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N.S. Reg. 121/2003

Made: June 20, 2003

Filed: June 23, 2003

The Nova Scotia Crop Insurance Plan for Tree Fruit

Order in Council 2003-268 dated June 20, 2003
 Regulations made by the Governor in Council
 pursuant to Section 6 of the *Crop and Livestock Insurance Act*

The Governor in Council on the report and recommendation of the Minister of Agriculture and Fisheries dated May 14, 2003, and pursuant to Section 6 of Chapter 113 of the Revised Statutes of Nova Scotia, 1989, the *Crop and Livestock Insurance Act*, is pleased, effective on and from June 20, 2003, to

- (a) approve the repeal by the Nova Scotia Crop and Livestock Insurance Commission of the *Nova Scotia Crop and Livestock Insurance Plan for Tree Fruit* approved by the Governor in Council by Order in Council 95-21 dated January 3, 1995; and
- (b) approve the making by the Nova Scotia Crop and Livestock Insurance Commission of a new crop insurance plan for tree fruit in the form set forth in Schedule "A" attached to and forming part of the report and recommendation.

Schedule "A"

I certify that at a meeting held March 20, 2003, the Crop and Livestock Insurance Commission, pursuant to Section 6 of Chapter 113 of the Revised Statutes of Nova Scotia, 1989, the *Crop and Livestock Insurance Act*, passed motions to

- (a) repeal the *Nova Scotia Crop and Livestock Insurance Plan for Tree Fruit* approved by Governor in Council by Order in Council 95-21 dated January 3, 1995; and
- (b) adopt a new crop insurance plan for Tree Fruit in the form attached.

Crop and Livestock Insurance Commission

Per: Sgd: *Gerald Post*
Gerald Post, Manager

Dated and signed at Truro, Nova Scotia, April 3, 2003.

**Regulations Respecting a Crop Insurance Plan for Tree Fruit
 made pursuant to Section 6 of Chapter 113 of the
 Revised Statutes of Nova Scotia, 1989, the *Crop and Livestock Insurance Act***

Citation

1 These regulations may be cited as *The Nova Scotia Crop Insurance Plan for Tree Fruit*.

Purpose

2 The purpose of this plan is to provide for

- (a) insurance against a reduction in yield or quality of tree fruit resulting from one or more of the perils designated in Section 4; and
- (b) apple storage coverage for fresh or processing apples of certain varieties in storage that are lost as a result of one or more of the perils designated in Section 4.

Interpretation

3 (1) In this plan,

- (a) “average insurable yield” means the average production in pounds of tree fruit grown by an insured person over the preceding 10 years, allowing for age of trees, biennial bearing, number of trees and changes in acreage, and shall be determined by the Commission from records of the insured person, or in any other manner that the Commission approves;
- (b) “contract of insurance” means a contract in Form 1 of the regulations respecting general (field crop) insurance;
- (c) “designated perils” means the perils designated in Section 4 for the purpose of this plan;
- (d) “production guarantee report” means a report by the Commission pursuant to Section 13 respecting the amount of coverage being offered to an insured person;
- (e) “total guaranteed production” means the total guaranteed production determined pursuant to Section 10; and
- (f) “tree fruit” means all varieties of apples and pears produced in Nova Scotia that are accepted by the Commission for insurance coverage.

(2) For the purpose of this plan,

- (a) a bushel of apples weighs 42 lbs.;
- (b) a bushel of pears weighs 50 lbs.;
- (c) a bin of fresh apples or fresh pears contains 17 bushels; and
- (d) a bin of processing or juice apples or processing or juice pears contains 18 bushels.

Designation of perils

4 The following are designated as perils for tree fruit:

- (a) winter injury, excluding mouse damage;
- (b) spring frost;
- (c) hail;
- (d) fall frost;
- (e) drought;
- (f) excessive moisture;
- (g) unavoidable pollination failure;
- (h) off crop due to adverse weather not described in the other designated perils;
- (i) wind
 - (i) for McIntosh variety apples, prior to 12:00 noon on October 13 in each crop year, and
 - (ii) for all apple varieties other than McIntosh and for all pear varieties, prior to 12:00 noon on October 23 in each crop year.

Designation of crop year

5 The crop year for tree fruit is the period from December 1 in any year to November 30 of the following year.

Application

6 An application for a contract of insurance shall be

- (a) on a Contract of Insurance Application Form in Form A of the *Crop and Livestock Insurance Forms Regulations*;
- (b) accompanied by a premium deposit of at least \$50.00; and
- (c) filed with the Commission before the start of the first crop year to be insured.

Contract of insurance

7 For the purpose of this plan, the entire contract of insurance shall comprise

- (a) a contract of insurance;
- (b) a completed application filed pursuant to clause 6(a); and
- (c) a copy of this plan,

and if a document referred to in clause (a), (b) or (c) is subsequently amended while the contract of insurance is still in force, a copy of the amendment shall be delivered to the insured person.

Duration of contract

- 8
- (1) A contract of insurance shall be in force for the crop year for which it is made and shall continue in force for each crop year after that until it is cancelled by an insured person or the Commission in the manner prescribed by subsection (2) or (3).
 - (2) A contract of insurance may be cancelled by an insured person or the Commission by notice in writing to the other party by November 30 in advance of the crop year for which the cancellation is to be effective.
 - (3) A contract of insurance may be cancelled by the Commission by notice in writing to an insured person if the insured person is in arrears in the payment of the premium under the contract.

Coverage

- 9
- (1) All the area of apples owned or operated by an insured person and to be harvested may be offered for insurance coverage.
 - (2) All the area of pears owned or operated by an insured person and to be harvested may be offered for insurance coverage.
 - (3) If only one crop is offered for insurance coverage by an insured person pursuant to subsection (1) or (2), that crop must be the major tree fruit crop produced by the insured person.
 - (4) The Commission may insure all or part of the area offered for insurance coverage.

Total guaranteed production offered

- 10
- (1) The total guaranteed production shall be 80% of the average insurable yield for the total area of each insured tree fruit crop to be harvested.
 - (2) Subject to the terms and conditions of the Canada-Nova Scotia Crop Insurance Agreement currently in force, the Commission may offer a total guaranteed production equal to 85% of the average insurable yield for the total area of each insured tree fruit crop to be harvested.

Established prices

11 (1) The established price for each insurable tree fruit crop is as set out in the following table:

Crop	Fresh	Processing	Juice
Apples	\$0.15 /pound	\$0.14 /pound	\$0.06 /pound
Pears	\$0.15 /pound	n/a	n/a

(2) Despite subsection (1), the established price for an insured person shall not exceed the actual average price received by the insured person for their insurable tree fruit crop over the immediately preceding 2 years.

Maximum indemnity

12 The maximum indemnity for which the Commission is liable under the contract of insurance shall be the amount obtained by multiplying the total guaranteed production by the established price prescribed in to Section 11.

Production guarantee report

- 13 (1) The Commission shall issue a production guarantee report to an insured person on or before April 30 of the crop year to which it applies.
- (2) A production guarantee report must
- (a) set out detailed information about the expected yield and grade of the insured person's crop;
 - (b) state the amount of insurance coverage offered by the Commission to the insured person; and
 - (c) state the total guaranteed production offered by the Commission to the insured person.
- (3) The premium payable for a crop year shall be based on the amount of insurance coverage stated in the production guarantee report for the crop year.
- (4) If the Commission receives information indicating that the productive capability of a tree fruit orchard has changed, it may revise the production guarantee report in any or all respects and adjust the premium accordingly and, if so, shall notify the insured person in writing respecting the revision and adjustment.
- (5) An insured person shall be deemed to have agreed with the revision and adjustment by the Commission under subsection (4) unless, within 10 days following mailing or delivery of the notification by the Commission, the insured person notifies the Commission in writing that the insured person rejects the revision and adjustment.
- (6) If the Commission receives notice from an insured person under subsection (5), it may notify the insured person in writing that the contract of insurance does not apply for the crop year to which the production guarantee report applies and, if so, shall refund the premium deposit paid in respect of that crop year.
- (7) A production guarantee report that is revised under subsection (4) shall, failing notice under subsection (5), be the production guarantee report for the crop year.

Premium

14 (1) The base premium rate for each \$100.00 of coverage is as set out in the following table:

Crop	Base Premium Rate	
	80% Coverage	85% Coverage
Apples	\$4.90	\$7.10
Pears	\$4.90	\$7.10

- (2) The base premium rate shall be adjusted by giving a discount when indemnity is less than total premiums paid or adding a surcharge when indemnity exceeds total premiums, and adjustments will be calculated using the formula

$$(LR-1) \times (n \div (20+n))$$

where "LR" equals total indemnity divided by total premiums and "n" equals the number of years insured in plan.

- (3) Despite subsection (2) the maximum discount shall be 50% and the maximum surcharge shall be 100%.
- (4) An additional premium surcharge of \$0.50 per \$100 of coverage shall be applied to all insured areas of apples to account for the additional risk associated with apple storage coverage.
- (5) Despite subsections (1) to (4), the minimum annual premium payable by an insured person in each crop year is \$50.
- (6) The premium determined pursuant to subsections (1), (2) and (3) includes premium payments made by the Government of Canada under the *Farm Income Protection Act* (Canada) and the Province under the Act.
- 15 (1) An insured person shall pay the premium less the premium deposit required by clause 6(b) to the Commission not later than August 1 for the current crop year.
- (2) Interest of 1.5% per month or a minimum of \$5 per month will be charged by the Commission on an overdue account.

Circumstances where the contract of insurance does not apply

- 16 The contract of insurance does not apply to, and no indemnity is payable in respect of, an area of tree fruit that
- was not adequately prepared or managed for tree fruit production purposes; or
 - in the opinion of the Commission is not insurable.

Harvesting

- 17 (1) All the area of tree fruit owned or operated by an insured person in a crop year shall be harvested unless the Commission consents in writing to a written request by an insured person to abandon or destroy any part of the insured crop.
- (2) If part of an insured crop is abandoned or destroyed without the consent required by subsection (1), the guaranteed production shall be adjusted at a level not to exceed the total guaranteed production in effect.

Notice of crop loss or damage

- 18 Subject to the contract of insurance, an insured person is required to notify the Commission in writing within 5 days of any loss or damage to the insured crop.

Final date for harvest

19 The final date for harvest in a crop year shall be

- (a) 12:00 noon on October 23 for all varieties of apples, except for the variety Spy, and all varieties of pears;
- (b) 12:00 noon on October 26 for the variety Spy; or
- (c) any other date determined by the Commission,

and the Commission may establish a potential yield for any insured area not harvested by the final harvest date.

Harvest yield report

20 An insured person shall file a harvest yield report within 15 days following the completion of harvest on a Tree Fruit Harvest Yield Report Form in Form E of the *Crop and Livestock Insurance Forms Regulations*.

Evaluation of yield loss

21 For the purpose of determining the reduction in yield of tree fruit in a crop year and any indemnity payable,

- (a) the actual production of the total area harvested for apples and the actual production of the total area harvested for pears shall be taken into account separately; and
- (b) the actual production shall be adjusted based on the quality blend of apples or the quality blend of pears harvested, based on a method approved by the Commission.

Notice of claim for yield loss

- 22** (1) Despite subsection 12(1) of the Terms and Conditions of Form 1 of the regulations respecting general (field crops) insurance, which specifies a 60-day filing period, a claim for an indemnity payable due to a reduction of yield shall be made to the Commission within 15 days on a Proof of Loss Form in Form C of the *Crop and Livestock Insurance Forms Regulations*.
- (2) Before a payment for an indemnity claimed pursuant to subsection (1) is made, a Claim Release Form in Form D of the *Crop and Livestock Insurance Forms Regulations* must be received by the Commission.

Apples eligible for storage coverage

- 23** (1) All late-variety apples, except Gravenstein apples, that are placed in storage for the purpose of marketing as fresh or processing apples are eligible for apple storage coverage under a contract of insurance.
- (2) Despite subsection (1), apples shall be excluded from apple storage coverage if they are
- (a) placed in a storage facility that is not registered with the Nova Scotia Fruit Growers' Association prior to November 15 in a crop year; or
 - (b) placed in a controlled atmosphere storage facility that does not comply with the *Packaged Apples Controlled Atmosphere Designation Regulations* made under Section 166 of the *Agriculture and Marketing Act*.

Notice of storage loss

24 Subject to the contract of insurance, an insured person is required to notify the Commission in writing within 5 days of any loss or damage to the apples in storage that are insured under apple storage coverage.

Final date for apple storage coverage

25 (1) The final date for apple storage coverage is

- (a) December 31 in the year of harvest for fresh and processing apples in cold storage; or
 - (b) June 30 of the year following the year of harvest for fresh apples in controlled atmosphere storage.
- (2) Coverage during the period between the final date for harvest determined pursuant to Section 19 and the final date for insurance protection pursuant to subsection (1) shall be limited to storage losses resulting from one or more of the designated perils.

Evaluation of apple storage loss

- 26 (1) The volume of all apples in storage in the Province on November 15 in a crop year shall be the basis for evaluating claims under this Section.
- (2) Storage losses must occur in at least 3 separate eligible storage facilities and affect at least 10% of all apples in storage before an insured person is eligible to make a claim for apple storage loss.
- (3) Despite subsection (2), if at least 60% of all apples of a specific variety of apples that are in storage is lost in storage because of a designated peril, an insured person is eligible to make a claim for apple storage loss respecting that variety.
- (4) Each pound of fresh or processing apples that is lost in storage and for which an insured person is eligible to make a claim pursuant to subsection (2) or (3) shall be valued for the purpose of the insured person's production guarantee report at 80% of its established price.
- (5) Despite subsections (2) and (3), no indemnity shall be paid for loss in storage unless an insured person establishes to the satisfaction of the Commission that the loss resulted directly from one or more designated perils.

Final adjustment of apple storage loss

- 27 An indemnity payable to an insured person for production losses and for storage losses shall not exceed the value of the total guaranteed production as stated on the production guarantee report made pursuant to Section 13.

Arbitration

- 28 Where the Commission and an insured person have failed to resolve any dispute arising out of the adjustment of loss under a contract of insurance, and the requirements of the regulations made under the Act respecting the filing of a Proof of Loss Form in Form C of the *Crop and Livestock Insurance Forms Regulations* have been complied with, and either party wishes the dispute determined by arbitration, it shall be the responsibility of that party to notify the other party in writing within 90 days after the end of the crop year that the dispute be determined in accordance with the requirements of the Arbitration Proceedings Regulations.

N.S. Reg. 122/2003

Made: June 20, 2003

Filed: June 23, 2003

Direct Sellers Regulations

Order in Council 2003-270 dated June 20, 2003
Amendment to regulations made by the Governor in Council
pursuant to Section 35 of the *Direct Sellers' Regulation Act*

The Governor in Council on the report and recommendation of the Minister of Service Nova Scotia and Municipal Relations dated May 29, 2003, and pursuant to Section 35 of Chapter 129 of the Revised Statutes of Nova Scotia, 1989, the *Direct Sellers' Regulation Act*, is pleased to amend the regulations respecting direct sellers made by the Governor in Council by Order in Council 76-1186 dated October 12, 1976, in the manner

set forth in Schedule "A" attached to and forming part of the report and recommendation, effective on and after July 1, 2003.

Schedule "A"

Amendments to the Regulations Respecting Direct Sellers made by the Governor in Council pursuant to Section 35 of Chapter 129 of the Revised Statutes of Nova Scotia, 1989, the *Direct Sellers' Regulation Act*

1 Section 1 of the regulations respecting direct sellers made by the Governor in Council by Order in Council 76-1186 dated October 12, 1976, is renumbered as Section 1A and the following Section and headings are added immediately before Section 1A:

Citation

1 These regulations may be cited as the *Direct Sellers Regulations*.

Definitions

2 Section 2 of the regulations is amended by adding the following subsection after subsection (4):

(4A) Where a direct seller that holds an exemption permit for its salespersons pursuant to subsection (6) is amalgamated with one or more other companies, a salesperson who represents the resulting amalgamated company shall be exempt from the requirement to hold a salesperson's permit if the amalgamated company

- (a) submits a written application for an exemption on behalf of the salesperson to the Registrar together with its application for a permit as a direct seller, or within 30 days of the coming into force of this subsection;
- (b) provides written assurance, to the satisfaction of the Registrar, that its method of operation, including its sales techniques, contracts, complaint handling and cancellation provisions, will not differ from the method of operation of the amalgamating direct seller that held the exemption permit prior to the amalgamation;
- (c) provides written assurance, to the satisfaction of the Registrar, that each of the amalgamating companies
 - (i) has not been the subject of significant consumer complaints addressed to the Department or to other jurisdictions where it operated,
 - (ii) has not engaged in direct selling without a permit in Nova Scotia or elsewhere, and
 - (iii) has demonstrated compliance with the legislative and regulatory requirements in Nova Scotia and other jurisdictions where it operated; and
- (d) is granted a permit as a direct seller pursuant to the Act.

3 Subsection 2(5) of the regulations is amended by striking out "(3) and (4)" and substituting "(3), (4) and (4A)".

4 Subsection 2(6) of the regulations is amended by adding "or (4A)" immediately after "(4)".

5 Section 2 of the regulations is further amended by adding the following subsection immediately after subsection (7):

(8) If the Registrar is satisfied that a direct seller whose salespersons are exempt from the requirement to hold a permit pursuant to subsection (4) or (4A) has

- (a) done one of the things listed in clauses 18(2)(a) through (d) of the Act;
- (b) been the subject of significant consumer complaints addressed to the Department or to other jurisdictions where the direct seller operates or has operated;
- (c) engaged in direct selling without a permit in Nova Scotia or elsewhere;
- (d) not demonstrated compliance with legislative and regulatory requirements in Nova Scotia or other jurisdictions where the direct seller operates or has operated; or
- (e) failed to comply with subsection (7),

the Registrar may revoke the exemption.

- 6 Section 6 of the regulations is amended by striking out “licensed” and substituting “who holds a permit”.
- 7 Section 13 of the regulations is amended by striking out “licensing” and substituting “a permit”.
- 8 The regulations are further amended by striking out “license” wherever it appears and substituting “permit”.

N.S. Reg. 123/2003

Made: June 20, 2003

Filed: June 23, 2003

Proclamation, S. 11, S.N.S. 2003, c. 10

Order in Council 2003-271 made June 20, 2003

Proclamation made by the Governor in Council

pursuant to Section 11 of *An Act to Amend Chapter 5 of the Acts of 1995-96, the Cosmetology Act*

The Governor in Council on the report and recommendation of the Minister of Education dated June 3, 2003, pursuant to Section 11 of Chapter 10 of the Acts of 2003, *An Act to Amend Chapter 5 of the Acts of 1995-96, the Cosmetology Act*, is pleased to order and declare by proclamation that clause (b) of Section 29B of Chapter 5 of the Acts of 1995-96, the *Cosmetology Act*, as enacted by Section 9 of Chapter 10 of the Acts of 2003, *An Act to Amend Chapter 5 of the Acts of 1995-96, the Cosmetology Act*, come into force on and not before June 20, 2003.

PROVINCE OF NOVA SCOTIA

Sgd: Myra A. Freeman

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 Section 11 of Chapter 10 of the Acts of 2003, *An Act to Amend Chapter 5 of the Acts of 1995-96, the Cosmetology Act*, it is enacted as follows:

- 11 Clause 29B(b) of Chapter 5, as enacted by Section 9, comes into force on such day as the Governor in Council orders and declares by proclamation.

AND WHEREAS it is deemed expedient that clause (b) of Section 29B of Chapter 5 of the Acts of 1995-96, the *Cosmetology Act*, as enacted by Section 9 of Chapter 10 of the Acts of 2003, *An Act to Amend Chapter 5 of the Acts of 1995-96, the Cosmetology Act*, come into force on and not before June 20, 2003;

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 clause (b) of Section 29B of Chapter 5 of the Acts of 1995-96, the *Cosmetology Act*, as enacted by Section 9 of Chapter 10 of the Acts of 2003, *An Act to Amend Chapter 5 of the Acts of 1995-96, the Cosmetology Act*, come into force on and not before June 20, 2003, 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] Myra A. Freeman, Lieutenant Governor of the Province of Nova Scotia.

AT Our Government House in the Halifax Regional Municipality, this 20th day of June, in the year of Our Lord two thousand and three and in the fifty-second year of Our Reign.

BY COMMAND:

Sgd: *Jamie Muir*
Provincial Secretary
Minister of Justice and Attorney General

N.S. Reg. 124/2003

Made: June 20, 2003

Filed: June 26, 2003

Certificate of Incorporation Form Regulations

Order dated June 20, 2003
made by Minister of Agriculture and Fisheries
pursuant to clause 51(1)(c) of the *Agricultural Marshland Conservation Act*

**In the matter of clause 51(1)(c) of Chapter 22 of the Acts of 2000,
the *Agricultural Marshland Conservation Act***

-and-

**In the matter of regulations prescribing the form for a certificate of incorporation of a marsh body
made by the Minister of Agriculture and Fisheries pursuant to clause 51(1)(c) of the
*Agricultural Marshland Conservation Act***

ORDER

I, Gordon Balser, Minister of Agriculture and Fisheries for the Province of Nova Scotia, pursuant to clause 51(1)(c) of Chapter 22 of the Acts of 2000, the *Agricultural Marshland Conservation Act*, hereby prescribe the form set forth in Schedule "A" attached to and forming part of this Order as the form for a certificate of incorporation of a marsh body.

Dated and made at Halifax, Nova Scotia, June 20, 2003

Sgd: Gordon Balser
Gordon D. Balser
Minister of Agriculture and Fisheries

Schedule "A"

Certificate of Incorporation

(Section 11, Agricultural Marshland Conservation Act)

The provisions of the *Agricultural Marshland Conservation Act* having been complied with, owners of marshland within the marshland section(s), or portion thereof, described below and located in the County/Countries of _____, in the Province of Nova Scotia, constitute a marsh body under the name of the _____ Marsh Body, effective on and after _____.

Description of marshland section(s), or portion of marshland section (specify):

The members of the provisional executive committee of the _____ Marsh Body are

_____	of	_____
_____	of	_____
_____	of	_____
_____	of	_____
_____	of	_____
_____	of	_____
_____	of	_____
_____	of	_____
_____	of	_____
_____	of	_____

Minister of Agriculture and Fisheries

Halifax, Nova Scotia
Dated _____

N.S. Reg. 125/2003

Made: June 24, 2003

Filed: June 26, 2003

Automobile Insurance Underwriting Practices Regulations

Order in Council 2003-279 dated June 24, 2003
Regulations made by the Governor in Council
pursuant to subsection 159A(2) of the *Insurance Act*

The Governor in Council on the report and recommendation of the Minister of Environment and Labour dated June 19, 2003, and pursuant to subsection 159A(2) of Chapter 231 of the Revised Statutes of Nova Scotia, 1989, the *Insurance Act*, is pleased to make regulations respecting underwriting practices for automobile insurance in the form set forth in Schedule "A" attached to and forming part of the report and recommendation.

Schedule "A"

**Regulations Respecting Underwriting Practices for Automobile Insurance
made by the Governor in Council pursuant to subsection 159A(2) of
Chapter 231 of the Revised Statutes of Nova Scotia, 1989, the *Insurance Act***

Citation

1 These regulations may be cited as the *Automobile Insurance Underwriting Practices Regulations*.

Definitions

2 (1) In these regulations,

- (a) "antique vehicle" means a motor vehicle that is registered as an antique vehicle pursuant to the *Motor Vehicle Act* and the regulations made under it;
- (b) "reconstructed vehicle" means a reconstructed vehicle as defined in the *Motor Vehicle Act*.

(2) Unless the context otherwise requires, words defined in Part VI of the Act have the same meaning when used in these regulations.

Application

3 (1) Subject to subsection (2), these regulations apply to all contracts on and after August 1, 2003.

(2) Section 5 applies to all contracts and applications for automobile insurance on and after July 1, 2003.

Prohibited underwriting practices

4 (1) An insurer must not

- (a) refuse to issue a contract;
- (b) refuse to renew a contract;
- (c) terminate a contract; or
- (d) refuse to provide or continue any coverage or endorsement in respect of a contract, on any of the grounds set out in subsection (2).

(2) The prohibited grounds for refusal or termination for the purposes of subsection (1) are

- (a) the age of the insured, the applicant, or any other person who is or would be an insured under the contract;

- (b) the sex or marital status of the insured, the applicant, or any other person who is or would be an insured under the contract;
- (c) the age of the vehicle that is or would be insured under the contract, unless the vehicle
 - (i) is an antique vehicle,
 - (ii) is a reconstructed vehicle, or
 - (iii) has been substantially modified for enhanced performance;
- (d) whether the insured, the applicant, or any other person who is or would be an insured under the contract
 - (i) is or has been insured by the Facility Association, whether or not the insured, applicant, or other person has completed any minimum period of insurance coverage previously required by the Facility Association,
 - (ii) has been declined insurance or refused a renewal of insurance by an insurer,
 - (iii) has claimed under a policy of automobile insurance as a result of an accident for which the insured, applicant, or other person was not at fault,
 - (iv) has an unsatisfactory claims record, if the claims record includes any claim resulting from an accident for which the insured, applicant, or other person was not at fault,
 - (v) failed to make any payment to an insurer, other than the first payment of a periodic payment plan, unless the payment was made more than 30 days after the date on which it was due,
 - (vi) had a lapse in coverage under a contract of automobile insurance for less than 24 months, unless the lapse resulted directly or indirectly from the suspension of the driver's license of the insured, applicant or other person,
 - (vii) possesses a characteristic that is unrelated to the underwriting risk that is or would be assumed under the contract.

Reasons

5 (1) An insurer that

- (a) refuses to issue a contract;
- (b) refuses to renew a contract;
- (c) terminates a contract;
- (d) refuses to provide or continue any coverage or endorsement in respect of a contract; or
- (e) changes the classification of risk assumed under a contract, if the change results in an increased premium,

must provide the insured or the applicant with notice of the refusal, termination or change, together with clear written reasons that are sufficient to permit the insured or the applicant to determine why the insurer acted as it did without the need to refer to any other information.

- (2) An insured or applicant who considers that an insurer has not complied with subsection (1) may refer the matter to the Superintendent.

N.S. Reg. 126/2003

Made: June 27, 2003

Filed: June 30, 2003

Proclamation, S. 61(12), S.N.S. 2002, c. 5

Order in Council 2003-300 made June 27, 2003
Proclamation made by the Governor in Council
pursuant to subsection 61(12) of the *Financial Measures (2002) Act*

The Governor in Council on the report and recommendation of the Minister of Health dated June 19, 2003, pursuant to subsection (12) of Section 61 of Chapter 5 of the Acts of 2002, the *Financial Measures (2002) 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 Sections 24 to 26 of Chapter 5 of the Acts of 2002, the *Financial Measures (2002) Act*, come into force on and not before July 1, 2003.

PROVINCE OF NOVA SCOTIA

Sgd: Myra A. Freeman

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 (12) of Section 61 of Chapter 5 of the Acts of 2002, the *Financial Measures (2002) Act*, it is enacted as follows:

- 61 (12)** Sections 24 to 26 and 43 come into force on such day as the Governor in Council orders and declares by proclamation.

AND WHEREAS it is deemed expedient that Sections 24 to 26 of Chapter 5 of the Acts of 2002, the *Financial Measures (2002) Act*, come into force on and not before July 1, 2003;

NOW KNOW YE THAT WE, by and with the advice of the Executive Council of Nova Scotia, do by this Our Proclamation order and declare that Sections 24 to 26 of Chapter 5 of the Acts of 2002, the *Financial Measures (2002) Act*, come into force on and not before July 1, 2003, 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] Myra A. Freeman, Lieutenant
Governor of the Province of Nova Scotia.

AT Our Government House in the Halifax Regional
Municipality, this 27th day of June, in the year of
Our Lord two thousand and three and in the fifty-
second year of Our Reign.

BY COMMAND:

Sgd: *Jamie Muir*
Provincial Secretary
Minister of Justice and Attorney General

N.S. Reg. 127/2003

Made: June 27, 2003

Filed: June 30, 2003

Third Party Liability Claims Regulations

Order in Council 2003-301 dated June 27, 2003
Regulations made by the Governor in Council
pursuant to Section 19 of the *Health Services and Insurance Act*

The Governor in Council on the report and recommendation of the Minister of Health dated June 12, 2003, and pursuant to Section 19 of Chapter 197 of the Revised Statutes of Nova Scotia, 1989, the *Health Services and Insurance Act*, is pleased to make regulations respecting third party liability claims in the form set forth in Schedule "A" attached to and forming part of the report and recommendation, effective on and after July 1, 2003.

Schedule "A"

**Regulations Respecting Third Party Liability Claims
made by the Governor in Council pursuant to Section 19 of Chapter 197
of the Revised Statutes of Nova Scotia, 1989, the *Health Services and Insurance Act***

Citation

1 These regulations may be cited as the *Third Party Liability Claims Regulations*.

Definitions

2 In these regulations,

- (a) "Act" means the *Health Services and Insurance Act*;
- (b) "general damages" means non-pecuniary losses and future pecuniary losses;
- (c) "special damages" means pecuniary losses prior to a trial.

Application

3 These regulations apply where an injured person and Her Majesty in the right of the Province share *pro rata* in a recovery referred to in subsection 18(5A) of the Act as a result of a claim by the injured person respecting care, services or benefits referred to in subsection 18(1) of the Act.

Payment of *pro rata* share to Her Majesty the Queen in right of the Province

4 An injured person or a person acting on their behalf shall, within 30 days after receipt of recovered funds, provide the Minister with a cheque payable to the Minister of Finance for the Province's share of the recovered costs.

Affidavits

5 (1) An affidavit containing the information prescribed in subsection (2) shall be provided to the Minister from each of

- (a) the injured person, or a person acting on their behalf, to accompany the cheque provided pursuant to Section 4;
 - (b) the person against whom the claim was made, or a person acting on their behalf, within 30 days after the payment of the proceeds of the claim to the injured person; and
 - (c) the person who paid the proceeds of the claim to the injured person, or a person acting on behalf of the payor, within 30 days after the payment of the proceeds of the claim to the injured person.
- (2) Each affidavit required by subsection (1) shall include the following details:
- (a) the names of the injured person and the person against whom the claim was made;
 - (b) the name of any barrister and solicitor or other person acting on behalf of either party, if applicable;
 - (c) the total costs of the care, services, and benefits referred to in subsection 18(1) of the Act that were claimed by the injured person;
 - (d) whether the claim was settled or judgement was obtained and when;
 - (e) in the case of a settlement, the amount of general damages and the amount of special damages that the person making the affidavit reasonably believes the injured person was entitled to recover;
 - (f) in the case of a judgement, the amount for general damages and the amount of special damages awarded to the injured person;
 - (g) the amounts recovered by the injured person for general damages and for special damages;
 - (h) a statement affirming that the amount recovered for special damages in clause (g) bears the same proportion to the amount awarded for special damages in clause (f), as the amount recovered for general damages in clause (g) bears to the amount awarded for general damages in clause (f); and
 - (i) the amount of the *pro rata* share of the recovered costs that is due to Her Majesty the Queen in right of the Province under subsection 18(5A) of the Act.

Fees

6 If a barrister and solicitor recovers a sum in respect of the cost of care, services or benefits referred to in subsection 18(1) of the Act, the fee to be paid to the barrister and solicitor shall be calculated as follows:

- (a) 15% of the first \$5000.00 recovered;
- (b) 10% of the next \$10 000.00 recovered; and
- (c) 5% of that amount recovered in excess of \$15 000.00.

N.S. Reg. 128/2003

Made: June 27, 2003

Filed: June 30, 2003

Proclamation, S. 32, S.N.S. 2003, c. 1

Order in Council 2003-303 made June 27, 2003
Proclamation made by the Governor in Council
pursuant to Section 32 of the *Apprenticeship and Trades Qualifications Act*

The Governor in Council on the report and recommendation of the Minister of Education dated June 24, 2003, pursuant to Section 32 of Chapter 1 of the Acts of 2003, the *Apprenticeship and Trades Qualifications Act*, is pleased to order and declare by proclamation that Chapter 1 of the Acts of 2003, the *Apprenticeship and Trades Qualifications Act*, come into force on and not before July 1, 2003.

PROVINCE OF NOVA SCOTIA

Sgd: Myra A. Freeman

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 Section 32 of Chapter 1 of the Acts of 2003, the *Apprenticeship and Trades Qualifications Act*, it is enacted as follows:

- 32** This Act comes into force on such day as the Governor in Council orders and declares by proclamation.

AND WHEREAS it is deemed expedient that Chapter 1 of the Acts of 2003, the *Apprenticeship and Trades Qualifications Act*, come into force on and not before July 1, 2003;

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 Chapter 1 of the Acts of 2003, the *Apprenticeship and Trades Qualifications Act*, come into force on and not before July 1, 2003, 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] Myra A. Freeman, Lieutenant
Governor of the Province of Nova Scotia.

AT Our Government House in the Halifax Regional
Municipality, this 27th day of June, in the year of
Our Lord two thousand and three and in the fifty-
second year of Our Reign.

BY COMMAND:

Sgd: *Jamie Muir*
Provincial Secretary
Minister of Justice and Attorney General

N.S. Reg. 129/2003

Made: June 27, 2003

Filed: June 30, 2003

Apprenticeship and Trades Qualifications Act General Regulations

Order in Council 2003-304 dated June 27, 2003
Regulations made by the Governor in Council
pursuant to Section 29 of the *Apprenticeship and Trades Qualifications Act*

The Governor in Council on the report and recommendation of the Minister of Education dated June 24, 2003, pursuant to Section 29 of Chapter 1 of the Acts of 2003, the *Apprenticeship and Trades Qualifications Act*, and Section 8 of Chapter 235 of the Revised Statutes of Nova Scotia, 1989, the *Interpretation Act*, is pleased, effective on and after July 1, 2003, to

- (a) repeal the general regulations respecting certified trades made by the Governor in Council by Order in Council 88-967 dated September 20, 1988; and
- (b) make general regulations respecting apprenticeship and trades qualifications in the form set forth in Schedule "A" attached to and forming part of the report and recommendation.

Schedule "A"

**Regulations Respecting Apprenticeship and Trades Qualification
made by the Governor in Council pursuant to Section 29 of Chapter 1
of the Acts of 2003, the *Apprenticeship and Trades Qualifications Act***

Interpretation

Citation

1 These regulations may be cited as the *Apprenticeship and Trades Qualifications Act General Regulations*.

Definitions

2 In these regulations,

- (a) "Act" means the *Apprenticeship and Trades Qualifications Act*;
- (b) "apprenticeship program" means a defined program of practical experience, technical training and certification examination undertaken by an apprentice in a designated trade;
- (c) "certification examination" means the Provincial certification examination or the interprovincial certification examination required for a certificate of qualification;
- (d) "department" means the Department of Education;
- (e) "identity card" means an identity card issued by the Director pursuant to Section 34;

- (f) “interprovincial red seal” means an interprovincial red seal issued in a trade under the Canadian Council of Directors of Apprenticeship Interprovincial Standards (Red Seal) Program;
- (g) “level” means a stage of practical experience and related technical training within an apprenticeship program;
- (h) “occupational analysis” means the National Occupational Analysis published by the government of Canada for a designated trade, or if no National Occupational Analysis exists, the Provincial occupational analysis for that designated trade published by the Province;
- (i) “record of occupational progress” means an apprentice’s log book in which the employer records the apprentice’s hours of practical experience and the tasks learned or completed by the apprentice throughout the term of apprenticeship;
- (j) “tasks” means the tasks, including the sub-tasks, specified in an occupational analysis;
- (k) “term of apprenticeship” means the time required to complete an apprenticeship program, in accordance with Section 12;
- (l) “trade regulations” means regulations made under the Act respecting a particular designated trade;
- (m) “trade qualifier” means a person who has applied under Section 30 for a certificate of qualification and has not received the certificate for which the application was made;
- (n) “training provider” means a person, union, organization or association who has an agreement with the Director under Section 18 to deliver technical training; and
- (o) “youth apprentice” means a person who is a party to an apprenticeship agreement while registered in a youth apprenticeship program.

Direct supervision

3 For the purpose of these regulations, an apprentice is under the direct supervision of a journeyperson if

- (a) the journeyperson is on site and readily available;
- (b) the journeyperson mentors the apprentice, through instruction, demonstration and feedback, in order to provide the technical information, knowledge and guidance necessary for the apprentice to work and develop skills in the trade to a standard of competence expected of
 - (i) a person who has reached the apprentice’s level in the apprenticeship program, or
 - (ii) a journeyperson in the trade; and
- (c) the extent of supervision by the journeyperson is proportionate to the degree of risk present while the apprentice is performing a task.

Inconsistency with trade regulations

4 If trade regulations are inconsistent with these regulations, these regulations prevail, unless expressly stated otherwise.

Responsibilities of Director**Director’s powers and duties**

5 (1) In addition to the powers and duties of the Director prescribed in the Act, the Director must

- (a) maintain a registry of all apprenticeship agreements, including a record of the practical experience gained and technical training completed by each apprentice;
 - (b) advise an apprentice and an employer of their respective responsibilities under an apprenticeship agreement;
 - (c) establish an examination schedule;
 - (d) establish a training schedule; and
 - (e) provide for the manner and time of examinations of apprentices and trade qualifiers, and the conditions under which examinations must be conducted.
- (2) In carrying out the powers and duties prescribed in the Act and in subsection (1), the Director may
- (a) approve skills upgrading and skills enhancement training, for trade qualifiers and journeypersons;
 - (b) prescribe the form of
 - (i) an apprenticeship agreement,
 - (ii) training standards, and
 - (iii) examinations,and other documents or agreements necessary for the operation of an apprenticeship program; and
 - (c) provide reasonable accommodation to assist persons to complete examinations.

Youth apprenticeship program

6 The Director may assist in the development, operation and maintenance of a youth apprenticeship program.

Requirements for Apprenticeship Agreements

Apprentice eligibility requirements

7 A person is eligible to enter into an apprenticeship agreement to become an apprentice if the person is employed and

- (a) has attained a Canadian High School Graduation Completion diploma or equivalent;
- (b) has the educational prerequisites and the essential skills prescribed in the applicable trade regulations;
- (c) is a youth apprentice; or
- (d) is at least 19 years old and, through assessment by the Director, has demonstrated to the Director that the person has the knowledge and skills relevant and appropriate for apprenticeship in a particular trade.

Employer eligibility requirements

8 A person, corporation, partnership, unincorporated association or a municipal, provincial or other public authority is eligible to enter into an apprenticeship agreement as an employer, if the person or body

- (a) can provide suitable practical experience in the designated trade specified in the apprenticeship agreement;

- (b) can ensure supervision of the apprentice;
- (c) will provide the apprentice the opportunity to participate in technical training and take examinations

in accordance with these regulations, and meets any other conditions prescribed in the applicable trade regulations.

Requirements for parties to apprenticeship agreement

9 An apprenticeship agreement may be entered into only by a person who meets the eligibility requirements prescribed in Section 7 and a person or body who meets the eligibility requirements of Section 8.

Training provided for in apprenticeship agreement

10 An apprenticeship agreement must provide for apprenticeship training that enables the apprentice to learn a designated trade in accordance with the Act and regulations made under the Act.

Registering apprenticeship agreement

11 A party to an apprenticeship agreement who applies to the Director to have the agreement registered under subsection 18(2) of the Act must

- (a) submit the apprenticeship agreement in the form prescribed by the Director;
- (b) submit evidence satisfactory to the Director that the requirements of the Act and regulations made under the Act have been met; and
- (c) pay the fee prescribed in subsection 44(1).

Term of apprenticeship

- 12** (1) A term of apprenticeship is as prescribed in the applicable trade regulations, or in the absence of applicable trade regulations, by the Director.
- (2) A term of apprenticeship may include a probationary period of up to 3 months.
- (3) An apprenticeship agreement is permitted to remain in effect no longer than 1.5 times the specified term of apprenticeship, unless otherwise authorized by the Director.

Responsibilities of apprentice

13 An apprentice must

- (a) ensure that their hours of practical experience worked and the tasks that they have learned or completed are accurately documented in their record of occupational progress;
- (b) make their record of occupational progress available to
 - (i) their employer, to enable the completion of the employer's portion of the record, and
 - (ii) the Director, upon request;
- (c) remit tuition and other fees when required;
- (d) provide their address to the Director and notify the Director in writing within 15 days of any change to their name or address;
- (e) notify the Director, in writing if requested by the Director, within 15 days of the event if
 - (i) the apprentice is suspended by their employer,
 - (ii) the apprentice ceases to be employed as an apprentice by their employer, or

- (iii) their employer fails to provide the apprentice with practical experience or the opportunity to participate in technical training; and
- (f) participate in and complete technical training prescribed by the Director.

Responsibilities of employer**14** An employer must

- (a) pay an apprentice in accordance with Section 25;
- (b) provide direct supervision for an apprentice;
- (c) accurately record in the apprentice's record of occupational progress
 - (i) the hours of practical experience worked by an apprentice,
 - (ii) the tasks learned and completed by an apprentice as confirmed by the supervising journeyman,and any other information needed to complete the employer's portion of an apprentice's record of occupational progress;
- (d) allow an apprentice to participate in the required technical training and to take examinations;
- (e) if an apprentice is laid off to participate in technical training, re-employ the apprentice on completion of the training;
- (f) ensure that the daily hours of practical experience of an apprentice do not begin earlier or end later in each day than the daily working hours of the journeyman under whose supervision the apprentice is working;
- (g) ensure that the working conditions of an apprentice are the same as the working conditions of a journeyman in the workplace where the apprentice is employed; and
- (h) notify the Director in writing within 15 days of the event if
 - (i) an apprentice is suspended from the workplace,
 - (ii) an apprentice ceases to be employed as an apprentice, or
 - (iii) the employer fails to provide an apprentice with practical experience or allow an apprentice to participate in technical training.

Apprentice transferring to new employer**15** An employer who enters into an apprenticeship agreement with an apprentice who was previously a party to another apprenticeship agreement that was registered must

- (a) register the new apprenticeship agreement with the Director; and
- (b) pay the apprentice and provide for the training of the apprentice consistent with the level that the apprentice attained under the previous agreement.

**Prior Learning Assessment and Recognition
(Granting of Credits)****Credit for prior learning****16 (1)** When an apprentice agreement is being registered, the apprentice under the agreement may also

apply to the Director to receive credit for previous relevant training and experience, subject to the limits established by the Director.

- (2) The Director may require that an apprentice who applies to receive credit undergo an assessment to determine the amount and type of credit, if any, to be granted for previous training and experience.
- (3) The Director must consider the results of any assessment under subsection (2), when granting an apprentice credit pursuant to subsection 18(5) of the Act.
- (4) If the Director grants credit to an apprentice under subsection 18(5) of the Act, the amount of credit granted for
 - (a) technical training must reduce the overall technical training requirements for the apprentice; and
 - (b) practical experience may reduce the overall practical experience requirements for the apprentice.

Accreditation of Training Providers

Accreditation of training providers

- 17 (1) The Director may accredit a training provider if
- (a) the Director is of the opinion that the training provider will provide
 - (i) a technical training program approved by the Director to meet some or all of the technical training requirements, including standards, of an apprenticeship program for a designated trade,
 - (ii) instructors who are qualified to provide the technical training for a designated trade,
 - (iii) tools and equipment that meet the standards prescribed by the Director for a designated trade,
 - (iv) a facility that is suitable for the technical training for a designated trade;
 - (b) the training provider provides verification of financial viability of the training provider; and
 - (c) the training provider pays the fees prescribed in subsection 44(10) for accreditation of the training provider and subsection 44(11) for program approval.
- (2) In accrediting a training provider under subsection (1), the Director may
- (a) specify the levels, or portions of levels, of technical training that a successful graduate of the training provider will receive toward a certificate of qualification in a designated trade;
 - (b) specify the period of time for which the accreditation is granted;
 - (c) provide an accreditation number to the training provider; and
 - (d) impose conditions on the accreditation.

Agreements re accreditation

18 Before being granted accreditation, a training provider must enter into an agreement with the Director that enables the Director to obtain any of the following:

- (a) copies of the attendance records for participants who receive training as part of an apprenticeship system;

- (b) copies of test questions, forms and other evaluation instruments used;
- (c) copies of the grades attained by participants who receive training as part of an apprenticeship system;
- (d) access to the facilities of the training provider to enable the Director to evaluate the suitability of the equipment, tools and facilities used in the training program;
- (e) any document or report the Director may require for the purpose of ongoing evaluation of the training provider and training program.

Technical training program content

19 A technical training program must be based on, but is not restricted to, the occupational analysis of the trade and must be in accordance with the training standards approved by the Director.

Cancellation of accreditation

20 The Director may cancel the accreditation of a training provider if the training provider

- (a) fails to meet the accreditation requirements of clause 17(1)(a);
- (b) fails to comply with a condition imposed under clause 17(2)(d); or
- (c) fails to comply with an agreement entered into under Section 18.

Accreditation coming into effect

21 (1) A training provider who, upon the coming into force of the Act, is a party to an agreement with the Minister to deliver technical training is not required to be accredited pursuant to Section 17 for the term of the agreement in respect of the delivery of technical training programs pursuant to the agreement.

- (2) A training provider referred to in subsection (1) who wishes to deliver technical training programs not referred to in the agreement must be accredited by the Director pursuant to Section 17 for the delivery of those programs.

Working Conditions**Overtime hours**

22 If hours that an apprentice works overtime are included in the apprentice's hours of practical experience, they must be included on an hour per hour basis.

Minimum ratio of apprentices to journeypersons

23 (1) An employer must maintain a minimum ratio of 1 journeyperson to each apprentice in a designated trade, unless otherwise indicated in the trade regulations for that designated trade.

- (2) An employer who is a journeyperson in the designated trade may be included in calculating a ratio under subsection (1).
- (3) An apprentice who has been granted credit by the Director pursuant to Section 16 for all practical experience requirements of an apprenticeship program may, at the discretion of the Director, be excluded in calculating a ratio under subsection (1).

Increase in ratio of apprentices to journeypersons

24 (1) Despite the minimum ratio set out in Section 23, or in trade regulations, an employer may apply to the Director, in the form approved by the Director, for permission to employ a higher ratio of apprentices to journeypersons.

- (2) The Director may permit an employer to employ a higher ratio of apprentices to journeypersons if the Director is satisfied that

- (a) the increase is required because, as a result of an insufficient number of journeypersons in the area where the employer carries on business,
 - (i) the employer requires a journeyperson for services other than the supervision of apprentices by the journeyperson,
 - (ii) there is an insufficient number of journeypersons to provide the services required by the employer in addition to the supervision of apprentices, and
 - (iii) the employer is unable to carry out the work to which the employer is committed when complying with the minimum ratio; and
 - (b) the employer is committed to the advancement of apprenticeship training in Nova Scotia and, in particular,
 - (i) is in compliance with the Act, these regulations and the applicable trade regulations at the time of the request, and
 - (ii) is prepared to abide by any terms and conditions specified by the Director under subsection (3).
- (3) Permission for an increase in the ratio of apprentices to journeypersons under this Section is subject to any terms and conditions considered appropriate by the Director, including requiring a journeyperson to receive journeyperson mentor training, and may be cancelled if the employer fails to comply with a term or condition specified, or a provision of the Act or regulations made under the Act.

Apprentice wage rates

- 25 (1) Unless a higher minimum wage rate is prescribed by another enactment, other than the applicable trade regulations, the wage rate for an apprentice must be not less than the wage rate to which the apprentice is entitled upon successful completion of both technical training and practical experience as set out in the applicable trade regulations or, if there are no applicable trade regulations,
- (a) the starting wage rate must be not less than 110% of the minimum wage rate for experienced employees as set out in the *Minimum Wage Order (General)* under the *Labour Standards Code*; and
 - (b) each wage increase, for every 2000 documented hours of related practical experience along with completion of the proportional amount of related technical training, must be not less than 10% above the previous wage rate.
- (2) An employer is not required to pay wages, nor prohibited from paying wages, to an apprentice while the apprentice participates in technical training.
- (3) An employer is not required to increase, nor prohibited from increasing, the wages of an apprentice when the apprentice has not completed the technical training within a level of their apprenticeship program.
- (4) If a credit has been granted to an apprentice pursuant to Section 16, the apprentice's wage rate must be not less than the wage rate of an apprentice who has completed a similar level of apprenticeship in the trade.
- (5) A recognized association that enters into an apprenticeship agreement with an apprentice is not required to pay wages or any benefits to the apprentice, but the recognized association must ensure an apprentice is paid in the same manner as the journeyperson under whose supervision the apprentice is working.

Apprenticeship Training

Criteria for advancing between levels in apprenticeship program

- 26 (1) An apprentice may advance to the next level in an apprenticeship program upon completing the apprentice's current level.
- (2) To complete a level in an apprenticeship program, an apprentice must
- (a) spend the amount of time in the apprentice's current level as prescribed by the applicable trade regulations;
 - (b) attain a satisfactory grade in all technical training required for that level;
 - (c) complete the number of hours of practical experience prescribed in the applicable trade regulations for that level; and
 - (d) pay all applicable tuition fees prescribed in subsections 44(2) and (3).
- (3) An apprentice who does not participate in the technical training required for the apprentice's current level will not receive credit for practical experience until the apprentice participates in the technical training required for that level.
- (4) The Director may, on terms and conditions satisfactory to the Director, excuse an apprentice from participating in a technical training course, if the Director is satisfied that there are circumstances beyond the control of the apprentice and the apprentice intends to participate in the next available course sitting.
- (5) If an apprentice fails to pay tuition, the Director may deny the apprentice enrollment in further technical training, the opportunity to write examinations, or advancement in the apprenticeship program.
- (6) The Director, upon giving written notice to the apprentice, may prohibit the apprentice from enrolling in technical training, writing examinations, or advancing in the apprenticeship program if the Director is of the opinion that the apprentice
- (a) has ceased to be employed in, or ceased to perform the tasks of the designated trade; or
 - (b) does not demonstrate satisfactory advancement in the program or refuses to participate in 2 successive sections of the prescribed technical training.
- (7) Within 12 months of receiving a notice under subsection (6), an apprentice must satisfy the Director that the apprentice is qualified and able to continue their apprenticeship in the trade, otherwise, the Director may conclude that the apprentice is not receiving the apprenticeship training required under the Act and regulations made under the Act and cancel the registration of the apprenticeship agreement for that apprentice.

Conditions of apprenticeship training

- 27 (1) In apprenticeship training, an apprentice must
- (a) advance in practical experience or technical training at a reasonable rate;
 - (b) remain continuously employed in the designated trade specified in the apprenticeship agreement for a period as prescribed in the applicable trade regulations;
 - (c) remain in the designated trade specified in the apprenticeship agreement;
 - (e)* participate in the required practical experience;

- (f) participate in the required technical training; and
- (g) abide by the terms and conditions of the apprenticeship agreement, the Act and regulations made under the Act .

[*Note: numbering as in original.]

- (2) In apprenticeship training, an employer must
 - (a) maintain the minimum ratio of journeypersons to apprentices prescribed for the designated trade, unless permission for an increased ratio is given under Section 24;
 - (b) provide adequate time and scope of practical experience for the apprentice in the designated trade;
 - (c) permit the apprentice to participate in technical training; and
 - (d) abide by the terms and conditions of the apprenticeship agreement, the Act and regulations made under the Act.
- (3) If an apprentice fails to meet the requirements of subsection (1) or an employer fails to meet the requirements of subsection (2), the apprentice is deemed to be not receiving the apprenticeship training required under the Act and regulations made under the Act, and the apprenticeship agreement is subject to suspension or cancellation pursuant to subsection 18(6) of the Act.
- (4) If the Director receives written notice of termination of an apprenticeship agreement from one party pursuant to subsection 18(7) of the Act, the Director must notify both parties in writing of the cancellation of the registration of the apprenticeship agreement.

Certification

Eligibility to take examination for certificate of apprenticeship

- 28** (1) An apprentice who has successfully completed the apprenticeship program for a designated trade is eligible to take the certification examination, for a certificate of apprenticeship in that trade.
- (2) An apprentice who is eligible to take the certification examination is entitled to take the examination upon applying to the Director, in the form approved by the Director, and paying the fee prescribed in subsection 44(4) or (5), as applicable, for that examination.

Certification through apprenticeship qualification

- 29** (1) An apprentice who has been granted credit by the Director pursuant to subsection 18(5) of the Act for all practical experience required for an apprenticeship program is not eligible to receive a certificate of apprenticeship.
- (2) For the purpose of Section 21 of the Act, an apprentice has successfully completed a certification examination if the apprentice has attained a grade of 70% or higher on the certification examination, or a grade that the Director considers satisfactory on the practical examination, if any, for the designated trade.
- (3) In addition to the requirements of clause 21(1)(a) of the Act, an apprentice must have successfully completed any other requirement for being granted a certificate of qualification prescribed in the applicable trade regulations.

Certificate through trade qualification

- 30** (1) The Director may issue a certificate of qualification in a designated trade to a person if the person applies and
- (a) provides evidence acceptable to the Director that the person has been employed in the designated trade in the 10 years immediately before their application for a period of time that

- is at least 1.5 times the term of apprenticeship for the designated trade;
- (b) is able to demonstrate, to the approval of the Director, competence in the tasks of the designated trade;
 - (c) is recommended for a certificate of qualification by 2 persons who are qualified in the trade and who have vouched for the person's skill and experience;
 - (d) completes the certification examination for the designated trade with a mark of 70% or greater;
 - (e) meets any other applicable requirements prescribed in the trade regulations for the designated trade; and
 - (f) pays the fee prescribed in subsection 44(8).

Red seal certification

- 31 (1)** The Director must affix an interprovincial red seal on a certificate of qualification issued to a person if the person has successfully completed the interprovincial certification examination.
- (2)** The Director must recognize a certificate of qualification bearing a red seal issued by another province in Canada as being the equivalent of a certificate of qualification granted for that trade in Nova Scotia.

Examinations

- 32 (1)** An apprentice referred to in Section 29 or an applicant referred to in Section 30 who fails a certification examination is not eligible for re-examination until 3 months have elapsed.
- (2)** An applicant referred to in subsection (1) who fails the certification examination on a second or subsequent attempt is not permitted to be re-examined until the applicant completes technical training or practical experience acceptable to the Director.
- (3)** A person, on behalf of apprentices, may arrange a special examination sitting upon the payment of the fee prescribed in subsection 44(7).

Restriction on certificates

- 33 (1)** The Director may issue only a certificate referred to in the Act and these regulations.
- (2)** A special certificate issued under the general regulations pursuant to the former Act and in effect on the coming into force of these regulations continues in effect for the duration and under the terms and conditions specified in the special certificate.

Identity card

- 34 (1)** When the Director registers an apprenticeship agreement or issues a certificate of qualification to a person, the Director must also issue an identity card to the apprentice or the holder of the certificate, indicating the designated trade.
- (2)** An apprentice or a holder of a certificate of qualification must keep the identity card issued to them in their possession when practising the designated trade.
- (3)** An apprentice or a holder of a certificate of qualification must produce their identity card upon the request of the Director, or a person authorized by the Minister or the Director.

Suspension or cancellation of certificate of qualification

- 35 (1)** In addition to the reasons for suspending or cancelling a certificate of qualification in clause 21(2)(a) of the Act, the Director may suspend or cancel a certificate of qualification if the holder of the certificate of qualification has acted in a manner that is

- (a) not consistent with good practice in their designated trade; or
 - (b) detrimental or hazardous to property or public safety.
- (2) Before the Director suspends or cancels a certificate of qualification, the Director must give 15 days' notice to the holder of the certificate of qualification of the matters alleged against the holder and give the holder an opportunity to be heard and present evidence on the holder's behalf.
- (3) When the Director suspends or cancels a certificate of qualification, the Director must give written notice to the holder of the certificate by registered prepaid post, addressed to the holder's last known address.
- (4) If a certificate of qualification is suspended or cancelled, the holder of the certificate of qualification must return their certificate and identity card to the Director within 24 hours after receiving a written notice of suspension or cancellation.

Compulsory Certified Trades

Temporary permit for trade qualifier in compulsory certified trade

- 36 (1) A temporary permit issued by the Director under Section 23 of the Act to a trade qualifier in a compulsory certified trade is valid for a period not to exceed 3 months.
- (2) A trade qualifier must successfully complete the certification examination in their trade within the term of their temporary permit.
- (3) If a trade qualifier is not examined during the term of their temporary permit in accordance with subsection (2), and the Director is satisfied that this is due to circumstances beyond the control of the trade qualifier, the Director may grant an extension of the permit, for a period not to exceed 3 months, to allow sufficient time for the trade qualifier to be examined.
- (4) If a trade qualifier fails to successfully complete the certification examination in their trade in accordance with subsection (2) or (3) and is engaged in that trade, and if the trade qualifier's employer recommends it, the Director may issue another temporary permit to the trade qualifier for a period not to exceed 3 months, during which time the applicant must rewrite the certification examination.

Temporary permit for person other than trade qualifier

- 37 (1) The Director may issue a temporary permit in a compulsory certified trade to
- (a) a student of the trade who is enrolled in a training institution or working in the trade while awaiting return to a training institution to continue training;
 - (b) a person in the trade who is serving a probationary period of not more than 3 months; and
 - (c) a youth apprentice in the trade,
- if the Director is satisfied that the student, apprentice or youth apprentice will receive direct supervision in a safe working environment.
- (2) A permit issued under this Section is valid for a period not to exceed 3 months.
- (3) An application for a temporary permit under this Section must be made by the employer or training institution official responsible for organizing the training, on behalf of a person referred to in subsection (1).

Exemption from subsections 22(2) and (3) of the Act

- 38 (1) If an employee, in the course of the employee's employment, performs a portion, but not all, of the tasks that come within the scope of a compulsory certified trade, the employee and the employer

may make a joint application for an exemption from the application of subsections 22(2) and (3) of the Act.

- (2) An application under subsection (1) is permitted for a compulsory certified trade only if the trade regulations for the trade allow it.
- (3) An application under subsection (1) must be submitted to the Director and must specify
 - (a) the employer's company name and address and the location of the employee's work site;
 - (b) the employee for whom the exemption is requested;
 - (c) the practical and theoretical training the employee has undertaken or received in order to perform the tasks required in the course of the employee's work within the scope of the compulsory certified trade; and
 - (d) the type of equipment to be used by the employee in the course of the employee's work within the scope of the compulsory certified trade.
- (4) The Director may grant an exemption from the application of subsections 22(2) and (3) of the Act to applicants under subsection (1) if the Director is satisfied that the application provides evidence to reasonably conclude that the employee can perform the tasks specified in the application in a safe and knowledgeable manner.
- (5) An exemption granted under subsection (4) expires on the date specified by the Director, and is subject to any terms and conditions specified by the Director, which may include
 - (a) limiting the employee to performing specific tasks, or performing them at a specified work site, or both;
 - (b) requiring the employer to provide supervision as specified,and any other term or condition that the Director reasonably requires.

Revocation of exemption from subsections 22(2) and (3) of the Act

39 An exemption granted under subsection 38(4) must be revoked

- (a) if the exempted employee ceases to be employed by the exempted employer;
- (b) if the equipment specified in the application is no longer used by the exempted employee or kept by the exempted employer; or
- (c) if the exempted employee or the exempted employer fails to observe a term or condition imposed by the Director under subsection 38(5).

Renewal of exemption from subsections 22(2) and (3) of the Act

- 40** (1) Subject to the applicable trade regulations, an employer and an employee may jointly apply to renew an exemption granted under subsection 38(4) by applying to the Director at least one month prior to the expiry date of the exemption.
- (2) Subsections 38(2) to (4) apply, with the necessary changes in details, to an application for the renewal of an exemption.

Renewal of certificate of qualification in compulsory certified trade

- 41** (1) A certificate of qualification for a compulsory certified trade is valid for a term of 5 years, unless the applicable trade regulations provide for a different term.
- (2) The Director may renew a certificate of qualification for a compulsory certified trade if the holder of

- (2) The Director may renew a certificate of qualification for a compulsory certified trade if the holder of the expired certificate pays the fee prescribed in subsection 44(6) and meets any other requirements of the applicable trade regulations.

Recognition of certificate of qualification from other jurisdiction

- 42** (1) The Director may recognize a certificate of qualification that was issued in another jurisdiction and that does not bear an interprovincial red seal, if
- (a) the certificate is for a trade that is a compulsory certified trade; and
 - (b) the Director is satisfied that the requirements for obtaining the certificate in the jurisdiction that issued it are generally consistent with those in Nova Scotia.
- (2) The Director may issue a certificate of qualification and identity card to a journeyperson who holds a certificate recognized by the Director under subsection (1) if the journeyperson requests a certificate and pays the fees prescribed in subsection 44(9).

Notice and Fees

Address for notice

- 43** If the Act or regulations made under the Act require written notice to be provided, the notice must be sent by certified mail to, as the circumstances require,
- (a) the employer at the address provided by the employer when registering an apprenticeship agreement or at the last known address; and
 - (b) the apprentice at the address of the apprentice as provided in clause 13(d) or at the last known address.

Fees

- 44** (1) The fee for registration of an apprenticeship agreement is \$100.00.
- (2) The fee for an in-class technical training course is
- (a) \$55.00 before September 1, 2004; and
 - (b) \$70.00 on and after September 1, 2004.
- (3) The fee for a technical training course delivered by Internet is
- (a) \$65.00 before September 1, 2004; and
 - (b) \$70.00 on and after September 1, 2004.
- (4) The fee for a written examination application is \$100.00.
- (5) The fee for a practical examination application is \$100.00.
- (6) The fee for a certificate renewal application is \$50.00.
- (7) The fee for arranging a special examination sitting is
- (a) \$300.00 for up to 25 participants; and
 - (b) \$500.00 for 26 or more participants.
- (8) The fee for a trade qualification application under Section 30 is

- (a) \$300.00 before June 30, 2004; and
 - (b) \$500.00 on and after June 30, 2004.
- (9) The fee for an issuance of a certificate and identity card to a journeyperson from another jurisdiction is \$50.00.
- (10) The fee for a training provider accreditation application is \$1000.00.
- (11) The fee for approval of a program provided by a training provider is \$500.00.