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N.S. Reg. 201/2004

Made: September 8, 2004

Filed: September 10, 2004

Equity Tax Credit Regulations

Order in Council 2004-362 dated September 8, 2004
Amendment to regulations made by the Governor in Council
pursuant to Section 27 of the *Equity Tax Credit Act*

The Governor in Council on the report and recommendation of the Minister of Finance dated August 31, 2004, and pursuant to Section 27 of Chapter 3 of the Acts of 1993, the *Equity Tax Credit Act*, is pleased to amend the *Equity Tax Credit Regulations*, N.S. Reg. 18/94, made by Order in Council 94-86 dated February 24, 1994, to ensure consistency with amendments made to the Act regarding the labour-sponsored venture-capital tax credit in the manner set forth in Schedule "A" attached to and forming part of the report and recommendation, effective on and after September 8, 2004.

Schedule "A"

**Amendments to the *Equity Tax Credit Regulations*
made by the Governor in Council pursuant to
Section 27 of Chapter 3 of the Acts of 1993,
the *Equity Tax Credit Act***

- 1 Section 2 of the *Equity Tax Credit Regulations*, N.S. Reg 18/94, made by the Governor in Council by Order in Council 94-86 dated February 2, 1994, is repealed and the following Section substituted:
 - 2 In the Act and these regulations,
 - (a) "Act" means the *Equity Tax Credit Act*;
 - (b) "approved entity" means any labour-sponsored venture-capital corporation in good standing and registered under the Act after December 31, 2004, or any community economic-development corporation in good standing and registered under the Act or any other corporation approved by the Minister that in each case meets the following criteria:
 - (i) all investments made in the entity are at arms length,
 - (ii) no investment in the entity exceeds 40% of the capital of the approved entity,
 - (iii) no investment in the entity is redeemable for at least 4 years,
 - (iv) all investments in the entity are held for a minimum of 2 years,
 - (v) the entity has capitalization of at least \$1 000 000,
 - (vi) the entity has filed at least one tax return with the Canada Revenue Agency, and
 - (vii) the entity complies with the Act and these regulations;

- (c) “Atlantic Provinces” means the provinces of Nova Scotia, New Brunswick, Prince Edward Island and Newfoundland and Labrador;
- (d) “consumer co-operative” means an association, as determined by the Director of Co-Operatives, that undertakes or carries on an active business where the majority of its revenue is received from its members and such membership is not restricted to an individual that would be a member of a marketing, producer or employee co-operative;
- (e) “defined community” means a group of persons situated within the Province that may be reasonably distinguished by common geographic, economic or cultural characteristics;
- (f) “eligible business entity” means a taxable Canadian corporation, of which all or substantially all of the fair market value of the property is attributable to property used in an active business or the shares of capital stock of one or more corporations that are eligible business entities where
 - (i) the total value of the total assets of the business entity and all associated corporations does not exceed \$25 000 000.00, when calculated in accordance with Section 7,
 - (ii) the number of employees of the business entity does not exceed 500, and
 - (iii) at least 75% of salaries and wages paid by the business entity are paid in the Province;
- (g) “employee co-operative” means an association, as determined by the Director of Co-Operatives,
 - (i) that undertakes or carries on business with the marketing, buying, selling, preserving, harvesting, drying, processing, manufacturing, canning, packing, grading, storing, handling or utilizing of any product, or the manufacturing or marketing of the by-products thereof, whose stated objective in its Articles of Association is to provide employment for its members and where such membership is restricted to employees of the association, or
 - (ii) that takes or otherwise acquires and holds shares, stock, debentures or takes securities of or acquires and holds membership in a single association that would be a consumer, marketing or producer co-operative that
 - (A) sells voting shares only to permanent employees of that association, and
 - (B) has at least one seat on the Board of Directors of that association;
- (h) “individual” does not include a trust except a trust governed by a registered retirement savings plan where
 - (i) the individual makes contributions to the trust and those contributions, and no other funds, can reasonably be considered to have been used by the trust to acquire or subscribe for the share, and
 - (ii) the annuitant under the plan is the individual or a spouse of the individual;

- (i) “marketing co-operative” means an association, as determined by the Director of Co-Operatives, that undertakes or carries on business with the marketing, buying or selling of any product with a majority of its purchases of goods and services made from members;
- (j) “producer co-operative” means an association, as determined by the Director of Co-Operatives, that undertakes or carries on business with the preserving, harvesting, drying, processing, manufacturing, canning, packing, grading, storing, handling or utilizing of any product, or the manufacturing or marketing of the by-products thereof, with a majority of its purchases of goods and services made from members;
- (k) “salaries and wages paid in the Province” means remuneration paid to full time employees of an eligible business who reside in the Province and who regularly work at a permanent establishment of the eligible business located in the Province;
- (l) “specified investment” means
 - (i) a share that was issued to a labour-sponsored venture-capital corporation or a community economic-development corporation that is a share of the capital stock of an eligible business entity at the time the share was issued,
 - (ii) a particular debt obligation that was issued to the labour-sponsored venture-capital corporation or a community economic-development corporation by an entity that was an eligible business entity at the time the particular debt obligation was issued where
 - (A) the entity is not restricted by the terms of the particular debt obligation or by the terms of any agreement related to that obligation from incurring other debts,
 - (B) the particular debt obligation, if secured, is secured solely by a floating charge on the assets of the entity or by a guarantee referred to in subclause (iii), and
 - (C) the particular debt obligation, by its terms or any agreement relating to that obligation, is subordinate to all other debt obligations of the entity, except that, where the entity is a corporation, the particular debt obligation need not be subordinate to
 - (I) debt obligation issued by the entity that is prescribed to be a small business security for the purposes of paragraph (a) of the definition “small business property” in subsection 206(1) of the *Income Tax Act* (Canada), or
 - (II) a debt obligation owing to a shareholder of the entity or to a person related to any such shareholder,
 - (iii) a guarantee provided by the labour-sponsored venture-capital corporation or a community economic-development corporation in respect of a debt obligation that would, if the debt obligation had been issued to the particular corporation at the time the guarantee was provided, have been an eligible investment by reason of subclause (ii) at that time, or
 - (iv) an option or a right granted by an eligible business entity, in conjunction with the issue of a share or debt obligation that is an eligible investment, to acquire a share of the capital stock of the eligible business entity that would be an eligible investment if that share were acquired at the time that the option or right was granted;

- (m) “voting share” means, where that share refers to an association, a share that would, if it were the only share owned by the member, entitle the member to a vote in the affairs of the association.

2 Subsection 12(1) of the regulations is amended by

- (a) striking out the period at the end of clause ~~(b)~~ [(h)] and substituting a semi-colon; and
- (b) adding the following clauses immediately after clause (h):
 - (i) at least 75% of all salaries and wages paid by the corporation and any affiliate of the corporation are paid to residents of the Province or at least 90% of all salaries and wages paid by the corporation and any affiliate of the corporation are paid to residents of one of the Atlantic Provinces;
 - (j) the corporation together with any affiliate of the corporation employs 3 or more employees who are residents of one of the Atlantic Provinces and whose combined total paid hours of employment are not less than 3900 in a 12-month period, or in the case of a short taxation year, an equivalent amount pro-rated; and
 - (k) the majority of the directors and senior officers of the corporation and any affiliate of the corporation are residents of one of the Atlantic Provinces.

3 ~~Subclause~~ [Clause] 13(1)(a) of the regulations is amended by

- (a) adding “or in the case of a corporation registered under the Act before December 31, 2004, approved entities” immediately after “(Canada)” in subclause (i);
- (b) adding “and before December 31, 2004” immediately after “2001” in subclause (ii);
- (c) adding “or in the case of a corporation registered under the Act before December 31, 2004, approved entities” immediately after “(Canada)” in subclause (ii);
- (d) striking out the semi-colon at the end of subclause (ii) and substituting a comma; and
- (e) adding the following subclause immediately after subclause (ii):
 - (iii) on or after January 1, 2005, invested at least 70% of the equity capital in eligible business entities, or in the case of a corporation registered under the Act before December 31, 2004, approved entities, at any time in the first 12 months immediately following the end of the corporation’s taxation year in which the equity capital was raised; or

4 Clause 13(1)(aa) of the regulations is amended by

- (a) adding “or, if applicable, approved entities” immediately after “entities”; and
- (b) striking out “clause (a);” and substituting “subclause (a)(i) or (a)(ii)”.

5 Subsection 13(1) of the regulations is further amended by

- (a) adding the following clause immediately after clause (aa):

- (ab) has not invested at least 80% of the equity raised in the Province in the corporation's taxation year in eligible business entities or, if applicable, approved entities, within 1 year immediately following the time referred to in subclause (a)(iii);
 - (b) striking out the period at the end of clause (b) and substituting “; or”; and
 - (c) adding the following clause immediately after clause (b):
 - (c) on or after January 1, 2005, does not meet the eligibility criteria as set out in Section 12.
- 6 Subsection 13(1A) of the regulations is amended by striking out “and 1(aa)” and substituting “1(aa) and 1(ab)”.
- 7 Section 15 of the regulations is amended by
- (a) striking out the period at the end of clause (d) and substituting “; and”; and
 - (b) adding the following clause immediately after clause (d):
 - (e) a detailed report on all potential investments reviewed during the year by a labour-sponsored venture-capital corporation signed by 2 senior officers of the labour-sponsored venture-capital corporation.
- 8 Clause 17(1)(b) of the regulations is amended by striking out “an independent valuation of”.
- 9 Clause 17(2)(b) of the regulations is amended by striking out “valuator;” and substituting “valuator or such other satisfactory documentation as determined by the Minister; and”.

N.S. Reg. 202/2004

Made: September 8, 2004

Filed: September 10, 2004

Day Care Regulations

Order in Council 2004-363 dated September 8, 2004
Amendment to regulations made by the Governor in Council
pursuant to Section 15 of the *Day Care Act*

The Governor in Council on the report and recommendation of the Minister of Community Services dated August 17, 2004, and pursuant to Section 15 of Chapter 120 of the Revised Statutes of Nova Scotia, 1989, the *Day Care Act*, is pleased to amend the regulations respecting day care, N.S. Reg. 195/79, made by the Governor in Council by Order in Council 79-1556, dated November 27, 1979, in the manner set forth in Schedule “A” attached to and forming part of the report and recommendation, effective on and after September 8, 2004.

Schedule "A"

**Amendments to the Regulations Respecting Day Care
made pursuant to Section 15 of Chapter 120 of the
Revised Statutes of Nova Scotia, 1989,
the *Day Care Act***

The regulations respecting day care, N.S. Reg. 195/79, made by the Governor in Council by Order in Council 79-1556, dated November 27, 1979, are amended by

- (a) adding the following clause immediately after clause 3(c):
 - (ca) "school age" means up to and including the age of 12 years and attending school;
- (b) repealing subsection 3A(4); and
- (c) adding the following subsection immediately after subsection 22(1B):
 - (1C)** No facility shall have a group size for school-age children greater than 30 school-age children in a group and there shall be no more than one group in a room.

N.S. Reg. 203/2004

Made: September 7, 2004

Filed: September 10, 2004

Land Registration Administration Regulations

Order dated September 7, 2004

Amendment to regulations made by the Minister of Service Nova Scotia and Municipal Relations
pursuant to Section 94 of the *Land Registration Act*

**In the matter of Chapter 6 of the Acts of 2001,
the *Land Registration Act***

- and -

**In the matter of amendments to the *Land Registration Administration Regulations*
made by the Minister of Service Nova Scotia and Municipal Relations
pursuant to Section 94 of the *Land Registration Act***

Order

I, Barry Barnet, Minister of Service Nova Scotia and Municipal Relations for the Province of Nova Scotia, pursuant to Section 94 of Chapter 6 of the Acts of 2001, the *Land Registration Act*, hereby amend the *Land Registration Administration Regulations*, N.S. Reg. 171/2003, made by the Minister of Service Nova Scotia and Municipal Relations on September 26, 2003, in the manner set forth in Schedule "A" attached.

This Order is effective October 1, 2004.

Dated and made at Halifax, Halifax Regional Municipality, on Sept. 7, 2004.

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

Schedule "A"

**Amendments to the *Land Registration Administration Regulations*
made by the Minister of Service Nova Scotia and Municipal Relations
pursuant to Section 94 of Chapter 6 of the Acts of 2001,
the *Land Registration Act***

- 1 Section 5 of the *Land Registration Administration Regulations*, N.S. Reg. 171/2003, made by the Minister of Service Nova Scotia and Municipal Relations on September 26, 2003, are amended by adding the following subsections immediately after subsection (3):
- (3A) If, upon receipt of an application for certification under subsection (1), the registrar is able to locate the parcel identified in the application with reasonable accuracy in relation to neighbouring parcels, the registrar must certify a match between the parcel identification number and the legal description for the parcel and approve the PDCA.
 - (3B) The registrar may approve a PDCA subject to a correction of the legal description by the submitter, if necessary, and must then notify the submitter and post a notice of the required correction in the parcel register.
 - (3C) Within 30 calendar days of receiving notification under subsection (3B) that a correction of a legal description is required, a PDCA submitter must submit an amending PDCA with the required corrected legal description.
 - (3D) Failure to submit a corrected legal description that complies with all of the requirements of these regulations and the Act within the time required by subsection (3C) may result in the Registrar General, in their sole discretion, taking one or both of the following actions:
 - (a) issuing a stop order against the submitter;
 - (b) terminating the authority of the submitter to submit PDCAs and applications for registration.
 - (3E) Upon approval of a PDCA by the registrar under subsection (3A) or (3B), an application for registration of the parcel may be processed in accordance with Section 9.
- 2 The regulations are further amended by repealing Forms 2 and 3 and substituting Forms 2 and 3 attached.

Form 2
Parcel Description Certification Application
Land Registration Act, S.N.S. 2001, c. 6, clause 37(4)(g)
Land Registration Administration Regulations, clause 5(1)(a)
[Electronic Application]

Registrant User Number [captured by the system]

PID: _____

Assessment Account: _____

Registration District: [system generated]

External File Number: _____

Parcel Location: Civic #, Street Name, Lot #, Community [all system generated]

Book and Page reference of latest conveyance of parcel (and legal description number if multiple parcels in the legal description): _____

Application Type: [if PID has a certified legal description, field defaults to amending]

Statement of Submitter

[System prompts submitter to indicate compliance with all of the requirements for submission by clicking on all the boxes of either A or B below.]

- A. 9 The authorized submitter is submitting this PDCA for approval subject to a corrected legal description being submitted within the time frame specified in the regulations and confirms that:
- 9 The owner applicant has authorized the submitter to submit this application on their behalf.
 - 9 The authorized submitter has reviewed the legal description included in this application; has checked the Provincial property mapping graphics; and has confirmed with the owner that the graphics identified by the PID appear to match the legal description for the PID (or the owner has authorized the submitter to note any apparent discrepancies in the comments field of this application).
 - 9 Each traverse in the legal description is set out in a separate paragraph.
 - 9 The authorized submitter has not completed the title search of the parcel and/or is not certain that the contents of the legal description meet all of the required standards and regulations.
- B. 9 The authorized submitter is submitting this PDCA for approval and states that:
- 9 The owner applicant has authorized the submitter to submit this application on their behalf.
 - 9 The authorized submitter has reviewed the legal description included in this application; has checked the Provincial property mapping graphics; and has confirmed with the owner that the graphics identified by the PID appear to match the legal description for the PID (or the owner has authorized the submitter to note any apparent discrepancies in the comments field of this application).

- 9 The authorized submitter has completed a title search; all sections of the PDCA checklist have been completed and that the legal description is accurate and complete and complies with the PDCA Standards, the *Land Registration Administration Regulations* and professional standards regarding legal descriptions.

Comments:

Legal Description (limited to 32K Characters - 8 pages of text):

Form 3
Parcel Description Certification Application
Land Registration Act, S.N.S. 2001, c. 6, clause 37(4)(g)
Land Registration Administration Regulations clause 5(1)(b)
 [Paper Application]

Registrant User Number: _____
Registration District: _____
Submitter's Name/Firm: _____

PID: _____
 Assessment Account: _____
 Parcel Location: Civic # _____ Street Name: _____ Lot #: _____ Community: _____
 Book and Page reference of latest conveyance of parcel (and legal description number if multiple parcels in the legal description): _____

Name and Address/Phone Number/Email of Current Owner(s): *(expand if additional owners)*

Name and Address/Phone Number /Email of Submitter:

Application Type: (*select one*)

- 9 Amending (certified previously)
- 9 Existing (not certified previously)

Legal Description:

- 9 A copy of the legal description of the parcel is contained in an electronic text file on the attached computer diskette.

Comments (*Insert comments to facilitate the certification process - explain discrepancies, etc.*):

Statement of Submitter

(*To indicate compliance with all of the requirements for submission, place check marks in all the boxes of either A or B below.*)

- A. 9 The authorized submitter is submitting this PDCA for approval subject to a corrected legal description being submitted within the time frame specified in the regulations and confirms that:
 - 9 The owner applicant has authorized the submitter to submit this application on their behalf.
 - 9 The authorized submitter has reviewed the legal description included in this application; has checked the Provincial property mapping graphics; and has confirmed with the owner that the graphics identified by the PID appear to match the legal description for the PID (or the owner has authorized the submitter to note any apparent discrepancies in the comments field of this application).
 - 9 Each traverse in the legal description is set out in a separate paragraph.
 - 9 The authorized submitter has not completed the title search of the parcel and/or is not certain that the contents of the legal description meet all of the required standards and regulations.
- B. 9 The authorized submitter is submitting this PDCA for approval and states that:
 - 9 The owner applicant has authorized the submitter to submit this application on their behalf.
 - 9 The authorized submitter has reviewed the legal description included in this application; has checked the Provincial property mapping graphics; and has confirmed with the owner that the graphics identified by the PID appear to match the legal description for the PID (or the owner has authorized the submitter to note any apparent discrepancies in the comments field of this application).
 - 9 The authorized submitter has completed a title search; all sections of the PDCA checklist have been completed and ~~that~~ the legal description is accurate and complete and complies with the PDCA Standards, the *Land Registration Administration Regulations* and professional standards regarding legal descriptions.

Dated at _____ in the County of _____, Province of Nova Scotia, this
 _____ day of _____, 2_____.

 Signature of Authorized Submitter

Name: _____

Address: _____

Phone: _____

Email: _____

Fax: _____

N.S. Reg. 204/2004

Made: September 2, 2004

Filed: September 13, 2004

Special Operating Agency Designation – Sydney Tar Ponds Agency (NS)

Order in Council 2004-358 dated September 2, 2004

Designation made by the Treasury and Policy Board and approved by Governor in Council
 pursuant to Section 16 of the *Public Service Act*

The Governor in Council on the report and recommendation of the Minister of Transportation and Public Works dated August 5, 2004, and pursuant to Section 16 of Chapter 376 of the Revised Statutes of Nova Scotia, 1989, the *Public Service Act*, is pleased, effective on and after September 2, 2004, to

- (a) approve the designation of the Sydney Tar Ponds Agency (NS) as a special operating agency made by Treasury and Policy Board in the form set out in Schedule “A” attached to and forming part of the report and recommendation; and
- (b) approve the establishment of an operating charter for the Sydney Tar Ponds Agency (NS) containing the objects of the special operating agency, and terms, conditions and other provisions governing its operations established by Treasury and Policy Board in the form set forth in Schedule “B” attached to and forming part of the report and recommendation. [**Not filed as a regulation.**]

Schedule “A”

**In the Matter of a Designation by Treasury and Policy Board
 made pursuant to Section 16 of Chapter 376 of the
 Revised Statutes of Nova Scotia, 1989,
 the *Public Service Act***

The Treasury and Policy Board, pursuant to clause 16(1)(a) of Chapter 376 of the Revised Statutes of Nova Scotia, 1989, the *Public Service Act*, hereby designates the Sydney Tar Ponds Agency (NS) as a special operating agency.

Dated and made at Halifax, Nova Scotia, August 5, 2004.

Sgd: *Michael G. Baker*
Michael G. Baker, Q.C.
Chair, Treasury and Policy Board

N.S. Reg. 205/2004

Made: September 16, 2004

Filed: September 17, 2004

Civil Service Disclosure of Wrongdoing Regulations

Order in Council 2004-374 dated September 16, 2004
Regulations approved by Governor in Council
pursuant to Section 45 of the *Civil Service Act*

The Governor in Council on the report and recommendation of the Minister responsible for the Public Service Commission dated August 5, 2004, and pursuant to Section 45 of Chapter 70 of the Revised Statutes of Nova Scotia, 1989, the *Civil Service Act*, is pleased to approve of regulations relating to the disclosure of wrongdoing in the civil service, in the form set forth in Schedule "A" attached to and forming part of the report and recommendation, effective September 16, 2004.

Schedule "A"

**Regulations Respecting Civil Service Disclosure of Wrongdoing
made [approved] by the Governor in Council pursuant to
Section 45 of Chapter 70 of the Revised Statutes
of Nova Scotia, 1989, the *Civil Service Act***

Definitions

1 In these regulations,

- (a) "civil service" means the positions in the public service of the Province to which appointments may be made by the Public Service Commission and such other positions as may be designated as positions in the Civil Service by the Governor in Council;
- (b) "Commissioner" means the Public Service Commissioner;
- (c) "deputy head" means the deputy of the member of the Executive Council presiding over a department and all others whom the Governor in Council from time to time designates as having the status of deputy head;
- (e) "employee" means a person appointed to the civil service;
- (f) "Ombudsman" means the Ombudsman appointed under the *Ombudsman Act*.

Wrongdoing

- 2 (1) For the purposes of these regulations, a wrongdoing occurs if there is
- (a) a contravention of any Act of the Parliament of Canada or of the Legislature, or of any regulations made under any such Act, if the contravention relates to the official activities of employees or any public funds or assets;
 - (b) gross mismanagement;
 - (c) an act or an omission that creates a substantial and specific danger to the life, health or safety of a person; or
 - (d) the taking of a reprisal against an employee.
- (2) For the purposes of clause (1)(b), gross mismanagement means a deliberate act or an omission showing a reckless or wilful disregard for the efficient management of significant government resources.

Protection of employee from reprisal

- 3 (1) A reprisal occurs if any of the following measures are taken against an employee by reason solely that the employee has, in good faith, made a disclosure of a wrongdoing under these regulations or expressed an intention to make a disclosure of a wrongdoing under these regulations or has, in good faith, co-operated in an investigation carried out under these regulations:
- (a) a disciplinary measure;
 - (b) demotion of the employee;
 - (c) termination of the employment of the employee;
 - (d) any measure that adversely affects the employment or working conditions of the employee; or
 - (e) a threat to take any of the measures referred to in clauses (a) to (d).
- (2) No person shall take a reprisal against an employee.

Request for advice

- 4 (1) An employee who is considering making a disclosure of a wrongdoing may make a written request for advice to the Conflict of Interest Commissioner designated under Section 26 of the *Members and Public Employees Disclosure Act*.
- (2) The Conflict of Interest Commissioner must not publically disclose any information provided under subsection (1) and must protect the identity of persons named under subsection (1), unless otherwise required by law.

Contents of disclosure of wrongdoing

- 5 (1) A disclosure of a wrongdoing under subsection 6(1) must be in writing and must include the following information, if known:
- (a) the nature of the wrongdoing;

- (b) the name of the person or persons alleged to have committed or about to commit the wrongdoing;
 - (c) the date and description of the wrongdoing; and
 - (d) whether the disclosure has already been made and a response received under these regulations, and any additional relevant information.
- (2) A disclosure of a wrongdoing under subsection 6(1) must be made within 12 months of the employee becoming aware of the wrongdoing.

Procedure for disclosure of wrongdoing

- 6 (1) An employee who reasonably believes that they are being asked to commit a wrongdoing, or who reasonably believes that a wrongdoing has been committed or is about to be committed, may disclose the matter to
- (a) their immediate supervisor;
 - (b) their deputy head, in accordance with Section 8; or
 - (c) the Ombudsman, in accordance with Section 10.
- (2) Despite subsection (1), an employee may make a disclosure of a wrongdoing other than as provided for in subsection (1) if they believe on reasonable grounds that
- (a) it is necessary to do so to prevent imminent and serious danger to the life, health or safety of a person; and
 - (b) there is not sufficient time to make the disclosure under these regulations.
- (3) A disclosure under subsection (2) must be made to the police department or police agency that the employee reasonably believes can address the imminent and serious danger identified.

Response of immediate supervisor to disclosure of wrongdoing

- 7 (1) A supervisor who receives a disclosure of a wrongdoing under clause 6(1)(a) must investigate the matter to the extent appropriate and must respond in writing to the disclosing employee within 30 days of receiving the disclosure.
- (2) A supervisor who receives a disclosure of a wrongdoing under clause 6(1)(a) must report in writing to their deputy head, within 30 days of receiving the disclosure, advising of
- (a) the disclosure;
 - (b) the results of the investigation to date; and
 - (c) the written response to the disclosing employee.
- (3) Unless required by law, a supervisor who receives a disclosure of wrongdoing under clause 6(1)(a) must

- (a) not publically disclose any information that comes to their knowledge in the performance of their duties under these regulations; and
- (b) to the extent possible, protect the identity of persons involved in the disclosure process, including employees, witnesses and persons who are alleged to be responsible for wrongdoings, from publication.

Disclosure of wrongdoing to deputy head

8 To make a disclosure of a wrongdoing under clause 6(1)(b), an employee must

- (a) have received a response from their immediate supervisor under subsection 7(1) and must reasonably believe that the matter will not be appropriately addressed; or
- (b) reasonably believe that it would not be appropriate to disclose the matter to the employee's immediate supervisor because of the subject-matter of the wrongdoing or the person alleged to have committed it.

Response of deputy head to disclosure of wrongdoing

- 9** (1) A deputy head who receives a disclosure of a wrongdoing under clause 6(1)(b) must investigate the matter to the extent appropriate and must respond in writing to the disclosing employee within 30 days of receiving the disclosure.
- (2) A deputy head who receives a disclosure of a wrongdoing under clause 6(1)(b) must report in writing to the Commissioner, within 30 days of receiving the disclosure, advising of
- (a) the disclosure;
 - (b) the results of the investigation to date; and
 - (c) the written response to the disclosing employee.
- (3) Unless required by law or considered appropriate by the deputy head under the circumstances, a deputy head who receives a disclosure of wrongdoing under clause 6(1)(b) or a report under subsection 7(2) must
- (a) not publically disclose any information that comes to their knowledge in the performance of their duties under these regulations; and
 - (b) to the extent possible, protect the identity of persons involved in the disclosure process, including employees, witnesses and persons who are alleged to be responsible for wrongdoings, from publication.
- (4) A deputy head who receives a disclosure of a wrongdoing under subsection 6(1)(b) or a report under subsection 7(2) may, within 30 days of receiving the disclosure or report, refer the matter to the Ombudsman and the referral must be treated in the same manner as a disclosure of a wrongdoing under clause 6(1)(c) made for the reason set out in clause 10(a).

Disclosure of wrongdoing to Ombudsman

10 To make a disclosure of a wrongdoing to the Ombudsman under clause 6(1)(c), an employee must

- (a) have received a response in accordance with subsection 9(1) and must reasonably believe that the matter will not be appropriately addressed; or

- (b) reasonably believe that it would not be appropriate to disclose the matter to the employee's immediate supervisor or deputy head because of the subject-matter of the wrongdoing or the person alleged to have committed it.

Investigation by Ombudsman

11 The Ombudsman must investigate a disclosure of a wrongdoing under clause 6(1)(c) unless the Ombudsman is of the opinion that

- (a) the disclosing employee ought to have exhausted other procedures available to them;
- (b) the subject-matter of the disclosure is one that could more appropriately be dealt with, initially or completely, according to an alternate procedure provided for under an Act of the Legislature, regulation or policy;
- (c) the subject-matter of the disclosure is trivial, frivolous or vexatious;
- (d) the disclosure was not made in good faith with the reasonable belief in the truth of the allegations;
- (e) the disclosure does not provide adequate particulars of a wrongdoing as required by subsection 5(1);
- (f) the matter was not submitted within the time limit specified in subsection 5(2);
- (g) the matter should be referred to another authority having jurisdiction to investigate; or
- (h) having regard to all the circumstances of the case, further investigation is not warranted.

Notification of investigation

- 12 (1)** If the Ombudsman concludes under Section 11 that it is appropriate to investigate a disclosure of wrongdoing under clause 6(1)(c), the Ombudsman must give written notice to the disclosing employee, the deputy head of the department to be investigated and the Commissioner.
- (2)** If the Ombudsman concludes under Section 11 that it is not appropriate to investigate a disclosure of wrongdoing under clause 6(1)(c) made for the reason set out in clause 10(a), the Ombudsman must give written notice to the disclosing employee, their deputy head and the Commissioner of the Ombudsman's conclusion and of the reasons for it.
- (3)** If the Ombudsman concludes under Section 11 that it is not appropriate to investigate a disclosure of wrongdoing under clause 6(1)(c) made for the reason set out in clause 10(b), the Ombudsman must give written notice to the disclosing employee and the Commissioner of the Ombudsman's conclusion and of the reasons for it.

Ombudsman's report of investigation

- 13 (1)** The Ombudsman must report any investigation findings in writing, including,
- (a) the information received in the disclosure;
 - (b) the steps taken in the investigation;
 - (c) a summary of the evidence obtained; and

(d) whether a wrongdoing has been established,

and any additional relevant information, to the disclosing employee, any deputy head involved in the disclosure or the investigation, and the Commissioner.

(2) If a finding of wrongdoing is made by the Ombudsman, the Ombudsman

(a) must recommend measures in writing to correct the wrongdoing to the appropriate deputy head, and send copies to the disclosing employee and the Commissioner; and

(b) may request notification, within a specified time, of any steps taken to give effect to the recommendations made under clause (a).

Deputy head to respond to Ombudsman's recommendations

14 In addition to any requested notification under clause 13(2)(b), a deputy head who receives recommendations under clause 13(2)(a) must respond in writing within 30 days to the Ombudsman and must provide a copy of the response to the Commissioner.

Ombudsman may report to member of Executive Council

15 If the Ombudsman considers it necessary, the Ombudsman may report a matter to an appropriate member of the Executive Council, including, but not limited to, when

(a) action has not been taken within a reasonable time in respect of one of the Ombudsman's recommendations to a deputy head under clause 13(2)(a); or

(b) a situation exists that constitutes an imminent risk of a substantial and specific danger to the health and safety of the public.

Ombudsman's annual report

16 The Ombudsman must, within 3 months after the end of each fiscal year, submit an annual report to the Commissioner setting out, for that fiscal year

(a) the number of general inquiries relating to these regulations;

(b) the number of disclosures received;

(c) the number of investigations commenced;

(d) the number of recommendations made pursuant to clause 13(2)(a);

(e) whether there are any systemic problems that give rise to wrongdoings; and

(f) any recommendations for improvement that the Ombudsman considers appropriate,

and any additional matter that the Ombudsman considers necessary.

Commissioner's annual report

17 (1) The Commissioner must report annually to the Minister responsible for the Public Service Commission respecting the disclosures of wrongdoing made during the fiscal year.

(2) The Minister will table the report received under subsection (1) in the House of Assembly.

Cooperation with Ombudsman

- 18 (1)** A deputy head must provide the Ombudsman with any facilities, assistance, information and access to the offices under their control and direction that the Ombudsman requires for the performance of the Ombudsman's duties under these regulations.
- (2)** Subject to Section 19, every employee must co-operate with the Ombudsman and provide the Ombudsman with any information that the Ombudsman may require in the performance of the Ombudsman's duties under these regulations.

Information employee not authorized to disclose

- 19** Nothing in these regulations authorizes an employee to disclose
- (a) information that would reveal the substance of deliberations of the Executive Council or any of its committees; or
 - (b) information that is protected by solicitor-client privilege.

Disciplinary action against employee

- 20** In addition to, and apart from, any other sanction provided for by law, an employee may be subject to appropriate disciplinary action, including termination of employment, if the employee
- (a) commits a wrongdoing;
 - (b) makes a disclosure of a wrongdoing and the disclosure is frivolous, vexatious or in bad faith; or
 - (c) makes a disclosure of a wrongdoing other than in the course of a procedure established under these regulations or any Act of the Legislature or when otherwise lawfully required to do so.

False or misleading statement

- 21** No person shall, in a disclosure of a wrongdoing or in the course of any investigation of a wrongdoing, knowingly make a false or misleading statement, either orally or in writing, to a supervisor, deputy head, the Ombudsman or a person acting on behalf of or under the direction of any of them.

Obstruction in performance of duties

- 22** No person shall wilfully obstruct a supervisor, a deputy head, the Ombudsman or any person acting on behalf of or under the direction of any of them, in the performance of their duties under these regulations.

Destruction, falsification or concealment of documents or things

- 23** No person, knowing that a document or thing is likely to be relevant to an investigation under these regulations, shall
- (a) destroy, mutilate or alter the document or thing;
 - (b) falsify the document or make a false document;
 - (c) conceal the document or thing; or
 - (d) direct, counsel or cause, in any manner, any person to do anything mentioned in clauses (a) to (c), or propose, in any manner, to any person that they do anything mentioned in those clauses.

Confidentiality obligation of Ombudsman

24 Unless required by law or permitted by these regulations, the Ombudsman must

- (a) not publically disclose any information that comes to the Ombudsman's knowledge in the performance of the duties under these regulations; and
- (b) to the extent possible, protect the identity of persons involved in the disclosure process, including employees, witnesses and persons who are alleged to be responsible for wrongdoings, from publication.

Grievances and appeals not prohibited

25 Nothing in these regulations prohibits a person from filing a grievance under an applicable civil service collective agreement or an appeal under Section 94 of the *Civil Service General Regulations*.

N.S. Reg. 206/2004

Made: August 5, 2004

Filed: September 21, 2004

Electoral Districts Order: Halifax Regional School Board

Order dated August 5, 2004
made by the Nova Scotia Utility and Review Board
pursuant to Section 44 of the *Education Act*

Order

NSUARB-SB-04-01

Nova Scotia Utility and Review Board

In the Matter of the Education Act

- and -

In the Matter of an Application by the **Halifax Regional School Board** to amend the boundaries of the electoral districts, and to reduce the number of electoral districts and the number of school board members from 13 to 12.

Before: Roland A. Deveau

ORDER

An application having been made by the **Halifax Regional School Board** pursuant to **s. 43** of the **Education Act** and the Board having issued its decision on August 5, 2004;

It Is Hereby Ordered:

1. That the number of electoral districts for the Halifax Regional School Board is set at 12, each electing one member;
2. That the number of members for the Halifax Regional School Board is set at 12;
3. That the descriptions of the boundaries of the 12 electoral districts shall be as outlined in Schedule "A";

And it Is Further Ordered that all provisions of the **Education Act** and the **Municipal Elections Act** and any other acts of the Province of Nova Scotia applying to the preparation for and holding of the regular election of school board members in the year 2004 will be complied with as if the above-noted changes had been made on the first day of March 2004, but for all other purposes such changes shall take effect on the first day of the first meeting of the School Board after the election of school board members for the year 2004.

Dated at Halifax, Nova Scotia, this 5th day of August, 2004.

Sgd: *Nancy McNeil*
Clerk of the Board

Schedule "A"

Electoral District 1 is comprised of Polling District A of the Halifax Regional Municipality.

Electoral District 2 is comprised of Polling Districts B and J of the Halifax Regional Municipality.

Electoral District 3 is comprised of Polling District C of the Halifax Regional Municipality.

Electoral District 4 is comprised of Polling Districts D and E of the Halifax Regional Municipality.

Electoral District 5 is comprised of Polling Districts F and G of the Halifax Regional Municipality.

Electoral District 6 is comprised of Polling Districts H and I of the Halifax Regional Municipality.

Electoral District 7 is comprised of Polling Districts K, L and M of the Halifax Regional Municipality.

Electoral District 8 is comprised of Polling Districts N and O of the Halifax Regional Municipality.

Electoral District 9 is comprised of Polling Districts P and Q of the Halifax Regional Municipality.

Electoral District 10 is comprised of Polling Districts R and S of the Halifax Regional Municipality.

Electoral District 11 is comprised of Polling Districts T and U of the Halifax Regional Municipality.

Electoral District 12 is comprised of Polling Districts V and W of the Halifax Regional Municipality.