa-ratio for a person who
- (a) is appointed as senior staff by a school board on or after August 1, 2004;
- (b) holds a teacher's certificate at the time of their appointment; and
- (c) is not employed by the appointing school board immediately prior to their appointment,
is determined under subsection (2).
- (2) The compa-ratio for the purposes of subsection (1) is the compa-ratio, shown on the applicable compensation grid, that is
- (a) the compa-ratio for the compensation amount closest to the salary under the Teacher's Provincial Agreement associated with the person's class of teacher's certificate and years of teaching experience; or
- (b) between 80% and 85%, as selected by the school board,
whichever is higher.
- (3) The compa-ratio for a person who
- (a) is appointed as senior staff by a school board on or after August 1, 2004;
- (b) does not hold a teacher's certificate at the time of their appointment; and
- (c) is not employed by the appointing school board immediately prior to their appointment,

is the compa-ratio shown on the applicable compensation grid between 80% and 85%, as selected by the school board.

Compa-ratios for senior staff if employment contracts renewed or extended

69F For greater certainty, the compensation framework applies despite a renewal or extension of a member's employment contract.

Variations from compa-ratios

69G (1) Despite Sections 69C, 69D and 69E, a school board may apply to the Minister for a variance of the application of any requirement in those Sections to a person, by providing the Minister with a written statement that includes

- (a) a rationale for the requested variance;
- (b) the financial and operational costs related to the variance,

and any additional information that may support the application for the variance, or that is requested by the Minister.

- (2) Upon receipt of a school board's application under subsection (1), the Minister may, for such period of time and on such terms and conditions as the Minister may determine, grant a variance to the school board if, in the opinion of the Minister it is appropriate, after considering the school board's application and having regard to any other matters the Minister considers relevant, including whether a higher compensation amount is necessary to effect the appointment of a qualified person or if the person to be appointed to the position has qualifications in excess of the minimum requirements for the position.
- (3) Any deviation from, or variance of, the compa-ratios required by Sections 69C, 69D and 69E, by contract or otherwise, is null and void unless granted in accordance with this Section.

Annual progression of senior staff under compensation framework

69H (1) The progression of a member under the compensation framework is determined by the school board by

- (a) determining the member's annual performance rating in accordance with school board policy or generally accepted performance appraisal practices; and
- (b) applying the pay for performance guide chart to the member's annual performance rating as follows:
 - (i) select the appropriate percentage increase in compa-ratio from the range identified in the chart for the member's performance rating and current compa-ratio,
 - (ii) reduce the percentage increase, if necessary, to achieve the maximum compa-ratio of 104%, and
 - (iii) increase the member's compa-ratio based on the percentage increase determined under subclauses (i) and (ii).

- (2) A re-earnable incentive may be added to a member's compensation amount in the form of a lump sum payment that is the lesser of

- (a) the percentage that was deducted in accordance with the reduction under subclause (1)(b)(ii); and
- (b) 3%,

of the compensation amount on the applicable compensation grid for the compa-ratio of 100%.

Annual review of compensation grids and pay for performance guide chart

69I The Minister must review the compensation grids and pay for performance guide chart on or about August 1 of each year, and at such other times as the Minister considers advisable, for the purpose of amending them to reflect the economic adjustments, if any, granted to management employees in the Nova Scotia Civil Service.

Compa-ratio of senior staff after compensation grids and pay for performance guide chart amended

69J For greater certainty, if a compensation grid or the pay for performance guide chart is amended or replaced, a member retains the compa-ratio of that member before the amendment or replacement, until their next performance appraisal.

- (b) adding Schedules A and B immediately after Section 70 of the regulations, as follows:

**Schedule A
Pay for Performance Guide Chart**

Performance Rating	Current Compa-ratio 80% to 89%	Current Compa-ratio 90% to 103%	Current Compa-ratio 104%
5	up to 6% increase	up to 5% increase	up to 3%
4	up to 5% increase	up to 4% increase	up to 2%
3	up to 4% increase	up to 3% increase	up to 1%
2	0% increase	0% increase	0%
1	0% increase	0% increase	0%

**Schedule B
Compensation Grids**

Grid 1 - Compensation Grid for Directors

Compa-ratio	80%	81%	82%	83%	84%
Compensation amount	\$74,301	\$75,230	\$76,158	\$77,087	\$78,016
Compa-ratio	85%	86%	87%	88%	89%
Compensation amount	\$78,945	\$79,873	\$80,802	\$81,731	\$82,660
Compa-ratio	90%	91%	92%	93%	94%
Compensation amount	\$83,588	\$84,517	\$85,446	\$86,375	\$87,303
Compa-ratio	95%	96%	97%	98%	99%
Compensation amount	\$88,232	\$89,161	\$90,090	\$91,018	\$91,947
Compa-ratio	100%	101%	102%	103%	104%
Compensation amount	\$92,876	\$93,805	\$94,734	\$95,662	\$96,591

Grid 2 - Compensation Grid for Superintendents

Compa-ratio	80%	81%	82%	83%	84%
Compensation amount	\$95,334	\$96,526	\$97,718	\$98,909	\$100,101
Compa-ratio	85%	86%	87%	88%	89%
Compensation amount	\$101,293	\$102,484	\$103,676	\$104,868	\$106,060
Compa-ratio	90%	91%	92%	93%	94%
Compensation amount	\$107,251	\$108,443	\$109,635	\$110,826	\$112,018
Compa-ratio	95%	96%	97%	98%	99%
Compensation amount	\$113,210	\$114,401	\$115,593	\$116,785	\$117,976
Compa-ratio	100%	101%	102%	103%	104%
Compensation amount	\$119,168	\$120,360	\$121,551	\$122,743	\$123,935

Dated and made at Halifax, Nova Scotia, July 22, 2004.

Sgd: *J. Muir*
Honourable Jamie Muir
Minister of Education

N.S. Reg. 185/2004

Made: July 22, 2004

Filed: July 26, 2004

Proclamation, S. 50(8), S.N.S. 2004, c. 3 – S. 19

Order in Council 2004-294 made July 22, 2004
Proclamation made by the Governor in Council
pursuant to subsection 50(8) of the
Financial Measures (2004) Act

The Governor in Council on the report and recommendation of the Minister of Education dated June 24, 2004, pursuant to subsection (8) of Section 50 of Chapter 3 of the Acts of 2004, the *Financial Measures (2004) Act*, and subsection (7) of Section 3 of Chapter 235 of the Revised Statutes of Nova Scotia, 1989, the *Interpretation Act*, is pleased to order and declare by proclamation that Section 19 of Chapter 3 of the Acts of 2004, the *Financial Measures (2004) Act*, come into force on and not before July 22, 2004.

PROVINCE OF NOVA SCOTIA

Sgd: C. R. Glube

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 (8) of Section 50 of Chapter 3 of the Acts of 2004, the *Financial Measures (2004) Act*, it is enacted as follows:

- 50 (8)** Sections 6 to 15, 19, 40 and 41 come into force on such day as the Governor in Council orders and declares by proclamation.

AND WHEREAS it is deemed expedient that Section 19 of Chapter 3 of the Acts of 2004, the *Financial Measures (2004) Act*, come into force on and not before July 22, 2004;

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 Section 19 of Chapter 3 of the Acts of 2004, the *Financial Measures (2004) Act*, come into force on and not before July 22, 2004, 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 Constance R. Glube,
Administrator of the Government of the
Province of Nova Scotia.

AT Our Law Courts in the Halifax Regional Municipality, this 22nd day of July in the year of Our Lord two thousand and four and in the fifty-third year of Our Reign.

BY COMMAND:

Sgd: *M. G. Baker*
Provincial Secretary
Minister of Justice and Attorney General

N.S. Reg. 186/2004

Made: July 22, 2004

Filed: July 26, 2004

Governor in Council Education Act Regulations

Order in Council 2004-295 dated July 22, 2004
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 June 24, 2004, and pursuant to Section 146 of Chapter 1 of the Acts of 1995-96, the *Education Act*, and Section 8 of Chapter 235 of the Revised Statutes of Nova Scotia, 1989, the *Interpretation 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, in the manner set forth in Schedule "A" attached to and forming part of the report and recommendation, effective on and after July 22, 2004.

Schedule "A"

**Amendments to the *Governor in Council Education Act Regulations*
made by the Governor in Council pursuant to 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 adding the following Sections immediately after Section 66:

Definitions for Sections 67 to 78

67 In this Section and Sections 68 to 78,

- (a) "designated special education private school" means a private school designated by the Minister under Section 68 that delivers special education programs and services;
- (b) "funded student" means a student with respect to whom a funding unit has been paid;
- (c) "funding unit" means an amount paid by a school board to a designated special education private school with respect to a student with special needs, as calculated in accordance with subsection 74(1);

- (d) “insolvent” means
 - (i) unable, for any reason, to meet financial obligations as they become due,
 - (ii) unable to pay financial liabilities in the course of business as those liabilities become due, or
 - (iii) in a situation where the aggregate of the person’s property
 - (A) is not, at a fair value, sufficient to pay all the person’s financial obligations that are due or accruing, or
 - (B) if disposed of at a fairly conducted sale, would not be sufficient to pay all of the person’s financial obligations that are due and accruing;
- (e) “Reviewer” means the Reviewer provided for in or appointed under Section 75;
- (f) “student with special needs” means a student with Attention Deficit Disorder (ADD), Attention Deficit Hyperactivity Disorder (ADHD), Autistic Spectrum Disorder (ASD) or Learning Disability (LD), as diagnosed by a
 - (i) licensed physician, or
 - (ii) registered psychologist or candidate registered psychologist,
with expertise and training in making the diagnosis;
- (g) “supplement” means an amount paid by the Minister to a designated special education private school to supplement a funding unit in paying the academic tuition costs of a student with special needs as calculated in accordance with subsection 73(2);
- (h) “Tuition Appeal Board” means a Tuition Appeal Board referred to in subsection 78(2).

Designation of private school as designated special education private school

- 68 (1)** The Minister may designate a private school that delivers special education programs and services in the Province as a designated special education private school if the Minister is satisfied, on application by the person who owns the private school,
- (a) that the person who owns the private school
 - (i) only employs teaching staff in the school who hold a teacher’s certificate issued by the Minister, and have demonstrated qualifications or competencies to teach students with special needs,
 - (ii) follows the Nova Scotia Public School Program,
 - (iii) has established rules and procedures for the discipline of students and for the suspension and expulsion of students that incorporate the principles of natural justice and procedural fairness and that accord with the policies and procedures made by the Minister,
 - (iv) is not insolvent,

- (v) maintains security as required by the Minister, including a fidelity bond,
 - (vi) maintains a general liability insurance policy or other form of indemnification in an amount and on such terms and conditions as determined by the Minister, and
 - (vii) has established measures, similar to those established by or followed by school boards, to protect the safety of students from harm by employees of the private school or by other students; and
- (b) that the private school
- (i) offers only programs and services designed to meet the needs of students with special needs,
 - (ii) is not affiliated with a religious faith or denomination, and is recognized as a non profit organization or is registered as a charitable organization, under the *Income Tax Act* (Canada), and
 - (iii) has been in operation for at least 1 year before an application is made under this Section.
- (2) The Minister may, for the purpose of an application made under subsection (1) before September 1, 2004, waive the requirement in subclause (1)(b)(iii), if the Minister considers it is appropriate in the circumstances.
- (3) The Minister may prescribe the manner and form of an application under subsection (1).
- (4) A designation made under this Section is effective for 2 years.
- (5) A person who owns a private school may apply for a designation to be renewed by re-applying under subsection (1).
- (6) The Minister may refuse to designate, or refuse to renew the designation of, a private school as a designated special education private school if
- (a) the Minister considers that the information supplied in the application is incomplete;
 - (b) the Minister is not satisfied that the requirements of subsection (1) are met; or
 - (c) the Minister has suspended or revoked a previous designation under this Section of the private school.
- (7) The Minister may suspend or revoke a designation of a private school under this Section if, in the opinion of the Minister, the owner of the designated special education private school or the private school fails to meet the requirements of Section 69.

Ongoing obligations and monitoring of a designated special education private school

- 69** (1) An owner of a designated special education private school must continue to meet, and ensure that the school continues to meet, all the requirements in subsection 68(1) and must provide evidence of this to the Minister on request.
- (2) In addition to continuing to meet the requirements referred to in subsection (1), an owner of a designated special education private school must

- (a) cooperate with school boards to have funded students take school board assessments or provincial assessments, as requested by the school board or the Minister;
- (b) provide the Minister or the school board with any information, with respect to funded students enrolled in the school that the Minister or the school board requests in writing, including reports, assessments, student transcripts, program plans, attendance records, records showing program delivery and access to services;
- (c) meet at least 2 times per school year with the school board to explain each funded student's progress and share documented evidence of student achievement; and
- (d) develop transition plans with receiving school boards for each funded student returning to the public school system.

Application for funding unit

- 70 (1)** Every student who wishes to apply for a funding unit to attend a designated special education private school must submit an application, on a form prescribed by the Minister, to the Reviewer on or before January 31 before the school year for which the funding unit is requested begins, together with the following information:
- (a) evidence satisfactory to the Reviewer that the student meets the eligibility criteria set out in Section 71;
 - (b) a copy from the school board of the individualized program plan that the school board is currently offering the student;
 - (c) an outline of the individualized programs and services that the school board is offering the student in the school year for which the student is requesting the funding;
 - (d) an outline from the designated special education private school of the individualized programs and services that the designated special education private school is offering the student upon enrollment in the school;
 - (e) a written rationale from the student explaining what positive effects to the student's academic and behavioural well-being the programs and services to be provided by the designated special education private school referred to in clause (d) will add to the positive effects of the individualized program plan referred to in clause (b) and the programs and services referred to in clause (c).
- (2)** For the purpose of clause (1)(a), the Reviewer may require that the school board, student or private school provide the Reviewer with information and reports in addition to the information already submitted with the application.
- (3)** A parent may apply under subsection (1) on behalf of a student.

Eligibility criteria for funding unit application

71 A student is eligible to apply for a funding unit if the student

- (a) is a student with special needs;
- (b) is enrolled in a public school in the Province and will have attended the school for at least one full school year before the date of application, including any period of suspension;

- (c) is receiving educational programs and services under an individualized program plan established in accordance with policies made by the Minister and will continue under the individualized program for the school year immediately before the school year for which the funding unit is requested;
- (d) has received confirmation from the school board that the school board is prepared to continue to offer programs and services to meet the special needs of the student in accordance with policies made by the Minister if the student remains enrolled in the public school system;
- (e) has secured a placement in a designated special education private school.

Review and grant of funding unit

72 (1) The Reviewer must grant a funding unit, if the Reviewer is satisfied that

- (a) the application for the funding unit is complete and includes all the information required by Section 70;
- (b) the student meets the eligibility criteria set out in Section 71; and
- (c) the Reviewer accepts the rationale provided under clause 70(1)~~(d)~~[(e)],

and must notify the student, school board and Minister accordingly in writing with reasons.

- (2) If the Reviewer determines that an application is not complete and does not contain the information required by Section 70, the Reviewer must not accept the application and must notify the student accordingly in writing with reasons.
- (3) If the Reviewer determines that a student does not meet the eligibility criteria set out in Section 71, the Reviewer must not take further steps to review the application and must notify the student, school board and Minister accordingly in writing with reasons.
- (4) After determining that the application is complete and that the student meets the eligibility criteria of Section 71, the Reviewer may, in determining whether to accept the rationale provided under clause 70(1)(e), require that the school board, student or private school provide the Reviewer with information and reports in addition to the information already submitted with the application.
- (5) If the Reviewer does not accept the rationale provided under clause 70(1)(e), the Reviewer must not grant a funding unit and must notify the student, school board and Minister accordingly in writing with reasons.

Supplement

73 (1) A funded student may apply to the Reviewer for a supplement on a form prescribed by the Minister on or before January 31 before the school year for which the supplement is requested begins.

- (2) The Reviewer must review an application received under subsection (1) and decide whether a supplement should be granted for the student in accordance with a policy established by the Minister, which may include eligibility requirements, including requirements based on income.
- (3) A supplement will be calculated by the Reviewer in accordance with the policy referred to in subsection (1), but the supplement is not to exceed the lesser of

- (a) the amount of the funding unit for the funded student who is applying for the supplement; and

- (b) 90% of the tuition charged by the school.
- (4) A student may receive a supplement under this Section only for the 2006-2007 and subsequent school years.
- (5) A parent may make an application under subsection (1) on behalf of a student.

Funding of designated special education private schools

- 74** (1) A funding unit is calculated as the average per student allocation of combined Provincial and municipal funding to school boards, as of March 31 of the previous fiscal year, as determined by the Minister.
- (2) A funding unit and a supplement may provide tuition support funding for no more and no less than 1 school year.
- (3) A funding unit and a supplement may
- (a) be granted a second time to a funded student for the school year immediately after the school year for which the first funding unit or funding unit and supplement was granted; and
 - (b) not be granted to a student more than twice.
- (4) A funded student must re-apply under Sections 70 and 73 for another funding unit and supplement.

Reviewer

- 75** (1) The first Reviewer is a Regional Education Officer employed by the Department of Education, who is appointed by the Minister to hold office for 6 months after this Section comes into effect or until a person appointed by the Minister takes office under subsection ~~(2)~~(3).
- (2) The Reviewer appointed under subsection (1) may not be appointed under subsection (3) and subsection (3) does not apply to the Reviewer appointed under subsection (1).
- (3) 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.
- (4) A person appointed as the Reviewer under subsection (3)
- (a) holds office for 2 years and may not be reappointed;
 - (b) must be paid such remuneration for reviewing an application under these regulations as is determined by the Governor in Council;
 - (c) must be paid such travelling and living expenses incurred by the Reviewer in the performance of the Reviewer's duties as are determined by the Governor in Council; and
 - (d) must issue an annual report and provide a copy to the Minister and to each school board.
- (5) If the Reviewer resigns office or retires or the Reviewer's term of office expires or is terminated, the Reviewer maintains the jurisdiction of the Reviewer in respect of any application or matter or thing 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 the Reviewer's term of office had not expired or been terminated.

Funding units granted for 2004-2005 and 2005-2006 school years

- 76 (1)** Despite the application for a funding credit provided for in Section 70, the Minister may, on application by a student, grant a funding unit in accordance with this Section for the 2004-2005 school year for a student to attend a designated special education private school, if the Minister is satisfied that, as of the date of application, the student
- (a) is a student with special needs;
 - (b) has secured a placement in a designated special education private school for the 2004-2005 school year;
 - (c) is a student who has previously studied in a public school in the Province for at least 1 school year;
 - (d) has received for the 2003-2004 school year
 - (i) individualized programs and services by a private school which is designated as a designated special education private school, or
 - (ii) educational programs and services by a public school under an individualized program plan established in accordance with policies made by the Minister;
 - (e) has been offered to receive individualized programs and services by the designated special education private school for the 2004-2005 school year to meet the student's special needs; and
 - (f) offers a rationale explaining how the programs and services to be provided by the designated special education private school will positively affect the student's academic and behavioural well-being.
- (2)** A student with respect to whom a funding unit is granted under subsection (1) may not apply for a supplement under Section 73, and is not subject to the review procedure in Section 72 for the school year for which the funding unit applies.
- (3)** A student with respect to whom a funding unit is granted under subsection (1) may apply to the Minister for a funding unit for the 2005-2006 school year under subsection (1), except that
- (a) a reference to the 2004-2005 school year must be read as a reference to the 2005-2006 school year;
 - (b) the reference to the 2003-2004 school year in clause (1)(d) must be read as a reference to the 2004-2005 school year;
 - (c) the reference to a private school in subclause (1)(d)(i) must be read as a reference to a designated special education private school; and
 - (d) subclause (1)(d)(ii) does not apply.
- (4)** For greater certainty,
- (a) a funding unit under this Section may not be granted for any school years other than the 2004-2005 and 2005-2006 school years;

- (b) a student who receives a funding unit under this Section is not eligible to receive a funding unit under Section 70.
- (5) Despite the definition of a funding unit in clause 67(c), a funding unit granted under subsection (1) to
- (a) a student referred to in subclause (1)(d)(i) is paid by the Minister; and
 - (b) a student referred to in subclause (1)(d)(ii) is paid by the school board for the public school referred to in that subclause.

Decisions that may be appealed to the Tuition Appeal Board

77 (1) A student may appeal any of the following decisions made by the Reviewer:

- (a) a determination under subsection 72(3) that the student is not eligible under Section 71 to receive a funding unit;
 - (b) a determination under subsection 72(5) not to accept the rationale provided under clause 70(1)(e);
 - (c) a refusal to grant a supplement under subsection 73(2).
- (2) An owner of a private school or an owner of a designated special education private school may appeal
- (a) a refusal by the Minister to designate the private school as a designated special education private school under subsection 68(6); or
 - (b) a suspension or revocation by the Minister of a designation of a private school as a designated special education private school under subsection 68(7).
- (3) A student may appeal a determination made by the Minister not to grant a funding unit under subsection 76(1).

Tuition Appeal Board

- 78 (1)** An appellant must file a notice of appeal with the Regional Education Officer for the region of the Province where the student resides or the private school is situated, on behalf of the Tuition Appeal Board to be appointed, within 30 days after the person is notified, in writing, of a decision referred to in Section 77.
- (2) When a notice of appeal is given under subsection (1), a Tuition Appeal Board composed of 1 person must be appointed by the Governor in Council.
- (3) A member of a Tuition Appeal Board must have the same qualifications and experience as required of the Reviewer appointed under subsection 75(3).
- (4) A member of a Tuition Appeal Board must be paid such remuneration and expenses as determined by the Governor in Council.
- (5) A review and hearing of an appeal is not open to the public.
- (6) The Tuition Appeal Board must observe the confidentiality of all documents and records pertaining to an appeal.

- (7) A decision of a Tuition Appeal Board
- (a) may confirm or rescind the decision appealed from;
 - (b) must be in writing and must include reasons; and
 - (c) is final and binding.
- (8) A Tuition Appeal Board must notify the appellant and the person whose decision was appealed in writing of the appeal decision, together with reasons.
-

N.S. Reg. 187/2004

Made: July 22, 2004

Filed: July 26, 2004

Chronic Pain Regulations

Order in Council 2004-299 dated July 22, 2004
Regulations made by the Governor in Council
pursuant to Sections 184 and 184A of the *Workers' Compensation Act*

The Governor in Council on the report and recommendation of the Minister of Environment and Labour dated July 20, 2004, and pursuant to Sections 184 and 184A of Chapter 10 of the Acts of 1994, the *Workers' Compensation Act* is pleased, effective April 2, 2004, to

- (a) repeal the *Functional Restoration (Multi-Faceted Pain Services) Program Regulations*, N.S. Reg. 57/96, made by Governor in Council by Order in Council 96-207 dated March 26, 1996; and
- (b) make regulations respecting the compensation for chronic pain in the form set forth in Schedule "A" attached to and forming part of the report and recommendation.

Schedule "A"

**Regulations Respecting Chronic Pain
made by the Governor in Council
pursuant to subsection 10(7) and Sections 184 and 184A of
Chapter 10 of the Acts of 1994, the *Workers' Compensation Act***

Citation

1 These regulations may be cited as the *Chronic Pain Regulations*.

Definitions

2 In these regulations:

- (a) "Act" means the *Workers' Compensation Act*;
- (b) "AMA 5th Guides" means the *American Medical Association Guides to the Evaluation of Permanent Impairment* (5th Edition), as amended by these regulations or Board policy;

- (c) “chronic pain” means pain
 - (i) continuing beyond the normal recovery time for the type of personal injury that precipitated, triggered or otherwise predated the pain; or
 - (ii) disproportionate to the type of personal injury that precipitated, triggered or otherwise predated the pain,and includes chronic pain syndrome, fibromyalgia, myofascial pain syndrome, and all other like or related conditions, but does not include pain supported by significant, objective, physical findings at the site of the injury which indicate that the injury has not healed;
- (d) “original compensable injury” means a personal injury by accident arising out of and in the course of employment
 - (i) that the Board has accepted or may accept as compensable under the Act, and
 - (ii) that pre-dates the commencement of the worker’s chronic pain;
- (e) “pain-related impairment” means an impairment associated with chronic pain;
- (f) “permanent-impairment benefit” means a benefit payable under Section 34 of the Act;
- (g) “recalculated award” means the individual assessment and calculation of benefits a worker is entitled to under Section 12;
- (h) “slight pain-related impairment” means a pain-related impairment that has, in the opinion of the Board, increased the impact of the worker’s original compensable injury mildly to moderately as described in Table 18-3 of Chapter 18 of the AMA 5th Guides;
- (i) “substantial pain-related impairment” means a pain-related impairment that has, in the opinion of the Board, increased the impact of the worker’s original compensable injury moderate severely to severely as described in Table 18-3 of Chapter 18 of the AMA 5th Guides.

Inclusion of chronic pain in Part I of Act

- 3** Chronic pain that is causally connected to an original compensable injury is a class of personal injury that is hereby included in the operation of Part I of the Act under subsection 10(7) of the Act, subject to the terms and conditions set out in these regulations.

Eligibility under these regulations

- 4** A worker is entitled to an assessment to determine eligibility for benefits and services under these regulations if the medical evidence establishes that on or after April 17, 1985, the worker had chronic pain that was causally connected to an original compensable injury.

Individualized approach to determine entitlement

- 5** In determining whether a worker has a pain-related impairment, the Board must use an individualized approach based on the AMA 5th Guides, Chapter 18.

Requirement for existing permanent medical impairment waived

- 6** In applying Chapter 18 of the AMA 5th Guides, the Board must
- (a) waive the requirement in the AMA 5th Guides for an existing permanent medical impairment as a prerequisite for an assessment of a pain-related impairment; and

- (b) apply the slight pain-related impairment and substantial pain-related impairment percentages outlined in Section 7 to unratable pain as described in the AMA 5th Guides.

Permanent impairment rating

7 If a worker is found to have a pain-related impairment, the Board must pay the worker a permanent benefit based upon a permanent impairment rating of

- (a) 3%, if the worker experiences a slight pain-related impairment; or
- (b) 6%, if the worker experiences a substantial pain-related impairment.

Original compensable injury before March 23, 1990

8 If a worker's original compensable injury occurred before March 23, 1990, and the worker is found to have a pain-related impairment,

- (a) the worker's permanent benefit will be calculated in accordance with Sections 226 and 227 of the Act; and
- (b) the worker is not eligible to receive an extended earnings-replacement benefit.

Original compensable injury on or after March 23, 1990

9 If a worker's original compensable injury occurred on or after March 23, 1990, and the worker is found to have a pain-related impairment,

- (a) the worker's permanent benefit will be calculated in accordance with Sections 34 to 48 of the Act; and
- (b) the worker may be eligible to receive an extended earnings-replacement benefit.

Commencement of benefit payment after discontinuance or denial

10 Subject to Sections 34 to 48 and Section 229 of the Act, if a worker is eligible to receive a permanent benefit in accordance with these regulations, the Board will commence payment of the benefit from the date on which the Board determines the worker has a pain-related impairment.

Recalculated award

11 If a worker has been awarded benefits under Section 10E of the Act, the worker is entitled to an individual assessment and recalculation of benefits in accordance with these regulations.

If recalculated award greater than award under Section 10E of Act

12 Subject to Sections 34 to 48 of the Act, if a worker's recalculated award results in a greater combined extended earnings-replacement benefit and permanent-impairment benefit than that awarded under Section 10E of the Act, the Board will pay the worker

- (a) the recalculated award, from the date the Board determines the worker has a pain-related impairment until the date the benefits awarded under Section 10E of the Act commenced; and
- (b) the difference between the recalculated award and the benefits awarded under Section 10E of the Act, from the date the worker's benefits awarded under Section 10E of the Act commenced until the coming into force of these regulations; and
- (c) effective the date these regulations come into force, the recalculated award.

If recalculated award less than award under Section 10E of Act

13 Subject to Sections 34 to 48 of the Act, if the worker's recalculated award results in a lesser combined extended earnings replacement benefit and permanent impairment benefit than that awarded under Section 10E of the Act, the Board will pay the worker

- (a) the recalculated award, from the date the Board determines the worker has a pain-related impairment until the date the benefits awarded under Section 10E of the Act commenced; and
- (b) effective the date the worker's benefits awarded under Section 10E of the Act commenced, the benefits awarded under Section 10E of the Act.

6-month time period waived

14 For the purpose of calculating benefits or services that a worker may be entitled to under these regulations only, the 6-month time period in Section 106 of the Act is waived.

Retroactive payments not income

15 Retroactive payments made under these regulations are not considered income for the purposes of Section 33 of the *Workers' Compensation General Regulations*.