

Part II Regulations under the Regulations Act

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

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

N.S. Reg. 41/2006

Made: March 24, 2006 Filed: March 27, 2006

Proclamation, S. 4, S.N.S. 2005, c. 44

Order in Council 2006-139 dated March 24, 2006 Proclamation made by the Governor in Council pursuant to Section 4 of the *Pre-primary Education Act*

The Governor in Council on the report and recommendation of the Minister of Education dated March 1, 2006, pursuant to Section 4 of Chapter 44 of the Acts of 2005, the *Pre-primary Education Act*, is pleased to order and declare by proclamation that Chapter 44 of the Acts of 2005, the *Pre-primary Education Act*, do come into force on and not before March 24, 2006, with effect on and after August 1, 2005.

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 4 of Chapter 44 of the Acts of 2005, the *Pre-primary Education Act*, it is enacted as follows:

4 This Act has effect on and after August 1, 2005, upon the Governor in Council so ordering and declaring by proclamation.

AND WHEREAS it is deemed expedient that Chapter 44 of the Acts of 2005, *Pre-primary Education Act*, come into force on and not before March 24, 2006, with effect on and after August 1, 2005;

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 44 of the Acts of 2005, the *Pre-primary Education Act*, come into force on and not before March 24, 2006, with effect on and after August 1, 2005, 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 24th day of March, in the year of Our Lord two thousand and six and in the fifty-fifth year of Our Reign.

BY COMMAND:

Sgd: Murray K. Scott Provincial Secretary Minister of Justice and Attorney General

N.S. Reg. 42/2006

Made: March 30, 2006 Filed: March 31, 2006

Off-highway Vehicles General Regulations

Order in Council 2006-158 dated March 30, 2006 Amendment to regulations made by the Governor in Council pursuant to Section 25 of the *Off-highway Vehicles Act*

The Governor in Council on the report and recommendation of the Ministers of Natural Resources, Transportation and Public Works, and Health Promotion and Protection dated March 29, 2006, and pursuant to Section 25 of Chapter 323 of the Revised Statutes of Nova Scotia, 1989, the *Off-highway Vehicles Act*, is pleased, effective on and after April 1, 2006, to amend the regulations respecting off-highway vehicles, N.S. Reg. 13/88, made by the Governor in Council by Order in Council 88-66 dated January 21, 1988, to accommodate amendments to the *Off-highway Vehicles Act* and various regulations made under the Act in the manner set forth in Schedule "A" attached to and forming part of the report and recommendation.

Schedule "A"

Amendments to Regulations Respecting Off-highway Vehicles made by the Governor in Council pursuant to Section 25 of Chapter 323 of the Revised Statutes of Nova Scotia, 1989, the Off-highway Vehicles Act

- Section 1 of the regulations respecting off-highway vehicles, N.S. Reg. 13/88, made by the Governor in Council by Order in Council 88-66 dated January 21, 1988, is renumbered as Section 1A.
- 2 The regulations are further amended by adding the following Section immediately before Section 1A:
 - 1 These regulations may be cited as the *Off-highway Vehicles General Regulations*.
- 3 The regulations are further amended by repealing subsection 1[A](4) and substituting the following subsection:
 - (4) This Section does not apply to
 - (a) dealers in off-highway vehicles who are keeping off-highway vehicles for service testing or for demonstration purposes for sale or resale;

- (b) persons who are registered Indians under the *Indian Act* (Canada) and who operate off-highway vehicles solely on reserves as defined in the *Indian Act* (Canada).
- 4 The regulations are further amended by repealing Section 14 and substituting the following Section:

Exemptions

- 14 (1) Subsection 4(1) of the Act and the registration requirements of these regulations do not apply to a person who operates an off-highway vehicle only on
 - (a) land owned or occupied by that person; or
 - (b) land owned or occupied by a person who is
 - (i) related by blood or marriage to that person,
 - (ii) in a common law relationship with that person, or
 - (iii) a registered domestic partner of that person under the *Vital Statistics Act*.
 - (2) All persons are exempt from the application of Section 12E of the Act.

N.S. Reg. 43/2006

Made: March 30, 2006 Filed: March 31, 2006

Off-highway Vehicles Safety and Training Regulations

Order in Council 2006-159 dated March 30, 2006 Regulations made by the Governor in Council pursuant to Section 25 of the *Off-highway Vehicles Act*

The Governor in Council on the report and recommendation of the Ministers of Natural Resources, Transportation and Public Works, and Health Promotion and Protection dated March 29, 2006, and pursuant to Section 25 of Chapter 323 of the Revised Statutes of Nova Scotia, 1989, the *Off-highway Vehicles Act*, is pleased, effective on and after April 1, 2006, to

- (a) repeal the regulations respecting snow vehicles, N.S. Reg. 42/71, made by the Governor in Council by Order in Council 71-948 dated September 21, 1971; and
- (b) make regulations respecting off-highway vehicle safety training in the form set forth in Schedule "A" attached to and forming part of the report and recommendation.

Schedule "A"

Regulations Respecting Off-highway Vehicle Safety and Training made by the Governor in Council pursuant to Section 25 of Chapter 323 of the Revised Statutes of Nova Scotia, 1989, the Off-highway Vehicles Act

Citation

1 These regulations may be cited as the Off-highway Vehicles Safety and Training Regulations.

Definitions

- 2 (1) In these regulations,
 - (a) "Act" means the Off-highway Vehicles Act;
 - (b) "certificate" means a safety training certificate issued under Section 8;
 - (c) "guide" means any person who, for compensation or reward received or contracted for, supervises and assists another person who is operating an OHV for recreational purposes;
 - (d) "instructor" means a person or organization approved by the Minister under Section 5;
 - (e) "non-resident" means a person who is not a resident;
 - (f) "OHV" means an off-highway vehicle as defined in the Act;
 - (g) "resident" means any of the following persons:
 - (i) a person who at any time has been permanently or ordinarily resident in the Province for the 2 months immediately preceding that time,
 - (ii) an officer of the diplomatic or consular service of a foreign country stationed in the Province,
 - (iii) a member of the Royal Canadian Mounted Police or the Canadian Armed Forces stationed or born in the Province,
 - (iv) a person who was born in the Province and who owns real property in the Province;
 - (h) "safety training program" means a program that includes instruction in the areas described in Section 3 and that is approved under Section 4.
 - (2) In the Act and these regulations,
 - (a) "closed course" means an area of land being used for an organized OHV event during which access to the area by motor vehicles is limited;
 - (b) "first-responder" means a person who has successfully completed at least the Medical First Responder course delivered by St. John Ambulance or the First Responder course delivered by the Canadian Red Cross, or can demonstrate to the Minister's satisfaction that the person has obtained an equivalent certification;
 - (c) "motorcycle" means an off-road vehicle that operates on only 2 tires and has handlebars for steering;
 - (d) "organization" means a body incorporated and in good standing under the *Companies Act* or the *Societies Act*;
 - (e) "snow vehicle" means a self-propelled vehicle designed to be driven exclusively on snow or ice, and includes a snowmobile;

- (f) "trained official" means a person who has reached the age of majority and who has been certified under these regulations to operate an OHV of the same class as that being used on the closed course at which the person officiates.
- (3) In Section 11 of the Act and in these regulations, "guardian" includes a trained official.

Safety training program

- A safety training program must include instruction in at least the following areas:
 - (a) safe vehicle operation, including vehicle starting and stopping, turning, riding over obstacles, reading the terrain and riding on hills;
 - (b) operation of OHVs of a specific class or specific classes, such as snow vehicles, all-terrain vehicles and motorcycles;
 - (c) supervision of persons under age 16 who operate OHVs;
 - (d) legislation and regulations applicable to OHV operators, including those relating to safety equipment, sensitive areas, environmental responsibility and access over public and private land;
 - (e) informal codes of conduct, rules and ethics applicable to OHV operators;
 - (f) the adverse effects of illegal OHV use on land, including photographic or other examples of land adversely affected.

Ministerial approval of safety training program

- 4 (1) The Minister may approve a safety training program.
 - (2) The Minister may withdraw approval of a safety training program if the safety training program no longer meets the criteria set out in Section 3 to the Minister's satisfaction.
 - (3) If the reasons for the withdrawal of a safety training program's approval have been remedied, the Minister may reinstate the approval.

Approval of individual or organization

- The Minister may approve an individual or organization to deliver a safety training program and must maintain a list of approved individuals and organizations.
 - (2) The Minister may, for any reason the Minister considers appropriate, withdraw approval of an individual or organization given under subsection (1).
 - (3) On withdrawing approval of an individual or organization, the Minister must
 - (a) immediately inform the individual or organization in writing, by registered mail, that approval has been withdrawn; and
 - (b) remove the name of the individual or organization from the list referred to in subsection (1).

Restrictions on delivery of safety training program

6 A person must not conduct a safety training program unless that person

- (a) has been approved by the Minister under Section 5 to deliver a safety training program or is a member of an organization approved by the Minister under Section 5 to deliver a safety training program;
- (b) has successfully completed a safety training program for the class of OHV that is the subject of the safety training program being taught;
- (c) has reached the age of majority and holds a valid driver's licence under the *Motor Vehicle Act*;
- (d) has no convictions for driving under the influence of alcohol or drugs during the previous 5 years; and
- (e) has no convictions for a sexual offence or violent crime against a minor.

Individual safety training

7 To be certified as having successfully completed off-highway vehicle safety training for the purposes of Section 11 or 11A of the Act, a person must complete a safety training program that includes instruction specific to the class or classes of OHV they intend to operate.

Safety training certificate

- 8 (1) An instructor may issue a safety training certificate to a person who has completed a safety training program conducted by that instructor.
 - (2) A certificate must be in a form approved by the Minister and must specify the class or classes of OHV for which the certificate is issued.
 - (3) No later than 30 days after the date of issuing a certificate, an instructor must advise the Minister in writing that a certificate has been issued and must include all of the following information:
 - (a) the name, address and date of birth of the person to whom the certificate was issued;
 - (b) the class or classes of OHVs specified on the certificate.

Exemptions from safety training

- Despite Sections 11 and 11A of the Act and Section 7 of these regulations, the following persons or classes of person are exempt from the requirement to take a safety training program:
 - (a) all-terrain vehicle operators who are under 14 years of age, until October 1, 2006;
 - (b) OHV operators, other than all-terrain vehicle operators, who are under 14 years of age, until October 1, 2007;
 - (c) OHV operators who are at least 14 years of age and no more than 15 years of age, until October 1, 2007;
 - (d) parents or guardians of OHV operators who are no more than 15 years of age, until October 1, 2007:
 - (e) OHV operators who are at least 16 years of age and no more than 24 years of age, until April 1, 2009;

- (f) OHV operators who are at least 25 years of age and no more than 34 years of age, until April 1, 2011;
- (g) OHV operators who are 35 years of age or over, until April 1, 2012;
- (h) persons who can demonstrate that they have successfully completed Canada Safety Council OHV training since 1991.

Exemption during training

10 Despite Section 11 of the Act, a person under the age of 16 years who is taking a safety training program is not required to be accompanied by a parent or guardian and is not restricted to operating on a closed course during the training.

Classes exempt from safety training

- 11 The following persons or classes of person are exempt from these regulations and from the safety training requirements of the Act:
 - (a) peace officers, while they are engaged in activities relating to their duties;
 - (b) a person operating a golf cart on a public or private golf course;
 - (c) municipal, Provincial and federal employees, while they are engaged in activities relating to their duties;
 - (d) employees, as defined in the Occupational Health and Safety Act, who
 - (i) can demonstrate that they have successfully completed safety training provided by their employer for the type of OHV they are operating, and
 - (ii) are engaged in activities relating to their employment,
 - except guides;
 - (e) self-employed persons, as defined in the Occupational Health and Safety Act, except guides;
 - (f) a non-resident who, while operating an OHV, is accompanied by a person who has obtained a certificate for the operation of the same class of OHV.

Closed course exemption

- Despite Section 11 of the Act, a person who is under age 14 is exempt from the requirement to operate an OHV on a closed course under the auspices of an accredited organization until October 1, 2006, if
 - (a) while the person is operating an OHV,
 - (i) the person is wearing personal protective equipment,
 - (ii) the person is under the direct supervision of their parent or guardian,
 - (iii) a trained official is present and has supervision over a maximum of 8 OHV operators under the age of 14 years, and
 - (iv) a first-responder is present;

- (b) the person is operating an OHV appropriate for the person's age, size and ability;
- (c) the OHV does not have an engine size in excess of that recommended by the manufacturer for an operator of the age and weight of the person under the age of 14 years; and
- (d) that person operates an OHV only during the hours between sunrise and sunset, as determined by reference to Schedule "A" to the *General Wildlife Regulations* made under the *Wildlife Act*.

N.S. Reg. 44/2006 to 45/2006

Made: March 30, 2006 Filed: March 31, 2006

Off-highway Vehicle Infrastructure Fund Regulations

Order in Council 2006-160 dated March 30, 2006
Designation and regulations made by the Governor in Council
pursuant to clause 2(n) of the *Provincial Finance Act* and Section 25 of the *Off-highway Vehicles Act*

The Governor in Council on the report and recommendation of the Ministers of Natural Resources, Transportation and Public Works and Health Promotion and Protection dated March 29, 2006, and pursuant to clause 2(n) of Chapter 365 of the Revised Statutes of Nova Scotia, 1989, the *Provincial Finance Act*, and Section 25 of Chapter 323 of the Revised Statutes of Nova Scotia, 1989, the *Off-highway Vehicles Act*, is pleased, effective on and after April 1, 2006, to

- (a) designate the Off-highway Vehicle Infrastructure Fund as a special fund within the meaning of the *Provincial Finance Act*; and [N.S. Reg. 45/2006]
- (b) make regulations respecting the Off-highway Vehicle Infrastructure Fund in the form set forth in Schedule "A" attached to and forming part of the report and recommendation.

N.S. Reg. 44/2006

Off-highway Vehicle Infrastructure Fund Regulations

Schedule "A"

Regulations Respecting the Off-highway Vehicle Infrastructure Fund made by the Governor in Council pursuant to Section 25 of Chapter 323 of the Revised Statutes of Nova Scotia, 1989, the Off-highway Vehicles Act

Citation

1 These regulations may be cited as the Off-highway Vehicle Infrastructure Fund Regulations.

Definitions

- 2 In these regulations,
 - (a) "Act" means the *Off-highway Vehicles Act*;

- (b) "Fund" means the Off-highway Vehicle Infrastructure Fund established by the Act;
- (c) "guide" means a guide as defined in the *Off-highway Vehicles Safety [and] Training Regulations* made under the Act;
- (d) "OHV" means an off-highway vehicle as defined in the Act; and
- (e) "OHV Infrastructure Fund fee" means an annual fee payable under Section 3.

Contribution to Fund

Every person who obtains or renews an annual registration permit for an OHV under the Act and the regulations made under the Act must concurrently pay to the Registrar the OHV Infrastructure Fund fee in the amount prescribed in the *Off-highway Vehicles Fees Regulations* made under the Act.

Exemptions from Fund contribution

- The following persons or classes of person are exempt from Section 3:
 - (a) farmers, fishers and forest workers who use OHVs only for activities relating to farming, fishing or forestry;
 - (b) peace officers who use OHVs only for activities relating to their duties;
 - (c) a person operating a golf cart on a public or private golf course;
 - (d) municipal, Provincial and federal employees who use OHVs only for activities relating to their duties;
 - (e) employees and self-employed persons, as defined in the *Occupational Health and Safety Act*, who use OHVs only for activities relating to their employment, except guides;
 - (f) a person who operates an OHV only on
 - (i) land owned or occupied by that person, or
 - (ii) land owned or occupied by a person who is
 - (A) related by blood or marriage to that person,
 - (B) in a common law relationship with that person, or
 - (C) a registered domestic partner of that person under the *Vital Statistics Act*.

N.S. Reg. 46/2006

Made: March 30, 2006 Filed: March 31, 2006

Off-highway Vehicles Fees Regulations

Order in Council 2006-161 dated March 30, 2006 Amendment to regulations made by the Governor in Council pursuant to Section 25 of the *Off-highway Vehicles Act*

The Governor in Council on the report and recommendation of the Ministers of Natural Resources, Transportation and Public Works, and Health Promotion and Protection dated March 29, 2006, and pursuant to Section 25 of Chapter 323 of the Revised Statutes of Nova Scotia, 1989, the *Off-highway Vehicles Act*, is pleased, effective on and after April 1, 2006, to amend the *Off-highway Vehicles Fees Regulations*, N.S. Reg. 103/2004, made by the Governor in Council by Order in Council 2004-138 dated March 30, 2004, by adding the following clause immediately after clause 2(k):

(l) Off-highway Vehicle Infrastructure Fund

\$40.00

N.S. Reg. 47/2006

Made: March 30, 2006 Filed: March 31, 2006

Off-highway Vehicles Vulnerable Areas Licensing Regulations

Order in Council 2006-162 dated March 30, 2006 Regulations made by the Governor in Council pursuant to Section 25 of the *Off-highway Vehicles Act*

The Governor in Council on the report and recommendation of the Ministers of Natural Resources, Transportation and Public Works, and Health Promotion and Protection dated March 29, 2006, and pursuant to Section 25 of Chapter 323 of the Revised Statutes of Nova Scotia, 1989, the *Off-highway Vehicles Act*, is pleased to make regulations respecting licences for the operation of off-highway vehicles in vulnerable areas in the form set forth in Schedule "A" attached to and forming part of the report and recommendation, effective on and after April 1, 2006.

Schedule "A"

Regulations Respecting the Licensing of Off-highway Vehicles for Use in Environmentally Vulnerable Areas made by the Governor in Council pursuant to Section 25 of Chapter 323 of the Revised Statutes of Nova Scotia, 1989, the Off-highway Vehicles Act

Citation

1 These regulations may be cited as the Off-highway Vehicles Vulnerable Areas Licensing Regulations.

Definitions

2 (1) In these regulations,

- (a) "Act" means the Off-highway Vehicles Act;
- (b) "licence" means a valid licence issued under subsection 12A(4) of the Act by
 - (i) the Minister of Natural Resources, for the operation of an OHV in or on a coastal barren, highland barren or sand dune, or
 - (ii) the Minister of Environment and Labour, for the operation of an OHV in a sensitive area;
- (c) "OHV" means an off-highway vehicle as defined in the Act.
- (2) In the Act and these regulations,
 - (a) "coastal barren" means an area of land that is or has been exposed to rigorous climatic coastal conditions and that
 - (i) is naturally devoid of trees or has only stunted trees,
 - (ii) contains both dry or poorly drained sites,
 - (iii) has bedrock, shallow soils or organic soils, and
 - (iv) is dominated by low shrubs and lichens, including crowberry and reindeer lichen;
 - (b) "highland barren" means an area of land that is or has been exposed to rigorous climatic altitude conditions and that
 - (i) is naturally devoid of trees or has only stunted trees,
 - (ii) contains both dry or poorly drained sites,
 - (iii) has bedrock, shallow soils or organic soils, and
 - (iv) is dominated by low shrubs and lichens, including crowberry and reindeer lichen and erricaceous shrubs;
 - (c) "sand dune" means a formation of sand deposited either by wind or by wave that lies generally parallel to and landward of the beach.
- (3) In the Act, "wetland, swamp or marsh" means a wetland as defined in the *Environmental Assessment Regulations* made under the *Environment Act*.

Licence application

- 3 (1) A person seeking a licence to operate an OHV in or on a coastal barren, a highland barren or a sand dune must submit an application to the Minister of Natural Resources on a form supplied by the Department of Natural Resources.
 - (2) A person seeking a licence to operate an OHV in a sensitive area must submit an application to the Minister of Environment and Labour on a form supplied by the Department of Environment and Labour.

- (3) An application for a licence must contain all of the following information:
 - (a) the applicant's full name, date of birth and address;
 - (b) the reason the licence is required, in accordance with subsection 12A(4) of the Act;
 - (c) the specific routes on which the applicant intends to use the OHV;
 - (d) any information that the Minister may require in addition to that required by clauses (a) to (c).

Licence does not confer future right

The issuance of a licence to a person does not imply or confer any future right or privilege for that person to be issued a licence of the same type or any other type.

Term of licence

5 The term of a licence is 1 year from its issue date, unless otherwise specified in the licence.

Renewing, amending or cancelling licence

- 6 (1) A person who wishes to renew a licence must apply to the Minister who issued the licence, and each renewal application must include all of the information required by subsection 3(3).
 - (2) A person who wishes to amend or cancel a licence must make a request in writing to the Minister who issued the licence.

Assignment and transfer

7 A licence is not assignable or transferable.

Carrying and producing licence

A licence holder must carry their licence or a certified copy of it at all times while engaged in any activity to which it relates, and must produce it on demand of a peace officer.

Suspending or terminating licence

- 9 The Minister who issued a licence may suspend or terminate the licence if that Minister believes that
 - (a) the licence holder has breached a term or condition of the licence; or
 - (b) the suspension or termination is necessary or advisable for the protection of the environment.

Exemption

A person who operates an OHV on that person's private land in or on a coastal barren or a highland barren is exempt from the prohibition in clause 12A(1)(d) of the Act and the requirement to obtain a licence in clause 12A(2)(e) of the Act.

N.S. Reg. 48/2006

Made: March 30, 2006 Filed: March 31, 2006

Proclamation, S. 76, S.N.S. 2005, c. 43

Order in Council 2006-163 dated March 30, 2006
Proclamation made by the Governor in Council
pursuant to Section 76
of the *Optomety Act*

The Governor in Council on the report and recommendation of the Minister of Health dated March 14, 2006, pursuant to Section 76 of Chapter 43 of the Acts of 2005, the *Optometry Act*, is pleased to order and declare by proclamation that Chapter 43 of the Acts of 2005, the *Optometry Act*, do come into force on and not before April 1, 2006.

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 76 of Chapter 43 of the Acts of 2005, the *Optometry Act*, it is enacted as follows:

76 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 43 of the Acts of 2005, the *Optometry Act*, come into force on and not before April 1, 2006;

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 43 of the Acts of 2005, the *Optometry Act*, come into force on and not before April 1, 2006, 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 30th day of March, in the year of Our Lord two thousand and six and in the fifty-fifth year of Our Reign.

BY COMMAND:

Sgd: Murray Scott Provincial Secretary Minister of Justice and Attorney General