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**General Labour Standards Code Regulations**

**made under subsection 4(2) and Section 7 of the**

**Labour Standards Code**

R.S.N.S. 1989, c. 246

O.I.C. 90-1321 (November 13, 1990, effective November 30, 1990), N.S. Reg. 298/90

as amended to O.I.C. 2016-160 (July 4, 2016), N.S. Reg. 135/2016

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Please note: this table of contents is provided for convenience of reference and does not form part of the regulations.

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[Definitions]

1 (1) In these regulations

(a) “Code” means the Labour Standards Code;
“collective agreement” has the same meaning as it has in the Trade Union Act;

“criminal record check” means a record obtained from a law enforcement agency stating whether or not a person has any conviction or has any outstanding charge awaiting court disposition under a federal or provincial enactment;


“information technology professional” means an employee who is primarily engaged in the investigation, analysis, design, development, implementation, operation or management of information systems based on computer and related technologies through the objective application of specialized knowledge and professional judgement, but does not include an employee who is primarily employed to provide basic operational or technical support for computer and related technologies.


“mobile home” has the same meaning as it has in the Residential Tenancies Act.

Unless the context otherwise requires, words defined in the Code have the same meaning when used in these regulations.

Where a period of time is prescribed by these regulations, expressed as a number of days, the period shall be computed as the number of days exclusive of

(a) any Saturday or Sunday;

(b) New Year’s Day, Good Friday, Canada Day, Christmas Day, the birthday or the day appointed for the celebration of the birth of the Reigning Sovereign, Victoria Day, Labour Day, Remembrance Day and any day appointed by any statute in force in the Province of Nova Scotia or by proclamation of the Governor General or the Lieutenant Governor as a general holiday or for general fast or thanksgiving; and

(c) when any of the days specified in paragraph (b) falls on a Sunday, the following day.

For the purposes of clause 2(h) of the Code, “repaired” includes communications of advice by telecommunications or internet technologies by a customer contact centre to assist in the repair of an article or otherwise respond to a customer complaint or inquiry.


Application

2 (1) Persons who are employed in a private home by the householder to provide domestic service

(a) for a member of the employee’s immediate family; or

(b) for no more than 24 hours within a period beginning on a Sunday and ending on the following Saturday, or during such other seven day period which is the customary pay period of the employer

are exempted from the application of the Code.


(1A) Despite subsection (1), if a person who satisfies the requirements of subsection (1) is a foreign worker, the following provisions continue to apply:
(a) Sections 89E and 89G of the Code; and

(b) Section 89F of the Code, subject to subsection 2(12).


(2) Duly qualified practitioners or students while engaged in training for

(a) architecture;

(b) dentistry;

(c) law;

(d) medicine;

(e) chiropody;

(f) professional engineering;

(g) public or chartered accounting;

(h) psychology;

(i) surveying;

(j) veterinary science

are exempted from the application of subsection 40(4), Sections 61 to 67, and Section 71 of the Code.


(2A) Duly qualified practitioners or students while engaged in training for

(a) optometry; and

(b) pharmacy

are exempted from the application of Section 71 of the Code.


(2B) Persons holding supervisory or management positions, or who are employed in a confidential capacity are exempt from the application of subsection 40(4) and Section 61 of the Code.


(2C) Persons engaged in work as information technology professionals are exempt from the application of subsection 40(4) of the Code.

(3) Persons engaged in work on a farm whose employment is directly related to the primary production of eggs, milk, grain, seeds, fruit, vegetables, Christmas trees, Christmas wreaths, maple products, honey, tobacco, pigs, cattle, sheep, poultry or animal furs are exempted from application of

(a) Sections 37, 38, 39, 40, 41, 42 and 43, and

(b) Sections 61, 62, 63, 64, 65, 66, and 67

of the Code.


(4) Persons engaged in work

(a) as real estate salespersons;

(b) as automobile salespersons;

(c) as salespersons, other than route salespersons, who are entitled to receive all or any part of their remuneration as commissions in respect of offers to purchase or sales of goods, wares, merchandise or services which offers or sales are normally made other than at or in their employer’s establishment; or

(d) on fishing vessels of all types or in the operation of fishing vessels on water

are exempted from application of

(i) Sections 32, 33, 34, 35 and 36,

(ii) Sections 37, 38, 39, 40, 41, 42 and 43,

(iii) Sections 50, 51, 53, 54, 55 and 56,

(iv) Sections 61, 62, 63, 64, 65, 66, and 67,

(v) Sections 71, 72, 73, 74, 75, 76, 77, and 78

of the Code.

(4A) Athletes while engaged in activities related to their athletic endeavour are exempt from the application of all of the following provisions of the Code:

(a) Sections 32, 33, 34, 35 and 36;

(b) Sections 37, 38, 39, 40, 41, 42 and 43;

(c) Sections 50, 51, 53, 54, 55 and 56;

(d) Sections 61, 62, 63, 64, 65, 66, 66A, 66B and 67; and

(e) Sections 71, 72, 73, 74, 75, 76, 77 and 78.

(4B) Subsection 40(4) of the Code does not apply to persons who work as

(a) employees for whom the Governor in Council has made a special order;

(b) apprentices under apprenticeship agreements in accordance with the Apprenticeship and Trades Qualifications Act;

(c) trainees under government-sponsored and government-approved plans;

(d) employees at a playground or summer camp that is operated on a non-profit basis;

(e) insurance agents licensed as such under the Insurance Act;

(f) employees and employers to whom the Minimum Wage Order (Logging and Forestry Operations) or the Minimum Wage Order (Construction and Property Maintenance) applies;

(g) watches, janitors or building superintendents in buildings that include their place of residence;

(h) health or personal care providers, if the client is providing a residence as part of the terms of employment;

(i) employees in the transport industry;

(j) employees who are paid on a flat rate basis and work as automobile mechanics or auto body shop technicians; and

(k) employees of enterprises engaged in primary processing or related activities in the agriculture, Christmas tree or fishing industry, but not meat processing.


(5) Persons engaged in work as employees under a collective agreement are exempted from application of

(a) Sections 37, 38, 39, 40, 41, 42 and 43, and

(b) Sections 66A, 71, 72, 73, 74, 75, 76, 77 and 78


of the Code.

(6) Persons engaged in work as salespersons of mobile homes are exempted from the application of Sections 32, 33, 34, 35 and 36 of the Code.


(8) Persons engaged in work in the manufacturing or refining processes of the petro-chemical industry or in work directly related to those processes in or at their employer’s
manufacturing or refining establishment are exempted from application of Sections 37, 38, 39, 40, 41, 42 and 43 of the Code.

(8A) Persons engaged in work in the shipbuilding, ship repair, oil and gas industries, or related activities other than retail, are exempt from the application of subsection 40(4) of the Code.


(9) Training or employment activity referred to in Section 25 of the Employment Insurance Act (Canada) or any substantially similar program is designated as a class of work to which the Act does not apply and persons engaged in this class of work are exempt from application of the Code.


(9A) Persons engaged in work in the offshore for petroleum exploration, drilling, production, conservation, processing or transportation, or related activities, while under the jurisdiction of the Canada-Nova Scotia Offshore Petroleum Board are exempted from the application of Section 66 of the Code.


(10) Persons engaged in the processing of herring roe during the months of August and September are exempted from the application of subsection (2) of Section 68 of the Code.

(11) Persons engaged in work as the Deputy Minister - Office of the Premier, the Deputy Minister of the Policy Board, of the Management Board, of Intergovernmental Affairs or of a department as referred to in Section 2 of the Public Service Act, or in any other position designated as a deputy head as defined in Section 2(e) of the Civil Service Act, are exempted from the application of subsection 40(4), Section 61 and Section 71 of the Code.


(12) Section 89F of the Code does not apply to an employer if the reduction in wages or the reduction or elimination of a benefit, term or condition of a foreign worker’s employment referred to in subsection 89F(1) of the Code results from any of the following:

(a) a change in federal law or a law of the Province;

(b) a change to the provisions of a collective agreement;

(c) measures implemented by the employer in response to a dramatic and unforeseeable or unavoidable change in economic conditions that directly affects the business of the employer, if the measures are not directed disproportionately at the foreign worker;

(d) a good faith error in interpretation made by the employer respecting its obligations to the foreign worker that results in the foreign worker suffering a disadvantage, if the employer provides compensation to the foreign worker for the disadvantage;

(e) an unintentional accounting or administrative error made by the employer that results in the foreign worker suffering a disadvantage, if the employer provides compensation to the foreign worker for the disadvantage.

(13) A recruiter belongs to a class of persons that is exempt from the licensing requirement under subsection 89H(1) of the Code if the recruitment activities of the recruiter are limited solely to activities in relation to the employment of a foreign worker with an employer referred to in clause (14)(a), (b), (c) or (d).


(14) The following employers are deemed to belong to a class of persons that is exempt from the requirement under subsection 89T(1) of the Code to be registered with the Director and the requirement under Section 89C of the Code to engage only licensed recruiters of foreign workers:

(a) a Government Reporting Entity, as defined in the Finance Act;

(b) a municipality as defined in the Municipal Government Act;

(c) a university that is a designated university under the University Foundations Act; and

(d) any employer who recruits or engages the services of another person to recruit a foreign worker for a position in an occupation that is listed in one or both of the following classifications under the National Occupational Classification 2011 matrix developed by Human Resources and Skills Development Canada and Statistics Canada:

(i) Skill Type 0 Management Occupations,

(ii) Skill Level A.


Service and filing of documents

3 (1) In addition to the methods set out in subsection 8(2) of the Code, a document may be served or delivered to the party’s last known physical or computer address by any of the following methods:

(a) delivering or mailing the document by priority post, registered mail or another similar special delivery mail;

(b) transmitting a copy of the document by facsimile;

(c) transmitting a copy of the document by e-mail or electronic document exchange.

(2) If the Code, these regulations or the Board’s Rules of Procedure in matters pursuant to the Code provide for a time limit running from the service of any document, and the service is by way of priority post, registered mail or another similar special delivery mail, the time limit is deemed to run from the time of the first attempt to serve the document, or notice that the document is being held, to the party’s last known address.


4 (1) Where the Code, these regulations or the Board’s Rules of Procedure require a document to be filed, filing shall be deemed to be made


(a) at the time the document is received by the Director of Labour Standards or by the Chair of the Board, or a person designated by either of them, as the case may be; or

(b) if the document is mailed or transmitted and is properly addressed to the Director or to the Board, as the case may be, at the time the document is mailed or transmitted.


(2) Where a document in a form approved by the Director or the Board, as the case may be, is required by these regulations to be filed with the Director or the Board, filing is not complete until all information called for on the form is given to the Director or the Board, but the Director or the Board, or a person designated by either of them, as the case may be, may waive the requirement of any information which is, in the opinion of the Director, the Board or the designated person, unnecessary in the circumstances.


Complaint to Director

5 (1) A complaint to the Director referred to in subsection 21(1) of the Code may be in a form approved by the Director, as set out in the rules of the Board.


(2) If the Director receives a complaint and is of the opinion that any of the following apply, the Director must notify the complainant to that effect:

(a) the time limits in Section 21, Section 81 or Section 81A of the Code have lapsed;

(b) the complainant has taken, or could have taken, other action as specified by Section 82 of the Code;

(c) there has been no failure to comply with the Code.

(3) A notice under subsection (2) must include information about the complainant’s right to make a complaint to the Board in accordance with Section 23 of the Code and the time limits for making the complaint.


Complaint to Board

6 (1) A complaint to the Board in accordance with Section 23 of the Code must be in a form approved by the Board.


(2) A complainant has 10 days from the date of service of a notice from the Director under Section 5 to make a complaint to the Board in accordance with Section 23 of the Code.


(3) A complainant who does not receive a notice under Section 5 or an order under subsection 21(3) of the Code within one month from the date their complaint was filed has 10 days from the end of that month to make a complaint to the Board in accordance with Section 23 of the Code.


(4) Despite subsections (2) and (3), but subject to Sections 21, 81 and 81A of the Code, at any time before or after the time for making a complaint to the Board has lapsed, the Board may extend the time for making the complaint.

(5) A complaint made in writing to the Director as required by subsection 23(2) of the Code to support a complaint to the Board must be in a form approved by the Director, as set out in the rules of the Board.


Appeal of Director’s order
7 (1) A copy of an order made by the Director under subsection 21(3) of the Code must

(a) be served on the party against whom the order is made; and

(b) provide information on appeals and the time limits for appeals to the Board.


(2) An appeal from an order of the Director made to the Board under subsection 21(5) of the Code must be in a form approved by the Board.


(3) An appeal filed with the Board under subsection 21(5) of the Code by a person, other than an employee, against whom the Director has made an order under Section 21 of the Code must include 1 of the following:

(a) the amount required by clause 84(1)(a) of the Code;

(b) the security required by clause 84(1)(b) of the Code.


(4) The payment or security referred to in subsection (3) must be provided to the Board at the same time as the other documents comprising the appeal are required to be filed with the Board and an appeal is not considered filed, and will not proceed, until all required documents and the payment or security are received by the Board.


Exempt classes of retail business
7A (1) The following classes of retail business are exempt from the application of Section 66A of the Code:

(a) the operation of a drug store except in a department store;

(b) the sale of agricultural products by the producer at the farm;

(c) the sale of maple sugar products;

(d) the sale of Christmas trees;

(e) the operation of a motor vehicle service station;

(f) the operation of a restaurant;
(g) the provision of accommodation, camping, food, beverage, recreation, related services and facilities, and tourist information;

(h) the operation of a private club, fraternal organization or veterans organization, but not including a private club established or operated for the purpose of selling or offering for sale or purchase any goods or services by retail;

(i) any public game or contest for gain or for any prize or reward;

(j) any performance or public meeting at which a fee is charged directly or indirectly either for admission to such performance or meeting or to any place within which the same is provided or for any service or privilege thereat, but not including the operation of a public dance hall;

(k) the hiring of motor vehicles or small boats for the personal use of the hirer or his family for any purpose not prohibited by the Retail Business Uniform Closing Day Act;

(l) the operation of an excursion on which passengers are conveyed for hire and having for its principal or only object the carriage of such passengers for amusement or pleasure;

(m) the conveying of goods or travellers on railways, buses or other public conveyances;

(n) the operation a ferry or boat authorized by competent authority to carry passengers on a uniform closing days;

(o) receiving, transmitting or delivering telegraph or telephone messages;

(p) broadcasting as defined by the Defamation Act;

(q) the publication of a newspaper including all work necessary for, or incidental to the preparation, printing and distribution thereof;

(r) the provision of goods or services on an emergency basis;

(s) the provision of goods or services by

(i) a store

   (A) whose principal business is selling groceries, and

   (B) that at no time operates a retail sales area greater than 4000 ft.²,

(ii) a confectionary store,

(iii) a store whose principal business is selling handicrafts, souvenirs and similar articles, principally to tourists or travellers,

(iv) a canteen,

(v) a fruit or vegetable stand whose principal business is selling local produce,
(vi) a flea market or rummage sale,

(vii) a fish store,

(viii) a laundromat,

(ix) a billiard hall or pool room,

(x) the rental of video cassettes, video discs or similar media and related devices,

(xi) a prefabricated or modular home sales office,

(xii) a store whose principal business is the sale of nursery stock or the provision of gardening supplies,

(xiii) a store whose principal business is the sale of books, newspapers and magazines,

(xiv) an antique store,

(xv) an art gallery,

(xvi) a used clothing store.

(2) For the purposes of clause (1)(a), a “drug store” does not include either of the following:

(a) a retail business that includes a retail sales area that is

(i) larger than 2000 ft.\(^2\) in total,

(ii) open to the public, and

(iii) dedicated to food items;

(b) a retail business in which the total retail sales area that is open to the public is larger than 20,000 ft.\(^2\).

(3) For the purposes of subclause (1)(s)(i), 2 or more stores that are owned, occupied or operated by related persons are deemed to be one store if they are

(a) in the same building; or

(b) adjacent or in close proximity to each other.

(4) For the purposes of subsection (3), “related persons” has the same meaning as in paragraph 251(2)(b) of the *Income Tax Act* (Canada).


**Reservists leave**

**7B (1)** In Section 60H of the Code and this Section,
(a) “active duty” means active service as defined in the National Defence Act (Canada);

(b) “period of service” includes any time spent training, on active duty or on leave related to active duty;

(c) “required” means required by the Canadian Forces in order to fulfill a commitment to training or active duty;

Clause 7B(1)(d) relettered (c) and amended: O.I.C. 2011-45, N.S. Reg. 19/2011.

(d) “training” means training as prescribed in the Queen’s Regulations and Orders for the Canadian Forces under the National Defence Act (Canada) for members of the reserve force.


(2) For the purposes of unpaid leaves of absence under Section 60H of the Code for reservists who are on active duty or participating in training that is necessary for active duty,

(a) a period of service must not be longer than 18 months in a 3-year period;

(b) the start date for a period of service must be at least 1 year after the date that the employee returned to work from a leave for a previous period of service;

(c) an employee must return to work no later than 4 weeks after the date their period of service expires; and

(d) “reasonable notice” means at least 90 days’ notice in advance except in an emergency situation, in which case reasonable notice is as much notice as is reasonably practical.


(3) For the purposes of unpaid leaves of absence under Section 60H of the Code for reservists who are participating in annual training, other than training that is necessary for active duty,

(a) a period of service must not be longer than 20 days in a calendar year, including related travel time;

(b) an employee must return to work no later than the next regularly scheduled working day following the period of service and any related travel time; and

(c) “reasonable notice” means at least 4 weeks’ notice in advance except in an emergency situation, in which case reasonable notice is as much notice as is reasonably practical.


Classes of persons included in the definition of “family member”

7C (1) In this Section,
(a) “guardian” means a person having a legally recognized authority to act on behalf of a ward and includes a mandatary if the ward is incapacitated, a tutor and a curator;

(b) “spouse” includes a common-law partner; and

(c) “ward” means a minor or a disabled adult for whom a guardian is appointed.

(2) All of the following persons are prescribed as classes of persons included in the definition of “family member”, in relation to an employee, for subclause 60E(1)(b)(iv) of the Code:

(a) a child of

   (i) the employee’s parent,

   (ii) the spouse of the employee’s parent;

(b) a grandparent of

   (i) the employee,

   (ii) the employee’s spouse;

(c) the spouse of the employee’s grandparent;

(d) a grandchild of

   (i) the employee, or

   (ii) [the] employee’s spouse;

(e) the spouse of the employee’s grandchild;

(f) the spouse of

   (i) the employee’s child, or

   (ii) the child of the employee’s spouse;

(g) a parent of the employee’s spouse

(h) the spouse of a parent of the employee’s spouse;

(i) the spouse of

   (i) a child of the employee’s parent, or

   (ii) a child of the spouse of the employee’s parent;

(j) a child of
(i) a parent of the employee’s spouse, or

(ii) the spouse of the parent of the employee’s spouse;

(k) an uncle or aunt of

(i) the employee, or

(ii) the employee’s spouse;

(l) the spouse of the employee’s uncle or aunt;

(m) a nephew or niece of

(i) the employee, or

(ii) the employee’s spouse;

(n) the spouse of the employee’s nephew or niece;

(o) a current or former foster parent of

(i) the employee, or

(ii) the employee’s spouse;

(p) a current or former foster child of the employee;

(q) the spouse of a current or former foster child of the employee;

(r) a current or former ward of

(i) the employee, or

(ii) the employee’s spouse;

(s) a current or former guardian of the employee;

(t) the spouse of a current or former guardian of the employee;

(u) a person, whether or not related to the employee by blood, adoption, marriage or common-law partnership, who considers the employee to be like a close relative or whom the employee considers to be like a close relative, on the condition that the employee, when requested, must give the employer a copy of any form that includes a statement that the employee is considered to be like a family member that is required to be submitted to the Government of Canada to claim compassionate care benefits under the Employment Insurance Act (Canada).


Termination of employment

The length of notice of termination required by subsections (1) or (2) of Section 72 of the Code does not include any week of vacation unless the employee, after receiving the notice, agrees to
take the vacation during the period of the notice.

Protection of pay

9 (1) An employer shall, at the time of making any payment of wages, as required by Sections 79 and 80 of the Code, furnish to the employee to whom payment is being made a statement in writing setting out

(a) the period for which the payment of wages is made;

(b) the number of hours for which payment is made;

(c) the rate of wages;

(d) details of the deductions made from the wages; and

(e) the actual sum being received by the employee.

(2) The Director may, by order, exempt any employer from any or all of the requirements of subsection (1).

(3) Application for an order of exemption under subsection (2) shall be made in writing to the Director and shall contain

(a) the name and address of the employer;

(b) the name and address of each employee in relation to whom the application is made;

(c) a concise statement of

(i) the nature of the employer’s business,

(ii) the work performed by the employee or employees in relation to whom the application is made,

(iii) the reasons why an order of exemption should be made, and

(iv) the terms of the exemption applied for.

10 An application for an order under subsection (3) of Section 79 of the Code to permit an employer to pay wages to his employees at times other than those specified in subsection (1) of Section 79 of the Code shall be made in writing to the Director and shall contain

(a) the name and address of the employer;

(b) the name and address of each employee in relation to whom the application is made;

(c) a concise statement of

(i) the nature of the employer’s business,

(ii) the work performed by the employee or employees in relation to whom the application is made,
(iii) the reasons why payments to the employees applied for should be made other than in accordance with subsection (1) of Section 79 of the Code, and

(iv) the terms of the existing practice or collective agreement under which payments are made.

11 (1) For [the] purposes of clause 84(1)(a) of the Code, the prescribed amount is $2000.

(2) Where security in the form of a bond is furnished to the Board in accordance with clause 84(1)(b) of the Code, the amount of the bond shall be

(a) the total pay found by the Director to be unpaid by the employer to the employees; or

(b) an amount other than unpaid pay that the Director has found to be owing to an individual.

(3) An amount paid to the Board pursuant to clause 84(1)(a) of the Code shall be paid out

(a) where there is no appeal to the Court of Appeal under subsection 20(2) of the Code, in accordance with the decision of the Board after 30 days from the date of service of the order of the Board; and

(b) where there is an appeal to the Court of Appeal under subsection 20(2) of the Code, after the appeal has been determined and any proceedings arising from it have been concluded.

(4) A bond required by the Board pursuant to clause 84(1)(b) of the Code shall state that it is payable to the Board

(a) where there is no appeal to the Court of Appeal under subsection 20(2) of the Code, after 30 days from the date of service of the order of the Board; and

(b) where there is an appeal to the Court of Appeal under subsection 20(2) of the Code, after the appeal has been determined and any proceedings arising from it have been concluded.


12 Where the Director, in accordance with Section 85 of the Code, makes an order requiring a person to pay to the Board part or all of money owing, likely to be owed, or about to be paid by the person to an employer or any person referred to in Section 81A of the Code, as the case may be, a copy of the order shall be served on the employer or the person referred to in Section 81A of the Code as soon as possible in the circumstances after the order is served.


13 The rules of the Board governing its practice and procedure shall set out the forms

(a) that may, in accordance with the Code and these regulations, be used in relation to a complaint to the Director; and
(b) that shall, in accordance with the Code and these regulations, be used in relation to an appeal or a complaint to the Board.


“Family member” defined for purpose of exemption from licensing
14 For the purpose of the exemption from licensing in clause 89H(2)(c) of the Code, “family member” means, with respect to a person, all of the following:

(a) a spouse or common-law partner of the person;

(b) a child of the person or a child of the person’s spouse or common-law partner;

(c) a parent of the person or a spouse or common-law partner of the parent.


Qualifications and application for foreign worker recruitment licence
15 (1) An applicant for a licence must be a member in good standing of

(a) the Nova Scotia Barristers’ Society, a bar of another province or the Chambre des notaires du Québec; or

(b) the Immigration Consultants of Canada Regulatory Council, incorporated under Part II of the Canada Corporations Act (Canada) on February 18, 2011.

(2) An applicant for a licence must provide a photocopy of a membership card or other proof, acceptable to the Director, that the individual is a member in good standing of 1 of the organizations specified in subsection (1).

(3) In addition to any information requested by the Director under clause 89I(2)(b) of the Code, an applicant for a licence must submit all of the following to the Director, in a form approved by the Director:

(a) the applicant’s name and date of birth;

(b) the business name under which the applicant will recruit foreign workers;

(c) the Canada Revenue Agency business number of the applicant or the applicant’s employer;

(d) all names and addresses under which the applicant has conducted business in the previous 5-year period, including any changes of name, whether formal or informal;

(e) all of the following contact information for both the applicant and the recruitment business with which the applicant will be associated:

   (i) civic and mailing address,

   (ii) telephone number,

   (iii) e-mail address,
(iv) website addresses, if any;

(f) the address where the business records for the recruitment work are kept, including the address where records will be located for any future recruitment work;

(g) a description of the nature and scope of the proposed foreign worker recruitment business, including all of the following information:

(i) whether the applicant will be carrying out the recruitment work as a self-employed individual or as an employee,

(ii) the approximate date when the recruitment business will begin if the licence is granted,

(iii) if the applicant is a resident of the Province, whether the applicant intends to reside in the Province on a full-time or a part-time basis if the licence is granted,

(iv) if the applicant does not intend to reside in the Province on a full-time basis, the applicant’s plans for engaging in recruitment, how those plans are to be carried out and what portion of the applicant’s business will involve placing workers in the Province,

(v) a list of the countries from which the applicant or the applicant’s employer plans to recruit, and the names of any companies or individuals in those countries with which the applicant or the applicant’s employer intends to deal and from which a benefit is expected to be received in relation to recruitment,

(vi) the types of employment for which the applicant will recruit foreign workers;

(h) a list of all bank accounts, both domestic and foreign, maintained by the applicant or by any other person or entity on the applicant’s behalf in which the applicant has a current or anticipated future benefit in relation to recruitment work;

(i) a list of all businesses, both domestic and foreign, associated with the applicant’s recruitment work before the date of the application;

(j) certified copies of all of the following:

(i) the registration of the name of the business entity that will be conducting the recruitment,

(ii) the registration of the partnership agreement, if the recruitment will be conducted by a partnership,

(iii) if the recruitment will be conducted by a corporation,

(A) the shareholders’ agreement,

(B) the articles and certificate of incorporation,

(C) the bylaws of the corporation;
(k) a description of the legal relationship between the foreign worker recruitment business and any other businesses, whether incorporated or unincorporated, that own, are owned or operated by, or are affiliated with the foreign worker recruitment business;

(l) the individual’s signed consent authorizing the Director to publish all of the information listed in Section 23 in the public registry;

(m) a criminal record check of the applicant;

(n) a statement as to whether

   (i) the applicant has ever been refused admission to or been the subject of a disciplinary action by a law society, the Immigration Consultants of Canada Regulatory Council, the Canadian Society of Immigration Consultants or any other professional association,

   (ii) the applicant is aware of any complaint or charge pending against them in their professional capacity that the professional body they are a member of may not yet be aware of,

   (iii) the applicant has ever reported a claim to their professional liability insurer,

   (iv) the applicant has, at any time, failed to obey an order of a court requiring the applicant to do or abstain from doing any act, and

   (v) the applicant or any employer, partners, directors or officers of a proprietorship, partnership, corporation or other business entity with which the applicant is associated has been the subject of bankruptcy or receivership proceedings under any law in any jurisdiction in the last 5 years;

(o) a statutory declaration concerning

   (i) the applicant’s compliance with the Code and these regulations,

   (ii) the applicant’s criminal record and findings of civil liability, and

   (iii) any denial or revocation of a licence, permit or registration that required proof of good character and which was denied or revoked on that ground;

(p) the application fee required by Section 16 and security in accordance with Section 17.

(4) If an individual who applies for a licence under this Section is employed by another person, the consent required by clause (3)(l), the criminal record check required by clause (3)(m) and the statutory declaration required by clause (3)(o) are also required from all of the following:

   (a) the person who employs the individual, if the employer is a sole proprietorship;
(b) each officer and director of the corporation that employs the individual, if the employer is a corporation;

(c) each partner of the partnership that employs the individual, if the employer is a partnership.


Fee for licence or renewal of licence
16 The fee for a licence or renewal of a licence is $100.

Security to be provided by applicant for licence
17 (1) The security required by clause 89J(b) of the Code for a licence or renewal of a licence must be in 1 of the following forms:

(a) an irrevocable letter of credit in the amount of $5000 from a chartered bank, credit union, trust company or other company insured under the Canada Deposit Insurance Corporation Act (Canada) that carries on business in the Province;

(b) $5000 payable by cash, certified cheque, money order or bank draft;

(c) a $5000 bond with 1 or more sureties acceptable to the Director.

(2) The Director must hold any cash provided as security under clause (1)(b) in an interest-bearing account.

Renewing licence
18 (1) In addition to any information requested by the Director under clause 89I(2)(b) of the Code, a licensee may apply to renew their licence before it expires by submitting all of the following to the Director:

(a) a document, in a form approved by the Director, confirming that

(i) there are no changes to the information provided in the licence application under Section 15, or

(ii) there are changes to the information provided in the licence application under Section 15 and a statement detailing all of the changes to the information;

(b) a list of all businesses, both domestic and foreign, associated with the applicant’s recruitment work, if any, since the date of the most recent application for a licence to recruit;

(c) a statutory declaration, in a form approved by the Director, concerning the information specified in clause 15(3)(o);

(d) the renewal fee in Section 16.

(2) If an individual who applies for a licence renewal under this Section is employed by another person, the statutory declaration required by clause (1)(b)[(c)] is also required from all of the following:
(a) the person who employs the individual, if the employer is a sole proprietorship;

(b) each officer and director of the corporation that employs the individual, if the employer is a corporation;

(c) each partner of the partnership that employs the individual, if the employer is a partnership.


Information protected by solicitor-client privilege

19 (1) Despite Sections 15 and 18, nothing in these regulations authorizes or compels the disclosure of information that is protected by solicitor-client privilege.

(2) Any or all of the following persons may make an application to the Supreme Court of Nova Scotia for a determination of whether a claim of solicitor-client privilege is valid:

(a) the Director;

(b) an individual claiming solicitor-client privilege.


Notice of proposed action by Director

20 (1) The Director must serve written notice on an applicant for a licence or registration or a licensee before refusing to issue or renew a licence under Section 89P of the Code or refusing to register an employer under Section 89W of the Code.


(2) Notice given in accordance with subsection (1) must contain all of the following information:

(a) the reasons for and details of the Director’s proposed action;

(b) a statement that the applicant or licensee is entitled to an opportunity to be heard before the Director to show cause why the Director should not take the proposed action.

(3) Written notice of a proposal by the Director to do any of the following must contain all of the information set out in subsection (2):

(a) impose terms or conditions on a licence under subsection 89L(1) of the Code;

(b) cancel a licence under clause 89R(2)(a) of the Code;

(c) cancel a registration under clause 89Y(2)(a) of the Code.


Opportunity to be heard before Director

21 (1) A person’s request for an opportunity to be heard in response to a notice under the Code or these regulations must meet all of the following requirements:

(a) it must be in writing and in a form approved by the Director;
(b) it must include any written evidence and submissions that support the person’s position;

(c) it must be made no later than the applicable deadline in clause 89R(2)(a) of the Code or 21 days after notice under Section 20 is served.

(2) An opportunity to be heard may be conducted in writing.

(3) In addition to any action the Director may take under the Code, if an applicant for a licence or registration or a licensee does not request an opportunity to be heard within the time permitted under clause (1)(c), the Director may take the proposed action.


Records maintained by licensees

22(1) An individual who has been granted a licence, including in accordance with clause 15(2)(b) of the Code, an individual whose licence has been suspended or cancelled, must keep all of the following records and documents:

(a) a copy of each agreement the individual has entered into respecting the recruitment of a foreign worker;

(b) a record of all fees charged in relation to recruitment activities, the dates on which those fees were charged and the persons to whom they were charged;

(c) a list of every foreign worker recruited by the individual for employment in the Province and the dates on which the foreign workers were recruited.

(2) A record required to be kept under subsection (1) must be made at the time that the event to which it relates occurred and must be kept for at least 3 years after the date the record is made.


Public registry

23 The Director must maintain a public registry of licensees, in electronic or other form, that contains all of the following information about each licensee:

(a) their name and the business name under which they operate;

(b) the name of their employer, if any, and the business name under which the employer operates;

(c) the expiry date of their licence;

(d) whether their licence is currently suspended;

(e) any terms or conditions imposed on the licence.


Applying for registration

24 In addition to any information required by the Director under clause 89U(2)(b) of the Code, an applicant for registration must submit all of the following information to the Director, in a form
approved by the Director:

(a) all of the following information about the employer:

   (i) name,

   (ii) civic and mailing address of the employer’s business,

   (iii) business telephone number,

   (iv) e-mail address,

   (v) a description of its principal business activities;

(b) all of the following information about the employer’s authorized representative:

   (i) name,

   (ii) job title,

   (iii) civic and mailing address of the authorized representative’s business,

   (iv) business telephone number of the authorized representative,

   (v) e-mail address;

(c) all of the following information for any third-party recruitment company or individuals with whom the employer is contracting to recruit a foreign worker:

   (i) name,

   (ii) civic and mailing address,

   (iii) business telephone number,

   (iv) e-mail address;

(d) the number of foreign workers the employer wishes to recruit and the location from which the workers will be recruited, if known;

(e) the nature of employment and the anticipated start date and intended duration of each foreign worker’s employment.


Information from registered employers

25  (1) A registered employer must provide all of the following information to the Director:

(a) all of the following information for each foreign worker employed:

   (i) the name of the foreign worker and the address and telephone number of the foreign worker in the Province, or, if the foreign worker does not yet maintain
a residence in the Province, the address of the foreign worker in the jurisdiction in which they reside,

(ii) the date the foreign worker began employment with the registered employer,

(iii) the foreign worker’s job title and the location where they perform the majority of their employment duties;

(b) complete and accurate records respecting all of the following:

(i) in addition to the records referred to in clause 15(1)(e) of the Code, any expenses incurred directly or indirectly by the employer in recruiting a foreign worker,

(ii) any expenses incurred directly or indirectly by an employee of the employer who engages in the recruitment of 1 or more foreign workers for the employer,

(iii) any contract or agreement under which the employer retains or directs a licensee to recruit foreign workers,

(iv) any employment or other contract or agreement that the employer has entered into with a foreign worker.

(2) The information required by subsection (1) must be submitted to the Director no later than 15 days after the date it is requested in writing by the Director.
