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N.S. Reg. 54/2001

Made: May 25, 2001

Filed: May 28, 2001

Provincial Parks Regulations

Order in Council 2001-239 made May 25, 2001
Amendment to regulations made by the Governor in Council
pursuant to Section 37
of the *Provincial Parks Act*

The Governor in Council on the report and recommendation of the Minister of Natural Resources dated May 2, 2001, and pursuant to Section 37 of Chapter 367 of the Revised Statutes of Nova Scotia, 1989, the *Provincial Parks Act*, is pleased to amend the Provincial Parks Regulations made by Order in Council 89-579 dated May 16, 1989, in the manner set forth in Schedule "A" attached to and forming part of the report and recommendation, effective on and after May 18, 2001.

Schedule "A"

**Amendments to the *Provincial Parks Regulations* made by the
Governor in Council pursuant to Section 37 of Chapter 367
of the Revised Statutes of Nova Scotia, 1989,
the *Provincial Parks Act***

- 1 Subsection 16(1) of the *Provincial Parks Regulations* made by the Governor in Council by Order in Council 89-579 dated May 16, 1989, is amended by
 - (a) striking out "\$10.00" in clause (a) and substituting "\$14.00";
 - (b) striking out "\$14.00" in clause (b) and substituting "\$18.00"; and
 - (c) repealing clauses (d) and (e).
- 2 Subsection 16(2) of the regulations is repealed and the following subsection substituted:
 - (2) The fee for a group camping permit is \$14.00 per day inclusive of any applicable tax in a park with no flush toilet and shower and \$18.00 per day inclusive of any applicable tax in a park with a flush toilet and shower, plus \$2.00 per day inclusive of any applicable tax for each person in excess of 6.
- 3 Subsection 16(4) of the regulations is amended by striking out "\$3.00 per dumping" and substituting "\$5.00 per dumping inclusive of any applicable tax".
- 4 Subsection 16A(1) of the regulations is amended by
 - (a) striking out "\$2.00" in clause (a) and substituting "\$3.00"; and
 - (b) striking out "\$10.00" in clause (b) and substituting "\$15.00".
- 5 Subsection 16A(3) of the regulations is repealed and the following subsection substituted:

(3) Despite the fees prescribed in clauses 16(1)(a) and (b), the following fees, inclusive of any applicable tax, shall apply in Cape Chignecto Provincial Park:

- | | | |
|-----|-------------------------|------------------------------|
| (a) | campsite permit | \$18.00 per day; |
| (b) | cabin rental permit | \$50.00 per day; |
| (c) | bunkhouse rental permit | \$12.00 per person, per day. |

6 Subsection 17(1) of the regulations is repealed and the following subsection substituted:

(1) Despite the fees for campsite permits prescribed in Sections 16 and 16A, a person who is 65 years of age or over may be issued a campsite permit for a fee of \$2.00 less than the prescribed fee per day, inclusive of any applicable tax, provided that the person

- (a) is obtaining the permit for his or her own personal use of the campsite; and
- (b) presents proof of age to the park attendant.

7 Subsection 17(1A) of the regulations is repealed.

8 Subsection 17(2) of the regulations is amended by striking out “and residency”.

N.S. Reg. 55/2001

Made: May 25, 2001

Filed: May 28, 2001

Rock Weed Harvesting Regulations

Order in Council 2001-240 made May 25, 2001
Regulations made by the Governor in Council
pursuant to Section 71
of the *Fisheries and Coastal Resources Act*

The Governor in Council on the report and recommendation of the Minister of Agriculture and Fisheries dated April 24, 2001, and pursuant to Section 71 of Chapter 25 of the Acts of 1996, the *Fisheries and Coastal Resources Act*, is pleased to repeal the regulations respecting sea plants harvesting made by the Minister of Fisheries and approved by the Governor in Council by Order in Council 67-137 dated February 14, 1967, and make new regulations respecting rock weed harvesting in the form set forth in Schedule "A" attached to and forming part of the report and recommendation, effective on and after May 15, 2001.

Schedule "A"

**Regulations Respecting Rock Weed Harvesting
made pursuant to Section 71 of Chapter 25
of the Acts of 1996, the *Fisheries and Coastal Resources Act***

Citation

1 These regulations may be cited as the *Rock Weed Harvesting Regulations*.

Definitions

2 In these regulations

- (a) "Act" means the *Fisheries and Coastal Resources Act*;
- (b) "holdfast" means the portion of the rock weed plant by which it is attached to the ocean floor;
- (c) "lessee" means the holder of a lease issued under Part VI of the Act;
- (d) "rock weed" means *Ascophyllum nodosum* or *Fucus* species.

General right to harvest

3 Any person may harvest rock weed in areas that are

- (a) not closed; and
- (b) not leased.

Closure

4 (1) The Minister with the approval of the Governor in Council may close any area if the Minister is satisfied it is in the best interests of the Province to do so, notwithstanding that a lessee has rights under a lease pertaining to the area.

(2) No person shall harvest rock weed in an area that has been designated as closed.

Exemptions

- 5 (1) A person who harvests less than 4 tonnes of rock weed annually for use by the person for agricultural purposes and not for processing or sale shall not require a lease.
- (2) A person who harvests less than 1 tonne of rock weed annually for scientific purposes and not for processing or sale shall not require a lease and may, with the Minister's approval, be exempt from other specific regulations.

Permit holder identification card

- 6 A permit holder shall display the identification card issued to the permit holder pursuant to subsection 70(2) of the Act to a peace officer on demand.

Revocation of permit

- 7 Failure by a permit holder to comply with the Act, these regulations and all other applicable federal, Provincial, and municipal legislation, regulations, and by-laws when harvesting, processing, or attempting to harvest or process rock weed may result in revocation of their permit.

Harvest manner

- 8 A person who harvests *Ascophyllum nodosum* shall do so in a manner that will not interfere with the regrowth of the *Ascophyllum nodosum* and a sustained yield of *Ascophyllum nodosum* on the area harvested.
- 9 No person shall harvest *Ascophyllum nodosum* in such a way that representative harvest samples contain more than 15% holdfast by weight.
- 10 No person shall cut *Ascophyllum nodosum* without leaving an upright shoot with a mean cutting height as indicated in the management and commercialization plan contained in the person's notice of application for a lease, or an absolute minimum length of 127 mm (5 in.) above the holdfast in non-leased areas.
- 11 (1) No person shall sever rock weed by any means other than by means of a cutting instrument approved by the Minister.
- (2) For the purposes of these regulations the Minister may determine whether a specific instrument is a cutting instrument.

Prohibition of sale/purchase

- 12 No person shall sell rock weed products or rock weed that

- (a) the person has harvested for use by themselves for agricultural purposes; or
- (b) are harvested in violation of these regulations.

- 13 No person shall purchase rock weed or rock weed products harvested or sold in violation of these regulations.

Application for lease

- 14 (1) An application for a lease pursuant to Section 68 of the Act shall be in Form B.
- (2) A notice of application for a lease pursuant to Section 69 of the Act shall be in Form A.

- (3) A lease shall grant a person exclusive right to harvest in a particular area and shall be in Form C.

Procedure of hearings

15 The procedure at hearings of applications for leases shall be as directed by the Minister.

Assignment/surrender of lease

16 A lessee may, with the consent of the Minister, assign to any other person the lessee's rights under the lease with respect to the whole or any part of the solum described in the lease.

17 A lessee may surrender a lease or the rights with respect to any part of the solum described in the lease to the Minister.

Terms and conditions of lease

18 A lease is subject to such additional special conditions as the Minister with the approval of the Governor in Council prescribes and sets out in or endorses on the lease.

Record of harvest

19 (1) A lessee shall keep a record, as prescribed by the Minister, of all rock weed harvested from the solum described in the lessee's lease or acquired by the lessee from other sources.

(2) A record kept pursuant to subsection (1) shall be open to inspection at all reasonable times by the Minister or a person designated by the Minister.

(3) Not later than 15 days after the end of each month for which a lease is in place, a lessee shall file with the Minister, for the Minister's use only and not for publication, a written report specifying the type and quantities of rock weed and the area from which the rock weed was harvested by the lessee from the solum described in the lessee's lease or otherwise acquired by the lessee during that month.

(4) Not later than 15 days after the end of each year for which a lease is in place, a lessee shall file with the Minister, for the Minister's use only and not for publication, a statement of the types and quantities of rock weed harvested by the lessee from the solum described in the lessee's lease or otherwise acquired by the lessee during the immediately preceding year.

Revocation, cancellation or alteration of lease

20 The Minister may revoke, cancel or alter a lease

- (a) if the lessee fails to pay the annual lease fee or the royalty within 30 days after the fee or royalty is payable; or
- (b) if the Minister is satisfied that the lessee has failed to comply with or observe any provision of the Act, these regulations or the lease.

Fees and royalties for lessees

21 (1) A lessee shall pay an annual lease fee of \$500 to the Minister.

(2) The lease fee shall be payable

- (a) for the first year, not later than 15 days after the date of the lease; and
- (b) for each subsequent year, not later than 15 days after December 31 of each year.

22 (1) A lessee shall pay a royalty to the Minister at a rate of \$2.00 per wet tonne of rock weed that has been harvested during the previous year.

(2) The royalty prescribed by subsection (1) shall be paid not later than 15 days after December 31 of each year.

(3) If the amount of the royalty prescribed by subsection (1) is greater than the annual lease fee for the year, the amount of the lease fee shall be deducted from the royalty payable.

FORM A

**Province of Nova Scotia
 Notice of Application for Rock Weed Harvesting Lease
 pursuant to the *Fisheries and Coastal Resources Act***

Take notice that(name)..... of(place
 of residence)..... in the County of(county).....
 will make application to the Minister of Agriculture and Fisheries at the Minister’s office in the Halifax
 Regional Municipality, Province of Nova Scotia, on (month/day), 20,
 for a lease to harvest rock weed for a period of years from the date hereof in the following
 described area(insert a description of the area for which lease is sought)

Dated at
(month/day)....., 20.....

.....
 Name of applicant

.....
 Address of applicant

FORM B

**Province of Nova Scotia
Application for Rock Weed Harvesting Lease**

To the Minister of Agriculture and Fisheries of Nova Scotia

Name of applicant:

Address of applicant:

If applicant is a corporation, manner and date of incorporation:

.....

Head office address or name and address of recognized agent in Nova Scotia:

.....

Area for which lease sought:

Term for which lease sought:

Rock weed proposed to be harvested:

Estimated annual harvest (in wet tonnes):

Method of harvesting:

Will the rock weed be processed in Nova Scotia?

If so, to what stage?

If not to be completely processed in Nova Scotia, where will processing be done?

Attached is a copy of notice of this application that was published in the Royal Gazette Part I on

.....(month/day)....., 20..... and in(insert name of local

newspaper)..... on(month/day), 20.....

.....
Applicant

.....
Address of applicant

FORM C

**Province of Nova Scotia
Rock Weed Harvesting Lease
pursuant to the *Fisheries and Coastal Resources Act***

This lease made (month/day/year)

Between:

Her Majesty the Queen in the right of the Province of Nova Scotia, represented in this behalf by the Honourable Minister of Agriculture and Fisheries,

hereafter called the "Province"

OF THE ONE PART

- and -

.....

hereafter called the "Lessee"

OF THE OTHER PART

WHEREAS

AND WHEREAS

1 NOW TO THIS AGREEMENT WITNESS that the Province hereby grants to the lessee an exclusive lease to harvest *Ascophyllum nodosum* owned by the Province, hereinafter referred to as "Ascophyllum", from the solum of the Province in certain portions of Nova Scotia, more particularly described in Schedule "A" attached to and forming part of this Agreement.

Additional specific terms 2 through X

IN WITNESS WHEREOF the parties hereto have executed this Agreement the day and year first above written.

SIGNED, SEALED and DELIVERED
in the presence of

HER MAJESTY THE QUEEN IN
RIGHT OF THE PROVINCE OF
NOVA SCOTIA

.....
Witness

.....
Minister of Agriculture and Fisheries

.....
Witness

.....
Proponent

N.S. Reg. 56/2001

Made: May 31, 2001

Filed: June 4, 2001

Proclamation, S.103(3), S.N.S. 2000, c. 28

Order in Council 2001-250 made May 31, 2001
Proclamation made by the Governor in Council
pursuant to subsection 103(3)
of the *Justice and Administration Reform (2000) Act*

The Governor in Council on the report and recommendation of the Minister of Justice dated May 4, 2001, pursuant to subsection 103(3) of Chapter 28 of the Acts of 2000, the *Justice and Administration Reform (2000) Act*, and subsection 3(7) of Chapter 235 of the Revised Statutes of Nova Scotia, 1989, the *Interpretation Act*, is pleased to order and declare by proclamation that Section 5 of Chapter 28 of the Acts of 2000, the *Justice and Administration Reform (2000) Act*, come into force on and not before June 23, 2001.

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 103(3) of Chapter 28 of the Acts of 2000, the *Justice and Administration Reform (2000) Act*, it is enacted as follows:

~~H(1)~~ [103(3)] Sections 5, 11 to 16, 19 to 22, 25 to 84, 92 and 96 to 102 come into force on such day as the Governor in Council orders and declares by proclamation.

AND WHEREAS it is deemed expedient that Section 5 of Chapter 28 of the Acts of 2000, the *Justice and Administration Reform (2000) Act*, come into force on June 23, 2001;

NOW KNOW YE THAT WE, by and with the advice of the Executive Council of Nova Scotia, do by this Our Proclamation order and declare that Section 5 of Chapter 28 of the Acts of 2000, the *Justice and Administration Reform (2000) Act*, come into force on June 23, 2001, 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 31st day of May, in the year
of Our Lord two thousand and one and in the
50th year of Our Reign.

BY COMMAND:

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

N.S. Reg. 57/2001
Made: May 31, 2001
Filed: June 4, 2001

Order in Council 2001-263 made May 31, 2001
Regulations made by the Governor in Council
pursuant to Section 59
of the *Vital Statistics Act*

The Governor in Council on the report and recommendation of the Minister of Service Nova Scotia and Municipal Relations dated May 28, 2001, and pursuant to Section 59 of Chapter 494 of the Revised Statutes of Nova Scotia, 1989, the *Vital Statistics Act*, is pleased to make regulations respecting the prescribed forms for the registration of domestic partnerships in the form set forth in Schedule "A" attached to and forming part of the report and recommendation, effective on and after June 4, 2001.

Schedule "A"

**Regulations Respecting the Prescribed Forms for the Registration
of Domestic Partnerships made pursuant to Section 59
of Chapter 494 of the Revised Statutes of Nova Scotia, 1989,
the *Vital Statistics Act***

- 1 These regulations may be cited as the *Registration of Domestic Partnerships Regulations*.
- 2 The forms for the registration of domestic partnerships are as set out in Schedule A as follows:
 - (a) a domestic-partner declaration pursuant to Section 53 of the *Vital Statistics Act* shall be in Form A - Declaration of Domestic Partnership;
 - (b) a statement of termination pursuant to clause 57(a) of the *Vital Statistics Act* shall be in Form B - Statement of Termination of Domestic Partnership;
 - (c) an affidavit pursuant to clause 57(a) of the *Vital Statistics Act*, swearing or affirming that a domestic partnership has ended by separation, shall be in Form C - Affidavit that Domestic Partnership Ended by One-Year Separation.

**Schedule A
Form A
Section 53 of the Vital Statistics Act**

Province of Nova Scotia Office of the Registrar General		CREST	Declaration of Domestic Partnership		Registration Number
			Domestic Partners' Information		
Name	Surname		Surname		
	Given Names		Given Names		
Birthdate	Age	Date of Birth (Month by name, day, year)	Age	Date of Birth (Month by name, day, year)	
	(Never Married, Divorced, Widowed, Domestic Partnership Terminated)		(Never Married, Divorced, Widowed, Domestic Partnership Terminated)		
Residence	Address:		Address:		
	City, Town or other place Province or Country Postal Code		City, Town or other place Province or Country Postal Code		
<p>We, _____ and _____ hereby formally record and declare that:</p> <p>(a) each of us is 19 years of age or older (b) neither of us is a party to an ongoing marriage or domestic partnership (c) each of us is a resident or owner of real property in the province of Nova Scotia (d) we have a conjugal relationship and as such intend our relationship to continue (e) we intend each of us to have the same rights and obligations as spouses in accordance with subsection 54(2) of the <i>Vital Statistics Act</i>.</p>					
<p>We understand that the relationship established by this declaration will terminate after the earliest of the following occurrences:</p> <p>(a) we file with the Registrar an executed Form B - Statement of Termination (b) we have a separation agreement registered with the court pursuant to Section 52 of the <i>Maintenance and Custody Act</i> (c) we file with the Registrar an executed Form C - Affidavit that Domestic Partnership Ended by One-Year Separation (d) one of us marries a third party</p>					
Signatures of Domestic Partners					
Signature of Witnesses					
Date Signed			Date of registration		
Certification of Deputy Registrar General	I certify this declaration was filed at----- ----- on -----, 20--		Signature of Deputy Registrar General		

This declaration is valid under Nova Scotia law, but may be limited by federal law or the law of another province or territory.

Form B
Statement of Termination of Domestic Partnership
Clause 57(a) of the *Vital Statistics Act*

To the Registrar of Vital Statistics:

We, _____ and _____, hereby formally record and declare that:

- (a) we filed a Form A - Declaration of Domestic Partnership on _____ (date), filed under registration number _____
- (b) we have been living separate and apart as of _____ (date)
- (c) we intend to continue doing so, and
- (d) our domestic partnership is ended.

Date: _____

Signature of Witness

Signature of Domestic Partner

Signature of Witness

Signature of Domestic Partner

Filed with the Office of the Registrar General, _____, _____.
(month and day) (year)

Signature of Deputy Registrar General

Form C
Affidavit that Domestic Partnership Ended by One-Year Separation
Clause 57(b) of the *Vital Statistics Act*

I, _____ of _____
 (address), have personal knowledge of the following matters and make oath/affirm as follows:

1. I filed a Form A - Declaration of Domestic Partnership with _____
 on _____ (date).
2. _____ and I have been separated since _____ (date),
 which is more than one year before this affidavit is made. We have not during that time resumed
 cohabitation for a period or periods totalling more than 90 days with the intent to reconcile.
3. It is our intention that our domestic partnership not continue.

Sworn before me at the _____ of _____
 in the province of _____
 _____,
 (month and day) (year)

 Commissioner of Oaths, Notary Public,
 Justice of the Peace

 Signature of Person making Affidavit

N.S. Reg. 58/2001

Made: May 31, 2001

Filed: June 4, 2001

Order in Council 2001-264 made May 31, 2001
Amendment to regulations made by the Governor in Council
pursuant to Section 105
of the *Pension Benefits Act*

The Governor in Council on the report and recommendation of the Minister of Environment and Labour dated May 16, 2001, and pursuant to Section 105 of Chapter 340 of the Revised Statutes of Nova Scotia, 1989, the *Pension Benefits Act*, is pleased to amend the regulations respecting pension benefits made by the Governor in Council by Order in Council 87-1548 dated December 17, 1987, in the manner set forth in Schedule "A" attached to and forming part of the report and recommendation, effective on and after June 4, 2001.

Schedule "A"

**Amendments to the Regulations Respecting Pension Benefits
made by the Governor in Council
pursuant to Section 105 of Chapter 340
of the Revised Statutes of Nova Scotia, 1989,
the *Pension Benefits Act***

- 1 The regulations respecting pension benefits made by the Governor in Council by Order in Council 87-1548 dated December 17, 1987, are amended by adding the centred heading "Part I - General" immediately preceding Section 1.
- 2 Section 1 of the regulations is repealed and the following Sections substituted:

Citation

- 1 These regulations may be cited as the *Pension Benefits Regulations*.

Definitions

1A In these regulations,

- (a) "accountant" means a public accountant licensed under the *Public Accountancy Act*;
- (b) "actuarial gain" means the sum, if positive, of the following items as of the review date for a going concern valuation:
 - (i) the gain to the pension plan during the period since the review date of the immediately preceding going concern valuation resulting from the difference between actual experience and the experience expected by the actuarial assumptions on which that valuation was based, and
 - (ii) the amount by which the going concern liabilities decrease as a result of an amendment to the plan, and

- (iii) the amount by which the going concern liabilities decrease or the going concern assets increase as a result of a change in actuarial methods or assumptions upon which the current going concern valuation is based,

provided that any of the items in subclauses (i), (ii) or (iii) shall be counted as a negative in the calculation of the sum where

- (iv) the experience of the plan has resulted in a loss rather than a gain,
 - (v) an amendment has increased the going concern liabilities, or
 - (vi) a change in actuarial methods or assumptions has resulted in an increase in going concern liabilities or a decrease in going concern assets, as the case may be;
- (c) “actuarial loss” means the sum, if negative, of the items in subclauses (b)(i), (ii) and (iii), as of the review date of a going concern actuarial valuation;
 - (d) “actuary” means a Fellow of the Canadian Institute of Actuaries;
 - (e) “escalated adjustment” means an adjustment made after the termination of a member of a pension plan to his or her pension or deferred pension, which adjustment is not capable of being determined with certainty at the time the plan or an amendment thereto is submitted for registration because the adjustment is related to the investment earnings of the pension fund or to future changes in a general wage or price index;
 - (f) “financial institution” means
 - (i) a bank,
 - (ii) a body corporate to which the *Trust and Loan Companies Act* applies,
 - (iii) a cooperative credit society to which the *Co-operative Associations Act* applies,
 - (iv) an insurance company to which the *Insurance Act* applies,
 - (v) a trust, loan or insurance corporation incorporated by or under an Act of the legislature of a province,
 - (vi) a cooperative credit society incorporated and regulated by or under an Act of the legislature of a province,
 - (vii) an entity that is incorporated or formed by or under an Act of Parliament or of the legislature of a province that is primarily engaged in dealing in securities, including portfolio management and investment counselling, or
 - (viii) a foreign institution;

- (g) “foreign institution” means an entity that is
 - (i) engaged in the business of banking, the trust, loan or insurance business, the business of a cooperative credit society or the business of dealing in securities or is otherwise engaged primarily in the business of providing financial services, and
 - (ii) incorporated or formed otherwise than by or under an Act of Parliament or of the legislature of a province;
- (h) “going concern assets” means the value of the assets of a pension plan including due and accrued income determined on the basis of a going concern valuation;
- (i) “going concern liabilities” means the present value of the accrued benefits of a pension plan determined on the basis of a going concern valuation;
- (j) “going concern unfunded actuarial liability” means the excess of going concern liabilities over going concern assets;
- (k) “going concern valuation” means a valuation of assets and liabilities of a pension plan using methods and actuarial assumptions considered by the actuary who valued the plan to be in accordance with sound actuarial principles and practices for the valuation of a continuing pension plan;
- (l) “government” means Her Majesty in right of Nova Scotia, an agent of Her Majesty, a municipality as defined in the *Municipal Government Act* and a metropolitan municipality and the local boards thereof;
- (m) “normal cost” means the cost of pension benefits and ancillary benefits with respect to a fiscal year of a pension plan determined in accordance with the going concern valuation methods and assumptions used;
- (n) “past service unfunded actuarial liability” means the amount of going concern unfunded actuarial liability resulting from the provision of benefits with respect to employment prior to the effective date of the pension plan, or from an amendment to a plan which provides benefits for employment prior to the date of the amendment and such employment had not previously been recognized for purposes of the provision of pension benefits;
- (o) “postjudgment interest rate” means the bank rate at the end of the first day of the last month of the quarter preceding the quarter in which the date of the order falls, rounded to the next higher whole number where the bank rate includes a fraction, plus 1 per cent;
- (p) “review date” means the date as of which a report is made;

- (q) “significant shareholder” means an individual who alone or in combination with a parent, spouse or child, owns or has a beneficial interest, directly or indirectly, in shares that represent 10 per cent or more of the voting rights attached to the shares of the employer who contributes to the pension plan;
- (r) “solvency deficiency” means a deficiency determined by a solvency valuation performed in accordance with Section 14;
- (s) “solvency gain” means the sum, if positive, as of a review date for a solvency valuation performed in accordance with Section 14, of
 - (i) the gain to the pension plan during the period since the review date of the immediately preceding solvency valuation resulting from the difference between actual experience and the experience expected by the actuarial assumptions on which that valuation was based, and
 - (ii) the amount by which the solvency liabilities decrease or the solvency assets increase as a result of a change in the actuarial methods or assumptions upon which the current solvency valuation is based,provided that either of the items in subclauses (i) or (ii) shall be counted as a negative in the calculation of the sum where the experience of the plan has resulted in a loss rather than a gain or where a change in actuarial methods or assumptions has resulted in an increase in solvency liabilities or a decrease in the solvency assets, as the case may be;
- (t) “special allowance” means a bridging benefit, the amount of which may be adjusted based on the income of the former member resulting from employment subsequent to retirement; and
- (u) “special payment” means a payment or one of a series of payments determined for the purpose of liquidating a going concern unfunded actuarial liability or solvency deficiency.

3 Section 18 of the regulations is amended by

- (a) adding the following subsection immediately after subsection (1):
 - (1A)** A transferee as referred to in this Section is an administrator for the purposes of Section 71A of the Act.and
- (b) repealing clause (2)(b) and substituting the following clause:
 - (b) all money transferred, plus interest, shall not be assigned, charged, anticipated or given as security except as permitted by subsection 70(3) or Section 71A of the Act,

and any transaction purporting to assign, charge, anticipate or give the money transferred as security is void;

- 4 Section 18A of the regulations is amended by adding the following subsection immediately after subsection (1):
 - (1A) A transferee as referred to in this Section and Section 18B is an administrator for the purposes of Section 71A of the Act.
- 5 Section 18B is amended by repealing clause (12)(b) and substituting the following clause:
 - (b) such money may not be assigned, charged, or given as security except as permitted by subsection 70(3) or Section 71A of the Act and any transaction purporting to assign, charge or give such money transferred as security is void;
- 6 (1) Clauses 19(1) to (5) of the regulations are redesignated as clauses 19(a) to (e) respectively.
 - (2) Clause 19(a) of the regulations is repealed and the following clause substituted:
 - (a) that all money transferred, plus interest, shall not be assigned, charged, anticipated or given as security except as permitted by subsection 70(3) or Section 71A of the Act and that any transaction purporting to assign, charge, anticipate or give the money transferred as security is void;
- 7 The regulations are further amended by adding the following Section immediately after Section 19:

19A (1) For the purposes of clause 71A(2)(a) of the Act, the cost of complying with an attachment made pursuant to clause 71A(1)(b) of the Act shall be calculated in accordance with this Section.

 - (2) The administrator shall calculate the cost of complying with the attachment of a defined benefit as the amount that reasonably represents the cost to the pension plan of complying with the attachment, provided that the cost of complying with the attachment shall not exceed \$500.
 - (3) The administrator shall calculate the cost of complying with the attachment of a defined contribution benefit as the amount that reasonably represents the cost to the pension plan of complying with the attachment, provided that the cost of complying with the attachment shall not exceed \$250.
 - (4) The cost of complying with the attachment of a deferred life annuity or prescribed registered retirement savings arrangement shall be the amount, not to exceed \$250, that reasonably represents the cost to the transferee of complying with the attachment.
- 8 Section 37 of the regulations is repealed.

- 9 (1) The regulations are further amended by striking out the heading immediately preceding Section 46 and substituting “Determination of joint and survivor pension”.
- (2) Section 46 of the regulations is repealed.
- 10 The regulations are further amended by adding the following Part immediately after Section 57:

Part II - Division of Pension Entitlement

Definitions for Part

58 In this Part,

- (a) “court order” means an order of the Supreme Court of Nova Scotia or an order of a court of competent jurisdiction made outside the Province and enforceable in the Province that provides for a division of a pension or a pension benefit;
- (b) “entitlement date” means, in relation to a spouse or common-law partner, the date on which the spouse or common-law partner became entitled to a division of the member’s or former member’s pension or pension benefit;
- (c) “limited member” means a person designated as a limited member of a pension plan;
- (d) “net investment returns” means interest, dividends and realized and unrealized capital gains and losses, less related investment expenses normally charged to investment earnings;
- (e) “pensionable service” means the months or parts of months in respect of which a member’s or former member’s pension benefit accrues, and includes the months or parts of months in respect of which a pension benefit, earned by a member or former member under another pension plan, has been transferred to the pension plan;
- (f) “proportionate share” means,
 - (i) for a pension or a defined benefit, a fraction calculated in accordance with this Part, or
 - (ii) for a defined contribution benefit, the share of the benefit of the spouse or common-law partner calculated in accordance with this Part;
- (g) “separate pension” means the proportionate share of a member’s or former member’s pension that is established in a separate account in favour of a spouse or common-law partner;

- (h) “separation agreement” means an agreement, in writing, made between spouses or common-law partners, including a marriage contract within the meaning of the *Matrimonial Property Act*, that provides for a division of a pension or a pension benefit; and
- (i) “spouse or common-law partner”, for purposes of this Part, includes a former spouse or former common-law partner of a member or former member.

Application of Part

- 59** (1) Subject to subsection (2), where a spouse or common-law partner is entitled to an interest in a pension or pension benefit,
- (a) the share of the spouse or common-law partner of the pension or pension benefit; and
 - (b) the manner in which the entitlement of the spouse or common-law partner in the pension or pension benefit is to be satisfied,
- shall be determined in accordance with this Part.
- (2) This Part, unless provided otherwise, applies only if a spouse or common-law partner
- (a) was entitled to an interest in a pension or pension benefit before June 4, 2001, and on June 4, 2001, there is no allocation of the pension or pension benefit by court order or separation agreement; or
 - (b) becomes entitled to an interest in a pension or pension benefit after June 4, 2001.
- (3) This Part applies to an insurance contract that provides for a deferred or immediate life annuity as a result of the transfer of the commuted value of a pension benefit or a purchase from a retirement savings arrangement or life income fund referred to in Section 18.

Division determined by court order or separation agreement

- 60** (1) Subject to subsection 61(2) of the Act, a spouse or common-law partner’s share of a pension or pension benefit shall be determined by a court order or by a separation agreement.
- (2) The entitlement date with respect to a spouse or common-law partner shall be specified in the court order or separation agreement referred to in subsection (1).
 - (3) A pension or pension benefit may not be divided under this Part except in accordance with the terms of a court order or a separation agreement referred to in subsection (1).
 - (4) Nothing in this Part precludes a division of assets pursuant to Section 13 of the *Matrimonial Property Act* in settlement of the value of any pension or other benefit under a pension plan where,

by reason of the termination of a relationship, the chance of acquiring it would be lost, and where there is an unequal division upon those grounds, this Part shall not apply.

Information from pension plan

- 61** (1) A spouse or common-law partner who claims an interest in a pension or pension benefit and who submits to the administrator a request for information in Form 5: Request by Spouse or Common-Law Partner for Information Respecting Member's or Former Member's Pension or Pension Benefit, is entitled to receive from the administrator any information necessary to value the member's or former member's pension or pension benefit.
- (2) The administrator shall provide the information requested pursuant to subsection (1) within 60 days after receipt of Form 5.
- (3) Upon receipt of a Form 5, the administrator shall send a notice in Form 8: Notice of Receipt to the member or former member whose spouse or common-law partner submitted the Form 5.
- (4) Once the information has been provided in accordance with subsection (2), the administrator is only required to provide updates to that information once in each calendar year upon request from the spouse or common-law partner who submitted the Form 5.

Limited members

- 62** (1) Where a pension or pension benefit is to be divided, a spouse or common-law partner may be designated a limited member of the pension plan by submitting to the administrator a request in Form 6: Request for Designation as Limited Member of Pension Plan, and a copy of the court order or separation agreement that determines the division.
- (2) A limited member has
- (a) the right to receive payment of a separate pension or a proportionate share of a pension, as the case may be;
 - (b) except as modified by this Part, all of the rights of a member or former member under the Act;
 - (c) the additional rights that are set out in this Part.
- (3) Where the commuted value of the proportionate share of the pension benefit is transferred out of the pension plan to the credit of a spouse or a common-law partner pursuant to Section 64, the spouse or common-law partner ceases to be a limited member of the pension plan.
- (4) Upon receipt of a Form 6, the administrator shall send a notice in Form 8: Notice of Receipt to the member or former member whose spouse or common-law partner submitted the Form 6.

Information to be provided to a limited member

- 63** (1) An administrator shall provide the following information to a limited member:
- (a) any information or notice available to members or former members of the pension plan;
 - (b) to the extent that it is not provided under clause (a), information on options available to and elections that may be made by a limited member with respect to the limited member's proportionate share of the pension or pension benefit when they become available.
- (2) In addition to the information provided under subsection (1), a limited member entitled to a defined contribution benefit shall receive an annual statement required under Section 33 of the Act.
- (3) When a limited member is in receipt of a separate pension under the Act, the limited member is entitled to all of the information that the administrator provides to former members of the pension plan who are in receipt of a pension payable from the pension fund.

Transfer from pension plan to locked-in retirement plan

- 64** (1) Where a proportionate share of a pension benefit is transferred out of the pension plan to the credit of a spouse or common-law partner, the transfer shall be made in accordance with Section 50 of the Act.
- (2) Where a defined contribution benefit has been divided under a court order or separation agreement, whether on, before or after June 4, 2001, a spouse or common-law partner who submits to the administrator a copy of the order or agreement and a request in Form 7: Request for Transfer of a Defined Contribution Benefit or a Defined Benefit, is entitled to transfer the spouse's or common-law partner's proportionate share of the defined contribution benefit from the pension plan.
- (3) Upon receipt of a Form 7, the administrator shall send a notice in Form 8: Notice of Receipt to the member whose spouse or common-law partner submitted the Form 7.
- (4) Where a defined benefit has been divided, a limited member who submits to the administrator a request in Form 7: Request for Transfer of a Defined Contribution Benefit or a Defined Benefit is entitled to receive a proportionate share of the commuted value of the pension benefit transferred from the pension plan to the credit of the limited member when the member or former member
- (a) retires; or
 - (b) terminates membership in the pension plan.
- (5) Subsection (4) does not apply to a limited member unless the plan provides an entitlement as described in subsection (4) to the member or former member.

Limited member's separate pension resulting from division of a defined benefit

65 A separate pension in favour of a spouse or common-law partner as a limited member, resulting from division of a defined benefit, shall

- (a) be equal to a proportionate share of the pension that the member or former member would have received had there been no division under the Act and the member or former member elected a pension in the normal form provided under the pension plan for the member or former member;
- (b) be converted into
 - (i) a single life pension, or
 - (ii) another form or combination of forms of pension that members of the pension plan may elect, such that the commuted value of the separate pension is not less than the commuted value of the limited member's proportionate share of the member's pension in the normal form provided to the member or former member;
- (c) be actuarially adjusted, taking into account any difference between the age of the limited member and the member or former member; and
- (d) commence at the member's or former member's retirement date.

Benefit split of a pension

66 (1) Where a pension is to be divided, a limited member is entitled to receive a proportionate share of the pension paid until

- (a) the death of the limited member; or
- (b) cessation of the pension,

whichever occurs first.

- (2) Where a proportionate share of a pension is paid to a limited member, separate source deductions shall be made with respect to deductions required under the *Income Tax Act* (Canada) for the limited member's share and the former member's share of the pension.

Death of a member or limited member entitled to a defined benefit

67 (1) Where a member or former member dies before the limited member receives a share of the defined benefit under subsection 64(4), the limited member is entitled to receive a proportionate share of the pre-retirement death benefit.

- (2) Where a member or former member dies after the limited member transfers from the pension plan a proportionate share of the defined benefit under subsection 64(4), no pre-retirement death benefit is payable to the limited member unless the member or former member has designated the limited member as a beneficiary.

- (3) Where a limited member dies before the member or former member and before transferring from the pension plan a proportionate share of the defined benefit under subsection 64(4), the pension plan shall pay to the beneficiary or the estate of the limited member the death benefit payable in respect of the limited member's proportionate share of the defined benefit as if the member or former member had died.

Variation of payment to disabled person and payment of the commuted value if benefit is small

- 68 Where a limited member is entitled to a separate pension or a proportionate share of a pension benefit, a pension plan may provide for payment to the limited member of the commuted value of the separate pension or of the proportionate share of the pension benefit, as the case may be, in the same manner that a pension plan may provide for payment to a member or former member under Section 57 or subsection 58(1) of the Act.

Calculation of proportionate share of a defined contribution benefit

- 69 (1) This Section applies in respect of a division of a defined contribution benefit.
- (2) The proportionate share of a defined contribution benefit shall be calculated in accordance with the following formula:

$$\text{proportionate share} = (A/B) \times C \times P$$

where

A = the pensionable service accruing from the date of marriage or the beginning of common-law partnership or the date on which the member entered the pension plan, whichever is later, to the entitlement date;

B = the total pensionable service accumulated by the member to the date on which the share of the spouse or common-law partner is transferred from the pension plan pursuant to subsection 64(2) or established in a separate account in the pension plan for the spouse or common-law partner as a limited member;

C = the total of

- (a) the contributions to the pension plan to the credit of the member or former member; and
- (b) the net investment returns allocated, or that are to be allocated, in respect of those contributions to the date on which the share of the spouse or common-law partner is transferred from the pension plan pursuant to subsection 64(2) or established in a separate account in the pension plan for the spouse or common-law partner as a limited member;

P = the percentage of the pension benefit to be credited to the spouse or common-law partner under a court order or separation agreement.

- (3) Where a member or former member is not entitled to a deferred pension benefit pursuant to Sections 42 and 43 of the Act on the entitlement date, the proportionate share of the member's or former member's contributions and net investment returns shall be paid from the pension plan to the member's or former member's spouse or common-law partner.
- (4) A limited member's eligibility for retirement shall be based on the limited member's age.

Calculation of proportionate share of a pension, defined benefit or pre-retirement death benefit

70 (1) This Section applies in respect of a pension, defined benefit or pre-retirement death benefit.

- (2) The proportionate share of a pension, defined benefit or pre-retirement death benefit shall be calculated in accordance with the following formula:

$$\text{proportionate share} = P \times (A/B)$$

where, subject to subsection (3),

A = the pensionable service accumulated by the member or former member from the date of marriage or the beginning of common-law partnership to the entitlement date for the spouse or common-law partner, excluding any pensionable service for that period purchased by and credited to the member or former member after that entitlement date;

B = the total pensionable service accumulated by the member or former member to the earlier of the date on which the member or former member retires or terminates membership in the pension plan;

P = the percentage of the pension or pension benefit to be credited to the spouse or common-law partner under a court order or separation agreement.

- (3) Where the determination of a proportionate share of a pre-retirement death benefit is required on the death of member or former member, the proportionate share shall be calculated in accordance with the formula set out in subsection (2), except that:

B = the total pensionable service accumulated by the member or former member to the date of the member's or former member's death.

Adjustment of a member's or former member's defined benefit

71 (1) A defined benefit of a member or former member that is subject to a division shall be adjusted in accordance with this Section.

- (2) A defined benefit of a member or former member shall be adjusted in accordance with subsection (3) where a spouse or common-law partner or the estate of a spouse or common-law partner receives

- (a) a separate pension;
 - (b) a transfer of a proportionate share of the commuted value of a defined benefit pursuant to subsection 64(4); or
 - (c) a death benefit paid in respect of the limited member's proportionate share of the defined benefit pursuant to subsection 67(3).
- (3) An adjustment under subsection (2) shall be on a neutral basis to the pension plan and the member or former member and shall be made by deducting from the defined benefit the limited member's proportionate share of the defined benefit.

Administrator must give notice to spouse or common-law partner if member's interest may be affected

72 Where a spouse or common-law partner has submitted a request for information in Form 5 pursuant to subsection 61(1), an administrator shall provide 30 days advance notice to the spouse or common-law partner of any transaction relating to the applicable member's or former member's interest in the pension or pension benefit by reason of

- (a) the death of the member or former member;
- (b) the retirement of the member or former member; or
- (c) a direction given to the administrator by the member or former member.

Administrative fees

73 (1) A spouse or common-law partner and member or former member shall pay to the administrator an amount to offset administrative fees incurred by the pension plan in satisfying the entitlement of the spouse or common-law partner.

- (2) The amount to be paid to an administrator by a spouse or common-law partner and member or former member shall not exceed whichever of the following is applicable:
- (a) \$500 for division of a defined benefit;
 - (b) \$250 for division of a defined contribution benefit;
 - (c) \$650 for division of a defined contribution benefit and a defined benefit provided under one pension plan.

Form 5

Request by Spouse or Common-Law Partner for Information Respecting Member's or Former Member's Pension or Pension Benefit (Pension Benefits Regulations, Section 61)

[Please print]

To: Administrator of pension plan

Name of plan _____

Address of plan _____

From: Spouse or common-law partner of member or former member [Note: "spouse or common-law partner" includes a former spouse or former common-law partner]

Name _____

Address _____

Telephone (home) _____ (work) _____

Social Insurance Number _____

In relation to: Plan member or former member

Name of member or former member _____

Address _____

Telephone (home) _____ (work) _____

Social Insurance or Pension Plan Identity Number _____

Employer _____

Declaration of spouse or common-law partner claiming interest

I, _____ (name of spouse or common-law partner) declare that

(a) the date of marriage or commencement of common-law relationship is _____;

(b) the date I was separated from the member or former member is _____; and

(c) I am claiming an interest in the member's or former member's pension or pension benefit based on Section 61 of the *Pension Benefits Act*.

Signed (spouse or common-law partner)

Date of declaration

Signed (witness to signature of spouse or common-law partner)

Name of witness

Address of witness

Form 6

**Request for Designation
as Limited Member of Pension Plan**
(Pension Benefits Regulations, Section 62)

(Note: This form is for use in relation to a pension or a pension benefit)

[Please print]

To: Administrator of pension plan

Name of plan

Address of plan

From: Spouse or common-law partner of member or former member [Note: "spouse or common-law partner" includes a former spouse or former common-law partner]

Name

Address

Telephone (home) (work)

Social Insurance Number

Date of birth

In relation to: Plan member or former member

Name of member or former member

Address

Telephone (home) (work)

Social Insurance or Pension Plan Identity Number

Employer

Other required information:

Date of marriage or commencement of common-law relationship

Entitlement date of spouse or common-law partner
[Note: this is the date specified in the court order or separation agreement on which the spouse or common-law partner became entitled to an interest in the member's pension.]

A copy of the court order or separation agreement on which the entitlement date is based
[Note: attach or enclose with this Form]

Request

I request that I be designated as a limited member of your pension plan.

Signed (spouse or common-law partner) Date

Date of declaration

Signed (witness to signature of spouse or common-law partner)

Name of witness

Address of witness

Form 7

**Request for Transfer of a
Defined Contribution Benefit or a Defined Benefit**
(Pension Benefits Regulations, Section 64)

[Note: The limited member entitled to a defined benefit does not have transfer rights unless the member or former member is so entitled.]

[Please print]

To: Administrator of pension plan

Name of plan

Address of plan

.....

From: Spouse or common-law partner of member or former member [Note: "spouse or common-law partner" includes a former spouse or former common-law partner]

Name

Address

.....

Telephone (home) (work)

Social Insurance Number

Date of Birth

In relation to: Plan member or former member

Name of member or former member

Address

.....

Telephone (home) (work)

Social Insurance or Pension Plan Identity Number

Employer

Other required information:

Date of marriage or commencement of common-law relationship

Entitlement date of spouse or common-law partner

[Note: this is the date specified in the court order or separation agreement on which the spouse or common-law partner became entitled to an interest in the member's or former member's pension.]

A copy of the court order or separation agreement on which the entitlement date is based

.....
[Note: attach or enclose with this Form]

Request

I request that you

- (a) transfer my share of the member's or former member's pension benefit by a transfer that is permitted under Section 50 of the *Pension Benefits Act*; and
- (b) advise me in writing of the information that you require in order to do this.

Signed (spouse or common-law partner) Date

Date of declaration

Signed (witness to signature of spouse or common-law partner)

Name of witness

Address of witness

Form 8

Notice of Receipt

(Pension Benefits Regulations, Sections 61, 62 and 64)

[Please print]

To: Plan member or former member

Name of member or former member

Address

Social Insurance or Pension Plan Identity Number
Employer

From: Pension Plan

Name of pension plan

Address of plan administrator

Contact person

Telephone

Receipt of Notice

We have received the following notice under the *Pension Benefits Act* and regulations in relation to your membership in our pension plan (check one):

- Form 5: Request by Spouse or Common-Law Partner for Information on Member's or Former Member's Pension or Pension Benefit
- Form 6: Request for Designation as Limited Member of Pension Plan
- Form 7: Request for Transfer of a Defined Contribution Benefit or a Defined Benefit

From [name as shown on notice]

Dated [date of notice]